

TOWN OF COTTESLOE



FULL COUNCIL MEETING MINUTES

**ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 22 SEPTEMBER, 2008**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.05 pm.

1.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE**BACKGROUND**

At the September 2006 meeting of Council it was agreed that the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.

Standing Orders 12.1 and 21.5 read as follows:

Members to Rise

Every member of the council wishing to speak shall indicate by show of hands or other method agreed upon by the council. When invited by the mayor to speak, members shall rise and address the council through the mayor, provided that any member of the council unable conveniently to stand by reason of sickness or disability shall be permitted to sit while speaking.

Suspension of Standing Orders

- (a) The mover of a motion to suspend any standing order or orders shall state the clause or clauses of the standing order or orders to be suspended.
- (b) A motion to suspend, temporarily, any one or more of the standing orders regulating the proceedings and business of the council must be seconded, but the motion need not be presented in writing.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Boland

That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.

Carried 7/0

2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**Elected Members In Attendance**

Mayor Kevin Morgan
Cr Jay Birnbrauer
Cr Greg Boland
Cr Jo Dawkins
Cr Bryan Miller
Cr John Utting
Cr Jack Walsh

Officers in Attendance

Mr Stephen Tindale	Chief Executive Officer
Mr Graham Pattrick	Manager Corporate Services/Deputy CEO
Mr Andrew Jackson	Manager Planning & Development Services
Mr Geoff Trigg	Manager Engineering Services
Miss Kathryn Bradshaw	Executive Assistant

Apologies

Cr Victor Strzina

Leave of Absence (previously approved)

Cr Patricia Carmichael
Cr Daniel Cunningham
Cr Ian Woodhill

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Dawkins, seconded Cr Mayor Morgan

That Cr Dawkins request for leave of absence from the October Council meeting be granted.

Carried 7/0

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Miller, seconded Cr Birnbrauer

The Minutes of the Ordinary Meeting of Council held on Monday, 25 August, 2008 be confirmed.

Carried 7/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Mayor Morgan wished a very fond farewell to the Town's outgoing Chief Executive Officer, Mr Stephen Tindale who after six and a half years of hard work has placed this Council in very good shape. The Mayor announced Mr Tindale has taken Council to a new solid plateau and has improved services to this community, its elected members and the Town's staff.

Mayor Morgan expressed his gratitude that Mr Tindale had taken a genuine interest in the people of Cottesloe and that during his tenure as Chief Executive Officer a number of controversial issues had been 'put to bed'.

On behalf of the Town of Cottesloe, the Mayor presented Mr Tindale with a watercolour painting by Lucy Papalia.

In response, Mr Tindale stated that it had been a wonderful six and a half years and that what had made the job all the more enjoyable was the commitment of the Town's residents, staff and elected members. You were only as good in the job as those who surround you.. Staff and Councillors were very active in their roles despite the time constraints that impinge on everyone. Mr Tindale noted that everybody who had worked for Cottesloe had worked towards a vision of that which they thought was best for the community despite strong differences of opinion from time. In his estimation none had ever worked for pure selfish gain.

Mr Tindale advised it has been a pleasure working in particular with Mayor Kevin Morgan, who had come into the role with a very strong platform and mandate. It was his one regret that he had not been able to see the Mayor achieve the attainment of that platform in his time.

In closing, Mr Tindale thanked Council and wished the community of Cottesloe well in moving onto bigger and better things.

8 PUBLIC STATEMENT TIME

Reverend Malcolm Potts, 240 Marmion Street – Item 12.1.1 Still Point Initiative
Rev. Potts firstly gave his congratulations to the Council on their recent award for community safety and noted that the Still Point initiative was intended to continue this progress.

St Philips Anglican Church has around 200 members, many who live in Cottesloe. Over time, the number of issues arising on Sunday evenings on the beachfront had become more noticeable. Rev. Potts explained that for some people what can begin as an enjoyable and fun evening can quickly deteriorate into one of isolation and being out of control. Still Point provides a point of stillness in what can otherwise be an out of control environment.

The concept will operate with two teams of eight people from a tent which will be provided in a well signed and lit place. Rev. Potts explained it is a place for young people, whose night has spiralled out of control to calm down in a place of stillness. The tent will provide water, the use of a mobile phone and transport to the train station if appropriate.

Rev. Potts advised that volunteers will be appropriately trained and supported and will work with the police, Rangers and local hotels. Rev. Potts brought along a sheet for those who may want to put their email address down so they can be kept in the loop of the 12 week trial process.

Mayor Morgan responded by commending the wonderful idea and selfless initiative by St Philips Church.

Trevor Gallagher, 53C Langley Crescent, Innaloo: Item 11.1.2 Sea View Golf Club: Development Proposal

Mr Gallagher commenced by giving his congratulations to Mr Stephen Tindale on his appointment as Chief Executive Office at the City of Subiaco and added that Mr Tindale has been very helpful during his dealings with him.

Mayor Morgan advised that there may not be a quorum to deal with the item in question but that Mr Gallagher was still welcome to address the Council on the matter.

Mr Gallagher addressed the Council on two particular concerns raised at the Works and Corporate Services Committee meeting held last week.

Firstly, Mr Gallagher referred to the proposed length of the lease and the view that it is perhaps too long. He commented that in 1933 the land was vested to be used for public open space and recreational use and this will be its continuing use under the development proposal. He advised the purpose of recreation is important to the proposal and that the general public will be able to continue to recreate on the land. Mr Gallagher added that the Sea View Golf Club is the only one which has not built fences around the course and hence public still have full access to use the land.

Secondly, the development will benefit all residents of Cottesloe and will have first-class facilities. He advised that it will cater from tiny tots to school children, all community groups through to adults, seniors and those affected by disabilities. He added all residents and those in surrounding areas would greatly benefit from the concept.

Mr Gallagher advised the Next Generation Clubs currently have two working facilities in Bibra Lake South and Kings Park and recommended that Council see the quality and functionality of the facilities in action. He noted that there would be a considerable sum of rent returned to the Town and there would be no loan exposure cost responsibility to the residents because Next Generation will retire all debts of the Sea View Golf Club.

In closing, Mr Gallagher stated the integrity of the club will remain as it will continue to retain its name and history. He advised that the proposal represents a 'win win' situation for the parties involved and that the due process of public consultation is welcomed and the club is looking forward to the results.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

10 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 15 SEPTEMBER 2008

The agenda items were dealt with in the following order: Item 12.1.1, 11.1.2, then the items from Development Services Committee, followed by items 11.1.1, 11.1.5, 11.2.1, 11.2.4 and 11.2.6, 13.1.1 then the balance in numerical order enbloc.

10.1 PLANNING**10.1.1 NO. 135 (LOT 15) CURTIN AVENUE – SINGLE HOUSE**

File No: 1498
Author: Ed Drewett
Author Disclosure of Interest: Nil
Report Date: 8 September, 2008
Senior Officer: Mr Andrew Jackson

Property Owner: Michael & Sally Hunt

Applicant: Webb Brown-Neaves
Date of Application: 26 June, 2008

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 491m²
M.R.S. Reservation: N/A

SUMMARY

This application is for a two-storey house fronting Curtin Avenue. A similar application has also been submitted by the same owner/applicant for the adjoining lot at 137 Curtin Avenue. Both applications are discussed separately in this agenda.

The applicant is seeking front and side setback variations to the acceptable development standards of the Residential Design Codes and is seeking a variation to the Council's 'Garages and Carports in the Front Setback Area' Policy.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

The proposal is to demolish the existing house and outbuildings that straddle both the subject lot and Lot 58 adjoining and construct a two-storey house with access from Curtin Avenue.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
-

- Residential Design Codes

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

HERITAGE LISTING

N/A

DRAFT LOCAL PLANNING SCHEME NO. 3

The lot is proposed to be zoned Residential R30 under the draft Scheme.

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Garages and Carports in Front Setback Areas	4.5m	2.5m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.2-Streetscape	Garages setback 4.5m from the primary street	2.5m	Clause 6.2.3 – P3
6.3-Boundary setback requirements	1.6m setback from proposed upper floor to NE & SW boundaries	1.505m to SW boundary & 1.58m to NE boundary	Clause 6.3.1 – P1
6.3-Boundary Setback requirements	Walls built up to the boundary behind the front setback line	Wall on the boundary within the front setback	Clause 6.3.2 – P2

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2. The advertising consisted of a letter to three adjoining property owners. No submissions were received.

APPLICANT'S JUSTIFICATION

The applicant has provided a letter in support of the application. The main points raised are summarised below:

- The variation to the front setback is consistent with adjoining homes and is considered to comply with performance criteria due to the location on Curtin Avenue;
- Curtin Avenue is classified as a Primary Regional Road under the MRS and TPS and carries a high volume of traffic;
- The verge outside Lot 15 is nearly 30m wide so the proposed development is located well away from the road;
- The reduced setback to the development will not produce excessive bulk to the street and will not interfere with traffic safety;
- The adjoining homes at 133 and on the corner of Pearse Street are setback similar distances from the front boundary, as is No. 137. The proposed setback will continue to form a consistent streetscape;
- The amenity of the proposed development is increased by having a reduced front setback. The forward location of the building enables a larger rear garden and retention of a swimming pool and mature trees. It also acts as a barrier to noise, exhaust fumes and other pollutants from Curtin Avenue.
- The site is to be zoned R30 under TPS 3 which has less stringent boundary wall requirements than the R20 zone. The garage wall on the boundary complies with the length and height requirements of the R30 standards;
- The proposed garage is in a similar location to the existing garage so the impact on the adjoining site is comparable. The garage adjoins a driveway and wall with no major openings to the neighbouring site at 133 Curtin Avenue;
- The garage is a non-habitable room and does not contain any major openings so will not produce any overlooking;

STAFF COMMENT

The proposed house complies with Town Planning Scheme No 2 and the Residential Design Codes with the exception of the proposed front setback to the house and garage, the proposed upper floor side setbacks and the location of the proposed garage wall on the boundary. Each of these aspects is discussed below:

Front Setback to house

The applicant is seeking a variation to Council's requirement for a 6m front setback (Council Resolution 28/10/02) as 2.5m is proposed to the ground floor (including the

garage) and setbacks of 1.73m and 2.63m are proposed to the upper floor bedroom and balcony respectively.

