

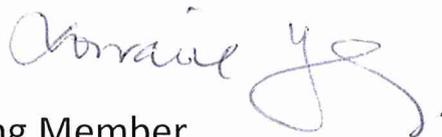


# Town of Cottesloe

I hereby certify that the minutes of the Council meeting held on

**Tuesday, 22 June 2021**

were confirmed as a true and accurate record by Council resolution.

Signed: 

Presiding Member

Date: 2/8/21

# TOWN OF COTTESLOE



## ORDINARY COUNCIL MEETING

# MINUTES

ORDINARY COUNCIL MEETING  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre, 109 Broome Street, Cottesloe  
6:00pm Tuesday, 22 June 2021

**MATTHEW SCOTT**  
Chief Executive Officer

1 July 2021

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## TABLE OF CONTENTS

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| ITEM | SUBJECT  | PAGE NO |
|------|--|---------|
| 1    | DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS .....                    | 1       |
| 2    | DISCLAIMER .....   | 1       |
| 3    | ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....                       | 1       |
| 4    | PUBLIC QUESTION TIME .....   | 1       |
|      | 4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....                  | 1       |
|      | 4.2 PUBLIC QUESTIONS .....   | 1       |
| 5    | PUBLIC STATEMENT TIME.....   | 9       |
| 6    | ATTENDANCE .....   | 10      |
|      | 6.1 APOLOGIES .....  | 10      |
|      | 6.2 APPROVED LEAVE OF ABSENCE.....   | 10      |
|      | 6.3 APPLICATIONS FOR LEAVE OF ABSENCE .....                                      | 10      |
| 7    | DECLARATION OF INTERESTS.....  | 11      |
| 8    | CONFIRMATION OF MINUTES.....   | 11      |
| 9    | PRESENTATIONS .....  | 12      |
|      | 9.1 PETITIONS.....   | 12      |
|      | 9.1.1 PETITION OPPOSING THE PROPOSAL TO CLOSE CAR PARK NO. 1                     | 12      |
|      | 9.2 PRESENTATIONS.....   | 13      |
|      | 9.3 DEPUTATIONS .....  | 13      |
| 10   | REPORTS.....   | 14      |
|      | 10.1 REPORTS OF OFFICERS.....  | 14      |
|      | CORPORATE AND COMMUNITY SERVICES .....   | 14      |
|      | 10.1.1 ROTTNEST CHANNEL SWIM 2022  | 14      |
|      | 10.1.2 NOTICE OF INTENTION TO LEVY DIFFERENTIAL RATES                            | 23      |
|      | 10.1.3 RECLASSIFICATION AND TRANSFER OF CURTIN AVENUE                            | 29      |
|      | 10.1.4 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2020<br>TO 31 MAY 2021 | 34      |
|      | 10.1.5 TOWN OF COTTESLOE LOCAL GOVERNMENT (MEETING<br>PROCEDURE) LOCAL LAW 2021  | 38      |
|      | DEVELOPMENT AND REGULATORY SERVICES.....   | 42      |

---

- 10.1.6 ESTABLISHMENT OF A DESIGN REVIEW PANEL WITH 'TERMS OF REFERENCE' IN ACCORDANCE WITH THE WAPC'S DESIGN REVIEW GUIDE (2019) 42
- ENGINEERING SERVICES ..... 47**
- 10.1.7 BEACH ACCESS PATH RATIONALISATION 47
- 10.1.8 COTTESLOE FORESHORE TOILET FACILITY - PUBLIC CONSULTATION 52
- 10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES ..... 60**
- 11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN ..... 60**
- 12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:..... 60**
- 12.1 ELECTED MEMBERS ..... 60**
- 12.2 OFFICERS..... 60**
- 13 MEETING CLOSED TO PUBLIC..... 60**
- 13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED..... 60**
- 13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC ..... 60**
- 14 MEETING CLOSURE ..... 60**

**1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS**

The Presiding Member announced the meeting opened at 6:00pm.

I would like to begin by acknowledging the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet today, and pay my respects to their Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

**2 DISCLAIMER**

The Presiding Member drew attention to the Town's Disclaimer.

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Presiding Member announced that the meeting is being recorded, solely for the purpose of confirming the correctness of the Minutes.

The Presiding Member thanked the Deputy Mayor, Cr Lorraine Young for standing in for him during his leave of absence and to all the Councillors for being so cooperative during that period.

**4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****Questions Taken on Notice at the Agenda Forum Meeting – 15 June 2021**Stephen Mellor – 8 Graham Court, Cottesloe – Item 10.1.5

Q6: What is the meaning of optional remuneration for community representatives? Optional who, for them or for Council?

A6: 'Optional remuneration' means that it remains an option for Council to agree to pay standard professional rates to panel members in accordance with the model WAPC 'terms of reference' in the future, which under the proposed changes could not be to a Councillor. Current Members of the Design Advisory Panel have declined remuneration for their attendance.

**4.2 PUBLIC QUESTIONS**Lindsay Mollison – 174 Little Marine Parade, Cottesloe – Item 8 and Item 10.1.6 of Minutes – 25 May 2021

Q1. Are Councillors aware that there is a SAT hearing scheduled for 2 July between the Council and Cora Carter?

A1. Councillors were aware but it has now been set aside due to mediation.

Q2. A letter to the Post of 19 June summarises decisions by various nearby councils opposing excessive developments, along with the recent one minuted at your last meeting. How will Councillors direct the Town to respond to the above noted SAT application?

- A2. That would need to be a decision of Council.
- Q3. Having earlier expressed my own concerns about legal costs to Council (borne, of course, by suffering ratepayers) of defending decisions in the SAT could Councillors give me their views on the Governance aspects of Council being powerfully represented at SAT meetings to ensure that decisions of Councillors are upheld?
- A3. Only Councillors themselves can answer that question.
- Q4. Should I approach each Councillor individually?
- A4. Individual councillors have no decision making power so asking an individual councillor would not provide a response at this meeting. You are at liberty to speak directly with individual Councillors outside the meeting.
- Q5. Will the discussion be with Councillors in this Chamber or only the offices of the Council.
- A5. In general, SAT hearings are confidential and so the Administration will be discussing the strategy with Council, therefore it is not subject for open or public discussion.
- Q6. When you say you will discuss in confidence and you refer to Council do you mean the Council body in general?
- A6. The Council is the nine elected representatives of the community.

Yvonne Hart – 26 Mann Street – Cottesloe-- Item 10.1.8

- Q1. Which company prepared the community survey?
- A1. The Survey was developed in house, no external consultants were engaged.
- Q2. How much time did the survey take to prepare?
- A2. Approximately eight hours.
- Q3. What was the \$ cost?
- A3. The current charge out rate for Administration Officer's time is \$105 per hour.
- Q4. Will the Mayor and Elected Members consider withdrawing this project?
- Q5. Will they advise the CEO that no further staff time is to be allocated to a toilet block west of Marine Parade?
- A4&5. This item is up for Council to debate tonight. Councillors cannot pre-empt what the decision of Council will be until Council has had its debate.
- Q6. With the breach of the Local Government Act it says that a council member or committee members must comply with all policies,

procedures and resolutions of a local government. How does that work?

- A6. The provision referred to applies to individual Councillors, not Council as a whole.

Stephen Mellor – 8 Graham Court, Cottesloe – Item 8 OCM Minutes 25 May 2021, Non Agenda Item and Item 10.1.5

**Item 8 - Minutes of 25 May 2021 OCM**

Further to my questions at the Agenda Forum what are the results of the CEO's research regarding possible amendments to the May minutes:

- Q1. Should the minutes have on record that Shane Collie left the meeting on several occasions during Public Questions and Public Statements?
- A1. No, under regulation 11(b), Local Government (Administration) Regulations 1996 only require the minutes to include the movement of Councillors (Elected Members).
- Q2. Should it be noted that due to Covid space restrictions several members of the public/ratepayers were unable to attend the meeting (or only in part as space became available)?
- A2. That is not a requirement under regulation 11, Local Government (Administration) Regulation 1996 which prescribes what the content of the Minutes have to have.
- Q3. What is the cost benefit of having the logo of Market Creations on the Town of Cottesloe home web page?
- A3. Market Creations is the Website Hosting Service, and it is not unusual for this to be noted or advertised on a website by the Website Hosting Service. The Administration sees no additional cost or benefit in displaying this information on the website.
- Q4. Is it mandatory to use Market Creations if a member of WALGA?
- A4. No.
- Q5. What web services do they provide to the Town of Cottesloe?
- A5. Essentially Market Creations provide website hosting services (back end of the website), the Town provides the content.
- Q6. Is Administration satisfied with the design and user friendliness of the website?
- A6. Yes, given our current resources.
- Q7. So the hosting can provide design services plus technical services.
- A7. Market Creations does provide additional services, however the Town only utilises their Web Hosting Services.

**Item 10.1.5 Design Review Panel**

- Q8. As advised, I have searched the Town's Website for information about the current five Community Representatives, without success other than their names. As I, and others do not know them, will Administration please update the Committee web page to provide their basic professional experience/interest and whether they are Cottesloe residents?
- A8. It is unusual for any local governments to provide the personal or professional background to any member of a Committee. It is noted that the Local Government does not provide this information in relation to current Councillors.
- Q9. Do the 'Disclosure of Interests regulations' apply to Community Representatives? If not why not?
- A9. Yes.

#### **Harvey Field Precinct**

- Q10. Has Administration received advice from the Seaview Golf Club on ball protection fencing as previously suggested?
- A10. The Administration is in discussions with Seaview Golf Club, as with all current key stakeholders as per Council resolution.
- Q11. If so, what are the locations and dimensions – height, length and width – for such fencing that has been requested?
- A11. No final decision has been made on specifics relating to fencing, except that any future fencing would need to meet Australian Standards and as a priority with due consideration being given to aesthetics to minimise impacts on views.
- A12. Have there been any reports of golf ball accidents on the Harvey Field and Oval over the last 50 years? And if yes, how many accidents and in which years?
- Q12. 50 years of information is unavailable. However we are aware of one incident that occurred last year involving a teenager. More research time would be required to provide further information beyond last year as such data is collated by third parties. Previous advice from stakeholders indicates that incidents are not uncommon and that incidents and/or near misses are not always reported.

#### **Patricia Carmichael – 14 – 116 Marine Parade, Cottesloe – Item 10.1.4**

- Q1. With regard to the two legal services expenses totalling nearly \$93,000, one of those items, either Jackson McDonald Services or Thomas Greer Lawyers, is in mediation - is that correct?
- A1. No, that is incorrect.
- Q2. These two costs, the Jackson McDonald Services (\$42,790) and Thomas Greer Lawyers (\$50,444.78) – are those two items in SAT and are they related to the same action or not?

- A2. They are two different actions.
- Q3. Are they near nearing finalisation?
- A3. The SAT matter regarding the North Street Store has received consent orders and is now finalised.
- Q4. That is the Jackson McDonald issue?
- A4. No.
- Q5. So these two items are over and above the NSS action?
- A5. No. The lawyers representing the Town in regards to the NSS action was Thomas Greer.
- Q6. The other one is?
- A6. Another matter.
- Q7. Is the matter confidential?
- A7. Yes. All SAT matters are confidential until they are resolved.
- Q8. The Jackson McDonald matter has not been finalised?
- A8. No.

Jack Walsh – 35 Grant Street, Cottesloe – Items 10.18 and 10.1.2

**Item 10.1.2**

- Q1. All three attachments for this item are labelled confidential and so closed to the public so how can the officer state on page 18, under Strategic Implications, that “This report is consistent with Priority Area 6: Providing open and accountable local governance.”
- A1. The strategic implications refer to advertising the rate in the dollar so is open for the community to make submissions. The confidential attachments are commercial agreements between the Town and another party, and their financial statements.

