




Town of Cottesloe

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

Tuesday, 22 November 2022

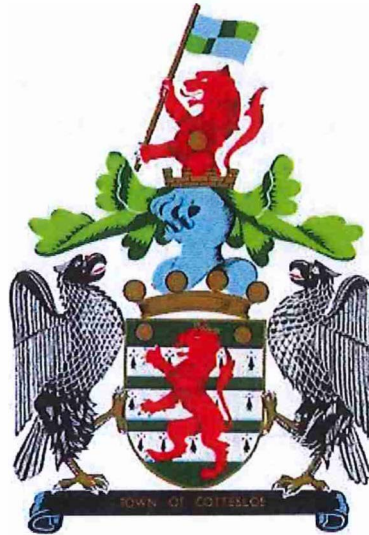
were confirmed as a true and accurate record by Council resolution.

Signed: 

Presiding Member

Date: 13/12/22

TOWN OF COTTESLOE



ORDINARY COUNCIL MEETING CONFIRMED MINUTES

ORDINARY COUNCIL MEETING
HELD IN THE
Council Chambers, Cottesloe Civic Centre, 109 Broome Street, Cottesloe
6:00pm Tuesday, 22 November 2022

A handwritten signature in black ink, appearing to read 'Matthew Scott', is written over a horizontal line.

MATTHEW SCOTT
Chief Executive Officer

1 December 2022

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TABLE OF CONTENTS

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	2
	4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	2
	4.2 PUBLIC QUESTIONS	5
5	PUBLIC STATEMENT TIME.....	9
6	ATTENDANCE	9
	6.1 APOLOGIES	10
	6.2 APPROVED LEAVE OF ABSENCE.....	10
	6.3 APPLICATIONS FOR LEAVE OF ABSENCE	10
7	DECLARATION OF INTERESTS.....	10
8	CONFIRMATION OF MINUTES.....	10
9	PRESENTATIONS	11
	9.1 PETITIONS	11
	9.2 PRESENTATIONS.....	11
	9.3 DEPUTATIONS	11
10	REPORTS.....	12
	10.1 REPORTS OF OFFICERS.....	12
	CORPORATE AND COMMUNITY SERVICES	13
	10.1.1 LIBRARY MANAGEMENT AGREEMENT	13
	10.1.2 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2022 TO 30 SEPTEMBER 2022	17
	DEVELOPMENT AND REGULATORY SERVICES.....	20
	10.1.3 SECTION 76 MINISTERIAL ORDER - SCHEME AMENDMENT NO.12 - LOTS 50 AND 35 (7 & 11) STATION STREET, COTTESLOE - CONSIDERATION OF SUBMISSIONS	20
	ENGINEERING SERVICES	37
	10.1.4 DOSCAS LANE PARTIAL CLOSURE REQUEST	37
	10.1.5 REVISED CROSSOVER CONSTRUCTION POLICY	46

- EXECUTIVE SERVICES..... 29**
 - 10.1.6 WALGA BEST PRACTICE GOVERNANCE REVIEW 29
 - 10.1.7 EXTRAORDINARY ELECTION - SOUTH WARD 33
- 10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES 50**
- 11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN 50**
- 12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:..... 50**
 - 12.1 ELECTED MEMBERS 50**
 - 12.2 OFFICERS..... 50**
- 13 MEETING CLOSED TO PUBLIC..... 50**
 - 13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED..... 50**
 - 13.1.1 COMMUNITY CITIZEN OF THE YEAR AWARDS 51
 - 13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC 51**
- 14 MEETING CLOSURE 51**

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6:04 pm.

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.

Cr MacFarlane committed to attend remotely and was approved by the Presiding Member.

The Presiding Member made a brief statement regarding 10.1.3, noting that it had not been called in for debate at the meeting, but was arguably the most important item on the Agenda due to its potential impact on Cottesloe Village. Items not called in for debate are passed "en-bloc" in accordance with the Officer's recommendation, so it can be assumed that the Officer's recommendation will be unanimously supported this evening. The Officer's recommendation is that Council not support the scheme amendment, which seeks an increase in height for the site from the current 3 storey to 8 storey (and possibly 10 storey). The Mayor stated that Council is committed to supporting appropriate development, and any redevelopment needs to be appropriate for both the site and surrounding area. Council is currently working on a Precinct Plan for the area, in association with the Shire of Peppermint Grove. We will be undertaking required consultation on the Precinct Planning, imminently. This is a great opportunity to plan for the Village so that it serves the needs of all users now and into the future. Without the strategic framework (ie the Precinct Plan) in place, the ad hoc rezoning of this site is likely to set an undesirable precedent for the Village. We recognise the potential this site might play in meeting our State-mandated infill targets, but it is essential that planning for the precinct delivers the best outcomes for the entire area and not just the interests related to this particular site. The Mayor noted that the owner of the site has indicated a desire to increase the height permissible, further than the possible 10 storeys on which the community has been consulted – asking for up to 18 storeys. This represents a very significant and substantial change to the proposal on which the community has been consulted via the scheme amendment initiation process. It would warrant further community consultation and the Officers recommendation notes this. The Mayor stated it was important that the community understands the reason behind Councils position on the matter.

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****Ordinary Council Meeting 25 October 2022****Stephen Mellor – 8 Graham Court, Cottesloe****10.1.11**

Q1: Will these consultants be paid for by FiveEight as with previous reports or will the costs be shared as it is a joint business plan?

R1: Only the Town of Cottesloe can develop the Business Plan required by Section 3.59, and no financial contribution has been requested from the Proponent.

10.1.2

Q3: Why is the current Engineering Policy not being used?

R3: The Engineering Programs – Long Term Policy only set out objectives and general principles which have been superseded by other strategic documents, as discussed in the Officers Report.

Q4: Is this not bad practice as the Policy was reviewed in 2013 the same time as the 2013-2023 Strategic Community Plan was implemented?

R4: No.

Q5: How will the community now be able to review planned engineering works with 'upgraded programs NOT being available to the public'?

R5: The Annual Capital Program is available in the Annual Budget Document.

Q6: The CEO Quarterly Bulletin includes updates to the Corporate Business Plan. Will Council please request the Admin to highlight updates in the Bulletins so changes can be identified?

R6: This is not a question, but a request, which will be considered.

Q7: Is the Corporate Business Plan on the website updated in line with the Quarterly Reports?

R7: The Quarterly Report identifies what actions that have occurred in implementing the Corporate Business Plan, it does not change the Corporate Business Plan.

10.1.4

Q8: Will Council please provide immediate access to the [WALGA Public Information] Guide on the website?

R8: This is a document developed by WALGA, and permission would be needed for it to be published on the website.

10.1.7

Q11: As cash-in-lieu parking has been included in the *Indiana* proposal can Council please confirm that 'cash in lieu' of parking is part of the *Indiana* Business Plan?

R11: The Business Plan needs to discuss all financial impacts the proposal may have on the Town, which would include any 'cash in lieu for parking' provided to the Town.

Q12: Will Council please move urgently to develop and approve a 'cash in lieu' of parking Policy?

R12: Cash in lieu for Parking is already addressed in the Local Planning Policy No.1 – Parking Matters. The Town is currently developing amendments to the Local Planning Policy to address changes to State Planning Regulations associated with cash in lieu for parking.

Q13: How are such cash-in-lieu calculations usually made and are such payments 'one off' or annual?

R13: Cash in lieu for parking is normally calculated based on the cost of developing a car bay (inclusive of land value) multiplied by the number of car bays required, and is a one-off payment.

10.1.6

Q10: Can the Officer Report for 94 Marine Parade be made available?

R10: The SDAU application for 94 Marine Parade has only been lodged with WAPC, and there has not been a request for a submission on the application at this stage, therefore no Officer Report for this application has been developed for Council consideration at this stage.

Tom Jowett – 31 Eric Street, Cottesloe

Q1: Who made the purchase of \$24,900 for an SSL Certificate Renewal on the Financial Statements and what was it for?

R1: The \$24,295.18 marked SSL renewal is predominantly the regular fee to the Town's IT Contractor to maintain the Town's Information Technology. The SSL component of the payment was only \$28.60. The Town understands SSL (or Secure Socket Layer) is a security protocol that creates an encrypted link between a web server and a web browser. The SSL Certificate is a digital certificate that authenticates a website's identity and enables an encrypted connection.

Questions Taken on Notice at the Agenda Forum Meeting – 15 November 2022

Stephen Mellor – 8 Graham Court, Cottesloe

10.1.7

Page 67

Q3: Adobe Acrobat purchase \$274.91 why when the Council has a monthly 'All Apps' subscription for \$76.99?

R3: These are different subscriptions. Adobe is an essential work tool for producing documents and is required.

Page 69

Q5: Aspect Studios Foreshore Detail Design \$28,744.93. Was this work caused by any design or concept changes or modelling to a 100% approved design?

R5: This was for Council approved Foreshore Detailed Design.

Page 69

Q6: Element Heritage Strategy \$1,402.50. Could you please outline the schedule for the progress of the new heritage policy and in detail whether the heritage elements of the OBH have been put forward for consideration?

R6: A literature review of the Town's Local Planning Scheme (LPS), municipal Inventory, and relevant strategic documents have been completed for the Heritage Strategy (not Policy). An engagement plan is being developed for community consultation which will occur in the new year. The proposed community consultation will provide the opportunity for the community to ensure the heritage issues for the OBH and any other heritage places are considered.

Page 72

Q7: Valrose Consultancy \$28,018.97 what is this for?

R7: Project and Change Management consultancy work for the introduction of the new Enterprise Resource Planning (IT) system.

4.2 PUBLIC QUESTIONS

Phil Paterson 16A Barsden St, Cottesloe

Q1: When will the taskforce on residential and recreational verge uses next meet?

R1: The meeting is due to be called in the next week or so.

Q2: How many replies have been received from the 63 residents sent a play equipment permit application and covering letter on 27 September?

This question was taken on notice.

Q3: Will the Verge Taskforce term be extended if necessary beyond 13 December to facilitate review of the implementation of the policy and process?

R3: It's anticipated the next Taskforce meeting will be before the next Council Meeting and only Council can decide to extend the Task Force Team.