Under the *acceptable development* standards of the Residential Design Codes (RD Codes) the front setback to the house may correspond to the average setback of existing dwellings on each side fronting the same street.

In this case, the adjoining house at 133 Curtin Avenue is setback approx. 6m from the front boundary but has a large gabled porch that extends to within 3m of the front boundary, the existing house at 137 Curtin Avenue has a reduced front setback of between approximately 1m and 3m (although this is proposed to be demolished), and the property on the corner of Pearse Street has a reduced front setback and a zero setback to its garage on Curtin Avenue.

Although these adjoining properties are only single-storey the proposed reduced front setback to the proposed two-storey house is nevertheless consistent with an average setback based on the adjoining properties and is therefore unlikely have a significant visual impact on the existing streetscape.

The proposed reduced front setback also satisfies the relevant performance criteria of the Codes which states:

Buildings set back from street boundaries an appropriate distance to ensure they:

- *contribute to the desired streetscape;*
- *provide adequate privacy and open space for dwellings; and*
- *allow safety clearances for easements for essential service corridors.*

As previously mentioned, there are a number of other houses adjoining which have a reduced setback to Curtin Avenue and this section of road also has a particularly wide verge (approx. 27m) which further reduces the visual impact of the proposed dwelling on the existing streetscape.

The modern contemporary design of the proposed house will be matched on the adjoining lot at 137 Curtin Avenue, subject to approval by Council, and the existing solid front wall along the frontage is proposed to be removed to give a more open aspect to the street which will assist in contributing to the desired streetscape. Adequate privacy and open space is retained for the house and adequate clearances for easements for essential services appear satisfactory.

Setback of garage

The proposed double garage is an integral feature of the proposed house but only has a 2.5m front setback, in lieu of 4.5m required under the acceptable development standards of the RD Codes.

It is considered that the reduced setback to the garage can be supported under the relevant performance criteria of the Codes which states:

The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.

The juxtaposition of the proposed garage to the house is sympathetic with the overall design and will not detract from the streetscape for reasons already discussed. Furthermore, the width of the garage is only approximately 50% of the lot frontage and will therefore not obstruct views of the house from the street or vice versa.

Council Policy for 'Garages and Carports in Front Setback Area' (Policy TPSP 003) generally requires garages to be positioned behind the 6m front setback line. However, the policy does also allow for garages to be constructed with a reduced 4.5m front setback in most cases and further variations can be considered having regard to:

- *the relevant objectives of the RD Codes;*
- *the effect of such variation on the amenity of any adjoining lot;*
- *the existing and potential future use and development of any adjoining lots;*
- *existing setbacks from the street alignment in the immediate locality, in the case of setbacks from the principle street.*

Although this Policy does not specifically address walls on boundaries (see below) it is nevertheless relevant in this case and the setback variations sought for the proposed garage can be supported for the reasons previously discussed.

Side setbacks

The upper floor of the proposed house has a minimum 1.505m setback from the south-west boundary and a minimum 1.585m setback from the north-east boundary, in lieu of a 1.6m setback required in both cases under the Codes. These setback variations are relatively minor and are due to the requirement under the Codes to take the nearest higher value for all intermediate height and length values rather than extrapolating a more exact setback calculation based on the actual length and height of the walls proposed.

The side setback variations sought are no greater than 0.1m and therefore will have a negligible affect on the adjoining properties, one of which is under the same ownership and proposed to be demolished, and the other which has no major openings directly opposite the subject portion of upper floor and which is separated by an existing driveway. For these reasons the reduced side setbacks may be deemed to satisfy the relevant performance criteria of the RD Codes and can be supported.

Wall on boundary

A double garage is proposed on the south-west boundary with a 2.5m front setback, in lieu of a 6m front setback required under the acceptable development standards of the Codes for a wall on the boundary. The length and average height of the proposed

wall on the boundary (excluding a minor front feature wall) would otherwise be compliant with the Codes.

The location of the wall on the boundary can be considered under performance criteria of the Codes which states:

Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The location of the proposed garage on the boundary makes effective use of space particularly as the lot only has a 12.19m frontage. Furthermore, it will be located next to an existing driveway on the adjoining lot and will not be directly opposite any major openings and therefore is unlikely to have a significant adverse effect on the amenity of the adjoining property and potentially will enhance privacy. It also replaces an existing garage which is setback only approximately 1.5m from the front boundary, albeit setback 1m from the side boundary, and so it is not inconsistent with the existing streetscape. In addition, no submission has been received from the adjoining property owner at 133 Curtin Avenue following the advertising period for the application.

CONCLUSION

The proposed two-storey house can be supported with the setback variations sought as the proposal satisfies the relevant performance criteria of the RD Codes and is an acceptable variation to Council's policy pertaining to Garages and Carports in Front Setback Areas.

The ridge height of the proposed dwelling is only 7.5m above the ANGL which is 1m below the maximum height permitted under TPS 2 and this will assist in ameliorating any visual impact on adjoining dwellings and the existing streetscape.

The modern contemporary design of the proposed house is in-keeping with other two-storey houses along this section of Curtin Avenue. Although the proposed front bedroom on the upper floor which has been designed to project 0.7m into the front setback over the double garage this should assist in providing good articulation to the frontage, improve surveillance to the street and lessen the visual impact of the garage on the streetscape.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the proposed arrangement of the front setback in relation to the adjacent other proposed and existing dwellings, as well as the wide verge and streetscape. It was observed that the stepping of front setbacks to dwellings in the

locality and the presence of forward parking structures serves to support the proposed setbacks in this overall context. Also, the creation of open-aspect frontages/fencing would be an improvement. The Manager Development Services added that as Curtin Avenue has residential development to one side only and given the relatively small scale of the proposed dwelling (which otherwise complies and to which there has been no objection) the setback could be supported.

OFFICER & COMMITTEE RECOMMENDATION

That Council GRANT its Approval to Commence Development for the proposed single house at No. 135 (Lot 15) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 June 2008, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (e) The applicant complying with the Town of Cottesloe Policies and procedures for Street Trees (February 2005) where the development requires the protection or pruning of existing street trees.
- (f) The proposed crossover being located to ensure the retention of the existing street trees and the Works Supervisor determining the distance that the crossover shall be located away from the base of the trees.
- (g) The existing redundant crossover being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (h) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.
- (k) Any fencing to the site within the front setback area being of an "Open Aspect" design in accordance with Council's local law and the subject of a separate application to Council.

AMENDMENT

Moved Cr Walsh, seconded Cr Utting

That the following condition be added as a new item:

- (l) Setback to be at 4.5 metres from boundary**

Carried 4/3

10.1.1 COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council GRANT its Approval to Commence Development for the proposed single house at No. 135 (Lot 15) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 June 2008, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (b) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (d) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
- (e) The applicant complying with the Town of Cottesloe Policies and procedures for Street Trees (February 2005) where the development requires the protection or pruning of existing street trees.**
- (f) The proposed crossover being located to ensure the retention of the existing street trees and the Works Supervisor determining the distance that the crossover shall be located away from the base of the trees.**
- (g) The existing redundant crossover being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.**
- (h) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**

- (j) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.**
- (k) Any fencing to the site within the front setback area being of an “Open Aspect” design in accordance with Council’s local law and the subject of a separate application to Council.**
- (l) Setback to be at 4.5 metres from boundary**

Carried 5/2

10.1.2 NO. 137 (LOT 58) CURTIN AVENUE – SINGLE HOUSE

File No:	1497
Author:	Ed Drewett
Author Disclosure of Interest:	Nil
Report Date:	10 September, 2008
Senior Officer:	Mr Andrew Jackson
Property Owner:	Michael & Sally Hunt
Applicant:	Webb Brown-Neaves
Date of Application:	26 June, 2008
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	311m²
M.R.S. Reservation:	N/A

SUMMARY

This application is for a two-storey house fronting Curtin Avenue. A similar application has also been submitted by the same owner/applicant for the adjoining lot at 135 Curtin Avenue. Both applications are discussed separately in this agenda.

The applicant is seeking front and side setback variations and a minor concession to overshadowing requirements pertaining to the *acceptable development* standards of the Residential Design Codes and is also seeking a variation to Council's 'Garages and Carports in Front Setback Area' Policy.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

The proposal is to demolish the existing house and outbuildings that straddle both the subject lot and Lot 15 adjoining and construct a two-storey house on Lot 58 with access from Curtin Avenue.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Residential Design Codes

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

HERITAGE LISTING

N/A

DRAFT LOCAL PLANNING SCHEME NO. 3

The lot is proposed to be zoned Residential R30 under the draft Scheme.

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Garages and carports in Front Setback Areas	4.5m	2.5m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.2-Streetscape	Garages setback 4.5m from the primary street	2.5m	Clause 6.2.3 – P3
6.3-Boundary setback requirements	1.6m-2.1m from proposed upper floor to SW boundary	1.5m-1.985m	Clause 6.3.1 – P1
6.3-Boundary setback requirements	Walls built up to the boundary behind the front setback line	Wall on the boundary within the front setback	Clause 6.3.2 – P2
6.9-Design for climate requirements	Maximum shadow-25%of the adjoining site area	27% shadow of adjoining site area	Clause 6.9.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2. The advertising consisted of a letter to two adjoining property owners. No submissions were received.