**Item 10.1.8**

- Q2. Of Cottesloe residents 46% oppose the location while 43% support it and 70% oppose the design while 26% support it. When answering Question 8 – anything else you would like to consider – 28 suggested the Indiana toilets be fixed up. Were the 28 respondents put down as supporting the new toilets or against them?
- A2. I cannot provide an answer to that because it is referring to two different questions within the survey.
- Q3. Why does this Council think it needs a toilet every 200m along the beachfront?
- A3. Council is not proposing a toilet block every 200m.

Rebecca King - 1/72 Eric St – Cottesloe – Item 10.1.8

Skate Park (subject unanswered and related to location of the proposed skate park – Item 10.1.8)

- Q1. What discussions and negotiations have taken place over the last three years with Main Roads and the Public Transport Authority and what written correspondence is there that states this location is not possible?
- A1. There were some early discussions with Main Roads several years ago in regards to PTA Land. There has not been any recent discussions. Council made a resolution that it discounted the railway lands because of potential lease implications and I note that the City of Bayswater is in the process of having to relocate a skate park because of an extension to a car park at one of their railway stations in the City of Bayswater. There is the risk to Council of building something that then needs to be relocated.
- Q2. Can you provide a full report with the type of facility (Local, District or Regional), size, amenities, lighting, noise, future possible extensions, parking, cost analysis, pros and cons for Skate Park location options, scale, target audience, events and other points required for full community support?
- A2. Previous Council decisions, reports and consultant reports provide high level details about a potential Skate Park, detailed information will become available once a location is decided and concept design is undertaken.

John Brooksby – 1B Eileen Street, Cottesloe - Skatepark

- Q1. Why has the decision on the location of the proposed skatepark come down to two locations, being the Foreshore Precinct and the John Black Dune Park when a local company, CCS Strategic, has identified three far more suitable locations, in fact discounted John Black Dune Park and the Foreshore as suitable locations?
- A1. The Town did not commission this other company's report. Council resolved the locations to be consulted on at the 23 March 2021 Ordinary Council Meeting, resolution OCM047/2021.
- Q2. There is a report from Convic, that was initiated by Council but we have have not seen. What were the instructions that were given to Convic, what are the criteria upon which they based their report and when is the report going to be made available for public scrutiny?
- A2. The report is available on the website and was attached to the report item 10.1.6 at the 23 March 2021 Ordinary Council Meeting.
- Q3. Is it the case that if the skate park goes ahead, there are only two locations being considered?
- A3. As per Council's resolution-OCM047/2021 Council resolved to consult on these two sites.

Gray Porter – 110 Grant Street, Cottesloe - Lighting Strategy

- Q1. Who or what provided the Administration with the impetus for the preparation of the Town of Cottesloe Lighting Strategy?
- A1. The current Strategic Community Plan 2013 to 2023 Priority Area 1, Major Strategy 1.8.
- Q2. Who made the proposal for the allocation in the budget for the Lighting Strategy?
- A2. Council develops, deliberates and adopts the budget for the year, the Town does not record who made individual budget proposals.
- Q3. Is the Town of Cottesloe aware that there are five luminaries within 400metres which are not functioning?
- A3. I am not personally aware of that.
- Q4. Could you let the appropriate staff know?
- A4. I will let the appropriate staff know. These types of questions can be emailed to Council and staff will look at issues on a daily basis along with other maintenance issues.
- Q5. What does the Town of Cottesloe consider to be a reasonable time to deal with a complaint relating to a replacement of a luminaire which effects residents?
- A5. As you have been previously advised, the Town does not necessarily control changes to street lighting, therefore we cannot determine a "reasonable" time which is dependent on other agencies.
- Q6. The question is, what does the Town of Cottesloe believe to be a reasonable time to respond?
- A6. Taken on Notice.

Kevin Morgan – 1 Pearse Street, Cottesloe – Items 10.1.8 and 10.1.5

**Item 10.1.8 in relation to Indiana Tea House**

- Q1. Why has Cottesloe Council allowed the tenant of Indiana Teahouse to abandon the premises for years now?
- Q2. Why has Cottesloe Council allowed the tenant of Indiana Teahouse to publicly propose its total demolition?
- Q3. Why has Cottesloe Council still not yet consulted its community on whether to demolish Indiana Teahouse?
- Q4. Why does Cottesloe Council have to negotiate to stop the tenant removing toilets from this Council building?
- Q5. Has Cottesloe Council already made a secret decision to allow the best building in WA to be demolished?

**Item 10.1.5**

- Q6. Does the letter from the Joint Standing Committee on Delegated Legislation expressly request that its letter be kept confidential?
- Q7. If not, on what grounds does the CEO expect Council to close tonight's meeting for item 10.1.5, or does the CEO believe he is entitled to solely decide what the residents of the Town that employs him get to see?
- Q8. Given that only Council can decide to keep the letter confidential beyond this meeting, will the Council tonight vote to keep it confidential, and if it does not, will the CEO now publish the letter on the website?
- Q9. Further to Ms Hart's questions, was it not you, as CEO, who had a duty to advise Council of the policy implications of their resolution for a proposed new toilet block, in particular to advise them that it would be a breach of the beach policy of 'no new buildings west of Marine Parade', and did you fail to so advise them when it was first proposed?
- Q10. Further to Mr Porter's questions, who initiated and what was their impetus to propose the inclusion of the lighting strategy in the budget?

The above questions were Taken on Notice.

Stephen Mellor – 8 Graham Court, Cottesloe – on behalf of the Cottesloe Residents' and Ratepayers' Association – Provided in Writing

#### **Car Park 2 Development**

- Q1. Is the Car Park 2 development proposal still an active project?
- Q2. If it is, what is the current state of the planning and process for the Car Park 2 Development?
- Q3. Is it correct that the Car Park 2 proposal is NOT part of the 100% Design Foreshore Precinct?
- Q4. What Car Park 2 associated actions and discussions have been taken in progressing the planning both within Administration and with State Government or other?
- Q5. Have any consultants been appointed for progressing the project since the start of the Foreshore Precinct original consultation?
- Q6. Are Aspect Studios involved?
- Q7. Has an application been, or planned to be, made in the near future to apply for the change of the Reserve classification to allow for redevelopment?
- Q8. What rationale has been developed that can support John Black Reserve for a possible skatepark location if the Car Park 2 is hoped to be redeveloped?
- Q9. When will Council consider the future of Car Park 2?

#### **Foreshore Precinct**

- Q10. What is the status of Funding applications and any success for the Foreshore Precinct 100% design?
- Q11. What schedule of applications and deadlines is available for you to provide an estimate when the major project might be funded and start?
- Q12. If total grant funding is not secured to achieve the 100% design, has developing the project been considered to be broken down into different stages?
- Q13. Has the Town of Cottesloe committed any reserves into the development other than the \$240,000 toilet block?
- Q14. We keep hearing of negotiations with Tatterang regarding the *Indiana*, including in 10.1.8 tonight. For the benefit of residents' understanding, what are the possible next stages in renovating the building, what facilities other than toilets that are in the conditions of the lease, and is there going to be early public consultation before preliminary design on the overarching intent?

The above questions were Taken on Notice.

## 5 PUBLIC STATEMENT TIME

### Casey Hill – Allerding and Associates – 125 Hamersley Road, Subiaco – Item 10.1.8

Mr Hill represented the owner of 118 Marine Parade and spoke in support of the officer's recommendation to relocate and redesign the toilet facility proposal.

### Patricia Carmichael – 14 – 116 Marine Parade, Cottesloe – Item 10.1.7

Ms Carmichael spoke about the closure of Beach Access Path S11 and other paths and said the item should be deferred in order to obtain a more accurate assessment of the users of the beach paths.

### Jack Walsh – 35 Grant Street, Cottesloe – Item 10.1.8

Mr Walsh spoke against the officer's recommendation and requested that it be deferred and revisited.

### Kevin Morgan -1 Pearse Street, Cottesloe- Items 10.1.3 and 10.1.8

Mr Morgan spoke against the reclassification and transfer of Curtin Avenue and against the proposal for a the new toilet block west of Marine Parade.

### Yvonne Hart – 26 Mann Street, Cottesloe (on behalf of the Cottesloe Residents and Ratepayer's Association) – Items 10.1.4, 10.1.5, 10.1.6

Ms Hart outlined her concerns about this month's total legal expenses, welcomed matters being raised by the Joint Standing Committee for Delegated Legislation regarding the Town's Local Government (Meeting Procedure) Local Law 2021 and welcomed the establishment of a Design Review Panel in accordance with the WAPC Guidelines.

Stephen Mellor – 8 Graham Court, Cottesloe – on behalf of the Cottesloe Residents’ and Ratepayers’ Association – Item 10.1.8

Mr Mellor spoke about the proposed toilet block on the foreshore and requested that the item be deferred.

## **6 ATTENDANCE**

### **Elected Members**

Mayor Philip Angers  
Cr Lorraine Young  
Cr Caroline Harben  
Cr Helen Sadler  
Cr Craig Masarei  
Cr Melissa Harkins  
Cr Michael Tucak  
Cr Kirsty Barrett  
Cr Paul MacFarlane

### **Officers**

|                     |  |
|---------------------|--|
| Mr Matthew Scott    | Chief Executive Officer                      |
| Mr Shane Collie     | Director Corporate and Community Services    |
| Ms Freya Ayliffe    | Director Development and Regulatory Services |
| Mr Shaun Kan        | Director Engineering Services                |
| Ms Mary-Ann Winnett | Governance Coordinator                       |

### **6.1 APOLOGIES**

Nil

#### **Officers Apologies**

Nil

### **6.2 APPROVED LEAVE OF ABSENCE**

### **6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

**OCM093/2021**

**COUNCIL RESOLUTION**

**Moved Cr Young**

**Seconded Cr Sadler**

**That Cr MacFarlane be granted Leave of Absence from 19 July 2021 to 26 July 2021.**

**Carried 9/0**

**7 DECLARATION OF INTERESTS**

Mayor Angers declared an IMPARTIALITY INTEREST in item 10.1.2 by virtue "My wife and I own a toy shop in Station Street and we are members of Procott."

Cr Tucak declared an IMPARTIALITY INTEREST in item 10.1.2 by virtue "I am a former Chair and member of Procott."

Cr Tucak declared an IMPARTIALITY INTEREST in item 10.1.6 by virtue "I have been the Chair of the Design Advisory Panel for the last 3½ years and I will be removed under the proposal."

Cr Harben declared an IMPARTIALITY INTEREST in item 10.1.6 by virtue "I am the Deputy Presiding Member of the Design Advisory Panel."

Cr Tucak declared an IMPARTIALITY INTEREST in item 9.1.1 by virtue "Various members who have been involved in the petition are known to me and I have declared that previously in the presentation of petitions."

**8 CONFIRMATION OF MINUTES**

**Moved Cr Young**

**Seconded Cr Harben**

That the Minutes of the Ordinary Meeting of Council held on Tuesday 25 May 2021 be confirmed as a true and accurate record.

OCM094/2021

**COUNCILLOR AMENDMENT**

Moved Cr Tucak

Seconded Cr Young

That the second bullet point of Cr Tucak's amendment to 10.1.3 Revocation of Various Policies be amended as follows:

- Code of Conduct NOT be removed pending advice to Council on replacing it with an internal Management Protocol for Staff Members.

Carried 9/0

OCM095/2021

**COUNCILLOR MOTION**

Moved Cr Young

Seconded Cr Sadler

That the minutes be put to the vote.