Stephen Mellor – 8 Graham Court, Cottesloe Local Planning Policy No 1 Parking Matters

Q1: How is it the Town is only now “developing amendments to the Local Planning Policy to address changes to State Planning Regulations associated with cash in lieu for parking” when the WAPC had set July 2021 as the requirement date, and that the parking pressures of the Foreshore Precinct Development, the forthcoming Marine Parade developments at 88, 94, 1044, 110, 120, 122 and OBH 140 and the Indiana are ‘known’ by the Council and that the Electors Meeting resolution reminded Council of the need for a comprehensive parking plan?

Q2: Why did the Council not make a deputation at the WAPC meeting that approved the 120 Marine Parade Development, to contest that no parking cash in lieu provision condition be made part of the approval when the WAPC Agenda report had forewarned?

Q3: As Car Park 2 must be part of any parking plan, what is the schedule for completion of the parking plan requirements as the Council will certainly not be ready for 1 July 2023 WAPC completion date?

Will Council request Administration to:

Q4: Seek permission to publish the [WALGA Public Information Guide Community Engagement] on the ToC website?

Q5: Update the website 100% Foreshore Design plans to incorporate the cycle path/route connectivity to East – West cycle paths, removal of the toilet block proposal and North Cottesloe Rooftop?

Q6: Provide the Officer Report for 94 Marine Parade Development application response for community review as soon as available and at least one week before the close of the public consultation period?

Q7: I was told the Aspect Studios Foreshore Detail Design \$288,744.93 was for Council approved Foreshore Detailed Design work. This did not answer my question.

100% design was approved ages ago. Was this work detail design on the approved 100% or was it for reworking of the concept to include dedicated cycle paths along Marine Parade?

10.1.3 (Oct OCM) Purchasing Policy – staffing

Q8: In last month's officer report I have seen changes to staff titles. Will the Council please request Administration to provide on the website a staff tree structure diagram with staff titles and areas of responsibility?

Q9: Where there any cost savings or budget or staff increases as part of the job title amalgamations?

Q10: How many FTE positions are on the ToC payroll as at 30 September 2022 and how does this compare with the previous three years?

Indiana

Q11: At this stage, is it planned for any aspect of the Indiana proposal to be on the December OCM agenda in three week's time?

Q12: When is it estimated the community can see the full Indiana proposal information and business plan?

These questions were taken on notice.

Kevin Morgan

Q1: Has the Council in effect resolved that

- a. The Council will prepare a business plan under Section 3.59 of the Local Government Act for the major land transaction by which Tattaring proposes to redevelop the Indiana site?

Ra: I understand the terms of the resolution were that Council instructs the CEO to gather the information that would be needed to prepare a business plan.

b. That you made a resolution that you will then consult on that business plan under Section 3.59?

Rb: We have not made a resolution that we would consult on the business plan because we do not have enough information to understand the merits of the proposal to determine whether we would consult or not.

c. That the Council will make no decision on whether or not to adopt that proposal until after the community is first consulted on that business plan under Section 3.59?

Rc: It was expressly stated as a part of that resolution there was a note that there will be no decision to accept or reject the proposal would be made without going through the process of community consultation.

Q2: How can the Council delay making a decision on the Tattarang proposal until after the community is first consulted under Section 3.59 when that statutory process requires that Council advertise the proposal as its own proposal?

R2: The legislation provides that if the Local Government proposes to do a major land transaction then it must go through the statutory process. It doesn't say that that process is available to a local government only in that case.

Q3: It dictates that the consultation must be state wide, will this not swamp the local Cottesloe ratepayers have to say about what becomes of there beach asset?

R3: We are in the throes of getting the information that we need to understand the proposal and to make a decision to see if it might have merit to go out to the community. If it did proceed to a business plan that was advertised, it's entirely up to individual Councillors the weight they give to input from within the Town and more broadly.

Q4: Will a consultation process whenever it happens and on whoever's proposal it may be on, will this be made to ensure it doesn't coincide with school holidays?

R4: It is a matter for Council to determine the timing of consultation. Given the importance of this matter to the community and Council's concerns, to ensure maximum participation in any consultation process, it is likely

that close attention will be paid to the timing and duration of consultation, so that participation is maximised.

Thomas Jowett – 31 Eric St, Cottesloe

ERP system

- Q1: Can you confirm there is a \$1.295m (1.175m + 120k) budget for an “ERP” system implementation, which represents - \$400 per rate paying household in Cottesloe?
- Q2: How much has actually been spent to date on the “ERP” system?
- Q3: There is a variance of \$792,797 in the 21/22 budget review due to the ERP system amongst other things. How much more is predicted to be spent?
- Q4: On November 23 2021 Cr Bulbeck motioned to transfer funds from IT reserve to Municipal fund for ERP system. Accordingly, how much was the authorisation? How much has been moved? When were the movements made?
- Q5: Who is the provider of the ERP system? How were they chosen?

“IT expenses”

- Q6: Is it common to have charges mislabelled?
- Q7: What are the separate charges from the same supplier in the same month for \$24,295.18 and \$3960 for?
- Q8: An “SLA” is service level agreement, so clearly there is no such thing as a “managed license SLA license”. What is the charge for?

These questions were taken on notice.

Bike Path

- Q9: What reason did the mayor have to not declare a proximity interest in the bike committee meeting in August 2019, when she motioned to move the bike path from her own front door on Grant Street to Eric Street?
- R9: Public question time is not the opportunity to question the actions of individual elected members, therefore this is not an appropriate question to be raised at the meeting. However, the Presiding Member stated that the question contains a number of factual inaccuracies. She advised that she has also suggested to the resident that there are appropriate avenues to bring concerns about elected member behaviour. That process allows allegations to be considered by an

independent third party, rather than having members of the public repeatedly coming to Council Chambers and making uninformed and inflammatory claims against individual members of Council.

Q10: On 22nd August 2022, the night before councillors here voted to build the path, one of the best bike path safety auditors in WA emailed the town. How was this considered by councillors when they voted the next night to build the path?

Q11: How has the LGIS been consulted on the path? Have they indicated any change to insurance premiums due to it having safety issues?

Q12: What were the unavoidable circumstances, and why didn't the Town perform a safety audit on the path?

Q13: Can the town commit to saving the Norfolk Island Pines in front of 29 and 27 Eric Street by making the shared path closer to the street and 2.5m wide?

These questions are taken on notice.

5 PUBLIC STATEMENT TIME

Play Equipment on Verges

Mr Paterson spoke of his questions raised earlier in regard to the permit application process for Play Equipment on Verges.

6 ATTENDANCE

Elected Members

Mayor Lorraine Young
Cr Helen Sadler
Cr Craig Masarei
Cr Melissa Harkins
Cr Kirsty Barrett
Cr Paul MacFarlane
Cr Chilla Bulbeck
Cr Brad Wylynko

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 Jacquelyne Pilkington	Governance & Executive Coordinator

Moved Mayor Young

Seconded Cr Wylynko

Suspension of Standing Orders 7.1 were imposed so Cr Masarei and Cr Barrett

could move seats at the table for Cr MacFarlane to hear and debate on items.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Wylynko
Against: Nil

6.1 APOLOGIES

Nil

Officers Apologies

Mr Wayne Zimmermann

Manager of Planning

Mr Ed Drewett

Coordinator Statutory Planning

6.2 APPROVED LEAVE OF ABSENCE

Nil

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 DECLARATION OF INTERESTS

Deputy Mayor Sadler declared an IMPARTILITY INTEREST in item 10.1.6 by virtue "I am a member of WALGA State Council"

Cr Barrett declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue "some of the nominated community citizens are known to me"

Cr Barrett declared a PROXIMITY INTEREST in item 10.1.4 by virtue "as my property backs on to the laneway"

Cr Wylynko declared an IMPARTIALITY INTEREST in item 10.1.3 by virtue "as the Principals of the Planning Advisors are known to me"

Cr Masarei declared an IMPARTILITY INTEREST in item 13.1.1 by virtue "as some of the nominated community citizens are known to me"

8 CONFIRMATION OF MINUTES

OCM166/2022

Moved Cr Harkins

Seconded Cr Bulbeck

That the Minutes of the Ordinary Meeting of Council held on Tuesday 25 October 2022 be confirmed as a true and accurate record.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and
Wylynko
Against: Nil

9 PRESENTATIONS

9.1 PETITIONS

Section 9.4 - Procedure of Petitions

The only question which shall be considered by the council on the presentation of any petition shall be -

- a) that the petition shall be accepted; or*
- b) that the petition not be accepted; or*
- c) that the petition be accepted and referred to a committee for consideration and report; or*
- d) that the petition be accepted and dealt with by the full council.*

Nil

9.2 PRESENTATIONS

Nil

9.3 DEPUTATIONS

Nil

10 REPORTS**10.1 REPORTS OF OFFICERS****OCM167/2022****Moved Cr Masarei****Seconded Cr Sadler****COUNCIL RESOLUTION**

That Council adopts en bloc the following Officer Recommendations contained in the Agenda for the Ordinary Council Meeting 22 November 2022

Item #	Report Title
10.1.1	Library Management Agreement
10.1.2	Monthly Financial Statements for the Period 1 July 2022 to 30 September 2022
10.1.3	Section 76 Ministerial Order – Scheme Amendment No. 12 – Lots 50 and 35 (7 & 11) Station Street, Cottesloe – Consideration of Submissions
10.1.6	WALGA Best Practice Governance Review
10.1.7	Extraordinary Election- South Ward

Carried 8/0**For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Wylynko****Against: Nil**

CORPORATE AND COMMUNITY SERVICES**10.1.1 LIBRARY MANAGEMENT AGREEMENT**

Directorate: Corporate and Community Services
Author(s): Shane Collie, Director Corporate and Community Services
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D22/43193
Applicant(s):
Author Disclosure of Interest: Nil

SUMMARY

The purpose of the report is for Council to approve the new Library Agreement for management of the Grove Library and Community Centre (the Library). The Library is jointly owned by the three member Councils, being the Towns of Mosman Park and Cottesloe, and the Shire of Peppermint Grove.