APPLICANT'S JUSTIFICATION

The applicant has provided a letter in support of the application. The main points raised are summarised below:

- The variation to the front setback is consistent with adjoining homes and is considered to comply with performance criteria due to the location on Curtin Avenue;
- Curtin Avenue is classified as a Primary Regional Road under the MRS and TPS and carries a high volume of traffic;
- The verge outside Lot 58 is nearly 30m wide so the development is located well away from the road;
- The reduced setback to the development will not produce excessive bulk to the street and will not interfere with traffic safety;
- The adjoining homes at 133 and on the corner of Pearse Street are setback similar distances from the front boundary, as is No. 137. The proposed setback will continue to form a consistent streetscape;
- The amenity of the proposed development is increased by having a reduced front setback. The forward location of the building enables a larger rear garden and acts as a barrier to noise, exhaust fumes and other pollutants from Curtin Avenue;
- The site is to be zoned R30 under TPS 3 which has less stringent boundary wall requirements than the R20 zone. The garage wall on the boundary complies with the length and height requirements of the R30 standard;
- The proposed garage adjoins the proposed development on Lot 15. The same owner is developing both homes, so there is no objection to the parking structure;
- The reduced setback to the SW boundary enables the house to maximise space on site. The location of the wall concentrates overshadowing at the front of the lot where it will not impact on the neighbour's rear garden area. The wall does not contain any major openings so will not produce overlooking;
- The proposed home has been designed in consultation with the new 2-storey home on Lot 15. Whilst the homes are separate single houses, the impact of the setback variations have been considered in the design of 135 and will not affect major openings or sensitive areas;
- The reduced area of the subject site and the adjoining Lot 15, in combination with the lot orientation, produces more overshadowing than the 25% allowed under the R20 zoning. The variation is minor at 2% and the proposal will be in compliance under the proposed R30 coding;
- The rear garden area on the adjoining Lot 15 retains full access to northern sunlight and will have high amenity for outdoor entertaining and recreation. The adjoining home has few major openings which will be affected by the additional shadow, indicating the impact is minor.

STAFF COMMENT

The proposed house complies with Town Planning Scheme No 2 and the Residential Design Codes with the exception of the proposed front setback to the house and garage, the proposed upper floor side setback to the SW boundary, the location of the proposed garage wall on the boundary and solar access requirements to the adjoining site. Each of these aspects is discussed below:

Front Setback to house

The applicant is seeking a variation to Council's requirements for a 6m front setback (Council's Resolution 28/10/02) as a 2.5m and 3.6m setback is proposed to the garage and front porch respectively and a setback of 3.87m is proposed to the upper floor balcony, although the remainder of the upper floor is setback 7.76m which is compliant.

Under the *acceptable development* standards of the Residential Design Codes (RD Codes) the front setback to the house may correspond to the average setback of existing dwellings on each side fronting the same street.

In this case, the house at 133 Curtin Avenue is setback approx. 6m from the front boundary but has a large gabled porch that extends to within 3m of the front boundary, the existing house at 137 Curtin Avenue has a reduced setback of approximately 1m and 3m (although will be demolished to allow for the proposed development), and the property on the corner of Pearse Street has a reduced front setback and a zero setback to its garage on Curtin Avenue.

Although these properties are only single-storey the proposed reduced front setback to the proposed two-storey house is nevertheless consistent with an average setback based on the adjoining properties and is therefore unlikely to have a significant visual impact on the existing streetscape.

The proposed reduced front setback also satisfies the relevant performance criteria of the Codes which states:

Buildings set back from street boundaries an appropriate distance to ensure they:

- *contribute to the desired streetscape;*
- *provide adequate privacy and open space for dwellings; and*
- *allow safety clearances for easements for essential service corridors.*

As previously mentioned, there are a number of other houses adjoining which have a reduced setback to Curtin Avenue and this section of road also has a particularly wide verge (approx. 27m) which further reduces the visual impact of the proposed dwelling on the streetscape.

The modern contemporary design of the proposed house will be matched on the adjoining lot at 135 Curtin Avenue, subject to approval by Council, and the existing solid front wall along the frontage is proposed to be removed to give a more open aspect to the street which will assist in contributing to the desired streetscape.

Adequate privacy and open space is retained for the house and adequate clearances for easements for essential services appear satisfactory.

Setback of garage

The proposed double garage is an integral feature of the proposed house but only has a 2.5m front setback, in lieu of 4.5m required under the acceptable development standards of the RD Codes.

It is considered that the reduced setback to the garage can be supported under the relevant performance criteria of the Codes which states:

The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.

The juxtaposition of the proposed garage to the house is sympathetic with the overall design and will not detract from the streetscape for reasons already discussed. Furthermore, the width of the garage is only approximately 50% of the lot frontage and will therefore not obstruct views of the house from the street or vice versa.

Council Policy for 'Garages and Carports in Front Setback Area' (Policy TPSP 003) generally requires garages to be positioned behind the 6m front setback line. However, the policy does also allow for garages to be constructed with a reduced 4.5m front setback in most cases and further variations can be considered having regard to:

- *the relevant objectives of the RD Codes;*
- *the effect of such variation on the amenity of any adjoining lot;*
- *the existing and potential future use and development of any adjoining lots;*
- *existing setbacks from the street alignment in the immediate locality, in the case of setbacks from the principle street.*

Although this Policy does not specifically address walls on boundaries (see below) it is nevertheless relevant in this case and the setback variations sought for the proposed garage can be supported for the reasons previously discussed.

Side setbacks

The upper floor of the proposed house has a 1.5m -1.985m setback from the south-west boundary in lieu of a 1.6m - 2.1m setback required under the Codes. These setback variations are relatively minor and will have a negligible affect on the adjoining property, which is under the same ownership. Furthermore, the reduced side setback may be supported under the relevant performance criteria of the RD Codes, having no significant impact on direct sun and ventilation to the building or the house proposed on the adjoining lot, and protecting privacy by use of appropriate screening.

Wall on boundary

A double garage is proposed on the south-west boundary with a 2.5m front setback, in lieu of a 6m front setback required under the acceptable development standards of the Codes for a wall on the boundary. The length and average height of the proposed wall on the boundary (excluding a minor front feature wall) would otherwise be compliant with the Codes.

The location of the wall on the boundary can be considered under performance criteria of the Codes which states:

Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The location of the proposed garage on the boundary makes effective use of space particularly as the lot only has a 12.19m frontage. It will also not have any significant adverse effect on the amenity of the adjoining property at 135 Curtin Avenue, as it is under the same ownership and once re-developed will be adjacent to a bedroom on the ground floor which has alternative major openings to the front of the house.

Solar access

The proposed development will overshadow 27% of the adjoining Lot 15, in lieu of a maximum 25% permitted under the acceptable development standards to the RD Codes.

This is a relatively minor variation that can be supported under the relevant performance criteria of the Codes which states:

Development designed to protect solar access for neighbouring properties taking account the potential to overshadow:

- *outdoor living areas;*
- *major openings to habitable rooms;*
- *solar collectors; or*
- *balconies or verandahs.*

Due to the orientation of the lots the shadow cast will be predominantly over the front portion of adjoining Lot 15 thereby avoiding the main outdoor living area or major openings pertaining to the new house proposed for that lot. Although a small balcony is proposed at the front of the adjoining house this will be screened along its NE elevation and would be likely overshadowed even if a concession was not sought. It would also probably be used infrequently and appears predominantly a design feature rather than an essential outdoor living space.

The additional overshadowing equates to less than 10m² over that permitted under the Codes which will have negligible impact on the adjoining property, which in any event is under the same ownership.

CONCLUSION

The proposed two-storey house can be supported with the setback and solar access variations sought as the proposal satisfies the relevant performance criteria of the RD Codes and are an acceptable variation to Council's policy pertaining to Garages and Carports in Front Setback Areas.

The ridge height of the proposed dwelling is only 7.1m above the ANGL which is 1.4m below the maximum height permitted under TPS 2 and this will assist in ameliorating any visual impact on adjoining dwellings and the existing streetscape. The modern contemporary design of the proposed house is also in-keeping with other two-storey houses along this section of Curtin Avenue and is of similar design to that proposed on the adjoining lot.

The main building setback on the upper floor varies between 6m to the proposed bedroom and 7.7m to a recessed stairwell which satisfies Council's setback requirements and although a balcony has been designed off the bedroom with a reduced front setback of only 3.87m this will provide improved visual surveillance to the street, and together with the ground floor setback variations sought, will provide good articulation to the frontage without appearing overly intrusive on the streetscape.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee reiterated the discussion as for No. 135 Curtin Avenue in the above report.

OFFICER & COMMITTEE RECOMMENDATION

That Council GRANT its Approval to Commence Development for the proposed single house at No. 137 (Lot 58) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 June 2008, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.

- (d) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (e) The applicant complying with the Town of Cottesloe Policies and procedures for Street Trees (February 2005) where the development requires the protection or pruning of existing street trees.
- (f) The proposed crossover being located to ensure the retention of the existing street trees and the Works Supervisor determining the distance that the crossover shall be located away from the base of the trees.
- (g) The existing redundant crossover being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (h) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.
- (k) Any fencing to the site within the front setback area being of an "Open Aspect" design in accordance with Council's local law and the subject of a separate application to Council.