Carried 8/1

For: Mayor Angers, Crs Young, Harben, Sadler, Masarei, Harkins, Barrett and MacFarlane

Against: Cr Tucak

**9 PRESENTATIONS**

**9.1 PETITIONS**

*Procedure of Petitions – Local Government (Meetings Procedure) Local Law 2021, Clause 6.11*

- (3) *The only question which shall be considered by the council on the presentation of any petition shall be:*
- that the petition shall be accepted;*
  - that the petition shall not be accepted;*
  - that the petition be accepted and referred to the CEO for consideration and report; or*
  - that the petition be accepted and dealt with by the full council.*

Cr MacFarlane left the meeting at 7:07 pm.

**9.1.1 PETITION OPPOSING THE PROPOSAL TO CLOSE CAR PARK NO. 1**

Cr Tucak presented a petition of 41 signatures opposing the closure of Car Park 1. On an initial review the Administration found 3 entries (1 complete, 2 incomplete) that could be considered to be made by electors of the District.

Cr Tucak declared an IMPARTIALITY INTEREST in item 9.1.1 by virtue "Various members who have been involved in the petition are known to me and I have declared that previously in the presentation of petitions."

Cr MacFarlane returned to the meeting at 7:09 pm.

#### **OCM096/2021**

#### **COUNCILLOR MOTION AND COUNCIL RESOLUTION**

**Moved Cr Young**

**Seconded Mayor Angers**

**That the matter be deferred pending the Administration advising on whether the petition satisfies the requirements of the *Local Government (Meetings Procedure) Local Law 2021 in respect of petitions.***

**Carried 8/1**

**For: Mayor Angers, Crs Young, Harben, Sadler, Masarei, Harkins, Barrett**

**and MacFarlane**

**Against: Cr Tucak**

#### **9.2 PRESENTATIONS**

Nil

#### **9.3 DEPUTATIONS**

Nil

**10 REPORTS****10.1 REPORTS OF OFFICERS****CORPORATE AND COMMUNITY SERVICES****10.1.1 ROTTNEST CHANNEL SWIM 2022**

|                                       |  |
|---------------------------------------|--|
| <b>Directorate:</b>                   | <b>Corporate and Community Services</b>                        |
| <b>Author(s):</b>                     | <b>Esther Cullity, Events Coordinator</b>                      |
| <b>Authoriser(s):</b>                 | <b>Shane Collie, Director Corporate and Community Services</b> |
| <b>File Reference:</b>                | <b>D21/26669</b>   |
| <b>Applicant(s):</b>                  | <b>Internal</b>  |
| <b>Author Disclosure of Interest:</b> | <b>Nil</b>   |

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**SUMMARY**

The Rottnest Channel Swim Association Inc. is seeking Council approval to host the 2022 Rottnest Channel Swim event at Cottesloe Beach, and to waive the event fees.

The Rottnest Channel Swim Association Inc. is a not-for-profit organisation as per the ATO requirements, and is run by a team of volunteers. For the last 32 years, the Town of Cottesloe has waived their fees to support the positive impact and recognition for the Cottesloe community, local residents and businesses.

**OFFICER RECOMMENDATION IN BRIEF**

That Council approves the event application from the Rottnest Channel Swim Association and waives their fees, subject to the Town being recognised as an Official Sponsor of the event.

**BACKGROUND**

The 32<sup>nd</sup> Annual Rottnest Channel Swim is a 19.7 kilometre open water swim, commencing from Cottesloe Beach to Rottnest Island. Approximately 2,500 swimmers participate, 400 of which are expected to depart from Cottesloe Beach at 5.45am. The first wave of competitors will leave at 5.45am and the last wave of team swimmers expected to leave the beach by 7.45am.

The event has five participation categories for competitors:

- Champions of the Channel (elite Solo swimmers)
- Solo
- Duo
- Team (of four)
- Charity Challenge (teams of four)

The operational set up and pack down times will commence at 8.00am on Friday, 25 February 2022 and conclude at 1.00pm on Saturday, 26 February 2022.

**OFFICER COMMENT**

The Chief Executive Officer (CEO) has delegated authority to approve events, subject to compliance with relevant legislation, local laws and policies. This event application, and fee waiver request has been presented to Council as the value of the fee waiver request is greater than the Chief Executive Officer's delegation, and the event is classed as a 'Community' event.

The Rottnest Channel Swim Association appreciates the Town of Cottesloe's continued support for this annual event. In return for waiving the event fees, the Town will be recognised as an Official Supporter of the event and acknowledged on the Rottnest Channel Swim event website, as well as the opportunity for signage at the event's start line.

The Rottnest Channel Swim Association is not a charity, however it is classified as not-for-profit as per the ATO requirements. This event is classified as a Community event under the Event Classification Policy, however if this event was classified as Commercial "for profit", the event organisers would be charged over \$20,000 to hire Cottesloe Beach.

Each year, the Association collects charity donations through their event registration process, and these donations are distributed after the event to the following organisations:

| Specific Charity groups              |                                 |
|--------------------------------------|---------------------------------|
| Beyond Blue                          | North Cottesloe SLSC            |
| Cottesloe SLSC                       | Proudies Foundation             |
| ESIA Gift of Hearing                 | Rottnest Island Foundation      |
| Foundation for the WA Museum         | Royal Flying Doctors WA         |
| Fremantle Volunteer Sea Rescue Group | Scarborough SLSC                |
| Kai Eardley Foundation               | Sonta House Refuge Association  |
| Lifeline WA                          | Sorrento SLSC                   |
| MADALAH                              | St John Ambulance WA            |
| MSWA                                 | Starlight Children's Foundation |

The Rottnest Channel Swim Association's cash reserves have built up over the past 31 years. The elected Volunteer Board, many of whom are Cottesloe residents, decide how the Rottnest Channel Swim Association spends their equity. See extract below from the attached Rottnest Channel Swim Association Constitution:

*"3.(2)The property and income of the Association shall be applied solely towards the promotion of the objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects."*

**ATTACHMENTS**

**10.1.1(a) Profit and Loss Statement [CONFIDENTIAL] [UNDER SEPARATE COVER]**

**10.1.1(b) Rottnest Channel Swim Association Constitution [under separate cover]**

**CONSULTATION**

Rottnest Channel Swim Association Staff

Cottesloe Surf Life Saving Club

Town of Cottesloe Staff

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Health (Public Building) Regulations 1992*

*Food Act 2008*

*Town's Health Local Law 1997*

*Health (Miscellaneous Provisions) Act 1911*

*Beaches and Beach Reserves Local Law 2012* has provisions for maintenance and management of the beaches and beach reserves.

### **POLICY IMPLICATIONS**

#### **Beach Policy**

This event is in compliance with the Town of Cottesloe's Beach Policy.

#### **Event Classification Policy**

The event meets the assessment criteria of a Community Event as outlined in the policy as it is organised by a not for profit, incorporated organisation and satisfies two of the criteria. 'The event does not seek to promote a product, service or company (sponsorship excepted)' and 'spectating at the event is free'.

#### **Event Conditions Policy**

This event is in compliance with the Town of Cottesloe's Event Conditions Policy. 'This Policy provides authority for the Chief Executive Officer (CEO) to approve the use of Town of Cottesloe facilities and to approve event applications, subject to compliance with relevant legislation, local laws and policies.'

### **STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 1: Protecting and enhancing the wellbeing of residents and visitors

Major Strategy 1.3: Identify places to host more cultural events and activities.

### **RESOURCE IMPLICATIONS**

To comply with the Event and Facility Classification Policy, organisers would be charged \$1,100 (2020/21 budget) for hire and a \$1,000 bond. The Town has not charged the Rottnest Channel Swim Association in the past for the use of Cottesloe Beach.

It is therefore recommended that if the hire and below listed fees are to be waived, the Town seeks to be recognised as an Official Supporter of the event.

Rottnest Channel Swim has also requested the following fees be waived:

Events Fees                      \$1,100 per day

|                     |  |
|---------------------|--|
| Bin Hire            | 6 bins x \$31 per bin (hire and servicing) |
| Car bays            | 30 bays (approx.) x \$52 per bay           |
| Sponsor film permit | \$500                                      |
| Food vendor permit  | 2 x \$60 per vendor                        |
| <b>Total</b>        | <b>\$3,466</b>                             |

The Director Development and Regulatory Services will liaise with event organisers to review the relevant event plans and discuss the requirements of the *Health (Public Building) Regulations 1992* and the *Food Act 2008*.

Officers will be required to attend the event to ensure compliance with the officer's recommendation and statutory obligations including traffic management, risk management and relevant Acts. Rangers will be required to attend to assist with parking requirements.

Staff will meet with event organisers after the event to de-brief.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

Adequate arrangements are made for rubbish collection and removal of recyclable materials.

Staff will assist organisers to avoid the use of any form of single use plastic in accordance with the event conditions.

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

**Moved Cr Harkins**

**Seconded Cr Young**

1. THAT Council APPROVES the application from Rottnest Channel Swim Association at Cottesloe Beach on Saturday, 26 February 2022, subject to the following conditions:
  1. Evidence of appropriate Public Liability Insurance, with cover no less than \$20 million, be provided prior to the event.
  2. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.
  3. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.
  4. All signage to be approved by the Chief Executive Officer one month prior to the event.
  5. The event complies with all noise management conditions imposed on the event by the Town of Cottesloe.
  6. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*.
  7. Compliance with relevant sections of the Town's *Beach Policy*.
  8. The event complies with all requirements of the:

- *Health (Public Buildings) Regulations 1992*
  - *Food Act 2008*
  - *Town's Health Local Law 1997*
  - *Town's Liquor (Licensed Premises) Policy*
  - *Health (Miscellaneous Provisions) Act 1911*
  - *Environmental Protection (Noise) Regulations 1997*
9. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event.
  10. Adequate arrangements for rubbish removal and collection, including the provision for recycling.
  11. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event.
  12. Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event.
  13. That the event is a non-smoking event.
  14. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.
  15. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.
  16. The provision of a Disability Access and Inclusion Plan.
  17. Any usage of drones is to comply with Civil Aviation Safety Authority regulations. A copy of the Pilots licence and Public Liability Insurance, be provided prior to the event.

#### ADVICE NOTE

##### No Balloons

The Town of Cottesloe *Local Government Property Local Law 2001 (Consolidated)* prohibits at clause 2.8(1)(i) '*releasing an unsecured balloon inflated with a gas that causes it to rise in the air*'. Fines apply for breach of this Local Law, and applies to all events and food vans (and the like) approvals.

##### Single Use Plastics Medical Exemption

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the

single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

Fish Habitat Protection Area (FHPA)

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

2. THAT Council waives the event fees, subject to the following conditions:
  1. Class this event as a 'community' event and the hire charges and other miscellaneous fees be waived, and a bond of \$1,000, to be paid prior to the event commencing, subject to the Town being recognised as an official sponsor of the event.

**OCM097/2021**

**COUNCILLOR AMENDMENT**

Moved Cr Sadler

Seconded Cr MacFarlane

That the following points written below in italics/underline be added

2. THAT Council waives the event fees, subject to the following conditions:
  1. Class this event as a 'community' event and the hire charges and other miscellaneous fees be waived and a bond of \$1,000 to be paid prior to the event commencing, subject to the Town being recognised as an official sponsor of the event.
  2. *Rottnest Channel Swim providing the Town of Cottesloe with a copy of their annual financial report for the year ending April 2021, when available.*
3. *REQUESTS THE ADMINISTRATION to bring a report to a briefing forum by October 2021 regarding opportunities to strengthen the relationship between the Rottnest Channel Swim and the Town of Cottesloe.*

Carried 9/0

**OCM098/2021**

**SUBSTANTIVE MOTION AND COUNCIL RESOLUTION**

1. THAT Council APPROVES the application from Rottnest Channel Swim Association at Cottesloe Beach on Saturday, 26 February 2022, subject to the following conditions:
  1. Evidence of appropriate Public Liability Insurance, with cover no less than \$20 million, be provided prior to the event.
  2. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.

3. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.
4. All signage to be approved by the Chief Executive Officer one month prior to the event.
5. The event complies with all noise management conditions imposed on the event by the Town of Cottesloe.
6. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*.
7. Compliance with relevant sections of the Town's *Beach Policy*.
8. The event complies with all requirements of the:
  - *Health (Public Buildings) Regulations 1992*
  - *Food Act 2008*
  - *Town's Health Local Law 1997*
  - *Town's Liquor (Licensed Premises) Policy*
  - *Health (Miscellaneous Provisions) Act 1911*
  - *Environmental Protection (Noise) Regulations 1997*
9. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event.
10. Adequate arrangements for rubbish removal and collection, including the provision for recycling.
11. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event.
12. Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event.
13. That the event is a non-smoking event.
14. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.
15. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.
16. The provision of a Disability Access and Inclusion Plan.

17. Any usage of drones is to comply with Civil Aviation Safety Authority regulations. A copy of the Pilots licence and Public Liability Insurance, be provided prior to the event.

#### **ADVICE NOTE**

##### **No Balloons**

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##### **Single Use Plastics Medical Exemption**

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

##### **Fish Habitat Protection Area (FHPA)**

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

2. THAT Council waives the event fees, subject to the following conditions:
  1. Class this event as a 'community' event and the hire charges and other miscellaneous fees be waived, and a bond of \$1,000, to be paid prior to the event commencing, subject to the Town being recognised as an official sponsor of the event.
  2. Rottnest Channel Swim providing the Town of Cottesloe with a copy of their annual financial report annually.
3. REQUESTS THE ADMINISTRATION to bring a report to a briefing forum by October 2021 regarding opportunities to strengthen the relationship between the Rottnest Channel Swim and the Town of Cottesloe.

Carried 9/0

#### **COUNCILLOR RATIONALE:**

1. It is appropriate that we review the Rottnest Channel Swim annual financial support for the current financial year, given the waiver of significant fees.
2. The Rottnest Channel Swim is a positive, well run event that brings significant benefits to the Town. Similar to Sculpture by the Sea, there are opportunities to strengthen the relationship in ways that create further value for the Town, the event and the

residents of Cottesloe. These opportunities can be explored in a report to Council and engagement with the Rottnest Channel Swim.

**10.1.2 NOTICE OF INTENTION TO LEVY DIFFERENTIAL RATES**

**Directorate:** Corporate and Community Services  
**Author(s):** Wayne Richards, Finance Manager  
**Authoriser(s):** Shane Collie, Director Corporate and Community Services  
**File Reference:** D21/23522  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

Mayor Angers declared an IMPARTIALITY INTEREST in item 10.1.2 by virtue "My wife and I own a toy shop in Station Street and we are members of Procott."

Cr Tucak declared an IMPARTIALITY INTEREST in item 10.1.2 by virtue "I am a former Chair and member of Procott."

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**SUMMARY**

Council is being asked to consider adopting a differential rating structure to allow for Local Public Notice to be given of its intention to raise a differential rate for the 2021/22 financial year.

**OFFICER RECOMMENDATION IN BRIEF**

That Council advertise its intention to raise the following differential rates and minimum rates for the 2021/22 financial year as follows:-

- Differential General Rate (GRV) – Rate in the dollar being 0.071001 with a minimum rate of \$1,202.00
- Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.082283 with a minimum rate of \$1,202.00

**BACKGROUND**

Council has historically funded the group known as ProCott, through the imposition of a differential rate on commercial properties in the Cottesloe Town Centre. ProCott, through an agreement with the Town are required to submit plans on how these funds will be used in the development and promotion of commercial activity within the Town Centre. To date, no other differential rate has been charged.

The town centre commercial properties category comprises all rateable land in the Cottesloe Town Centre that is zoned commercial in the Town of Cottesloe Town Planning Scheme. This rate in the dollar represents the general rate, plus the rate that is levied on behalf of ProCott – who use the funds in agreement with the Town – to promote and improve commercial activity within the Town Centre.

The differential rate is levied under the provisions of 6.33(1) (a) of the *Local Government Act 1995*.

While Council is able to adopt the differential rate with modifications, it is generally accepted practice that the differential rate imposed should not be materially different from that which was advertised.

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**OFFICER COMMENT**

The differential rate applied to the properties in the Cottesloe Town Centre raised \$116,106 last year which was subsequently expended through Procott activities with reporting back to Council through Council representatives on Procott and formal financial statements ensuring accountability for the expenditure. The amount anticipated to be raised through the differential rate for 2021/22 would be expected to be similar or slightly more depending on whether any interim rates are raised due to property sales.

**ATTACHMENTS**

- 10.1.2(a) Signed Procott Agreement dated 31 December 2011 [CONFIDENTIAL] [UNDER SEPARATE COVER]
- 10.1.2(b) Procott Financial Statements [CONFIDENTIAL] [UNDER SEPARATE COVER]
- 10.1.2(c) Procott - 21/22 Activities for Cottesloe Village [CONFIDENTIAL] [UNDER SEPARATE COVER]

**CONSULTATION**

There has been consultation with senior staff and elected members at the first budget workshop held on 28 May 2021.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

Section 6.33 of the Local Government Act 1995 provides the following in relation to differential rates.

**6.33. Differential general rates**

- (1) *A local government may impose differential general rates according to any, or a combination, of the following characteristics -*
  - (a) *the purpose for which the land is zoned, whether or not under a local planning scheme or improvement scheme in force under the Planning and Development Act 2005; or*
  - (b) *a purpose for which the land is held or used as determined by the local government; or*
  - (c) *whether or not the land is vacant land; or*
  - (d) *any other characteristic or combination of characteristics prescribed.*
- (2) *Regulations may -*
  - (a) *specify the characteristics under subsection (1) which a local government is to use; or*
  - (b) *limit the characteristics under subsection (1) which a local government is permitted to use.*

- (3) *In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.*
- (4) *If during a financial year, the characteristics of any land which form the basis for the imposition of a differential general rate have changed, the local government is not to, on account of that change, amend the assessment of rates payable on that land in respect of that financial year but this subsection does not apply in any case where section 6.40(1) (a) applies.*
- (5) *A differential general rate that a local government purported to impose under this Act before the Local Government Amendment Act 2009 section 39(1) (a) came into operation 1 is to be taken to have been as valid as if the amendment made by that paragraph had been made before the purported imposition of that rate.*

Section 6.36 of the *Local Government Act 1995* provides for the requirement to advertise the intention to raise a differential rate.

**6.36. Local government to give notice of certain rates**

- (1) *Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6) (c) a local government is to give local public notice of its intention to do so.*
- (2) *A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).*
- (3) *A notice referred to in subsection (1) -*
  - (a) *may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and*
  - (b) *is to contain -*
    - (i) *details of each rate or minimum payment the local government intends to impose; and*
    - (ii) *an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and*
    - (iii) *any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;*
  - and*
  - (c) *is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.*

- (4) *The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.*
- (5) *Where a local government -*
- (a) *in an emergency, proposes to impose a supplementary general rate or specified area rate under section 6.32(3)(a); or*
  - (b) *proposes to modify the proposed rates or minimum payments after considering any submissions under subsection (4),*
- it is not required to give local public notice of that proposed supplementary general rate, specified area rate, modified rate or minimum payment.*

Section 6.35 of the *Local Government Act 1995* provides the following in relation to minimum payments.

**6.35. Minimum payment**

- (1) *Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.*
- (2) *A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.*
- (3) *In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than -*
- (a) *50% of the total number of separately rated properties in the district; or*
  - (b) *50% of the number of properties in each category referred to in subsection (6),*
- on which a minimum payment is imposed.*
- (4) *A minimum payment is not to be imposed on more than the prescribed percentage of —*
- (a) *the number of separately rated properties in the district; or*
  - (b) *the number of properties in each category referred to in subsection (6),*
- unless the general minimum does not exceed the prescribed amount.*
- (5) *If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.*
- (6) *For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories -*
- (a) *to land rated on gross rental value; and*
  - (b) *to land rated on unimproved value; and*
  - (c) *to each differential rating category where a differential general rate is imposed.*

The *Local Government (Financial Management Regulations) 1996* states:

**52A. Characteristics prescribed for differential general rates (Act s. 6.33)**

(1) *In this regulation -*

**commencement day** means the day on which the *Local Government (Financial Management) Amendment Regulations (No. 2) 2012 regulation 5* comes into operation 1;

**relevant district** means a district that —

(a) *is declared to be a district by an order made under section 2.1(1)(a) on or after commencement day; or*

(b) *has its boundaries changed by an order made under section 2.1(1)(b) on or after commencement day.*

(2) *For the purposes of section 6.33(1)(d), the following characteristics are prescribed in relation to land in a relevant district, where not more than 5 years has elapsed since the district last became a relevant district —*

(a) *whether or not the land is situated in a townsite as defined in the *Land Administration Act 1997* section 3(1);*

(b) *whether or not the land is situated in a particular part of the district of the local government.*

### **POLICY IMPLICATIONS**

There are no perceived policy implications arising from the officer's recommendation.

### **STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

### **RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

**Moved Cr Young****Seconded Cr Harkins**

THAT Council ADVERTISES its intention to raise the following differential general rates and minimum rates for the 2021/22 financial year:

1. Differential General Rate (GRV) – Rate in the dollar being 0.071001 with a minimum rate of \$1,202.00;
2. Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.082283 with a minimum rate of \$1,202.00.

**COUNCILLOR AMENDMENT****Moved Cr Tucak****Seconded Cr Sadler**

That the following words be added after the officer's recommendation:

and in addition requests the specific feedback of the members of ProCott Incorporated via ProCott's management committee notifying all members of point 2 and collating feedback.

**Lost 2/7****For: Crs Sadler and Tucak****Against: Mayor Angers, Crs Young, Harben, Masarei, Harkins, Barrett and MacFarlane****OCM099/2021****SUBSTANTIVE MOTION AND COUNCIL RESOLUTION**

THAT Council ADVERTISES its intention to raise the following differential general rates and minimum rates for the 2021/22 financial year:

1. Differential General Rate (GRV) – Rate in the dollar being 0.071001 with a minimum rate of \$1,202.00;
2. Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.082283 with a minimum rate of \$1,202.00.

**Carried 8/1****For: Mayor Angers, Crs Young, Harben, Sadler, Masarei, Harkins, Barrett and MacFarlane****Against: Cr Tucak**

**10.1.3 RECLASSIFICATION AND TRANSFER OF CURTIN AVENUE**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D21/24137  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to confirm the Reclassification and Transfer of responsibility for Curtin Avenue to Main Roads WA.

**OFFICER RECOMMENDATION IN BRIEF**

That responsibility for Curtin Avenue be transferred to Main Roads WA.

**BACKGROUND**

The State Government has been considering the reclassification of Curtin Avenue in the towns of Cottesloe and Mosman Park as a State Road since 2015. At that time, the Town wrote to Main Roads requesting a set of traffic signals be installed at Forrest Street and also asked for Curtin Avenue to be reclassified as a State Controlled Road. Enquiries were also made around the completion of the Perth Freight Link and possible introduction of heavy vehicle toll along this route.

In 2018 it was deemed that Curtin Avenue met the criteria to become a State road. The Town of Cottesloe agreed in principle, subject to a list of conditions, to the transfer of the Road in August 2019 and the finalisation of the transfer can now occur.

Main Roads WA commenced maintenance responsibility for the road from 1 July 2020 and the transfer was effected from 7 May 2021. The section of road to be transferred is the portion of Curtin Avenue within the Town of Cottesloe local government boundary (Grant Street to the Southern boundary of the Town).

Attached are the April and August 2019 Ordinary Council Meeting minutes relating to the Curtin Avenue reclassification.