OFFICER RECOMMENDATION IN BRIEF

It is recommended that Council resolve to enter into a new Library and Community Centre Management Agreement (Agreement), commencing 1 January 2023. Other related recommendations are as follows:

- In Annexure 3, Clause 2(b), the proportion (%) values in the table to be corrected to reflect current population data, and total 100%;
- The inclusion of a requirement to undertake a review of Library Services at least once every four years; and
- Authorise the Mayor and CEO to execute the Agreement, once amended as specified, with the Town's Common Seal.

BACKGROUND

The Grove Library facility was opened in 2010 and since then has provided library services to the communities of Mosman Park, Cottesloe and Peppermint Grove. This resource sharing arrangement is provided by an Agreement dated 5 June 2009 entitled 'Project Construction and Management Agreement Cottesloe, Peppermint Grove and Mosman Park Library and Community Learning Centre and Peppermint Grove Shire Offices' (2009 Agreement).

A review of the 2009 Agreement has been undertaken to align with the *Local Government Act 1995* and to ensure it aligns with contemporary operating model requirements. Attachment 1 is the revised and updated Agreement that has been recommended to each Council for approval by the Library Management Committee. The new Agreement does not change the objectives or service standards currently enjoyed by the community in relation to the Library, Community Centre or Infant Health Clinic.

The 2009 Agreement had a focus on the construction elements of the facility and included the establishment of a Library Management Committee (LMC). This committee was not formally established under the *Local Government Act, 1995* and operated more like an Advisory Group, with its governance function recommended to continue and its name

changed accordingly to the Library Management Group (LMG). The current LMC comprises of one representative from each of the member councils, with equal voting rights.

Services provided to the member Councils under this Agreement comprise of:

1. The Grove Library;
2. Community Learning Centre, and
3. Infant Health Clinic (the Town of Claremont also contributes to the cost of running this service).

The Shire of Peppermint Grove manages the facility on behalf of the members. Funding for the annual operating shortfall is allocated based the census population of each member. A review of the 2009 Agreement has largely been underway since 2018. In conjunction with this process, an operational review was undertaken in 2019/20 to ensure library services were relevant and cost-effective. This review resulted in operational efficiencies and cost savings, to benefit the sustainability of this service to our communities.

The draft Agreement has been referred to McLeods Solicitors with the following changes/amendments clarified;

- Page 5, commencement date to be 1 January 2023.
- Page 10, 5.2 (b) add in “and develops KPI’s in the Strategic Plan.”
- Page 10, 5.2 (d), change “adopt” to “endorse.”
- Page 12, 5.9 (b), after “\$10,000” delete the rest of this sentence “in excess....in CPI.”
- Page 14, 8.1(3), change date to “15 June”.
- Page 14, 8.(5), Change “within 30 Days”, to “by 31 December each year” and change “provision of reserves” to has the “financial capacity” and delete second reference to financial capacity.
- Page 14, 8.2 (1) replace by “end of May” with “30 June.”
- Page 14, 8.2 (2), change months to “August, October, December and April”.
- Page 14, add in a clause “the Principal will present a mid-year budget review in March each year for consideration by the LMG.”
- Page 14, 8(b), delete this clause as there is no reserve fund set up for this.
- Page 15, 10 91), change “seven (7)” to “thirty (30)”.
- Page 25 (1) (b), “Interests on the commencement date are as follows”.

The recommendation from the Library Management Committee from its 16 August 2022 meeting was as follows:

“That the draft Agreement be presented to member councils for endorsement, subject to minor changes, with the implementation date to be 1 January 2023.”

OFFICER COMMENT

The LMC has discussed the issue of updating the 2009 agreement for a number of years, and has sought legal advice on the drafting of a new Agreement. The 2009 Agreement is due for updating and modernising. The new Agreement as presented does not alter voting entitlements or the funding formula, but mainly deals with the governance of the LMC, which under the new Agreement, would be established as the Library Management Group (LMG). For day-to-day operations, there is no change to the running of the Library. Meetings

of the LMG would deal with the same matters as per the current arrangements. Membership arrangements will not change.

A regular review of library operations will continue as a requirement of this agreement.

Key changes from the 2009 Agreement include those to align with the *Local Government Act, 1995* in relation to financial management and the Integrated Planning Framework review cycle, and a new clause to allow for flexibility to add new member/s.

The intent is that all three member Councils would adopt the new Agreement with the implementation date being 1 January 2023. The 2009 agreement would fall away with the joint signing of the new agreement. The Town of Mosman Park and the Shire of Peppermint Grove have already adopted the new Agreement at their October round of meetings.

The new Agreement currently specifies a commencement date of 1 July 2022 but this will be amended to 1 January 2023. A correction will also be made to the table in clause (2)(b) of Annexure 3. This table provides an indicative calculation of the proportions of interest of each member, based on population data as at 29 March 2022. The percentages listed do not reflect the correct calculation, and do not total 100%. This will be corrected. Importantly, the formula for calculating the proportions of interest is provided in the first table in clause (2) and is correct. The table in clause (2)(b) is provided as an example calculation only. However, it is still appropriate that these figures are corrected.

ATTACHMENTS

10.1.1(a) Library and Community Learning Centre Management Agreement - 19.08.22
[under separate cover]

CONSULTATION

No specific community consultation has been undertaken to draft the new Agreement. The draft new Agreement is the result of extensive communication between the three member Councils since 2018.

STATUTORY IMPLICATIONS

Local Government Act 1995

Legal Agreement Grove Library.

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

The cost of this shared service is split between the Towns of Mosman Park, Cottesloe and the Shire of Peppermint Grove. Budgets are set annually at the recommendation of the LMC. The cost of updating and preparing the Library Management Agreement will be shared between the three local governments, as part of the Legal Fees operational Budget associated with the Library.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

OCM168/2022

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Masarei

Seconded Cr Sadler

That Council:

1. **Resolve to enter into the Cottesloe, Peppermint Grove and Mosman Park Library and Community Learning Centre Management Agreement, provided as *Attachment 1*, subject to the following corrections:**
 - i. **In Clause 1.1 Definitions, Commencement Date to be amended to mean 1 January 2023;**
 - ii. **In Annexure 3, Clause 2(b), the proportion % values in the table to be corrected to reflect the population data, and total 100%; and**
 - iii. **the inclusion of a requirement to undertake a review of library services at least once every four years.**
2. **Authorise the Mayor and CEO to execute the Agreement, once amended as specified, with the Town's Common Seal.**

Carried By En Bloc Resolution 8/0

10.1.2 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2022 TO 30 SEPTEMBER 2022

Directorate: Corporate and Community Services
Author(s): Sarah Jessop, Finance Manager
Authoriser(s): Shane Collie, Director Corporate and Community Services
Matthew Scott, Chief Executive Officer
File Reference: D22/44450
Applicant(s): Nil
Author Disclosure of Interest: Nil

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 2022 to 30 September 2022.

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 30 September 2022 was \$11,319,455 as compared to \$11,348,229 this time last year.
- Operating revenue is more than the year to date budget by \$169,996 with a more detailed explanation of material variances provided on page 19 of the attached

financial statements. Operating expenditure is \$1,664,692 less than year to date budget, with a more detailed analysis of material variances provided on page 19.

- The Capital Works Program is shown in detail on pages 33 to 34 of the attached financial statements.
- The balance of cash backed reserves was \$8,286,082 as at 30 September 2022 as shown in note 7 on page 26 of the attached financial statements.

List of Accounts Paid for September 2022

The list of accounts paid during September 2022 is shown on pages 35 to 41 of the attached financial statements. The following material payments are brought to Council's attention:

- \$558,702.88 to Department of Fire & Emergency services for 2022/23 ESL Quarter 1 Contribution
- \$151,041 to Shire of Peppermint Grove for Grove Library contributions
- \$103,845.74 & \$89,410.27 to Solo Resource Recovery for Waste removal costs
- \$70,649.62 to the Australian Taxation Office for payroll deduction amounts
- \$40,073.72 to the Town of Mosman Park for Waste Collection charges
- \$38,280.29 to Titan Ford for the purchase of plant
- \$36,932.84, \$32,185.08 & \$31,623.43 for employee Superannuation Contributions

Investments and Loans

Cash and investments are shown in note 4 on page 21 of the attached financial statements. The Town has approximately 58% of funds invested with the National Australia Bank, 22% with the Commonwealth Bank of Australia and 20% with Westpac Banking Corporation. Municipal term deposits were called in prior to 30 June, which is why more funds continue to be with National Australia Bank at 30 September 2022.

Information on borrowings is shown in note 10 on page 30 of the attached financial statements. The Town had total principal outstanding of \$2,672,811 as at 30 September 2022.

Rates, Sundry Debtors and Other Receivables

Rates outstanding are shown on note 6 on page 23 and show a balance of \$4,235,073 outstanding as compared to a larger \$5,894,818 this time last year. This is due to rates having been levied in July of this year as compared to August last year.

Sundry debtors are shown on note 6 on page 23 of the attached financial statements. The sundry debtors report shows that 2% or \$1,786 is older than 90 days. Infringement debtors are shown on note 6 on page 25 and were \$408,221 as at 30 September 2022.

ATTACHMENTS

- 10.1.2(a) Monthly Financial Report 1 July to 30 September 2022 [under separate cover]**

CONSULTATION

Nil.

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

OCM169/2022

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Masarei

Seconded Cr Sadler

THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2022 to 30 September 2022 as submitted to the 22 November 2022 meeting of Council

Carried by En-Bloc Resolution 8/0

DEVELOPMENT AND REGULATORY SERVICES**10.1.3 SECTION 76 MINISTERIAL ORDER - SCHEME AMENDMENT NO.12 - LOTS 50 AND 35 (7 & 11) STATION STREET, COTTESLOE - CONSIDERATION OF SUBMISSIONS**

Directorate: Development and Regulatory Services
Author(s): Wayne Zimmermann, Manager of Planning
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D22/45132
Applicant(s): Element Advisory Pty Ltd on behalf of landowners
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider the submissions received for Scheme Amendment No.12 for Lots 50 and 35 (7 & 11) Station Street, Cottesloe which has been advertised in accordance with a Section 76 order by the Minister for Planning. The advertising period closed on 10 October 2022 and twenty eight (28) submissions were received. The submissions comprise seven (7) submissions of support with two proposing modifications, sixteen (16) submissions of objection and five (5) submissions from service authorities indicating no comment or raising issues about existing services and future service provision requirements.