AMENDMENT

Moved Cr Boland, seconded Cr Birnbrauer

That the following condition be added as a new item:

- (l) Setback to be at 4.5 metres from boundary

Lost 2/5

Cr Dawkins requested that the vote be recorded:

For: Cr Birnbrauer, Cr Boland

Against: Mayor Morgan, Cr Dawkins, Cr Miller, Cr Walsh, Cr Utting

10.1.2 COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Utting

That Council GRANT its Approval to Commence Development for the proposed single house at No. 137 (Lot 58) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 June 2008, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (e) The applicant complying with the Town of Cottesloe Policies and procedures for Street Trees (February 2005) where the development requires the protection or pruning of existing street trees.
- (f) The proposed crossover being located to ensure the retention of the existing street trees and the Works Supervisor determining the distance that the crossover shall be located away from the base of the trees.
- (g) The existing redundant crossover being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (h) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.
- (k) Any fencing to the site within the front setback area being of an "Open Aspect" design in accordance with Council's local law and the subject of a separate application to Council.

Carried 5/2

Cr Dawkins requested that the vote be recorded:

For: Mayor Morgan, Cr Dawkins, Cr Miller, Cr Walsh, Cr Utting

Against: Cr Birnbrauer, Cr Boland

10.1.3 USE OF MEDIANS FOR BUILDING ACTIVITY

File No: SUB/tba
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil
Report Date: 11 September 2008
Senior Officer: Mr Stephen Tindale

PURPOSE

- This report reviews the use of medians within the district for building activity.
- Whilst not a direct planning aspect it falls under the ambit of development control and the principle of amenity to which building regulation relates.
- It presents the pros and cons involved then options for Council to consider its approach or policy on the matter and seeks direction for officers to pursue.

STATUTORY ENVIRONMENT

- LG Act, Building Regs, Local Law on Thoroughfares, Policies on verge use and parking,

POLICY IMPLICATIONS

- Suggested potential to expand existing policy to address.

STRATEGIC IMPLICATIONS

- Broadly relates to the facilitation of development, management of the townscape and protection of residential amenity.

FINANCIAL IMPLICATIONS

- Nil.

BACKGROUND

- In the past couple of years the use by builders of the large central medians to certain road reserves in Cottesloe has caused concern to some residents.
- There has also been concern about other usage of medians, including the standing of a sea container (Grant Street) and parking (*Daisies* in Grant Street; Forrest Street in Town Centre), which have highlighted the general consideration of the use of medians.
- Recently similar issues have arisen with verges, including unauthorised removal a street tree (Margaret Street) and an unauthorised vegetable garden (Lyons Street).
- Given this groundswell a report is warranted so that best practice can be achieved.

MEDIANS IN CONTEXT

- The historical subdivision of the district produced a primary grid of wider road reserves, resulting in either wide verges or a wide central median to those streets.

- This spatial arrangement has accommodated trees, provided view/breeze corridors and afforded openness/greening.
- Only a few roads have these wide/long medians, being Grant Street west of Curtin Avenue and east of Railway Street and Forrest Street east of Railway Street, which are orientated east-west, and Congdon and Parry Streets in the Claremont Hill locality, which are orientated north-south.
- Each of these medians has its own character in relation to topography, adjacent land use/development, traffic and how the median tends to be used. The settings, planting, condition and use of the medians also vary over their lengths.
- In this way these medians contribute to the urban environment and provide amenity value to their streets, as do the wide verges.
- Although medians are Council-controlled land as part of the road reserve, like verges they “belong” to the residents there and become used in association with those residents’ properties.
- Hence there can be a tension between the actual public status of medians and their identification with the immediate property owners/residents.
- This is manifest in the use of medians in connection with the development of nearby lots, which is the focus of this report.
- Existing residents incur impacts from such use of their part of the street, while the owner/developer likewise assumes a right to the median.
- At the same time medians perform important public-purpose functions for the community, including underground services, drainage, parking (informal and formal), de facto open space and streetscape.
- Some have reticulated lawn, whereas others are in a more natural state.
- Overall, to Council they represent an asset as well as a responsibility, therefore requiring sound management.

THE PROBLEM

- Culturally and administratively, verges are allowed to be used by adjacent owners/residents/businesses/institutions/clubs as an extension of those properties and are usually respected accordingly.
- Parking is a prime example of use by occupiers, visitors, deliveries and trades.
- Storage of building materials is another common activity.
- Such usage is regulated and tolerated, but can get out of hand.
- The same applies to the use of medians, but because medians are separated from verges/properties and essentially public space they are prone to being used indiscriminately and taken for granted.
- This can be exacerbated where the median compensates for a narrow verge and is the logical choice for use.
- The nature and duration of developments in Cottesloe (which are mainly residential but also some commercial) has seen medians taken advantage of.
- Small lots, large dwellings, topography, excavations, limited access, materials/techniques, and other factors mean that the use of sites and verges for construction is constrained.
- At this higher end of the real estate market the size, sophistication and finish of buildings entails complex works over longer periods, which leads to increased activity, parking, storage and impacts.

- Heavy and continual use of verges and medians for building activity is disruptive to neighbours and can reduce amenity.
- There are compromises comprising obstructions and accessibility; safety and security; maintenance and repair/rehabilitation; parking and traffic movements; noise, dust, sand blow and mess; unattractiveness and blocked views.
- In summary, while medians are an obvious opportunity for overflow use arising from occasional domestic activities such as parties, when medians are used extensively/intensively by the building industry the impacts on amenity are of greater significance and longer-lasting, which invokes increased scrutiny.

CURRENT SITUATION

- Under the Local Government Act, Council is able to regulate the use of streets for storage of building materials by a system involving licences; fees; conditions; hoardings/fencing and lighting for public safety and convenience; bonds for repair of damage; inspection; and penalties for non-compliance.
- This is aimed mainly at the control of verges but also applies to medians and is a long-established standard practice, as by other councils, and operates relatively well yet does demand constant monitoring/policing.
- Council is empowered to refuse permission, and if so an applicant has an avenue of appeal to the State Administrative Tribunal.
- Where the process is not followed it generates a compliance burden and sets a presumed precedent.
- The regulatory framework that guides this includes Council's local law on thoroughfares and policies on residential verges and on verge parking, and procedurally the building regulations under the Act (applicable to any land within a road reserve).
- These instruments do not readily distinguish between verges or medians and do not mention medians for any particular control or special treatment.
- On this basis Council may wish to consider the benefits and shortcomings associated with the use of medians and the introduction of dedicated controls for them.

OUTLINE OF CONSIDERATIONS

- Whether the use of medians should be specifically regulated in relation to building activity, parking and so on.
- Whether the use of medians for building activity should be prohibited or limited.
- Whether Council should take a uniform approach throughout the district or handle each median individually.
- An order of preference for building activity to use sites, verges or medians.
- Having regard to use of medians avoiding use or impacts on verges.
- Limitations and requirements on building activity use to include location, area, period, materials, machinery, vehicles small and large re parking and movements, safety and security (fencing, lighting, signage, etc), amenity (screening, noise and dust/sand blow abatement, waste/litter, etc) and any other criteria discerned.
- Maintenance, repair, and rehabilitation, including re-grassing/planting, watering, etc).

- Construction management plans, including liaison with affected parties and responding to complaints.
- The scale of fees/bonds in keeping with needs.
- Balancing degrees of practicality, economy, efficiency, convenience, safety, amenity and sustainability.
- Formulation of proposed policy controls for medians, consultation, finalisation, implementation and dissemination.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the matter as follows:

- The extensive use of medians is abnormal as most developments use the site or verge, including large dwellings.
- Residents can easily rehabilitate the verge but it is harder to rehabilitate a median.
- Use of medians for building activity could be banned.
- As the Town has the authority to regulate the use of medians why not simply rely on that and require rehabilitation rather than have policy on the matter?

The Manager Development Services advised that the advantage of having policy is to be clear about Council's approach/position and to communicate that for effective regulation/administration. Making policy is a consultative process which would allow the matter to be further examined and aired, with consideration of any public comment and determination by Council.

OFFICER RECOMMENDATION

That Council gives consideration to the issues and aspects conveyed in this report and decides what instructions to give to officers, with a view to further exploring the matter for a report back on draft policy improvements to address the use of medians for building activity or otherwise.

DECLARATION OF INTEREST

Cr Walsh declared a proximity interest due to residing opposite a median strip and left the meeting at 7.44 pm.

COMMITTEE RECOMMENDATION

That Council gives consideration to the issues and aspects conveyed in this report and requests staff to report back on draft policy provisions to prohibit the use of medians for building activity.

AMENDMENT

Moved Mayor Morgan

That the words 'with a view to undertake community consultation on the draft policy provisions prior to being adopted by council' be added to the recommendation.

The matter subsequently lapsed for lack of a seconder.

10.1.3 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Miller

That Council gives consideration to the issues and aspects conveyed in this report and requests staff to report back on draft policy provisions to prohibit the use of medians for building activity.

Carried 5/1

Mayor Morgan requested that the vote be recorded:

For: Cr Birnbrauer, Cr Boland, Cr Dawkins, Cr Miller, Cr Utting

Against: Mayor Morgan

Cr Walsh returned to the meeting at 7.47 pm

Mr Jackson left the meeting at 7.48 pm and did not return.

**11 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON
16 SEPTEMBER 2008****11.1 ADMINISTRATION****11.1.1 STRATEGY FOR LIQUOR LICENCING COURT APPEAL**

File No: SUB/362
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 27 August, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

This report contains a recommendation to adopt a strategy designed to reduce patron numbers at the beachfront hotels.