**OFFICER COMMENT**

To conclude this matter Council is requested to escalate its position from “in principle” support for the transfer to agreeing to finalisation of the transfer.

Following the August 2019 Ordinary Council Meeting, officers have engaged with Main Roads to determine how the State Government proposes to achieve the handover conditions resolved by Council at the August 2019 Ordinary Meeting. This has been summarised below:

**Condition One:**

- a. Accepting that this proposal and any subsequent Notice and Declaration relates only to the road between the eastern and western kerbs of Curtin Avenue and does not extend to any verges, footpaths or slip roads off Curtin Avenue;

A Maintenance Responsibility Plan enclosed with the attached Main Roads letter indicates that the reclassification is only applicable to the boundaries mentioned in condition one above.

**Condition Two**

- b. Accepts all existing assets within the defined limits in point (a) in their current condition and does not require the Town of Cottesloe to undertake or fund any renewals works to these assets;

Main Roads have not subjected the reclassification to the Town making good any assets.

**Condition Three**

- c. Including the section of Jarrad Street, Victoria Street and Salvado Street between Curtin Avenue and the adjacent level crossing;

Only Victoria Street and Salvado Street crossings have been included in the road reclassification. Jarrad Street has been excluded due to its distance from Stirling Highway and business property accesses within this section.

**Condition Four**

- d. Including the pedestrian bridge at Pearse Street that traverses Curtin Avenue;

This has been confirmed within the attached Maintenance Responsibility Plans.

**Condition Five**

- e. Accepts that any future improvements or changes to the road or associated structures will be subject to the consultation requirements contained in the *Main Roads Act 1930*;

Main Roads in their attached letter have agreed to consult with the Town of Cottesloe before making any improvements to Curtin Avenue.

**Condition Six to Nine**

- f. Installs a crossing point along Curtin Avenue at the intersection of Napier Street, originally planned as part of the Principle Shared Path Project (Victoria Street to Grant Street) to allow pedestrians and cyclists to cross safely at this location without impacting the residents on the western side at this location;
- g. Installs a crossing point on the southern end of Curtin Avenue within the vicinity of Victoria Street or at a location deemed appropriate by the State Government to provide cyclists and pedestrians with a safe crossing point;
- h. considering any request from the Town to improve safety at the intersections of Curtin Avenue and Sydney Street and Victoria Street;
- i. Reviews and addresses the safety issue at the signalised pedestrian crossing along Curtin Avenue at Forrest Street with a number of vehicles not stopping at the red signal to give priority to pedestrians.

Main Roads have indicated in their attached letter and meetings with officers that this will be taken into consideration as part of future projects subject to the approval of State Government.

Resolution three of the August 2019 Ordinary Meeting relating to the use of an interim arrangement (using the same conditions noted above) with Main Roads Western Australia, formalised by an exchange of letters, from 1 January 2020 – with the formal Proclamation to occur by 30 June 2020 had been delayed to 2021 due to Covid 19.

In the next few months, the aim would be to commence discussions with Main Roads to determine what strategies and its timing are in place to manage the potential growth in freight travel along Curtin Avenue. Council will then be briefed at the September 2021 Elected Members Workshop to determine whether it wishes for the Mayor and Chief Executive Officer to further discuss this at a higher level with the Minister for Transport.

It would also be important to note that projects such as the Kwinana Port Proposal and freight rail upgrades will potentially reduce the heavy vehicle volumes on Curtin Avenue.

A letter was sent to Main Roads on 17 September 2019, thanking them for taking the time to attend a Curtin Avenue reclassification workshop with the Administration, directly impacted residents and the Council on 30 May 2019.

Council is asked to note that:

- Main Roads has recently indicated that street lighting falls within the jurisdiction of the Town but have agreed to fund half the cost of any upgrades and ongoing utilities;
- The Perth to Fremantle Principal Shared Path along Curtin Avenue was built by and is currently being maintained by Main Roads. This has been included in the Maintenance Responsibility Plans as a State Government asset as part of the reclassification process for completeness.
- Attached are briefing notes from the Town's Strategic Planner and comments from the Town of Peppermint Grove.

### **ATTACHMENTS**

- 10.1.3(a) Main Roads Curtin Avenue Reclassification Agreement Letter [under separate cover]**
- 10.1.3(b) Minutes - Curtin Avenue Reclassification - Main Roads - 30 April 2019 [under separate cover]**
- 10.1.3(c) Minutes - Curtin Avenue Reclassification - Main Roads - 27 August 2019 [under separate cover]**
- 10.1.3(d) Reclassification and Transfer of Curtin Avenue To Main Roads WA - Comments from Strategic Planning [under separate cover]**
- 10.1.3(e) Reclassification and Transfer of Curtin Avenue to Main Roads WA - Shire of Peppermint Grove Comments [under separate cover]**

### **CONSULTATION**

Main Roads WA.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Main Roads Act 1930*

**POLICY IMPLICATIONS**

There are no perceived policy implications arising from the officer's recommendation.

**STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 1: Protecting and enhancing the wellbeing of residents and visitors

Major Strategy 2.1: Proactively pursue solutions for Curtin Avenue and the railway.

**RESOURCE IMPLICATIONS**

Nil

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority.

**OFFICER RECOMMENDATION**

THAT Council ADVISES Main Roads WA that it consents to the finalisation of the Reclassification of Curtin Avenue to become a State Road with responsibility for the road now belonging to Main Roads WA.

**COUNCILLOR MOTION**

**Moved Cr Young**

**Seconded Cr Barrett**

That Council ADVISES Main Roads WA that it consents to the finalisation of the Reclassification of Curtin Ave to become a State Road with responsibility for the road now belonging to Main Roads WA, in accordance with the attached Maintenance Responsibility Plan dated June 2020, subject to Main Roads WA:

- i. giving due and prompt consideration to installing a pedestrian crossing point at Napier St as was proposed in the original Principal Shared Path Project plans, but without significantly impacting on verges to the western side of Curtin Ave, as per Council's resolution of August 2019;
- ii. giving due and prompt consideration to installing pedestrian crossing points near Victoria St as per Council's resolution of 2019;

- iii. giving due and prompt consideration to any request from the Town to improve safety at the Curtin Ave/Sydney St and Curtin Ave/Victoria St intersections;
- iv. reviewing and addressing safety issues at the Forrest St signalised pedestrian crossing, with a number of vehicles not stopping at the red signal to give way to pedestrians.

**COUNCILLOR AMENDMENT****Moved Cr Tucak****No Seconder, Lapsed**

Add the following paragraph to the end of the four bullet points of Cr Young's motion:

and requests the Administration to notify residents on Curtin Avenue of this, in particular those residents in the vicinity of the intersections referred to in points (i), (ii) and (iii).

**OCM100/2021****SUBSTANTIVE MOTION AND COUNCIL RESOLUTION****Moved Cr Young****Seconded Cr Sadler**

**That Council ADVISES Main Roads WA that it consents to the finalisation of the Reclassification of Curtin Ave to become a State Road with responsibility for the road now belonging to Main Roads WA, in accordance with the attached Maintenance Responsibility Plan dated June 2020, subject to Main Roads WA:**

- i. **giving due and prompt consideration to installing a pedestrian crossing point at Napier St as was proposed in the original Principal Shared Path Project plans, but without significantly impacting on verges to the western side of Curtin Ave, as per Council's resolution of August 2019;**
- ii. **giving due and prompt consideration to installing pedestrian crossing points near Victoria St as per Council's resolution of 2019;**
- iii. **giving due and prompt consideration to any request from the Town to improve safety at the Curtin Ave/Sydney St and Curtin Ave/Victoria St intersections;**
- iv. **reviewing and addressing safety issues at the Forrest St signalised pedestrian crossing, with a number of vehicles not stopping at the red signal to give way to pedestrians.**

**Carried 9/0****COUNCILLOR RATIONALE:**

The inclusion of the reference to the Maintenance Responsibility Plan ensures that the commitments reflected in the Plan form part of Council's conditions for approval;

The other amendments provide for greater certainty as to Main Road's commitments to improve safety on Curtin Ave which is of great concern for Cottesloe residents and is consistent with Council's aim of improving east/west connectivity.

**10.1.4 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2020 TO 31 MAY 2021**

**Directorate:** Corporate and Community Services  
**Author(s):** Wayne Richards, Finance Manager  
**Authoriser(s):** Shane Collie, Director Corporate and Community Services  
Matthew Scott, Chief Executive Officer  
**File Reference:** D21/26322  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

It is a requirement of the Local Government Act 1995 that monthly and quarterly financial statements are presented to Council, in order to allow for proper control of the Town's finances and to ensure that income and expenditure are compared to budget forecasts.

**OFFICER RECOMMENDATION IN BRIEF**

That Council receives the Monthly Financial Statements for the period 1 July 2020 to 31 May 2021.

**BACKGROUND**

In order to prepare the attached financial statements, the following reconciliations and financial procedures have been completed and verified:

- Reconciliation of all bank accounts.
- Reconciliation of rates and source valuations.
- Reconciliation of assets and liabilities.
- Reconciliation of payroll and taxation.
- Reconciliation of accounts payable and accounts receivable ledgers.
- Allocation of costs from administration, public works overheads and plant operations.
- Reconciliation of loans and investments.

**OFFICER COMMENT**

The following comments and/or statements provide a brief summary of major financial/budget indicators and are included to assist in the interpretation and understanding of the attached financial statements:

- The net current funding position as at 31 May 2021 was \$1,834,043 as compared to \$2,772,998 this time last year.
- Rates receivables at 31 May 2021 stood at \$361,499 as compared to \$332,937 this time last year as shown on page 25 of the attached financial statements.

- Operating revenue is more than year to date budget by \$980,260 with a more detailed explanation of material variances provided on page 21 of the attached financial statements. Operating expenditure is \$173,320 less than year to date budget.
- The capital works program is shown in detail on pages 34 to 35 of the attached financial statements.
- The balance of cash backed reserves was \$9,125,546 as at 31 May 2021 as shown in note 7 on page 28 of the attached financial statements.

#### **List of Accounts Paid for May 2021**

The list of accounts paid during May 2021 is shown on pages 36 to 41 of the attached financial statements. The following significant payments are brought to Council's attention:

- \$24,032.59 & \$27,181.76 to SuperChoice Services Pty Ltd for staff superannuation contributions.
- \$50,600.00 to Eco Shark Barrier Pty Ltd for the removal, maintenance and storage of the barrier.
- \$79,030.48 to Rico Enterprises P/L for waste removal services
- \$77,000.00 to Sculpture by the Sea being the Town's contribution towards the event as per the agreement.
- \$29,057.76 to the Western Metropolitan Regional Council for waste disposal fees.
- \$42,790.00 to Jackson McDonald Services Pty Ltd for legal services.
- \$32,756.36 to Solutions 4 Building Pty Ltd for retention monies relating to the depot construction.
- \$50,444.78 to Thomson Geer Lawyers for legal services.
- \$147,597.46 to Environmental Industries for beach path access works.

#### **Investments and Loans**

Cash and investments are shown in note 4 on page 23 of the attached financial statements. The Town has approximately 43% of funds invested with the National Australia Bank, 28% with the Commonwealth Bank of Australia and 29% with Westpac Banking Corporation. A balance of \$9,125,546 was held in reserve funds as at 31 May 2021.

Information on borrowings is shown in note 10 on page 31 of the attached financial statements. The Town had total principal outstanding of \$3,140,786 as at 31 May 2021.

#### **Rates, Sundry Debtors and Other Receivables**

Rates outstanding are shown on note 6 on page 25 and show a balance of \$361,499 outstanding as compared to \$332,937 this time last year.