OFFICER RECOMMENDATION IN BRIEF

That Council note the submissions received and advise the Minister that it does not support Scheme Amendment No. 12 to Local Planning Scheme No. 3 (LPS 3) Lots 50 & 35 (No's.7 & 11) Station Street for the reasons contained in this report.

BACKGROUND

On 17 September 2021, Element on behalf of the landowner of Lots 50 and 35 (No's 7 & 11) Station Street, Cottesloe submitted a representation pursuant to section 76 of the *Planning and Development Act 2005* to the Minister for Planning. The representation requested the Minister to order the Town to initiate the amendment on the basis that the Town had failed to amend its Planning Scheme so as to enable the provision of contemporary residential infill development in an appropriate location, opposite the Cottesloe Train Station, consistent with WAPC policy.

On 4 May 2022, the Minister for Planning, pursuant to section 76 of the *Planning and Development Act 2005*, issued an order to the Town of Cottesloe to initiate Scheme Amendment No. 12 to Local Planning Scheme No. 3 (LPS 3) Lots 50 & 35 (No's 7 and 11) Station Street. The scheme amendment seeks an increase in building height of up to ten (10) storeys and changes to setbacks, plot ratio controls and other land use, access and built form considerations within the Cottesloe Activity Centre.

At the Ordinary Meeting of Council on 28 June 2022 (minutes attached), Council resolved to note and comply with the Minister's order and initiate Amendment No.12 in accordance with Part 5 of the *Planning and Development Act 2005* and the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations). The scheme amendment was advertised for 60 days commencing on 8 August 2022 and closing on 10 October 2022.

OFFICER COMMENT

The previous report to Council on 28 June 2022 providing information on the site and the proposed amendment, a copy of the scheme amendment documents are included as attachments to this report.

The proposed scheme amendment is classed as a complex amendment under the LPS Regulations and was referred to the WAPC for advice regarding any required modifications to the documents prior to advertising. The WAPC required minor changes to the amendment maps prior to advertising. It was also referred to the Environmental Protection Authority (EPA) to decide whether or not a formal review was necessary. The EPA did not consider that the amendment should be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* and as such the amendment was advertised for public comment.

State Planning Framework*State Planning Policy 4.2 - Activity Centres for Perth and Peel (SPP 4.2)*

SPP 4.2 designates the Cottesloe Activity Centre as a 'District Centre' with a main role/function as follows:

District centres have a greater focus on servicing the daily and weekly needs of residents. Their relatively smaller scale catchment enables them to have a greater local community focus and provide services, facilities and job opportunities that reflect the particular needs of their catchments.

SPP 4.2 indicates that the planning of District Centres should incorporate a network of streets and public spaces and that the following should be considered:

- a well-formed structure typically consists of small, walkable blocks that improve accessibility within a centre;
- buildings need to address streets and public spaces to promote vitality and encourage natural surveillance;
- activity centres should contain a mix of uses along street frontages, and arrange key retail and other attractors to maximise pedestrian flows along streets;
- new activity centre development or redevelopment should include 'sleeving' of large-scale retail and car parks, more externally-oriented or "active" building frontages and fewer blank walls; and
- 'town squares', public and civic spaces and parks need to be attractive, well located spaces that provide a quality meeting place for the community as an integrated component of the centre.

These form principal elements in the preparation of a Cottesloe Activity Centre (Cottesloe Village) Precinct Structure Plan and will be carefully considered during the consultation and engagement process that is soon to commence. SPP 4.2 also includes a Model Centre Framework and states that:

"Activity centre structure plans should be endorsed prior to a major development being approved to ensure a centre's development is integrated, cohesive and accessible. In exceptional circumstances (in the absence of an endorsed activity

centre structure plan), any major development must satisfy relevant requirements of Model Centre Framework.”

State Planning Policy 7.2 – Precinct Design (SPP 7.2)

SPP 7.2 is also an important consideration in assessing the justification for the proposed scheme amendment and guides the preparation, assessment, determination and implementation of precinct structure plans, local development plans, and subdivision and development applications. It signifies that in considering development proposals within a precinct where a precinct structure plan or local development plan has not yet been prepared, the responsible authority should consider the objectives, measures and outcomes of SPP 7.2 and the objectives and considerations of the SPP 7.2 Guidelines. The Guidelines focus on design quality based on six design elements (urban ecology, urban structure, public realm, movement, land use and built form) to ensure precincts contribute to the overall social, economic and environmental wellbeing of communities.

State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartments (SPP 7.3 Vol 2)

As the scheme amendment includes provisions that apply to a mixed use development including residential apartments, SPP 7.3 Vol 2 should also be considered. SPP 7.3 Vol 2 provides planning and design standards for residential apartments in areas coded R40 and above, within mixed use development and activity centres. The amendment provisions propose to exclude relevant requirements of the policy relating to building height, street setbacks, side and rear setbacks, and plot ratio. It is considered that such provisions conflict with objectives, measures and outcomes of SPP 7.2 and the associated guidelines and will result in a built form outcome that is likely adversely impact on amenity and character of the area.

Submissions

Submissions in support

The submissions received supporting the scheme amendment express the need for increased density to create more growth, vibrancy and vitality in the town centre, noting that it is an appropriate location close to public transport, services and amenities. They also convey a view that development of the site will have limited shadowing impact on Napoleon Street and that new development should be well designed, sustainable, with better activation of the streetscape and walkability.

Two of the submissions of support also requested the following modifications to the scheme amendment:

- An increase in the proposed 10 storey height limit to enable heights of 15 storeys or up to 18 storeys subject to architectural excellence as determined by the relevant Design Review Panel.
- The amendment and associated height, setback etc. requirements being extended to include No.1 Station Street, adjoining the western boundary of the site.

Submissions of objection

Submissions received objecting to the scheme amendment raised the following concerns:

- Building mass, scale and density exceeding the adjacent R100 density needs to be awarded based on design merit and community benefit, such as improvements to the pedestrian movement network.
- The proposal fails to identify or improve accessibility within and around the centre (as per SPP 4.2).
- The proposal does not contain provisions which promote a precinct design that creates a place that is easy to navigate, with clear connections, good lines of sight to key locations and a logical, intuitive layout (as per SPP 7.0).
- There are existing important north-south pedestrian links through the site to Napoleon Street and the proposal does not show these being maintained/enhanced.
- Increased residential density and building bulk should not be supported until the cumulative impacts of such development can be holistically assessed in consultation with community and a planning policy framework is implemented.
- The local 'village' like atmosphere, amenity and ambience of the centre will be detrimentally impacted by the increase in height, added people and traffic from this proposal and subsequent proposals.
- Shadowing in Napoleon Street.
- The height will have a detrimental impact on the visual amenity and general street view and does not respond sympathetically to adjoining existing developments.
- Need more open spaces, trees and pedestrianised zones.

Submissions from Service Authorities

Submissions received from service authorities either indicated no comment and general support or raised issues about existing services and future service provision requirements. In respect to the servicing issues Water Corporation advised that the increased load on its infrastructure resulting from this development should be able to be accommodated, but further similar development may require a cost sharing arrangement among developers. Main Roads WA requires further information to assess impacts and ATCO Gas objected to the De Nardi Lane setback due to the existence of a medium pressure gas pipeline in close proximity within the Lane.

A summary of the submissions is provided in Attachment 3 to this report.

Key issues

The key issues for consideration of this amendment are as follows:

1. *Desire/need for major redevelopment and increased density to create more growth, vibrancy and vitality in the Cottesloe Activity Centre*

The Cottesloe Activity Centre is identified as a District Centre in the State Planning Framework. It is adjacent to a train station and is a prime location to focus growth and density, to achieve housing targets and promote more sustainable development. The Cottesloe Activity Centre Precinct Structure Plan is being progressed and, once finalised, will form the framework for a coordinated approach to providing for this growth, in accordance with SPP 4.2 and SPP 7.2 – Precinct Design and associated Guidelines.

Although the proposed amendment will rezone land to facilitate major redevelopment of the site, without a strategic framework in place to guide the comprehensive and coordinated redevelopment of the precinct, the rezoning and subsequent development of the site will have an unreasonable impact upon existing surrounding and nearby development and is highly likely to set a precedent for other sites within the precinct to be redeveloped ahead of the Draft Precinct Structure Plan being finalised. In absence of an endorsed Precinct Structure Plan, the provisions proposed in the scheme amendment are considered inadequate to satisfy SPP 4.2 and SPP 7.2, as they do not properly address various policy measures including:

- the design response and integration of the proposed development with surrounding development and character of the area,
- pedestrian connectivity and accessibility,
- provision of comfortable and well located public spaces,
- the built form, height and massing (bulk and scale) and its response to the existing built form across the precinct,
- the suitability of the mix of land uses and dwelling types proposed, and
- consideration of environmental assets and community facilities in the precinct.

The information provided by the applicant in the representation to the Minister indicates that a future Local Development Plan for the site will need to respond to components and design elements of SPP 7.2, however key aspects such as accessibility (e.g. maintaining pedestrian links, widening of De Nardi Lane), provision of public spaces, and built form and scale that responds to adjoining development should be formalised in the building control diagrams at the scheme amendment stage.

2. *Building height*

Some of the submissions raised concerns about the additional height, up to 10 storeys, having a detrimental impact on the visual amenity and ambience of the Cottesloe 'Village'. Even though the Draft Precinct Plan for Cottesloe Village (November 2019), designates a height of 6 storeys for the site, it also includes potential for an increase in building height up to 10 storeys (33 metres) subject to the development satisfying performance-based criteria. These have not been defined and will be examined as the Cottesloe Activity Centre Precinct Structure Plan progresses.

Therefore, while the potential for the additional building height on the site is not excluded, matters such as overshadowing of Napoleon Street, building setbacks to De Nardi Lane, increased setbacks of higher storeys, impact of built form on the site and surrounding development, community benefit (i.e. the provision of usable and comfortable public spaces and amenities), and pedestrian connectivity, need to be carefully considered. The engagement process currently underway will enable these important matters to be examined and addressed.