STATUTORY ENVIRONMENT

The relevant sections of the *Liquor Control Act 1988* provide the following:

S64. POWER OF LICENSING AUTHORITY TO IMPOSE, VARY OR CANCEL
CONDITIONS

- (1) Subject to this Act, in relation to any licence, or to any permit, the licensing authority may at its discretion impose conditions —
- (a) in addition to the conditions specifically imposed by this Act; or
 - (b) in such a manner as to make more restrictive a condition specifically imposed by this Act,
- and may vary or cancel any condition previously imposed by the licensing authority, having regard to the tenor of the licence or permit and the circumstances in relation to which the licensing authority intends that it should operate.
- (1a) The licensing authority may impose, vary or cancel a condition under subsection (1) —
- (a) of its own motion; or
 - (b) on the application of the licensee; or
 - (c) at the written request of the parties to a liquor accord.
- (1b) In subsection (1a) —
- “liquor accord”** means a written agreement or other arrangement —
- (a) that is entered into by 2 or more licensees in a local community, and persons who represent the licensing authority, departments of the Public Service, State agencies or local government, and other persons; and
 - (b) that has the purposes of minimising the harm caused in the local community by the excessive consumption of liquor and promoting responsible practices in the sale, supply and service of liquor in the local community; and
-

- (c) that is approved by the Director.
- (2) The power conferred by subsection (1) may, subject to compliance with section 31(6)(b), be exercised at any time, but a condition takes effect on —
 - (a) the date of the grant of the licence or the issue of the permit in relation to which it was imposed; or
 - (b) such other date as is specified in the notice setting out the particulars, or in the endorsement or revised version of the licence or permit made, under section 31(6),

whichever is the later.

- (2a) If the licensing authority proposes to impose, vary or cancel a condition under this section, the licensing authority may, by notice in writing, require the licensee to show cause to the licensing authority why the condition should not be imposed, varied or cancelled.
- (2b) Subsection (2a) does not apply in relation to a condition proposed to be imposed, varied or cancelled in accordance with an application under subsection (1a)(b).
- (3) Without derogating from the generality of the discretion conferred on the licensing authority, the licensing authority may impose conditions which it considers to be in the public interest or which it considers desirable in order to —
 - (a) ensure that the noise emanating from the licensed premises is not excessive; or
 - (b) minimize the offence, annoyance, disturbance or inconvenience that might be caused to those who reside or work in the vicinity of the licensed premises, or to persons in or making their way to or from a place of public worship, hospital or school, in consequence of activities on the licensed premises or the conduct of those making their way to or from the licensed premises; or
 - (ba) ensure that local laws of a local authority under the Local Government Act 1995 or by-laws of an Aboriginal community under the Aboriginal Communities Act 1979 are complied with; or
 - (c) ensure that the safety, health or welfare of persons who may resort to the licensed premises is not at risk; or
 - (ca) ensure that liquor is sold and consumed in a responsible manner; or
 - (cb) ensure that all persons involved in conducting business under the licence have suitable training for attaining the primary objects of this Act; or
 - (cc) minimize harm or ill-health caused to people, or any group of people, due to the use of liquor; or
 - (cd) limit or prohibit the sale of liquor on credit; or
 - (d) ensure public order and safety, particularly where circumstances or events are expected to attract large numbers of persons to the premises or to an area adjacent to the premises; or
 - (e) limit —
 - (i) the kinds of liquor that may be sold;

- (ii) the manner in which or the containers, or number or types of containers, in which liquor may be sold;
 - (iii) the days on which, and the times at which, liquor may be sold;
 - or
 - (ea) without limiting paragraph (e)(iii), limit the times when packaged liquor may be sold on and from the licensed premises to those times when liquor may be purchased for consumption on those premises;
 - or
 - (f) prohibit persons being, or limit the number of persons who may be, present on, or on any particular part of, the licensed premises or any area which is subject to the control or management of the licensee and is adjacent to those premises; or
 - (fa) prohibit entry to the licensed premises after a specified time; or
 - (g) prohibit the provision of entertainment, or limit the kind of entertainment that may be provided, on, or in an area under the control of the licensee adjacent to, the licensed premises; or
 - (ga) prohibit promotional activity in which drinks are offered free or at reduced prices, or limit the circumstances in which this may be done; or
 - (gb) prohibit any practices which encourage irresponsible drinking; or
 - (h) otherwise limit the authority conferred under a licence or permit; or
 - (j) require action therein specified to be undertaken by the licensee —
 - (i) within a time or at times therein specified; or
 - (ii) on occasions or in circumstances therein specified, in relation to the licensed premises or any part of those premises, the conduct of the business carried on under the licence, or otherwise in the public interest; or
 - (k) prevent improper arrangements or practices calculated to increase any subsidy payable; or
 - (m) ensure compliance with the requirements of, or with terms fixed or conditions imposed by or under, this Act.
- (4) If there is an inconsistency between a condition imposed under this Act and a requirement of, or made under, any other written law, the condition or requirement which is more onerous for the licensee shall prevail.
- [(5) *repealed*]
- (6) A condition imposed under this section may relate to —
- (a) any aspects of the business carried on under the licence; and
 - (b) any activity carried on at the licensed premises, at any time and whether or not related to the business carried on under the licence.
- (7) Where a condition imposed under this section in relation to a licence has been contravened the licensing authority may —
- (a) impose a more restrictive condition in relation to that licence; or
 - (b) impose on the licence holder a monetary penalty not exceeding \$500 for each day on which the contravention continues, which shall be payable to the Crown by that person,
-

or both.

- (8) The imposition, variation or cancellation of a condition, or the imposition of a monetary penalty, under this section is not to be regarded as the taking of disciplinary action for the purposes of section 96.

S117. COMPLAINTS ABOUT NOISE OR BEHAVIOUR RELATED TO LICENSED PREMISES

- (1) A complaint in writing may be lodged with the Director alleging —
- (a) that the amenity, quiet or good order of the neighbourhood of the licensed premises is frequently unduly disturbed by reason of any activity occurring at the licensed premises; or
- (b) that any —
- (i) behaviour of persons on the licensed premises;
 - (ii) noise emanating from the licensed premises; or
 - (iii) disorderly conduct occurring frequently in the vicinity of the licensed premises on the part of persons who have resorted to the licensed premises,
- is unduly offensive, annoying, disturbing or inconvenient to persons who reside or work in the vicinity, or to persons in or making their way to or from a place of public worship, hospital or school.
- (2) A complaint under subsection (1) may be lodged by —
- (a) the Commissioner of Police;
- (b) the local government of the district in which the licensed premises are situated, or of any other district adjacent to the licensed premises and appearing to the Director to have an interest in the amenity, quiet or good order of the neighbourhood of the licensed premises;
- (c) a government agency or statutory authority; or
- (d) a person claiming to be adversely affected by the subject matter of that complaint who —
- (i) resides, works or worships;
 - (ii) attends, or is a parent of a child who attends, a school; or
 - (iii) attends, or is a patient in, a hospital,
- in the vicinity of the licensed premises concerned.
- (2a) If a complaint is lodged by a person referred to in subsection (2)(d), the complaint is to be signed, unless the Director otherwise approves, by 3 unrelated adults (including the complainant).
- (2b) In subsection (2a) —
- “3 unrelated adults”** means 3 adults each of whom —
- (a) resides at different residential premises; and
 - (b) is not —
- (i) a child; or
 - (ii) a parent; or
 - (iii) a brother or sister; or
-

- (iv) an aunt or uncle; or
 - (v) a spouse or former spouse; or
 - (vi) a de facto partner or former de facto partner,
of either of the other 2 adults.
- (3) The Director shall give notice of each complaint lodged to the licensee of the licensed premises with respect to which the complaint is made.
- (3a) When a complaint is lodged with the Director under subsection (1), the Director is to attempt to settle the matter by conciliation or negotiation.
- (3b) If the Director determines at any stage of the proceedings under this section that the complaint is frivolous or vexatious, the Director is to dismiss the complaint.
- (4) If the matter referred to in a complaint is not settled by conciliation or negotiation, the Director is to give the complainant, the licensee and any other person appearing to the Director to have a relevant interest in the matter a reasonable opportunity to be heard or to make submissions.
- (4a) Having complied with subsection (4), the Director —
 - (a) subject to subsection (4c), may determine the matter; and
 - (b) if of the opinion that the allegation in the complaint is established on the balance of probabilities and that the licensee has failed to show cause why an order should not be made under this section — may make an order under this section,but otherwise the Director is to dismiss the complaint.
- (4b) Without limiting the matters that the Director may have regard to when making a determination under subsection (4a), the Director may have regard to —
 - (a) any alteration, including any structural change, made —
 - (i) to the licensed premises; or
 - (ii) if the complainant is a person referred to in subsection (2)(d) — to any relevant premises where the complainant (or, if subsection (2)(d)(ii) applies, the complainant's child) resides, works, worships, attends or is a patient;and
 - (b) any changes that have taken place over time to the activities that take place on the licensed premises; and
 - (c) the kind of business conducted under the licence and how that business is managed; and
 - (d) if the complainant is a person referred to in subsection (2)(d) — whether the complainant (or, if subsection (2)(d)(ii) applies, the complainant's child) began to reside, work, worship, attend or be a patient at any relevant premises before or after the licensee began to conduct business at the licensed premises; and
 - (e) any provision of the Environmental Protection Act 1986, or of any regulations made under that Act, that is relevant to the subject matter of the complaint.

- (4c) The Director —
- (a) may defer making a determination under subsection (4a) for any period the Director considers appropriate; and
 - (b) may make an interim order that has effect for that period for any purpose for which an order may be made under subsection (5).
- (5) For the purposes of this section, whether pursuant to conciliation or negotiation or by way of an order, the Director may —
- (a) vary the existing conditions of the licence;
 - (b) redefine, or redesignate a part of, the licensed premises;
 - (c) prohibit the licensee from providing entertainment or any other activity of a kind specified by the Director during a period specified by the Director or otherwise than in circumstances specified by the Director, and impose that prohibition as a condition to which the licence is to be subject; or
 - (d) otherwise deal with the matter in such a manner as is likely, in the opinion of the Director, to resolve the subject matter of the complaint.
- (6) Where, under section 25, a determination made by the Director under this section is to be reviewed by the Commission —
- (a) effect shall be given to any determination made by the Director; and
 - (b) any order made, or other action taken, by the Director under subsection (5) remains in force until revoked by the Director or quashed by the Commission,
- unless the Commission, by way of interim order, otherwise directs.
- (7) A licensee who contravenes an order made under this section commits an offence.