Sundry debtors are shown on note 6 on page 25 of the attached financial statements. The sundry debtors report shows that 58% or \$38,894 is older than 90 days. Infringement debtors are shown on note 6 on page 27 and stood at \$477,846 as at 31 May 2021.

Budget amendments are shown on note 5 on page 24 of the attached financial statements.

**ATTACHMENTS**

- 10.1.4(a) **Monthly Financial Statements for the period 1 July 2020 to 31 May 2021**  
[under separate cover]

**CONSULTATION**

Senior staff.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995* Local Government (Financial Management) Regulations 1996

**POLICY IMPLICATIONS**

There are no perceived Policy implications arising from the officer's recommendation.

**STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2020 to 31 May 2021 as submitted to the 22 June 2021 meeting of Council.

**COUNCILLOR MOTION**

**Moved Cr Tucak**

**No Seconder, Lapsed**

That this item be deferred pending clarification of the matters raised at the June 2021 Agenda Forum on the Beach Path S15 expenditure which suggests there has been an over budget expenditure of approximately \$110,000 or 30% over budget.

**OCM101/2021**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Barrett**

**Seconded Cr Harkins**

**THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2020 to 31 May 2021 as submitted to the 22 June 2021 meeting of Council.**

**Carried 8/1**

**For: Mayor Angers, Crs Young, Harben, Sadler, Masarei, Harkins, Barrett and MacFarlane**

**Against: Cr Tucak**

**10.1.5 TOWN OF COTTESLOE LOCAL GOVERNMENT (MEETING PROCEDURE) LOCAL LAW 2021**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D21/28169  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

The Joint Standing Committee on Delegated Legislation (JSCDL) has raised some relatively minor matters with the Town's new Local Government (Meeting Procedure) Local Law 2021 that it is seeking to have amended within a 6 month timeframe. The JSCDL have sought an assurance by 25 June 2021 from the Town that these matters will be attended to.

**OFFICER RECOMMENDATION IN BRIEF**

For Council to provide an undertaking to the Joint Standing Committee on Delegated Legislation (JSCDL) that matters it has raised with the above Local Law are amended to their satisfaction within 6 months.

**BACKGROUND**

The Town's Local Government (Meeting Procedure) Local Law 2021 was gazetted on 9 March 2021 and came into effect on 23 March 2021. As Council members would be aware the Local Law was a long time in development and was based on the WALGA template Local Law with additional clauses included where Council saw fit.

The JSCDL scrutinises legislation including local laws and has the authority to disallow a local law should it be deemed not to be unlawful or not meet the requirements of the committee. The JSCDL wrote to Council on 15 June 2021 (received 17 June 2021) noting some matters in the Town's Local Government (Meeting Procedure) Local Law 2021 that it deems requires correction. The Town has been given until 25 June 2021 to respond.

**OFFICER COMMENT**

The matters raised by the JSCDL are discussed below:

**Clause 5.1 (2) Business to be specified**

This matter was raised as it is not consistent with the WALGA Local Law template. The rationale for inclusion to be provided, however if this clause is not acceptable to the JSCDL it should be removed as opposed to having the entire Local Law disallowed.

**Clause 9.16 (2) Right of reply**

This matter was raised as it is not consistent with the WALGA Local Law template. The rationale for inclusion to be provided, however if this clause is not acceptable to the JSCDL it should be removed as opposed to having the entire Local Law disallowed.

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**Clause 7.5 Use of mobile phones and other communication devices**

This matter was concerned at the necessity and appropriateness of this clause. The JSCDL recommends its deletion. Given this clause is not acceptable to the JSCDL it should be removed as opposed to having the entire Local Law disallowed.

**Typographical/formatting errors**

Identified typographical/formatting errors to be corrected.

**ATTACHMENTS**

10.1.5(a) Letter from Joint Standing Committee on Delegated Legislation  
**[CONFIDENTIAL] [UNDER SEPARATE COVER]**

**CONSULTATION**

Joint Standing Committee on Delegated Legislation.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

**POLICY IMPLICATIONS**

There are no perceived policy implications arising from the officer's recommendation.

**STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

THAT Council ADVISES the Joint Standing Committee on Delegated Legislation

Within six months, the Town will:

1. Correct the typographical and errors as outlined in the JSCDL letter of 15 June 2021;
2. That clause 7.5 will not be enforced in a manner contrary to undertaking 1;

3. Provide information on the rationale for clause 5.1(2);
4. Provide information on the rationale for clause 9.16(2);
5. Ensure all consequential amendments arising from undertaking 1 will be made.
6. Where the local law is made publicly available by the Town, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

**OCM102/2021****COUNCILLOR MOTION AND COUNCIL RESOLUTION****Moved Cr Young****Seconded Cr Barrett****THAT Council:****UNDERTAKES TO the Joint Standing Committee on Delegated Legislation THAT:**

1. **within six months, the Town will:**
  - i. **Correct the typographical and errors as outlined in the JSCDL letter of 15 June 2021;**
  - ii. **Delete clauses 5.1(2), 9(16) and 7.5; and**
  - iii. **Ensure all consequential amendments arising from paras i. and ii. will be made.**
2. **clause 7.5 will not be enforced under part 18 (Enforcement) in a manner contrary to undertaking 1; and**
3. **Where the local law is made publicly available by the Town, whether in hard copy or electronic form, the Town will ensure that it is accompanied by a copy of this undertaking.**

**NOTES that the letter from the Joint Standing Committee on Delegated Legislation of 15 June 2021 has been marked confidential and privileged by the Chair of the Joint Standing Committee on Delegated Legislation.**

**Carried 8/1**

**For: Mayor Angers, Crs Young, Harben, Sadler, Masarei, Harkins, Barrett and MacFarlane**  
**Against: Cr Tucak**

**COUNCILLOR RATIONALE:**

1. The resolution has been framed as an Undertaking in accordance with the suggestion by the JSCDL in its letter of 15 June 2021;
2. Clauses 5.1(2) and 9.16(2) are not in the WALGA template for local government meeting procedures. There would not appear to be any rationale for their inclusion beyond the fact that they were included in the Town's Standing Orders Local Law (2012). The mischiefs which they seek to address can be addressed under other general provisions in the new local law. It is therefore appropriate to remove them.
3. Clause 7.5 was included in the new local laws to ensure that Council meetings and Council decision making are open and transparent, to enhance the community's confidence in Council processes. The Committee is concerned about enforcement of

the prohibition under Part 18 (Enforcement). There are other provisions in the new local laws under which the Presiding Member can ensure that communication devices are not used inappropriately and can deal with cases where they are (eg 16.2(1)). It would seem unlikely therefore that the Committee will agree to the inclusion of the current para 7.5.

4. Para 2 has been amended to expressly refer to part 18 (Enforcement) so that the Presiding Member's residual power under 16.2 is not compromised and can still be used to prevent inappropriate use of communication devices eg to send and receive communications to third parties relating to items then under discussion, debate or to be voted on;
5. If Council is of the view that the mischief that para 7.5 seeks to address is best dealt with by express inclusion then Council might request WALGA to reconsider such a paragraph for inclusion in its standard template.

**DEVELOPMENT AND REGULATORY SERVICES****10.1.6 ESTABLISHMENT OF A DESIGN REVIEW PANEL WITH 'TERMS OF REFERENCE' IN ACCORDANCE WITH THE WAPC'S DESIGN REVIEW GUIDE (2019)**

**Directorate:** Development and Regulatory Services  
**Author(s):** Ed Drewett, Coordinator Statutory Planning  
**Authoriser(s):** Freya Ayliffe, Director Development and Regulatory Services  
 Wayne Zimmermann, Manager of Planning  
**File Reference:** D21/25333  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

Cr Tucak declared an IMPARTIALITY INTEREST in item 10.1.6 by virtue "I have been the Chair of the Design Advisory Panel for the last 3½ years and I will be removed under the proposal."

Cr Harben declared an IMPARTIALITY INTEREST in item 10.1.6 by virtue "I am the Deputy Presiding Member of the Design Advisory Panel."

**SUMMARY**

The purpose of this report is to seek Council's agreement to establishing a *Design Review Panel* (DRP) in accordance with the WAPC's *Design Review Guide* (attached), and endorsement of the associated model 'terms of reference' (attached), to ensure that it provides independent advice to Council and meets the requirements for design review outlined in State Planning Policy 7.0 - *Design for the Built Environment*, and other relevant planning legislation. Following the adoption of this new protocol Council's existing *Design Advisory Panel* Policy shall be revoked.

**OFFICER RECOMMENDATION IN BRIEF**

That Council agrees to establish a *Design Review Panel* in accordance with the WAPC's *Design Review Guide* (2019), and endorse the associated model 'terms of reference' to replace the existing *Design Advisory Panel Policy* (2005).

**BACKGROUND**

The existing *Design Advisory Policy* was adopted on 23 May 2005 and has largely been successful in its implementation of a panel to provide urban design advice to Council. However, the State Government now strongly encourages the establishment of Design Review Panels (DRPs) to facilitate its Design WA suite of changes, and it has produced the Design Review Guide that sets a best-practice model and offers practical advice on how to establish and operate a panel and encourage consistency as design processes evolve.

The existing Design Advisory Panel comprises five (5) independent panel members and two (2) Councillors:

|                    |                              |
|--------------------|------------------------------|
| Cr Michael Tucak   | Chair, Elected Member        |
| Cr Caroline Harben | Deputy Chair, Elected Member |

|                   |                          |
|-------------------|--------------------------|
| Mr Craig Shepherd | Community Representative |
| Mr Laurie Scanlan | Community Representative |
| Ms Tina Arthur    | Community Representative |
| Mr Mike Dobson    | Community Representative |
| Mr Trevor Saleeba | Community Representative |

On 29 October 2019, Council resolved to:

*DEFER consideration of the Design Advisory Panel charter, as attached, to allow the Administration to advise Council on changes to the charter to: align it more closely to the terms of the WAPC Design Review Guide May 2019, including provisions relating to Purpose, role of Chair in voting and calculation of quorum, relevant expertise of members; consider expanding membership to allow Deputy Community Members; and to deal expressly with Elected Members' attendance as Observers at Panel meetings.*

In response to this resolution, this report provides additional information in respect to the establishment of a Design Review Panel and recommends that the WAPC's model 'terms of reference' be endorsed rather than a Design Advisory Panel Charter to ensure consistency with the recommended best-practice model.

#### **OFFICER COMMENT**

The membership and function of the existing *Design Advisory Panel* can fundamentally continue to operate in the manner in which it is accustomed. However, to ensure that the Panel's advice remains impartial, apolitical and independent, the State Government's Design Review Guide advises that elected members and officers should not be appointed to the Panel.

Council is advised that the existing Panel members should therefore be reduced to five (5), which is within the recommended number of panel members of between four (4) and six (6).

The Town's administration will continue to participate in all design reviews in an advisory capacity and provide administrative and governance support.

The required quorum is to be at least two thirds of the total number of panel members meaning that at least four (4) panel members will need to be present at each meeting.

The proposed *Design Review Panel* will comprise:

|                   |                          |
|-------------------|--------------------------|
| Mr Craig Shepherd | Community Representative |
| Mr Laurie Scanlan | Community Representative |
| Ms Tina Arthur    | Community Representative |
| Mr Mike Dobson    | Community Representative |
| Mr Trevor Saleeba | Community Representative |

A new panel chair will need to be decided at the first Design Review Panel meeting.

A small pool of appointed design review professionals is also recommended in whose skills Council can have confidence in delivering appropriate design review outcomes. This can be established by the Town's administration in accordance with the WAPC's *Design Review Guide* (clause 5.6.2) and will provide a useful back-up to ensure that sufficient appointed members are available to create a quorum. All new panel appointments are required to be endorsed by Council.