In respect to the potential for additional building height, a submission was received from the landowner of No. 1 Station Street adjoining the site to the west requesting the amendment be modified to include the property in the scheme amendment. Also the planning consultant acting on behalf of the landowner of Lots 50 and 35 (No's 7 & 11) Station Street, Cottesloe has requested the amendment be modified to further increase the height to up to 15 storeys, or 18 storeys subject to architectural excellence. Should the Minister support these modifications, the amendment should be re-advertised as the modifications are considered substantial and require further examination and community consultation.

3. *Services*

Existing and future servicing of the site and the locality is an issue that should be carefully considered. Water Corporation, Main Roads WA and ATCO Gas have raised concerns about the provision of services to the site should it be developed to the scale proposed and have requested further information be provided to them for consideration before any decision is made to support the proposed amendment.

Options for Council in considering the proposed Scheme Amendment

The options available to Council in considering the scheme amendment are to:

- Support the amendment to the local planning scheme without modification;
- Support the amendment to the local planning scheme with modifications; or
- Not support the amendment to the local planning scheme.

Conclusion

In accordance with the Minister's order, the Town has initiated and advertised Scheme Amendment No. 12. Although the justification provided for the scheme amendment is reasonable given the site's location within the Cottesloe Activity Centre and its close proximity to the Cottesloe Train Station, it is considered premature to support the amendment until the Cottesloe Activity Centre (Cottesloe Village) Precinct Structure Plan has progressed to the adoption stage.

Council in its previous consideration of the proposed scheme amendment was conscious of the number of other sites within the Cottesloe Activity Centre precinct with potential for future redevelopment. If this amendment is supported it is therefore very likely to set a precedent for these sites to also be redeveloped to the height proposed or greater, ahead of the Draft Precinct Structure Plan being finalised. Should this occur the cumulative impact would undermine the purpose of preparing a precinct plan for the Activity Centre.

It is important to define a clear direction and controls for this site and for other sites in the Cottesloe Activity Centre precinct, to ensure future development is well-designed and integrated, community benefits including pedestrian connectivity, accessibility and public spaces are provided, and a high level of amenity and vibrancy is achieved to meet the needs of residents and businesses, without detrimentally impacting the village character.

For these reasons, without a Precinct Structure Plan, it is recommended that Council not support the proposed scheme amendment. Should the Minister support modifications to the amendment to include the adjoining No. 1 Station Street and/or increase the height limit to 15 or 18 storeys, such modifications are considered substantial and warrant the amendment

being re-advertised. Additional information should be provided by the applicant including, but not limited to,

- an assessment demonstrating compliance with all relevant requirements of SPP 4.2 and SPP 7.2, including amended Building Control Diagrams;
- diagrams indicating the extent of overshadowing onto Napoleon Street throughout the year with the additional height; and
- servicing issues raised in the submissions by Water Corporation, Main Roads WA and ATCO Gas.

ATTACHMENTS

- 10.1.3(a) Scheme Amendment 12 [under separate cover]**
- 10.1.3(b) Scheme Amendment 12 Report [under separate cover]**
- 10.1.3(c) Scheme Amendment 12 Schedule of Submissions [under separate cover]**
- 10.1.3(d) Scheme Amendment 12 Council report 28 June 2022 [under separate cover]**

CONSULTATION

The scheme amendment was advertised for public comment for a period of 60 days, concluding on 10 October 2022, by way of:

- 451 letters to landowners and occupiers within 200 metres of the site
- Notices placed in The Post and Perth Now newspapers
- A notice and documents placed on the Town's website
- Documents available to view at the Town's offices
- Letters to relevant service authorities
- Two signs on site, facing Station Street.

At the close of the advertising period, 28 submissions were received comprising:

- 5 submissions indicating support, with no modifications
- 2 submissions indicating support, with modifications
- 16 submissions indicating objections
- 5 submissions from service authorities.

STATUTORY IMPLICATIONS

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Town of Cottesloe Local Planning Scheme No. 3

State Planning Policy 4.2 – Activity centres for Perth and Peel

State Planning Policy 7.2 – Precinct Design

State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartments

POLICY IMPLICATIONS

The Town is progressing the Precinct Structure Plan which will provide the policy framework in which to consider major development within the Cottesloe Activity Centre.

At this stage, in absence of a Precinct Structure Plan, it is prudent for the Council to not support the scheme amendment.

The Minister will make the final decision on the proposed amendment.

STRATEGIC IMPLICATIONS

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

Priority Area 4: Managing Development

Major Strategy 6.4: Enhance the Town's ability to embrace and manage change.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

The applicant will be invoiced for the time spent by the Town's officers on this amendment and all advertising costs associated with this amendment.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

It is noted that Cottesloe Village is a prime location for transit oriented development which has the potential to provide environmental, social and economic sustainability benefits.

A contemporary, strategic planning framework guiding the comprehensive and coordinated redevelopment of Cottesloe Village will ensure new development within the Centre will provide these sustainability benefits. Without this framework in place, it is inappropriate to support the scheme amendment.

VOTING REQUIREMENT

Simple Majority

OCM170/2022

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Masarei

Seconded Cr Sadler

THAT Council:

- 1. Note the submissions received and the comments provided in the submissions on Scheme Amendment No. 12;**

2. Pursuant to section 75 of the *Planning and Development Act 2005* and Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, DOES NOT SUPPORT Scheme Amendment No. 12 as depicted in Attachment 1 to this report for the following reasons:
 - a. In the absence of a Precinct Structure Plan, the proposed scheme amendment does not adequately address the requirements of SPP 4.2 and SPP 7.2, in particular pedestrian connectivity, accessibility, public spaces and built form and scale;
 - b. The Town of Cottesloe and the Shire of Peppermint Grove are progressing a Precinct Structure Plan consistent with *State Planning Policy 4.2 – Activity Centres (SPP 4.2)* and *State Planning Policy 7.2 – Precinct Design (SPP 7.2)* to guide the comprehensive and coordinated redevelopment of the Cottesloe Activity Centre and delivery of land use planning and design outcomes in accordance with these policies;
 - c. There are insufficient grounds to support the proposed scheme amendment ahead of the progression of the Precinct Structure Plan to a final approval stage as this would result in development of the Cottesloe Activity Centre in a poorly integrated, incohesive and inaccessible manner in conflict with SPP 4.2 and SPP 7.2.
3. Pursuant to Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* FORWARDS Scheme Amendment No. 12, the submissions received during advertising and Council's decision to the Western Australian Planning Commission for consideration;
4. Advise the Minister for Planning that should the modifications requested in the submissions received on Scheme Amendment No. 12 be supported, these modifications are considered substantial and warrant the re-advertising of the scheme amendment.

Carried by En-Bloc Resolution 8/0

EXECUTIVE SERVICES**10.1.6 WALGA BEST PRACTICE GOVERNANCE REVIEW**

Directorate: Executive Services
Author(s): Matthew Scott, Chief Executive Officer
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D22/44626
Applicant(s):
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider the West Australian Local Government Association (WALGA) Best Practice Governance Review and provide feedback on Council's preferred Governance Model for WALGA.

OFFICER RECOMMENDATION IN BRIEF

That the Council advises WALGA of its preferred rankings of the various options within the WALGA Best Practice Governance Review paper, being:

1. Option 1 - Two tier model, Existing Zones;
2. Option 3 - Board, Amalgamated Zones;
3. Option 2 - Board, Regional Bodies;
4. Option 4 - Member Elected Board, Regional Groups; and
5. Option 5 - Current Model (Status quo).

BACKGROUND

In developing WALGA's Corporate Strategy 2020-25, it identified as a key strategic priority to undertake a Best Practice Governance Review. The objective of the review is to ensure WALGA's governance and engagement models are contemporary, agile, and maximise engagement with members. In March 2022 the WALGA State Council commissioned a Best Practice Governance Review (BPGR), guided by a Steering Committee with representation from the sector. In developing the BPGR, WALGA has focused on the following key Principles:

1. Representative;
2. Responsive; and
3. Result Oriented.

The BPGR is now complete and five(5) alternative models have been developed for members to consider and provide feedback. The 5 alternative models (options), which are discussed in detail in the attached documentation, are described as:

1. Two tier model, existing zones;
 2. Board, Regional Bodies;
-

3. Board, Amalgamated zones;
4. Member Elected Board, Regional Groups; and
5. Current Model (Status quo).

WALGA has requested all member Councils (which includes the Town of Cottesloe) to consider the BPGR paper (attached) and provide a Council endorsed position, by ranking the options in order of preference, by 23 December 2022.

OFFICER COMMENT

Currently, the WALGA State Council is made up of 24 members, 12 from country constituencies and 12 from metropolitan constituencies. It is unusual to have any decision making body (outside of Federal or State Government) to be comprised of this many members and this has been a recognised issue for WALGA for some time. Likewise, the proposed removal of WALGA being constituted under the Local Government Act 1995, as part of the current reform process, provides an opportune time to review the association's governance structure to fit more appropriately with other incorporated associations. Given this, retaining the current structure (or status quo) is seen as the least preferred option.

In considering the remaining models, the two tier model is considered the preferred model, as it reflects the current structure, with the addition of an 11 member board (8 representative members and 3 independent members) as the final decision making body. Having a Policy Council of 24 members is useful in developing policy positions, as there is a benefit in having diverse points of view. The Policy Council would then make recommendations for the Board to consider. Likewise, the Policy Council creates a pool of LG representatives for the Board to form groups (Policy teams, Policy forums, and Committees) to focus on specific issues. This option also provides a structured election process via existing WALGA Zones.

Of the remaining 3 options (2-4), Option 4 Member Elected Board, Regional Groups is less preferred as board members are elected via direct election from all member Councils. This could result in a vast number of candidates for limited positions, resulting in some difficulty for individual local governments to determine whom they may vote for and potentially adding an additional level of politics into board membership. Potential Elected Board Members may not have any regional or zone understanding or relationships, and seek board positions with specific agendas, potentially at odds with the sector's best interest.

Option 3 Board, Amalgamated Zones is preferred over Option 2 Board, Regional Bodies, Option 3 is loosely based around the current WALGA zones, noting an increase in overall board membership. Option 2 introduces the Regional Capitals (an association of the 10 largest Local Governments in Regional WA) as a regional body, which is inconsistent with other regional bodies which are based on geographical association, not population size.