Penalty: \$10 000.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Within the Future Plan under Objective 1: Lifestyle one of the major strategies identified for protecting and enhancing the lifestyle of residents and visitors is to:

1.2 Reduce beachfront hotel patron numbers to a sustainable level.

The strategy detailed within this item is focused on this objective.

FINANCIAL IMPLICATIONS

The total estimate for this strategy is will be finalised when the quote is received from Estill & Associates. It is anticipated to be tabled at the meeting. The details are broken down for each element of the strategy in the information that follows.

BACKGROUND

At the May 2008 meeting of Council it was resolved:-

- (1) That the Town of Cottesloe withhold consideration of any further development of a strategy to support an amendment to the *Liquor Control Act 1988* until a complaint under section 117 of the *Liquor Control Act 1988* has been finalised or a review of liquor license conditions has been undertaken under section 64 of the Act.
- (2) That the Town of Cottesloe review the measures available under the *Liquor Control Act 1988* and the practicalities of lodging a complaint under section 117 of the *Liquor Control Act 1988* in respect to the Cottesloe Beach Hotel.
- (3) That the Town of Cottesloe review the most practical manner of obtaining information that will support a change in liquor license conditions either under section 64 or the lodging of a complaint under section 117.
- (4) That the Town of Cottesloe adopt a similar plan of action for developing a strategy to finding a solution to problems associated with the Ocean Beach Hotel.
- (5) That the Town of Cottesloe not consider, until after the complaint under section 117 of the *Liquor Control Act 1988* has been finalised or a review of liquor license conditions has been undertaken under section 64, any further development of a strategy to support an amendment to the *Liquor Control Act 1988*.
- (6) That the Town of Cottesloe develop a succinct communications strategy to locally publicise the need for residents to provide better evidence in support of complaints, and to also more widely publicise the need to address problems that arise from the high patron numbers allowed at the Cottesloe Beach Hotel and the Ocean Beach Hotel.
- (7) That Council form a Liquor Licensing Working Group comprised of the Mayor and Council members of the Community Safety & Crime Prevention Committee, together with executive support from the Chief Executive Officer, to oversee the completion within four months of the abovementioned reviews and the preparation of the abovementioned plans of action and communications strategy, including the preparation for Council approval of any proposal to lodge a submission with the Liquor Licensing Authority seeking to invoke a review under section 64.

A Liquor Licensing Working Group was formed as per the Council directive and met for the first time on 24 June 2008. The group has met a number of times since then and:

- Reviewed the available information.
- Listened to representatives from the Department of Racing, Gaming and Liquor on the issues surrounding appeals to the Liquor Licensing Court.
- Worked up a strategy to address the situation as uncovered during previous meetings.
- Present agreed strategy to Council for ratification before proceeding further.

At the Working Group meeting of the **15 July 2008** it was noted that the objectives of the *Liquor Control Act 1988* have changed (emphasis added).

S5. OBJECTS OF THE ACT

- (1) The primary objects of this Act are —
 - (a) to regulate the sale, supply and consumption of liquor; and
 - (b) to minimize harm or ill-health caused to people, or any group of people, due to the use of liquor; and
 - (c) **to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.**
- (2) In carrying out its functions under this Act, the licensing authority shall have regard to the primary objects of this Act and also to the following secondary objects —
 - (a) **to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and**
 - [(b), (c) *deleted*]
 - (d) to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
 - (e) to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act.
- (3) If, in carrying out any of its functions under this Act, the licensing authority considers that there is any inconsistency between the primary objects referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence.

The following points arose from the discussion with the representatives of the Department of Racing Gaming and Liquor around the changed objects of the Act:

- Cottlesloe hotels could be deemed to be essential for the development of tourism in the State.
- Lawyers for licensees are not afraid to use intimidation to stave off objections to liquor licensing conditions i.e. sue for loss of business.
- S.117 complaints have to focus on the stand out features of bad behaviour.
- Legal fees for s.117 complaints have to met by the Council in the first instance.
- Onus is on the Council to prove the case which requires a high standard of evidence.
- S.64 is cheaper for the Council – the Director runs the enquiry.
- Potential issues to be taken into account:-
 - Irresponsible drinking
 - Hotel newsletter/email encouraging irresponsible behaviour
 - Regular overcrowding

- Beer garden noise levels
 - Unacceptable standards
 - Non compliance with certification requirements
 - Video footage
 - Private investigator footage – use CCC contractors.
 - Police reports on drunk driving
 - Booze buses
 - Criminal Injuries Assessor – location of assaults
 - 6 to 12 signed statements developed to court room standard by an articulated clerk
 - Tourists being frightened away – i.e. turn 5. (1) (c) of the *Liquor Control Act 1988* to the town's favour. Rubbish and vandalism to vehicles etc.
- Must tread quietly in order to gather quality evidence.
 - Use volunteers to gather information over a typical week/weekend.
 - Continue to cooperate with hotels.
 - Write up a strategy to gather evidence on a nominated long weekend.
 - To include communications strategy to stimulate public concern.
 - Use Paul Bowen and CCTV footage.

From the Working Group meeting of the **29 July 2008** it was concluded that:

- Police resourcing is an issue and is tending to be concentrated in entertainment precincts.
- There is a need for a “grandfathering” clause to reduce adverse health impacts by reducing patron numbers over several years to further the objectives of Section 64. We need to gather scientific evidence of the adverse health impacts of large liquor establishments.
- Focus should be on social betterment through the progressive removal of an anachronistic formula that determines patron numbers.
- Any report to Council on a strategy to gather evidence should be presented as a confidential attachment to the report.
- Next meeting to flesh out the who, what, when, why and how evidence is to be gathered.
- Also the elements of a communications strategy after the evidence has been gathered needs to be documented.

The working group meeting of the 12 August 2008 concluded that the desired outcome of any action undertaken by the town against the hotels must be to dramatically reduce the numbers of patrons at both hotels.

To achieve this outcome, irrefutable evidence would need to be gathered. Rather than collect dribs and drabs of evidence over a summer, a comprehensive effort to gather evidence should be undertaken on a nominated Sunday. The precise date of was to be kept confidential.

The various arms of the evidence gathering strategy were identified as follows:

1. Legal Advice

Cost: estimate being sought from 2 law firms. One quote received to date \$6,500

2. Visual Observation Area

Cost: estimate being provided by Estill and Associates

3. Clean Up Costs

Cost: each Sunday costs approximately \$320 in labour (\$40/hr for 2 depot staff for 4 hours) to rubbish pick at the beachfront.

4. Impact on Tourism

Cost: estimate being provided by Estill and Associates

5. Video Camera Surveillance

Cost: \$4,400

6. Other Data

Cost: no additional cost

7. Noise Monitoring

Cost: The estimated cost to monitor the 2 hotels from 5pm to 11pm is \$2,160

8. Hotel Behaviour

Cost: estimate being provided by Estill and Associates or one of the legal firms

9. Evidence of Residents

Cost: estimate being provided by Estill and Associates

10. Communications Strategy

Cost: estimate being sought from Paul Bowen

11. Taxis & Public Transport Authority

Cost: no additional cost

The detail behind each of the above strategies is presented in a confidential attachment to this report. Council's endorsement for the implementation of the overall strategy and the authorisation for any required expenditure is now requested.

CONSULTATION

Nil

STAFF COMMENT

The patrons of the beachfront hotels on a Sunday night in summer continue to provide the majority of complaints of anti-social behaviour in the Town of Cottesloe. There has been a concerted effort over the past two summers to capture objective information to ascertain the size of the problem at the beachfront. This information shows that there has been a significant improvement in levels of anti-social behaviour. This is substantiated by anecdotal evidence from residents in the area.

Whilst there has been an improvement, the level of anti-social behaviour in the area is still unacceptable. The consensus of opinion is that the only way to address the problem is to reduce the licensed number of patrons at the beachfront hotels.

The concept of targeting a single weekend and capturing a comprehensive snapshot of the impact of Sunday sessions in Cottesloe was developed following discussions with representatives from the Department of Racing, Gaming and Liquor who attended a Liquor License Working Group meeting.

The idea is to pursue a s64 rather than a s117 complaint. This is because the Director of Liquor Licensing runs this matter as opposed to a s117 where the Town of Cottesloe and a legal team appear in court and must substantiate 'undue' disturbance to residents.

VOTING

Absolute majority (unauthorised expenditure)

COMMITTEE COMMENT

Mr Patrick advised Committee of the following costs that had been received as late information from Estill & Associates:

2. Visual Observation Area

Cost: \$7000.00

4. Impact on Tourism

Cost: \$7000.00

8. Hotel Behaviour

Will not take part in this due to the possible risk to their staff and have recommended using private investigators.

OFFICER & COMMITTEE RECOMMENDATION

That Council endorse the expenditure of Council funds on the proposed strategy.

AMENDMENT

Moved Mayor Morgan, seconded Cr Birnbrauer

That the item be deferred to the October meeting

Carried 5/2

11.1.1 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Boland

That the item be deferred to the October meeting

Carried 5/2

11.1.2 SEA VIEW GOLF CLUB - DEVELOPMENT PROPOSAL

File No: SUB/235
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 10 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The Sea View Golf Club (SVGC) has presented a development proposal for the Sea View Golf Course involving Next Generation Clubs Australia Pty Ltd (NGCA) and "...seeks Cottesloe Town Council in-principle approval for the development of a community Golf, Health and Lifestyle Club at the site of the Sea View Golf Club."