The main function of the Panel will still be to provide professional independent advice to Council, the Joint Development Assessment Panel (JDAP), the State Development Assessment Unit (SDAU), and the State Administrative Tribunal (SAT) as required, typically on development proposals that are significant - due to their size, use, location and/or community impact - where it is considered essential to ensure that minimum levels of design quality are being achieved. However, the Panel may also be asked to provide advice on the development of local policy, plans and strategy based on best practice knowledge and understanding of context, history and future desired character of the locality, as well as providing support to Council in improving the design quality of public buildings and in the streets and open spaces for which they are responsible.

#### Funding

The Guide advises that funding costs are generally associated with the appointment (or re-appointment) of the Panel and operational costs (including member remuneration). It further advises that Council may consider setting a fee for the recovery, or part thereof, of the costs associated with the design review process. However, as the cost of running these meetings is generally low, membership has remained relatively stable, and members have previously rejected any form of remuneration, it is suggested that funding need not be considered at this time. However, this can be revisited by Council at a later date should circumstances change.

#### Status of advice

The status of advice from the Panel shall remain unchanged in that it shall be advisory only and does not have a decision-making function.

#### Roles and responsibilities

The Town's administration will continue to provide an agenda, minutes, and general governance support to panel members as recommended in the Guide.

#### Terms of Reference

It is recommended that the model *terms of reference* on pages 36 to 40 in the *Design Review Guide* be endorsed by Council, noting that remuneration to panel members will remain optional at this time.

A copy of the WAPC's *Design Review Guide* and model *terms of reference* are attached.

### **ATTACHMENTS**

- 10.1.6(a) Design Review Guide - DPLH [under separate cover]**
- 10.1.6(b) DWA-Design-Review-Guide-DR4-Model-terms-of-reference - DPLH [under separate cover]**

**CONSULTATION**

The proposed changes are administrative and do not require advertising.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Planning and Development Act 2015*

**POLICY IMPLICATIONS**

The Design Advisory Panel Policy adopted in 2005 is proposed to be revoked following the establishment of the Design Review Panel and endorsement of the WAPC's model 'terms of reference'.

**STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 4: Managing Development

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

Cr Masarei left the meeting at 7:58 pm.

**OFFICER RECOMMENDATION**

THAT Council:

1. AGREES to establish a *Design Review Panel* in accordance the WAPC's *Design Review Guide* (2019), and endorses the model 'terms of reference'; and
2. REVOKES the Council's Design Advisory Panel Policy (2005).

**COUNCILLOR MOTION****Moved Cr Tucak****No Seconder, Lapsed**

That Council DEFERS changes to the Design Advisory Panel until it is re-established after the October 2021 Council Elections to allow Panel continuity, consistent with the wishes of the expert panel members.

Cr Masarei returned to the meeting at 8:00 pm.

**OCM103/2021****COUNCILLOR MOTION AND COUNCIL RESOLUTION****Moved Cr Young****Seconded Cr Harben****THAT Council:**

- 1. AGREES to establish a *Design Review Panel* in accordance the WAPC's *Design Review Guide* (2019), and endorses the model 'terms of reference'; ~~and~~**
- 2. REVOKES the Council's Design Advisory Panel Policy (2005); and**
- 3. AGREES that the current community members of the Design Advisory Panel shall be members of the Design Review Panel until new members (which may include the current community members) are appointed following the October Council election.**

**Carried 8/1****For: Mayor Angers, Crs Young, Harben, Sadler, Masarei, Harkins, Barrett and MacFarlane****Against: Cr Tucak****COUNCILLOR RATIONALE:**

It is important that the Design Review Panel community expert membership be agreed by Council and that the workings of the Panel are able to continue until a new panel membership is determined after the October Council elections. The newly elected Council will first have to resolve to advertise the positions and then will have to consider applications. It is imperative that there is no period where the Town doesn't have a fully functional Panel given the very significant matters that the Panel will have to decide in the near future.

**ENGINEERING SERVICES****10.1.7 BEACH ACCESS PATH RATIONALISATION**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D21/26182  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Further investigations have been undertaken in accordance with the April 2021 Ordinary Council Meeting Resolution. Council is asked to consider the officer's analysis to determine the treatment to beach access paths S11, N10, N11 and N12.

**OFFICER RECOMMENDATION IN BRIEF**

Council is asked to approve the closure of beach access paths S11 and seek consultation on the proposed closure of N11 with an item being brought back to the August 2021 Ordinary Council Meeting for consideration.

**BACKGROUND**

At the April 2021 Ordinary Meeting, Council resolved as follows:

*OCM056/2021*

***COUNCILLOR MOTION AND COUNCIL RESOLUTION***

*Moved Cr Barrett*

*Seconded Cr Tucak*

*That Council:*

*DEFERS any decision on path S11 and N11 to allow Administration to prepare a report to Council on the detailed cost and other implications of retaining path S11 in its current form without significant structural changes and on the detailed cost and other implications of retaining path N11 until closer to the end of its useful life.*

*Carried 7/0*

The investigations have been undertaken and findings summarised in the officer's comment section of the report.

**OFFICER COMMENT**

At the April 2021 Ordinary Meeting, the original recommendation was for S11 to be closed and for consultation to occur with N11 before adopting the same treatment for this path. The following provides a summary of the investigation findings requested by Council as part of their deferral motion:

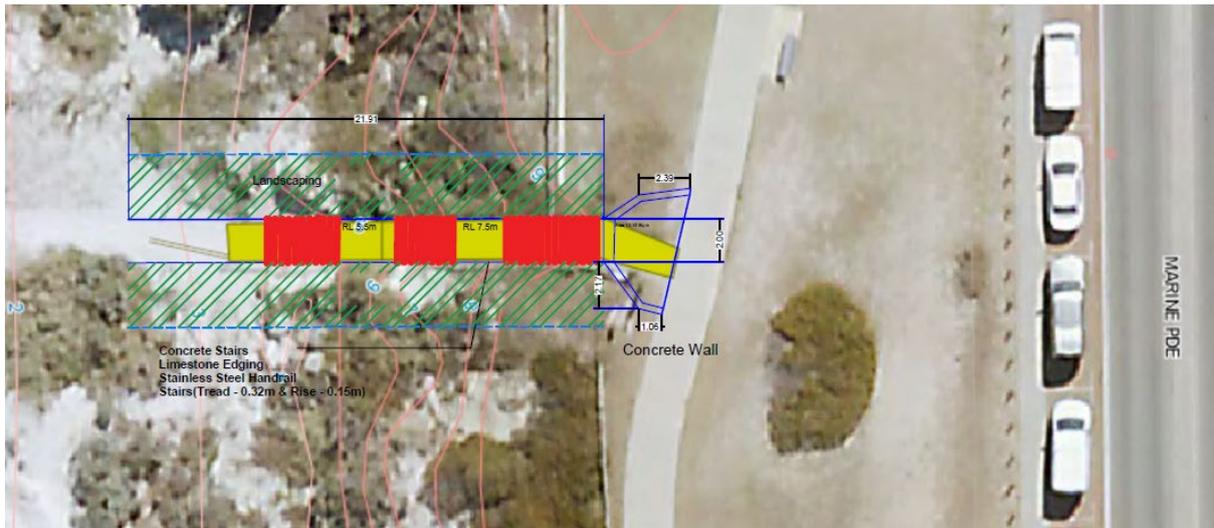
**Beach Access Path S11**

This narrow sand surfaced access point, bordered by deteriorated parallel running copper logs has potential public liability issues given the path steepness. The Town currently spends approximately \$1,200 to \$2,000 per annum on maintenance activities such as cleanliness, pruning and repairs to underlying wooden planks. Such costs are relatively low predominantly due to low erosions and not being a designated dog beach.

Whilst not recommended given two fairly new (upgraded in 2019) S10 and S12 paths approximately 80 metres away on either side, there would be the need for S11 to be upgraded in the interest of public safety, should Council wish to retain this path. These improvements have been estimated to be in the order of \$150,000 (\$130,000 construction and \$20,000 design) (shown below) excluding ongoing maintenance in comparison to a once off \$10,000 for its closure.

Notwithstanding the above, Subsequent to the June Agenda forum the Administration has become aware a potential funding source to upgrade S11.

Therefore it may be prudent of Council to defer a decision on closing S11 until this new source has been further investigated and considered by Council.



Beach Access Path N11



Other than an annual maintenance cost of \$7,000 to \$10,000 required for dog bag supply and ongoing erosion rectification works due to being a fairly exposed site, this path can remain open in its current form until the end of its useful life, noting that the main asset requiring renewal would be the log rails running parallel to this path.

Given the majority of survey participants supporting the adjacent paths (N10 and N12) to remain and no previous consultation relating to N11’s closure, Council is asked to consider seeking feedback in this regard before making a determination on the timing of any closures and path upgrades.

Should Council decide at the end of this process to close N11, the associated cost would be the remaining asset value of the log rails, demolition cost and capital expenditure on landscaping as a result of this closure. This is relatively insignificant in comparison to removing a step based beach access path such as S10.

The cost of removing the log rails and replacing this with compliant handrails only at either S11 or N11 would cost in the order of \$10,000 to \$20,000.

**ATTACHMENTS**

Nil

**CONSULTATION**

Residents and the wider community were previously consulted on the overall Beach Access Path Rationalisation Strategy.

Town of Cottesloe Staff

The Council

**STATUTORY IMPLICATIONS**

There are no perceived statutory implications.

**POLICY IMPLICATIONS**

There are no perceived policy implications arising from the officer's recommendation.

**STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 5: Providing sustainable infrastructure and community amenities

Major Strategy 5.2: Manage assets that have a realisable value.

**RESOURCE IMPLICATIONS**

A budget item would need to be included in future financial years for the paths to be either closed or upgraded. It is anticipated that any upgrade will be done by contractors and closures undertaken by staff, volunteers and external resources.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

**OCM104/2021**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Harkins**

**Seconded Cr Masarei**

**THAT Council:**

- 1. DEFERS the closure of path S11 subject to all external funding opportunities being explored, and if available, considered within the 2021/2022 Annual Budget or as a separate future report to an Ordinary Council Meeting;**
- 2. APPROVES the public consultation on the principles of closing N11; and**
- 3. NOTES an item will be brought to the August 2021 Ordinary Council Meeting upon the completion of Point Two.**

**Carried 9/0**

**10.1.8 COTTESLOE FORESHORE TOILET FACILITY - PUBLIC CONSULTATION**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D21/26324  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Council is asked to consider the public feedback received and the officer's analysis to determine the way forward.

**OFFICER RECOMMENDATION IN BRIEF**

Council is asked to note the survey results and thank all participants for providing responses. Approval is being sought for an option that involves negotiating with Tattarang for a public toilet facility to remain part of the Indiana Teahouse Redevelopment. The endorsement request also includes relocating this proposed public amenity closer to the Foreshore Redevelopment's recreational space and design modified to suit the built environment.

**BACKGROUND**

At the March 2021 Ordinary Meeting, Council, through the recommendation of the Foreshore Precinct Advisory Committee, approved the 100% Foreshore Redevelopment detail design including the further development of a toilet block concept.

At the April 2021 Special Council Meeting, Council resolved for the toilet block concept to be put out for public consultation that occurred in May 2021. A summary report has been attached.

**OFFICER COMMENT**

The public consultation occurred through an online survey between five and 19 May 2021 with a total of 185 participants responding to the electronic portal questions. Written submissions were also received supplementing their responses. A consultation report condensing the information received has been attached.