Based on the above the author recommends the ranking of the options from most preferred to least preferred being:

1. Option 1 - Two tier model, Existing Zones;
2. Option 3 - Board, Amalgamated Zones;
3. Option 2 - Board, Regional Bodies;

4. Option 4 - Member Elected Board, Regional Groups; and
5. Option 5 - Current Model (Status quo).

Council has the option to resolve or amend the above proposed rankings, after the considering the BPGR paper.

ATTACHMENTS

- 10.1.6(a) WALGA Best Practice Governance Review - Consultation Paper Model Options [under separate cover]**
- 10.1.6(b) WALGA Best Practice Governance Review - Background Paper [under separate cover]**

CONSULTATION

WALGA

STATUTORY IMPLICATIONS

Nil

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

Depending on the final model endorsed by WALGA, there may be an impact on the time required by the Town's current Zone representatives (elected members) in attending WALGA meetings.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

OCM171/2022

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Masarei

Seconded Cr Sadler

THAT Council ADVISES the West Australian Local Government Association (WALGA) of the Town of Cottesloe's rankings (1 most preferred, 5 least preferred) of the various governance options contained in the attached WALGA Best Practice Governance Review Paper:

1. Option 1 - Two tier model, Existing Zones;
2. Option 3 - Board, Amalgamated Zones;
3. Option 2 - Board, Regional Bodies;
4. Option 4 - Member Elected Board, Regional Groups; and
5. Option 5 - Current Model (Status quo)

Carried by En Bloc Resolution 8/0

10.1.7 EXTRAORDINARY ELECTION - SOUTH WARD

Directorate: Executive Services
Author(s): Matthew Scott, Chief Executive Officer
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D22/44778
Applicant(s):
Author Disclosure of Interest: Nil

SUMMARY

For Council to determine who will manage and the method of the extraordinary election for the South Ward, as a result of the recent resignation of Cr Caroline Harben.

OFFICER RECOMMENDATION IN BRIEF

That the Council holds a Postal Election, managed by the West Australian Electoral Commissioner (or their appointee) for the Extraordinary Election for the South Ward.

BACKGROUND

On Tuesday, 25 October 2022, the Chief Executive Officer (CEO) received the resignation of Cr Caroline Harben, effective immediately. The Mayor advised the Council of Cr Harben's resignation at the Ordinary Council Meeting (OCM) that night. Since then, and after consulting with the remaining Elected Members, the Mayor has decided, in accordance with Section 4.9(1)(a), Local Government Act 1995 (the Act) that the Extraordinary Election date to elect a new South Ward Councillor will be Saturday, 18 February 2023. This declaration is subject to the approval of the Electoral Commission (Section 4.9(2))

Now that a date for the Extraordinary Election has been set, Council must determine:

1. Who will manage the Election (Returning Officer); and
2. The Method of Election (Postal or In-person).

Both of the above decisions need to be resolved by the 80th day before the Election Date (Wednesday, 30 November 2022) or the statutory default position applies (and cannot be changed), being:

1. The CEO (Section 4.20(1), the Act); and
2. In-person Vote (Section 4.61, the Act).

OFFICER COMMENT

As with any Local Government Election process, Council has to decide who and how the South Ward extraordinary election will be managed. Effectively the options available are:

- 1) Default Position (as discussed in the Background) – No decision needed;
 - 2) In-Person Vote managed by another person other than the CEO, which would also require approval of the Electoral Commissioner, (Section 4.20(2)); or
-

- 3) Postal Election managed by the Electoral Commission – Only the Electoral Commissioner can perform a Postal Election, (Section 4.61(4)).

Given the above options, who can manage the Extraordinary Election is dependant on the method of Election (as only the Electoral Commissioner can perform a Postal Election), this needs to be considered first.

Generally, a Postal Election results in a greater elector turnout however, it comes at a direct cost, as the Local Government has to pay the Electoral Commissioner to manage the election. In-Person Election tends to have a lower Elector turnout, as many Electors believe they can only vote on Election Day. It should be noted that an In-Person Elections does allow electors to cast an absent vote (similar to a postal vote) or an early vote (prior to the election date), as identified in the attached Election Timetable, however many electors are not aware of these options.

There is also a perception that an In-person Elector is less expensive than a Postal Election. This is not entirely correct, as there is an indirect opportunity cost associated with the CEO being the Returning Officer, on top of their other duties, or if the CEO is not the Returning Officer, a direct cost is involved in having another party manage the election (such as the Electoral Commissioner). Furthermore, it should be noted that there are more requirements associated with holding an In-person Vote, compared to a Postal Election, such as the provision of absent votes and early voting (as discussed above), which also comes at a cost to implement.

Another consideration is a potential perceived conflict of interest with the CEO managing the Election, as the successful candidate, as an Elected Member, will be involved in future performance reviews of the CEO. Though there are statutory provisions (and significant penalties) to mitigate any potential conflicts of interest of the CEO as the Returning Officer, these may not alleviate individual elector or community perceptions, which may influence the confidence of the community in the Election Result.

Given the above, many Local Governments tend to prefer Postal Elections, managed by the Electoral Commissioner, to ensure Election Results are completely independent. This view seems to be reflected in previous general and extraordinary elections held by the Town of Cottesloe. This position is reflected in the Officer's recommendation.

In seeking a quote from the Electoral Commissioner, the Electoral Commissioner has advised that due the Christmas/New Year break and the School Holidays in Janaury, an election date of 18 February 2023 is not practicable, and has advised (after some discussion) that the election date will be Saturday 25 February 2023, in accordance with Section 4.9(2), the Act. Attached to the advice is a revised election timetable, should the Council resolve the Officer's recommendation.

ATTACHMENTS

- 10.1.7(a) Town of Cottesloe Cost Estimate & Agreement letter - Elections [under separate cover]**

CONSULTATION

WALGA

WA Electoral Commission

STATUTORY IMPLICATIONS

Local Government Act 1995

Part 4 – Elections and other polls

Division 4 – Extraordinary elections

Division 7 – Provisions about electoral officers and the conduct of Elections

Division 9 – Electoral process

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 6.4: Enhance the Town's ability to embrace and manage change.

RESOURCE IMPLICATIONS

Should Council resolve the Officer's recommendation, Council will be charged for the services of the WAEC. The Town has received a quote of \$15,000 inc GST from the West Australian Electoral Commission (attached). This will need to be funded via the current surplus, as there was no budget allocation in the adopted Annual Budget, which can be reimbursed via savings identified in the mid-year budget review.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Absolute Majority

OCM172/2022

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Masarei

Seconded Cr Sadler

THAT Council, by ABSOLUTE MAJORITY:

- 1. NOTE the resignation of the Cr Caroline Harben, effective 25 October 2022, and thank her for her contribution to the Town of Cottesloe and the Cottesloe Community;**

2. **NOTE** the decision by the Electoral Commissioner, in accordance with Section 4.9(2), Local Government Act 1995, that the Election Date of South Ward Extraordinary Election to fill the vacancy as a result of Cr Harben's resignation to the Saturday, 25 February 2023;
3. **DECLARE**, in accordance with Section 4.20(4), Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the South Ward Extraordinary Election;
4. **DECLARE**, in accordance with Section 4.61(2), Local Government Act 1995, the method of conducting the South Ward Extraordinary Election to be a postal election;
5. **ACCEPTS** the quotation of \$15,000 inc GST from the West Australian Electoral Commission (WAEC) to conduct the South Ward Extraordinary Election, subject to:
 - a. **ACKNOWLEDGING** the quote is based on several assumptions and exclusions, identified in the letter from the Electoral Commissioner, dated 14 November 2022; and
 - b. **Being FUNDED** from the Town's current cash surplus, to be reimbursed from savings identified in the Mid Year Budget Review

Carried by En Bloc Resolution 8/0

Cr Barrett left the meeting at 6: 38 pm.

ENGINEERING SERVICES**10.1.4 DOSCAS LANE PARTIAL CLOSURE REQUEST**

Directorate: Engineering Services
Author(s): Shaun Kan, Director Engineering Services
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D22/42802
Applicant(s): The Owner 53 John Street
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider a request from the Owner of 53 John Street (Attachment B) for the permanent partial closure of Right of Way (ROW) 32 (Doscas Lane) and amalgamate this section of laneway land with the mention property title. The attached survey plan indicates the width of this request.

OFFICER RECOMMENDATION IN BRIEF

It is recommended Council supports the Land Administration Act (1997) public consultation associated with the resident's request for the partial closure of Doscas Lane.

BACKGROUND

The current owner of 53 John Street, Cottesloe purchased the property in early 2022. They are asking Council to consider the disposal of a small parcel of Doscas Lane containing structural encroachments through Adverse Possession (survey plan attached – Attachment A).

This is dedicated as road and is Crown Land with Management Orders vested to the Town of Cottesloe. The property falls within Local Planning Scheme 3 (listed on the Town's Heritage Register).

Diagram 1 and 2 combined with Photographs 1 and 2 provide an illustration on the encroachments.