Recommendations are made to Council to:

1. Indicate its in-principle support for the development of a community Golf, Health and Lifestyle Club at the site of the Sea View Golf Club.
2. Recommend to the Sea View Golf Club that it undertake direct community consultation on the development proposal in line with the Town's Community Consultation policy as a preliminary to putting a formal and open development proposal to the Town of Cottesloe.
3. Request Council staff to enter into preliminary discussions with the relevant State Government agencies in terms of obtaining heritage, land tenure, planning and any other necessary approvals.
4. Seek legal advice confirming that Council is dealing with a "major land transaction" together with any other legal advice in terms of ensuring compliance with the relevant requirements of the *Local Government Act 1995*.

STATUTORY ENVIRONMENT

Clause 28.1 of the lease agreement with the SVGC provides:

No assignment without consent

- (a) Subject to subclause (b), the Lessee must not assign, mortgage or charge the leasehold estate to the Golf Course nor sublet, part with possession, or dispose, of the Golf Course or any part of the Golf Course without the written consent of the Lessor.
- (b) The Lessor:
 - (1) must act reasonably in the grant or refusal of consent in respect to a matter specified in subclause (a); but
 - (2) in granting consent, may impose conditions in respect to the consent which are reasonable in the circumstances.

Sections 3.58 and 3.59 of the Local Government Act 1995 provide:

3.58. DISPOSING OF PROPERTY

- (1) In this section —
"dispose" includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“**property**” includes the whole or any part of the interest of a local government in property, but does not include money.

- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
 - (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned;
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
 - (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to —
 - (a) a disposition of land under section 29 or 29B of the Public Works Act 1902;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

3.59. COMMERCIAL ENTERPRISES BY LOCAL GOVERNMENTS

- (1) In this section —

“**acquire**” has a meaning that accords with the meaning of “dispose”;

“**dispose**” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“land transaction” means an agreement, or several agreements for a common purpose, under which a local government is to —

- (a) acquire or dispose of an interest in land; or
- (b) develop land;

“major land transaction” means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,
is more, or is worth more, than the amount prescribed for the purposes of this definition;

“major trading undertaking” means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve,
expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

“trading undertaking” means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of “land transaction”.

- (2) Before it —
 - (a) commences a major trading undertaking;
 - (b) enters into a major land transaction; or
 - (c) enters into a land transaction that is preparatory to entry into a major land transaction,
a local government is to prepare a business plan.
- (3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —
 - (a) its expected effect on the provision of facilities and services by the local government;
 - (b) its expected effect on other persons providing facilities and services in the district;
 - (c) its expected financial effect on the local government;
 - (d) its expected effect on matters referred to in the local government’s current plan prepared under section 5.56;
 - (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
 - (f) any other matter prescribed for the purposes of this subsection.
- (4) The local government is to —
 - (a) give Statewide public notice stating that —

- (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;
 - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- and
- (b) make a copy of the business plan available for public inspection in accordance with the notice.
- (5) After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.

*** Absolute majority required.**

- (5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.
- (6) If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.
- (7) The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.
- (8) A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.
- (9) A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.
- (10) For the purposes of this section, regulations may —
- (a) prescribe any land transaction to be an exempt land transaction;
 - (b) prescribe any trading undertaking to be an exempt trading undertaking.

Regulations 7, 8, 9 and 10 of the *Local Government (Functions and General) Regulations 1996* provide:

7. MINIMUM VALUE OF MAJOR LAND TRANSACTION

For a land transaction to be a major land transaction the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,

has to be more, or worth more, than either \$1,000,000 or 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year.

8. TRANSACTIONS THAT CANNOT BE MAJOR LAND TRANSACTIONS

- (1) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —
 - (a) without intending to produce profit to itself; and
 - (b) without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.
- (2) For the purposes of subregulation (1)(b) a person is given joint use of land if the land is to be jointly used for a common purpose by the local government and that person (whether or not other persons are also given joint use of the land).
- (3) A transaction under which a local government disposes of a leasehold interest in land is an exempt land transaction for the purposes of section 3.59 of the Act if —
 - (a) all or any of the consideration to be received by the local government under the transaction is by way of an increase in the value of the land due to improvements that are to be made without cost to the local government; and
 - (b) although the total value referred to in the definition of “major land transaction” in that section is more, or is worth more, than the amount prescribed for the purposes of that definition, it would not be if the consideration were reduced by the amount of the increase in value mentioned in paragraph (a).

9. MINIMUM EXPENDITURE INVOLVED IN A MAJOR TRADING UNDERTAKING

- (1) For a trading undertaking to be a major trading undertaking the expenditure by the local government that —
 - (a) the undertaking involved in the last completed financial year; or
 - (b) the undertaking is likely to involve in the current financial year or the financial year after the current financial year,

has to be more than either \$500,000 or 10% of the lowest operating expenditure described in subregulation (2).
- (2) The lowest operating expenditure referred to in subregulation (1) is the lowest of —

- (a) the operating expenditure incurred by the local government from its municipal fund in the last completed financial year;
 - (b) the operating expenditure likely to be incurred by the local government from its municipal fund in the current financial year; and
 - (c) the operating expenditure likely to be incurred by the local government from its municipal fund in the financial year after the current financial year.
10. OTHER MATTERS OF WHICH DETAILS TO BE GIVEN IN BUSINESS PLAN
- (1) If a local government is required to prepare a business plan because of a major trading undertaking or major land transaction that it is to carry on or enter into jointly with another person —
 - (a) the business plan is to include details of the whole undertaking or transaction, even though the local government is not the only joint venturer; and
 - (b) the business plan is to include details of —
 - (i) the identity of each joint venturer other than the local government;
 - (ii) the ownership of, and any other interests in, property that is involved in, or acquired in the course of, the joint venture;
 - (iii) any benefit to which a joint venturer other than the local government may become entitled under or as a result of the joint venture; and
 - (iv) anything to which the local government may become liable under or as a result of the joint venture.
 - (2) In subregulation (1) —
 - “ **joint venture**” means the major trading undertaking or major land transaction that is to be jointly carried on or entered into;
 - “ **joint venturer**” means the local government or another person with whom the local government is to carry on or enter into the joint venture.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The development proposal envisages a minimum return to the Town of Cottesloe of \$4.9m over a period of 49 years conditional upon a rent free period to reflect the start up losses of the business.

BACKGROUND

The CEO and Mayor first met with Bill Guile from NGCA and Trevor Gallagher and Peter Oates from SVGC on 26 March 2008.

Trevor Gallagher is a former General Manager of the Kings Park Tennis Club and has a previous association with NGCA in the upgrade and commercialisation of recreational facilities at Kings Park.

The CEO and Mayor were informed that the SVGC has decided that it needs to ensure the future of the club. Four options were considered by the SVGC and in the end they decided to enter discussions with NGCA.

The CEO and Mayor were also informed that NGCA has been involved with the rejuvenation of a number of sporting facilities where existing members have taken on foundation member rights. Existing volunteer members are then relieved of the management burden. Commercial rentals are paid to the landlord. Community consultation is generally involved. The size of the capital investment has usually required a 50 year lease.

SVGC and NGCA were informed that Council, the community and State Government would require a convincing argument in order to effect change.

The meeting concluded with advice to SVGC and NGCA that in order to avoid the past experience of protracted community consultation in relation to matters concerning the Sea View Golf Club, any development proposal put before Council would need to be comprehensive.

A second meeting was held with the CEO on 8th May 2008 - again with Bill Guile from NGCA and Trevor Gallagher and Peter Oates from SVGC

The CEO advised that a simple extension of the existing lease for a further 21 years beyond the current lease expiry date was unlikely to be acceptable to the community regardless of the relative freedom of the provisions of clause 28.1 of the lease agreement (see under Statutory Environment heading above). A new lease would be required setting out the detail of the development proposal, the lease and the sub-lease

The CEO said that the community would want to know what it was getting in return for an extended lease which meant that schematics, financial projections and other details will be required. The community would also want to know why NGCA rather than anyone else.

Another meeting with the CEO was held on 16th July 2008 where the CEO made the following suggestions as a means of winning increased community support.

- Improve and bring forward the implementation of the safety management plan.
- Provide access to some facilities to all members of the public.
- Confirm that commercial rates of return will be provided to the Town of Cottesloe.
- Demonstrate that the requested lease term is sufficient but not excessive in terms of the return on the investment.
- Confirm that all debts of the SVGC will be extinguished.

- Seek community input on potential uses and users of the facilities prior to fine tuning a development proposal for Council's consideration

On the 4th August 2008 SVGC, NGCA and the Town of Cottesloe held a concept forum to discuss the development proposal .The concept forum was open to members of the public.

Under the chairmanship of the Mayor, Council members were briefed by the CEO on the development proposal and the outcome of meetings held to date. An opportunity was provided for elected members to ask questions of the CEO and senior staff present at the meeting.

Representatives of the SVGC and NGCA were then invited into the forum to present the development proposal in more detail. The briefing was followed by a question and answer session where elected members (and members of the public present at the forum) asked questions and raised concerns with the development proposal and the process going forward. No decisions (or implied decisions) were made by Council at the concept forum.

Out of the concept forum a refined proposal has now been put to Council. The proposal is commercial-in-confidence and has been provided only for the purposes of obtaining in-principle support from the Town of Cottesloe.

It should be noted that section 5.23(2)(e) of the *Local Government Act 1995* provides that the meeting, or part of the meeting, may be closed to members of the public if the matter deals with a trade secret, information that has commercial value to a person, or information about the business, professional, commercial or financial affairs of a person. If the development proposal is to be discussed in detail, it may become necessary to close the meeting to the public.