The survey results can be summarised as follows:

**Demographics**

- 79 percent and four percent equivalent to 147 and seven respondents have identified themselves as being resident / ratepayer and business owner respectively;
- Remaining 17 percent or 31 respondents live outside the Cottesloe District;

**Need for a Foreshore Precinct Toilet Facility**

- Approximately 70 percent of all respondents have agreed to the need for a toilet facility on the Foreshore Precinct;
-

- 67 percent of Cottesloe ratepayers and residents participated (99 respondents) and all seven business owners are in support of a Foreshore Precinct toilet facility;

**Proposed Location**

- 45 percent of all respondents and 43 percent of Cottesloe resident / ratepayer participants are supportive;
- 44 percent of all respondents and 46 percent of Cottesloe residents /ratepayer participants oppose;
- Ten percent of respondents from both demographic groups are neutral to this criteria;

**Proposed Design**

- 28 percent of all respondents and 26 percent of Cottesloe resident / ratepayer participants are supportive;
- 67 percent of all respondents and 70 percent of Cottesloe resident / ratepayer participants oppose;
- Between four to five percent of respondents from both demographic groups are neutral to this criteria;

**Need for Toilet Facilities in Other Areas of the Cottesloe District**

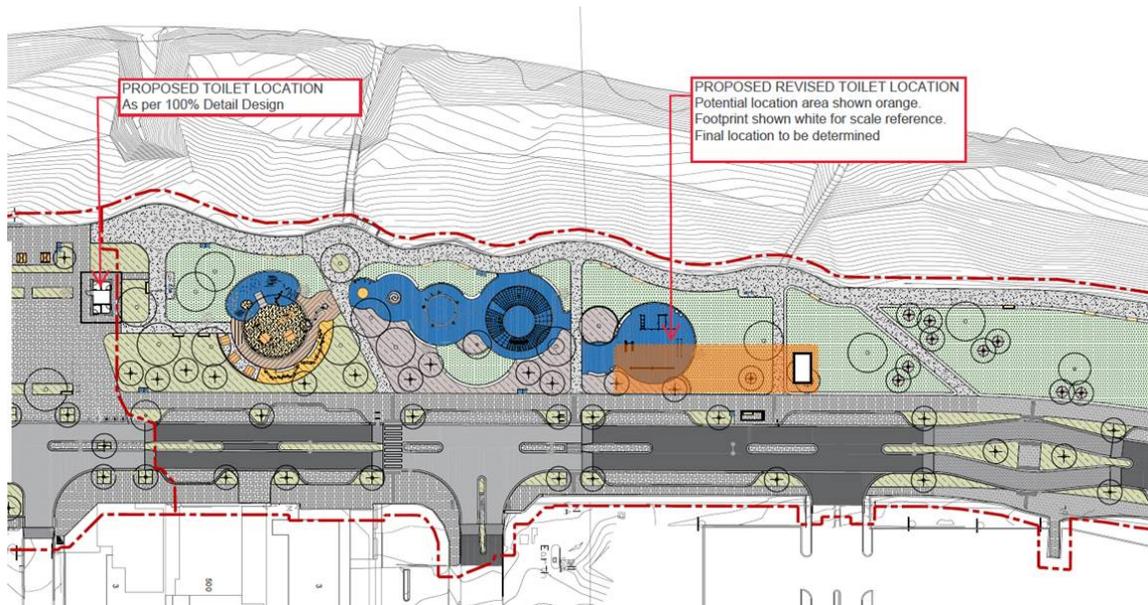
- 53 percent of respondents agree to this need whilst the remaining 47 have indicated no such requirement;
- The following are the top four proposed locations:
  - Section south of the Cottesloe Surf Life Saving Club;
  - Cottesloe Village;
  - Indiana Redevelopment; and
  - Grant Marine Park.

The attached consultation report provides further comments provided by all survey participants when responding to each criteria.

**Analysis of Results**

It is evident from the survey that the majority of respondents both within and outside the district do not support the proposed design whilst opinion on location is fairly balanced. The following are possible options derived from the feedback that Council can consider:

- Option One: Maintain the proposed location and ask for the design to be modified so as to provide one that has a scale and bulk consistent with the built environment;
- Option Two: Review both the location and design for this facility to be situated in a different location, possibly further north, closer to the recreation area of the Foreshore Redevelopment, as shown in the diagram below. The orange section provides the area where the toilet can be repositioned with an indicative preferred position (shown in white);



- Option Three: Indiana Teahouse toilet facilities to be retained as part of any redevelopment of the building in conjunction with Option Two; and
- Option Four: Do nothing.

Council is asked to note that Option Three is the preferred approach for the following reasons:

- Consistent with survey feedback;
- Provides a toilet facility during the Indiana Teahouse Redevelopment construction;
- Evenly distributed amenities between the Indiana Teahouse and Barchetta in North Cottesloe within the centre of activated spaces (Main Beach, Foreshore Playgrounds and Grant Marine Park Playground);
- Less constrained site; and
- Possibly lesser impact on views as this is directly opposite Carpark Two.

Council is asked to note that Aspect Studios have been consulted and have no technical concerns should the officer's recommendation be accepted.

A design consultancy cost variation of approximately \$13,150 would be required to undertake the further engineering investigations including a revised toilet building concept for the northern alternative position.

A revised building concept in its current proposed location will cost \$5000 and similar rates are applicable for each additional option regardless of its position on the foreshore. Artist impressions would incur a further cost of \$1,500 per angle view.

Regardless of the option that Council decides upon, the building redesign cost can be minimised by asking the consultant to only modify the height of the structure given that this is the predominant feature being resisted.

Council can also ask for other alternatives to be implemented but needs to be conscious of the lack in design popularity.

It would also be important to note that the Department of Planning have provided written support for the Foreshore Redevelopment 100% Design that includes the public toilet facility

in its proposed location and design (attached). The Department of Heritage have asked for a Heritage Impact Statement of the building's final position and design to be submitted once this is determined.

### **ATTACHMENTS**

- 10.1.8(a) Toilet Facility Consultation Survey Questions [under separate cover]**
- 10.1.8(b) REPORT - Community Consultation Outcomes - Proposed Foreshore Precinct Toilet Facility 5 May 2021 to 19 May 2021 [under separate cover]**
- 10.1.8(c) REPORT Attachments - Community Consultation Outcomes - Proposed Foreshore Precinct Toilet Facility 5 May 2021 to 19 May 2021. [under separate cover]**
- 10.1.8(d) Website Document - Cottesloe Foreshore Detailed Design 100 - Toilet Facility [under separate cover]**
- 10.1.8(e) Email - Comment from Department of Planning, Lands and Heritage on Cottesloe Foreshore Redevelopment Project - Redacted [under separate cover]**

### **CONSULTATION**

The survey was open to participants within and outside the Cottesloe District.

Department of Planning, Lands and Heritage (attached).

Aspect Studios

### **STATUTORY IMPLICATIONS**

There are no perceived statutory implications

### **POLICY IMPLICATIONS**

The approval of a toilet facility may have implications on the Beach Policy.

The decision of Council may have implications on the Community Engagement Policy

### **STRATEGIC IMPLICATIONS**

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 3: Enhancing beach access and the foreshore

Major Strategy 3.1: Implement the 'Foreshore Redevelopment Plan' in consultation with the community.

Depending on the decision of Council, the acceptance of the officer's recommendation may require some minor changes to be made to the Foreshore Redevelopment Design.

**RESOURCE IMPLICATIONS**

Design changes approved by Council will be undertaken by Aspect Studios and construction will be completed by a contractor engaged through a public tender process. Town staff will be responsible for project and contract management including technical decisions.

A provisional item of \$240,000 has been allowed for in the Foreshore Redevelopment cost estimate.

Council is asked to note the cost implications of the recommendation within the officer's comment section.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

THAT Council:

1. THANKS all survey participants for taking the time to provide feedback;
2. NOTES the comments received within the attached Consultation Report;
3. APPROVES Option Three as detailed in the officer's comment section of the report, noting that this is consistent with the survey responses provided; and
4. REQUESTS the Administration to consider the feedback received and develop a Public Toilet Strategy for Cottesloe.

**COUNCILLOR MOTION**

**Moved Cr Barrett**

**Seconded Cr Harkins**

THAT Council:

1. THANKS all survey participants for taking the time to provide feedback;
2. NOTES the comments received within the attached Consultation Report;
3. REQUIRES any redevelopment concept for the Indiana Teahouse to include public toilet facilities;
4. REQUESTS Administration to refer this to the Foreshore Precinct Advisory Committee for consideration and a REVIEW of both the location and design of this facility (with the possibility of it being relocated further North within the Playground / Recreation Area of the Foreshore Redevelopment) with a recommendation being provided to Council;
5. FPAC's review should include CONSIDERATION of all feedback from the community, officer's comments outlined in the report, the additional costs for the changing of location, beach access paths, and impacts on the potential location of a skate park facility (when the outcome of the workshops has been received);

6. REQUESTS FPAC to establish clear design parameters for the facility for consideration by Council;
7. SUBJECT to the acceptance of points 4-6 by Council, and acceptance by Council of the design parameters as per point 6, requests Aspect Studios reviews the feedback provided and identifies possible design concepts for consideration by the Foreshore Precinct Advisory Committee (FPAC) with FPAC's recommendation being brought back to Council for consideration;
8. NOTES that this is consistent with the survey responses provided; and
9. REQUESTS the Administration to consider the feedback received and develop a Public Toilet Strategy for Cottesloe.

Cr Young asked if Cr Barrett (the mover of the motion) if she would consider adding the words 'that progressing this project' after 'NOTES' in point 8. The mover and seconder agreed to incorporate the change.

Cr Sadler asked if in point 4, within the brackets, instead of saying 'with the possibility of it being relocated' say instead 'including the possibility of it being relocated'. The mover and seconder agreed to incorporate the change.

Cr Tucak suggested adding 'location and' before 'design' in point 7. The mover and seconder agreed to incorporate the change.

#### **OCM105/2021**

##### **COUNCILLOR MOTION**

**Moved Cr Young**

**Seconded Cr MacFarlane**

**That the meeting be adjourned for 5 minutes.**

**Carried 5/4**

**For: Mayor Angers, Crs Young, Harben, Harkins and MacFarlane**

**Against: Crs Sadler, Masarei, Tucak and Barrett**

The meeting was adjourned at 8:46pm.

The meeting was resumed at 8:54pm.

#### **OCM106/2021**

##### **SUSPENSION OF STANDING ORDERS**

**Moved Mayor Angers**

**Seconded Cr Young**

**That Standing orders be suspended for five minutes.**

**Carried 7/2**

**For: Mayor Angers, Crs Young, Harben, Harkins, Tucak, Barrett and MacFarlane**

**Against: Crs Sadler and Masarei**

Standing Orders were suspended at 9:01pm.



possible location and design concepts for consideration by the Foreshore Precinct Advisory Committee (FPAC) with FPAC's recommendation being brought back to Council for consideration;

8. NOTES that progressing this project is consistent with the survey responses provided; and
9. REQUESTS the Administration to consider the feedback received and develop a Public Toilet Strategy for Cottesloe.

**Carried 8/1**

**For: Mayor Angers, Crs Young, Harben, Masarei, Harkins, Tucak, Barrett and MacFarlane**

**Against: Cr Sadler**

**COUNCILLOR RATIONALE:**

- It is essential toilet facilities are still retained within the main Cottesloe Beach Zone.
- It is pleasing to see 68% of respondents felt there was a need for an additional toilet facility on the Foreshore precinct.
- It is important we utilise our Design Experts on the FPAC to guide in the design and location within the Foreshore precinct, taking into consideration issues outlined above.
- It is important clear design parameters are established to guide the design for the best design outcome.
- Point 9 is per the officer's recommendation and is aligned with our Corporate Business plan and feedback from the consultation.

**10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES**

Nil

**11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**

**12.1 ELECTED MEMBERS**

**12.2 OFFICERS**

**13 MEETING CLOSED TO PUBLIC**

**13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

**13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC**

**14 MEETING CLOSURE**

The Presiding Member announced the closure of the meeting at 9:10pm.