Diagram 1: Locality Plan

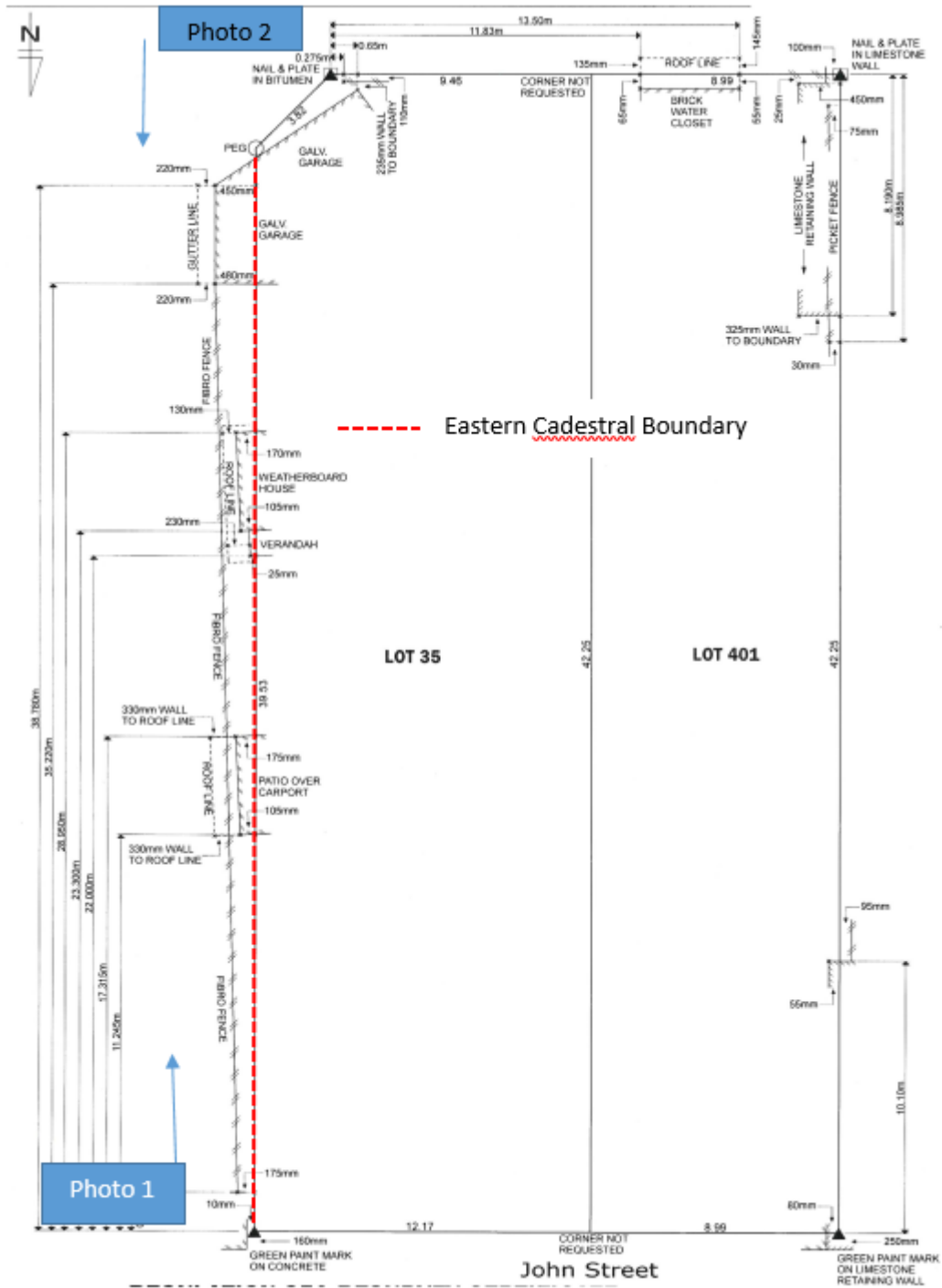


Diagram 2: Property Layout – Eastern Cadastral Boundary and Encroachments (Attachment A)



Photograph 1: Looking South from John Street



Photograph 2: Looking North from Doscas Lane towards John Street

From consultation with the resident, it is reasonable to conclude that the current owner is aware of the encroachment at the time of purchase.

The property owner in their correspondence has suggested that the encroachments were completed before 1952 (Landgate Aerial Images). Given this occurred over 70 years ago, the Town is unable to locate records backdating that far.

Given the laneway tenure (regardless of encroachment occurrence period), the State Government is the determining authority and any consideration must comply with the Land Administration Act (1997) Section 58 process, further discussed in the officer's comment. Council is also to note that the Limitations Act (2005) section 76 has no provisions for Crown Land Adverse Possession.

Some necessary sub-structural safety related works have occurred within the property. The owner will be required to obtain retrospective building approval for these works. A development approval is also required, prior to the retrospective building application being submitted as the property is of heritage significance. However, Council needs to refer the matter to DPLH for a decision on the land issues before the Town can consider both planning and building approvals. Should DPLH not grant the boundary realignment then the structures that are encroaching into the laneway must be removed.

OFFICER COMMENT

As Doscas Lane is Crown Land and a dedicated public road, the process for considering closure of any part of the road is set out in the *Land Administration Act 1997*, Part 5, Division 1, Section 58 - Closing Roads and is summarised as follows:

1. *Council determines on whether or not to proceed with advertising;*
2. *Local advertising occurs (minimum 35 days);*
3. *Council considers any comments and objections and resolves whether to support the request for closure;*
4. *If resolution is to support request this is then referred to the Minister for Lands via the Department of Planning Lands and Heritage (DPLH)*
5. *The Minister for Lands determines the request and advises the town of the decision.*

The appropriateness of the above process has been confirmed.

Given the requirements, a recommendation is made to endorse the district wide public consultation so that Council can consider feedback and determine whether to support the closure.

If supported, it is envisaged that the advertising will happen over the month of December 2022 and January 2023 for deliberation at the February 2023 Ordinary Council Meeting (OCM). This timeframe complies with the minimum 35 days but Council can determine a different period. In addition to the standard public notification through the local newspapers, residents and property owners along both sections of Doscas Lane will be invited to provide comments.

Feedback is then considered and an appropriate recommendation made to Council whether to refer this onto DPLH for the Crown to carry out their due diligence in deciding on the matter.

Council is to note that not proceeding with the advertising places the property owner in a precarious situation, as a State Government determination is required for the statutory

approvals (planning and building) lodgement needed for the remaining improvement works within the title boundary.

Notwithstanding the above, Council should also note the following supplementary information in making this decision:

- Doscas Lane is a dedicated and gazetted road that provides access to a number of other properties, noting that is also access through Broome Street which is narrower than the subject section;
- The proposed partial closure Doscas Lane section has the following width dimensions:
 - (a) Northern end asphalt surface 3 metres
 - (b) Southern end asphalt surface 5 metres
 - (c) Midpoint asphalt 3 metres
 - (d) Full width fence to fence 5 metres
- The applicant has confirmed that the proposed closure area of Doscas Lane is 17m² which narrows down from 0.45 metres from the south to 0.175 metres at the John Street end, noting that approximately 5.4 metres is the width of a two way road (no lane marking) and resuming the encroached area may not necessarily meet the required compliance, notwithstanding additional resurfacing and maintenance cost;
- Furthermore, the width of the east-west section of Doscas Lane is narrow and cannot accommodate two vehicles passing with no widening opportunity as adjoining properties are built up to their boundaries;
- The current lot size of 53 John Street is 890m² (Lots 35 & 401) and this increases to approximately 907m² with the requested land amalgamation. Under Local Planning Scheme 3, the property is within a R20 residential density code zone (450m² per lot average), allowing the potential sub-division of the site;
- Should the partial closure of Doscas Lane be supported, it is preferred that both existing lots and the laneway land (property owner request) is amalgamated to ensure that the current heritage building on the site is contained on one title;
- The property located at 53 John Street is of heritage significance (Heritage Listed). It is listed in the Town's Local Planning Scheme and included on the Town's heritage list. As a result, any improvements to the property will require a development approval, noting that the encroaching structures have no known heritage value. The property is therefore protected and any request to demolish the property must be approved by Council.
- Should Council grant approval for the demolition of the property, two separate dwellings could potentially be built on the existing lots (lots 35 and 401).
- The owner requires the acquisition in order to build a secure perimeter for safety reasons.

Further feedback on the above including opinions on other unknown matters may also be obtained through the consultation for Council's consideration.

ATTACHMENTS

- 10.1.4(a) Attachment A - 53 John Street - Survey Plan [under separate cover]
10.1.4(b) Attachment B - Confirmation of Land Owner Acquisition Request - 53 John Street - Redacted [under separate cover]

CONSULTATION

Consultation with the owner of 53 John Street and DPLH has occurred.

A recommendation is made for Council to proceed with advertising the partial closure of Doscas Lane and consider all submissions before deciding whether to refer this to DPLH to make a determination on the land amalgamation.

STATUTORY IMPLICATIONS***Local Government Act 1995 Section 2.7 – Role of Council******Land Administration Act (1997) Section 58 - Activities on Thoroughfares and Trading in Thoroughfares and Public Places***

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
 - (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
 - (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
 - (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —*
 - (a) *by order grant the request; or*
 - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
 - (c) *refuse the request.*
 - (5) *If the Minister grants a request under subsection (4) —*
 - (a) *the road concerned is closed on and from the day on which the relevant order is registered; and*
 - (b) *any rights suspended under section 55(3)(a) cease to be so suspended.*
 - (6) *When a road is closed under this section, the land comprising the former road —*
 - (a) *becomes unallocated Crown land; or*
-

- (b) *if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.*

Land Administration Regulations (1998) Regulation 9 - Local government request to close road permanently (Act s. 58(2)), requirements for

For the purposes of preparing and delivering under section 58(2) of the Act a request to the Minister to close a road permanently, a local government must include with the request —

- (a) *written confirmation that the local government has resolved to make the request, details of the date when the relevant resolution was passed and any other information relating to that resolution that the Minister may require; and*
- (b) *sketch plans showing the location of the road and the proposed future disposition of the land comprising the road after it has been closed; and*
- (c) *copies of any submissions relating to the request that, after complying with the requirement to publish the relevant notice of motion under section 58(3) of the Act, the local government has received, and the local government's comments on those submissions; and*
- (d) *a copy of the relevant notice of motion referred to in paragraph (c); and*
- (e) *any other information the local government considers relevant to the Minister's consideration of the request; and*
- (f) *written confirmation that the local government has complied with section 58(2) and (3) of the Act.*

Limitations Act (2005) Section 76 – No Action by Adverse Possession Against the Crown

Despite any law that is, or has been, in effect the right, title or interest of the Crown to, or in, any land is not affected in any way by any possession of such land adverse to the Crown, and is to be taken as never having been so affected.

Building Act 2011 and Building Regulations 2012

POLICY IMPLICATIONS

There are no perceived policy implications at this stage and this will be determined when submissions are presented to Council.

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 and any associated cost with the closure (not including advertising) is the responsibility of the applicant.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Harkins

Seconded Cr Wylynko

THAT Council:

1. APPROVES the Cottesloe District wide advertising and public consultation on the proposed partial closure requested by the owner of 53 John Street pursuant to Land Administration Act 1997 Section 58 and Land Administration Regulations 1998 Regulation 9;
2. Subject to point one, NOTES that:
 - a. directly affected residents along the affected section of Doscas Lane will be sent a letter informing them of the proposal and seeking their input on the matter; and
 - b. the consultation will occur over the month of December 2022 to February 2023 so that the matter can return to the February 2023 Ordinary Council Meeting

OCM173/2022

Moved Cr Sadler

Seconded Cr Bulbeck

COUNCILLOR AMENDMENT

That point 2b to be altered to read:

The consultation will occur over the months of February and March 2023 so that the matter can return to the April 2023 Ordinary Council Meeting.

Lost 3/4

For: Crs Sadler, Masarei and Bulbeck

Against: Mayor Young, Crs Harkins, MacFarlane and Wylynko

OCM174/2022

Moved Mayor Young Seconded Cr Bulbeck

FORESHADOWED AMENDMENT

THAT Council:

2. Subject to point one, NOTES that:

- b. the consultation will occur over the month of December 2022 and January, February 2023 so that the matter can return to the March 2023 Ordinary Council Meeting

Carried 4/3

For: Mayor Young, Crs Sadler, Masarei and Bulbeck
Against: Crs Harkins, MacFarlane and Wylenko

OCM175/2022

SUBSTANTIVE MOTION

Moved Cr Harkins Seconded Cr Wylenko

THAT Council:

1. APPROVES the Cottesloe District wide advertising and public consultation on the proposed partial closure requested by the owner of 53 John Street pursuant to Land Administration Act 1997 Section 58 and Land Administration Regulations 1998 Regulation 9;

2. Subject to point one, NOTES that:

- a. directly affected residents along the affected section of Doscas Lane will be sent a letter informing them of the proposal and seeking their input on the matter; and
- b. the consultation will occur over the month of December 2022 and January, February 2023 so that the matter can return to the March 2023 Ordinary Council Meeting

Carried 7/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, MacFarlane, Bulbeck and Wylenko
Against: Nil

Cr Barrett returned to the meeting at 6:44 pm.

10.1.5 REVISED CROSSOVER CONSTRUCTION POLICY

Directorate: Engineering Services
Author(s): Shaun Kan, Director Engineering Services
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D22/44451
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider revoking the 2013 Crossover Construction Policy and adopt the attached Crossover Management Policy.

OFFICER RECOMMENDATION IN BRIEF

That Council revokes the 2013 Crossover Construction Policy (attached) and adopt the attached Crossover Management Policy.

BACKGROUND

The 2013 Crossover Construction Policy is limited to a once off \$300 contribution for the first crossover construction to any property and its subsequent payment of \$200 for resurfacing when asphalt works occurs on that street.

This policy requires an expansion to include the crossover application process and technical standards to ensure assessment consistency, streetscape preservation and safety at footpath interfaces.

The attached Crossover Management Policy covers these additional aspects and maintenance responsibilities. This is further discussed in the officer's comment section of the report.

A copy of the 2013 policy is attached.

OFFICER COMMENT

The attached Crossover Management Policy provides Council's position on the following matters including the officer delegated to making the determination:

- **Application Process**

Outlines the Town of Cottesloe specific statutory requirements and workflow process when requesting for a new crossover or carrying out works on the existing.

- **Design and Construction Specifications**

Establishes design and construction technical requirements. This information is available on the Town's website (<https://www.cottesloe.wa.gov.au/business-development/engineering/crossovers.aspx>) and is used to assess the engineering component of all applications. Formalisation will preserve streetscape and maintaining safety by prioritising footpath traffic over vehicular access at interfaces.

Documents on the hyperlink are attached (application form, specifications and standard drawings);

- **Management of Redundant Crossover and Infrastructure Bonds**

Provides guidelines to the removal of crossovers that are no longer in use and when infrastructure bonds are refunded or used.

- **Maintenance Responsibilities**

This provides the position that all crossovers are the responsibility of property owners. It also outlines situations when the Town will carry out repairs and pass on half the charges to the property owner (Local Government Act 1995 Schedule 9.1 Clause 7(3)).

Council is to note that this new policy only incorporates the Local Government Act 1995 Schedule 9.1 Clause 7(4) and the Local Government Act (Uniform Local Provisions) Regulations 1996 Section 15 provisions relating to Council's obligation to bear half the cost of constructing the first crossover to a lot.

Notwithstanding the above, below are comments to Council's queries raised at the Agenda Forum. Matters relating to financials are included in the Resource Implication section of the report.

Boundary and ownership definition of a crossover

It is confirmed that the Crown is the owner of crossovers given its locality within Council verges. However, most Local Government would require property owner to be responsible for the care and maintenance of the crossover as a condition of the permitting/approving the installation of the crossover on Council controlled land.

The Local Government Act (1995) Schedule 9.1 Clause 7 defines a crossover as a crossing from a public thoroughfare to private land or private thoroughfare.

Clause 7(1) defines private land as land that is neither Crown nor Local Government Land and Clause 7(2) defines private thoroughfare as thoroughfare that is principally used for access to private land that abuts the thoroughfare and, for the purpose of this clause, that land is land served by that thoroughfare.

WALGA, Main Roads and Other Local Government Policy Comparisons

The attached WALGA Guideline suggest that a crossover should be at least 3 metres wide for single garages and can increase to 4.5 metres for double garages to a maximum of 6 metres for lots with frontages in excess of 12.5 metres.

Main Roads standard widths spans from 4.5 metres to 9 metres depending on vehicle usage. Typical drawings can be found at the following link (<https://www.mainroads.wa.gov.au/globalassets/technical-commercial/technical-library/guideline-drawings/driveways-drawings/200431-0198.pdf?v=48f16e>), (<https://www.mainroads.wa.gov.au/globalassets/technical-commercial/technical-library/guideline-drawings/driveways-drawings/200431-0199.pdf?v=48f166>) and (<https://www.mainroads.wa.gov.au/globalassets/technical-commercial/technical-library/guideline-drawings/driveways-drawings/200431-0200-urban-driveway-setout-details-single-unit-truck.pdf?v=4ada58>)

The City of Perth and the Town of Mosman Park specifications allows 3 to 6 metre widths.

For the above reasons and given the limited scope of the current policy, a recommendation is made to revoke the 2013 Crossover Construction Policy and adopt the attached Crossover Management Policy. Council is to note that a contemporary set of specifications and drawings will be developed based on the principles within the officer's comment including those within the current document. This can be circulated for comment before they are placed on the Town's website.

ATTACHMENTS

- 10.1.5(a) Crossover Management Policy - Reviewed November 2022 [under separate cover]**
- 10.1.5(b) Crossovers - Combined Specifications for Asphalt, Brick Paving and Concrete [under separate cover]**
- 10.1.5(c) Town of Cottesloe -Crossover Construction Policy (1) [under separate cover]**
- 10.1.5(d) WALGA Crossover Guidelines Rev1 [under separate cover]**

CONSULTATION

Manager Parks and Operations

STATUTORY IMPLICATIONS

Local Government Act 1995 Section 2.7(2)(b) states that "the council is to determine the local government's policies.

Local Government Act 1995 Schedule 9.1 Clause 7 – Crossing from Public Thoroughfare to Private land or Private Thoroughfare

Local Government (Local Uniform Provisions) 1996 Section 15 - Contribution to cost of crossing

POLICY IMPLICATIONS

The recommendation is for the revocation of the 2013 Crossover Construction Policy and adoption of the attached Crossover Management Policy. This new document provides a consistent and comprehensive approach when assessing such applications and the management crossovers post their construction.

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

Resource requirements are in accordance with the existing budgetary allocation as this policy is based on fee for service principles.

There is capacity within staffing to administer the officer's recommendation.

The reimbursement mentioned in the Local Government Act (1995) has minimal cost implications, as this would only be applicable to sub-divisions within the district as this generates a new lot and its first crossover.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

The attached Crossover Management Policy will optimise the green spaces within Council's verges by standardising the design parameters of crossovers and only allowing turf penetrating hardstand surfaces for portions exceeding fixed widths. It is envisaged that the formalisation of such technical elements will improve Cottesloe's streetscape.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council:

1. REVOKES the 2013 Crossover Construction Policy;
2. ADOPTS the attached Crossover Management Policy; and
3. Subject to Point two, NOTES that a contemporary set of drawings and specifications will be developed based on the policy principles and the current technical documents, circulated to Council before they are placed on the website.

OCM176/2022

COUNCILLOR MOTION AND COUNCIL RESOLUTION

Moved Cr Masarei

Seconded Cr Wylynko

DEFERS consideration of Item 10.1.5 Revised Crossover Construction Policy to the December Ordinary Council Meeting in order that the item can be brought to November Elected Member Workshop.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Wylynko

Against: Nil

REASON: Council wanted to hold an Elected Member Workshop on this proposed policy

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

OCM177/2022

MOTION FOR BEHIND CLOSED DOORS

Moved Mayor Young Seconded Cr Sadler

That, in accordance with Section 5.23(2)(d), Council discuss the confidential reports behind closed doors.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Wylynko

Against: Nil

The public and members of the media were requested to leave the meeting at 6:53 pm

OCM178/2022

Moved Mayor Young Seconded Cr Bulbeck

Standing Orders were suspended at 6:54 pm for 5 minutes to discuss the Resolution for the Community Citizen Award.

Carried 8/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Wylynko

Against: Nil

Standing Orders were resumed at 6:58 pm.

13.1.1 COMMUNITY CITIZEN OF THE YEAR AWARDS

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (b) as it contains information relating to the personal affairs of any person.

OCM179/2022**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION****Moved Mayor Young Seconded Cr Harkins**

THAT Council AWARDS the 2022 Community Citizen of the Year Award to Nominee 1.1 (A) and the disclosure of the selected nominee be embargoed until the official awarding of the honour.

Carried 8/0

**For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Wylynko
Against: Nil**

OCM180/2022**MOTION FOR RETURN FROM BEHIND CLOSED DOORS****Moved Mayor Young Seconded Cr Bulbeck**

In accordance with Section 5.23 that the meeting be re-opened to members of the public and media, and motions passed behind closed doors be read out if there are any public present.

Carried 8/0

**For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, MacFarlane, Bulbeck and Wylynko
Against: Nil**

13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC**13.1.1 COMMUNITY CITIZEN OF THE YEAR AWARDS**

The meeting was re-opened to the public at 6:59pm, however no members of the public or media were in attendance.

14 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 6:59 pm.