The development proposal as presented by SVGC and NGCA deals with the following matters:

- The Proposal
- Rationale
- SVGC history and significance
- Background to the proposal
- Next Generation Clubs Australia
- New Facilities
- NGCA's Operations
- Contractual Obligations
- Understandings
- Conclusion

As the development proposal envisages a return to the Town of Cottesloe of \$4.9m over a period of 49 years it seems self evident that the development proposal constitutes a "major land transaction" as contemplated by regulation 8 of the *Local Government (Functions and General) Regulations 1996* (see above).

In other words because the development proposal is likely to provide a profit to the Town of Cottesloe and will result in NGCA being given exclusive use of built facilities on the golf course land, a business plan will have to be prepared at some point in time and advertised for public comment.

CONSULTATION

Nil

STAFF COMMENT

The development proposal has much to recommend it if the Town of Cottesloe wants to ensure the continued viability of the existing golf course as a properly rated golf course falling under the auspices of Golf Australia (formerly the Australian Golf Union).

In addition, the provision of new recreation facilities on a self-funding basis will indirectly relieve Council of any future community expectation to provide additional recreational facilities that contribute to the health and wellbeing of the community.

Many local governments would jump at the opportunity of being able to facilitate the development of new recreation facilities while simultaneously obtaining a profit to be applied to the betterment of the broader community.

In the vast majority of cases, recreation facilities on Council land are run at a loss and suffer from a lack of ongoing maintenance. That in turn tends to perpetuate a vicious cycle where tired facilities start to turn away the very customers they are meant to attract. If the private sector is able to satisfy a public demand at no cost to the public purse and is driven by a profit motive to keep recreation facilities up to scratch, then the question for the Town of Cottesloe should be why not rather than why should we.

However there is no doubt that the proposed 49 year lease will tie up a significant community asset for a lengthy period of time. There may well be broad community concern that notwithstanding the proposed size of the capital investment in the land and the benefits to be obtained, the length of time required to generate a reasonable return on the investment by NGCA is simply just too long.

Also that other community uses of the land may emerge as a higher community priority over the proposed 49 year lease period and that due caution is required. It may well be argued that just because the golf course has existed for nigh on a hundred years, there is no reason to assume that it should continue to do so for another 50 years.

For those that are amenable to the proposed development, the question may well be one of whether the Town of Cottesloe and the community will be well satisfied with the proposed profit or return on the land to the community.

This sort of discussion for and against the development proposal can be held now or much later when Council has advertised a business plan and drawn up draft legal documentation.

However, it is the opinion of staff that public discussion should be held now so that the community is fully involved from the outset. To leave the discussion until things are much further developed down the track may result in a lot of wasted time and energy for very little gain and much aggravation.

The development proposal as presented by the Sea View Golf Club sets out the following understandings:

- That further presentations and discussions between the Town of Cottesloe, SVGC and NGCA will be necessary.
- That a community response will be necessary.
- That an approval process involving State Government authorities will be necessary.

In addition and before Council enters any agreement with SVGC and NGCA, it would be wise to obtain legal advice confirming that Council is dealing with a “major land transaction” together with any other legal advice in terms of ensuring compliance with the relevant requirements of the *Local Government Act 1995*.

Finally while the SVGA is seeking in-principle **approval**, it is felt that in-principle **support** would be more appropriate.

In-principle **approval** may be seen as pre-empting meaningful community consultation and the necessary State Government approvals. It could place the Town of Cottesloe in a very difficult position if the community and/or the State Government approvals are not forthcoming

In-principal **support** tacitly acknowledges that it is not entirely up to the Town of Cottesloe to approve the project and that others also have a say in the matter.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Indicate its in-principle support for the development of a community Golf, Health and Lifestyle Club at the site of the Sea View Golf Club.
- (2) Recommend to the Sea View Golf Club that it undertake direct community consultation on the development proposal in line with the Town’s Community Consultation policy as a preliminary to putting a formal and open development proposal to the Town of Cottesloe.
- (3) Request Council staff to enter into preliminary discussions with the relevant State Government agencies in terms of obtaining heritage, land tenure, planning and any other necessary approvals.

- (4) Seek legal advice confirming that Council is dealing with a “major land transaction” together with any other legal advice in terms of ensuring compliance with the relevant requirements of the *Local Government Act 1995*.

COMMITTEE RECOMMENDATION

That Council:

- (1) Indicate its in-principle support for the development of a community Golf, Health and Lifestyle Club at the site of the Sea View Golf Club, subject to the results of community consultation and further consideration of the length of tenure being sought from the applicant.
- (2) Recommend to the Sea View Golf Club that it undertake direct community consultation on the development proposal in line with the Town’s Community Consultation policy as a preliminary to putting a formal and open development proposal to the Town of Cottesloe.
- (3) Request Council staff to enter into preliminary discussions with the relevant State Government agencies in terms of obtaining heritage, land tenure, planning and any other necessary approvals.
- (4) Seek legal advice confirming that Council is dealing with a “major land transaction” together with any other legal advice in terms of ensuring compliance with the relevant requirements of the *Local Government Act 1995*.

Note: It was agreed at the Works and Corporate Services Committee meeting that the CEO would seek urgent legal advice confirming or refuting advice from the Department of Local Government that Council members who were members of the Sea View Golf Club did not need to declare a financial interest in the matter on the grounds that they were members of an association with non-profit making objects.

The Council meeting was then informed by the CEO of the result of recent legal advice which contradicted the reported advice of the Department of Local Government and Regional Development.

DECLARATION OF INTEREST

Mayor Morgan and Cr Walsh declared a financial interest as members of the Sea View Golf Club who would potentially benefit from the development proposal and left the meeting at 7.30 pm.

Due to the lack of a quorum the matter could not be considered by Council. As a consequence the matter will be referred through to the October meeting of Council.

11.1.3 BAD DEBT WRITE OFF

File No: SUB/148
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 27 August, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation has been made to write off a bad debt of \$6,995.12.

STATUTORY ENVIRONMENT

The relevant section of the Local Government Act 1995 provides the following:

6.12. POWER TO DEFER, GRANT DISCOUNTS, WAIVE OR WRITE OFF DEBTS

- (1) Subject to subsection (2) and any other written law, a local government may —
 - (a) when adopting the annual budget, grant a discount or other incentive for the early payment of any amount of money;
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,which is owed to the local government.
- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The total of the bad debt write-off is \$6,995.12

BACKGROUND

The Town of Cottesloe employed Autovac to carry out street sweeping. Autovac started to struggle financially. They engaged a firm of accountants to manage their business. The accountancy firm saw an opportunity to enter the street sweeping market. They formed a new company, Sweepcare Australia and sent us a notification of this new company's details including new bank details etc.

The name of the old creditor, Autovac, was changed to Sweepcare, but not the banking details. A letter was received requesting the name of the account be changed – this was done. Another letter was received asking that the bank details be amended – this was not done. The Senior Administration Officer processed an invoice from Sweepcare into the bank account of Autovac. The Senior Administration Officer then went on leave for 5 weeks.

Sweepcare then began chasing the monies owing to them unaware of our mistake. They sent a copy invoice to Council and the relief Senior Administrative Officer processed the copy invoice. It is likely that the system gave a warning that it was a duplicate invoice number at this stage and it appears this has been ignored and the invoice was processed, again to the wrong bank account. At this stage the Accountant got involved and asked Austral Mercantile, a debt collection agency, to do a company search on Autovac to determine the situation.

A notification was received that Autovac had gone into receivership and further enquiries indicated that the Town of Cottesloe would be highly unlikely to get a refund of the two payments of \$3497.56 each.

In summary - a number of procedures were not followed contributing to this situation including:-

- A new creditor was not set up for Sweepcare, instead, an old creditor was overridden.
- No enquiry was made to check what the situation was with this change in business.
- The new bank details from Sweepcare were not loaded, just the name changed
- The first check when a copy arrives should be to see if it has already been paid and to follow this through with the client
- A duplicate invoice was again input to the system without taking notice of the system alert

CONSULTATION

Nil

STAFF COMMENT

There has been a series of staff counselling sessions with those involved in accounts payable to ensure that the significance is understood regarding processing documentation attached to invoices. We are also implementing a spreadsheet with payment details for creditors that can be checked.

VOTING

Simple Majority

11.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council write off the debt of \$6,995.12 owing to the Town of Cottesloe by the insolvent company Autovac.

Carried 7/0

11.1.4 FINANCIAL RESULT FOR 2007/2008

File No: SUB/19
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 9 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to endorse a proposed strategy of deferring discretionary expenditure until at least the second quarter of 2009.

A further recommendation is made to Council to undertake a comprehensive budget review at its first ordinary meeting in 2009.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The budget adoption process took place using the actual year-to-date figures to the end of February 2008 plus predicted income/expenditure to the 30th June 2008. The carry forward surplus estimated at this time was \$561,365.

The actual surplus as currently before the auditors is \$52,821 which represents an unfavourable variance of \$508,544.

BACKGROUND

There are two main causes for the variance: overspending on the Water Smart initiative of \$194,700 and overspending on roadworks for Curtin Avenue and blackspot projects of \$164,827.

The Manager of Engineering Services has outlined the problem as follows:

- Dealings with the Town of Mosman Park regarding the installation of drainage pits, large sump conversions and Black Spot works resulted in over expenditures which only became apparent towards the end of the financial year, when it was not possible to cut back on other works to balance these expenditures. Mosman Park issued a number of large invoices late June and even as late as early August for works completed in April/May of 2008. These invoices covered all types of works done by Mosman Park and resulted in most of these jobs being over expended.

For 2008/09, firm quotations for drainage pit installations were received from three contractors plus Mosman Park. As a result, Claremont Asphalt will be undertaking all

such installations for this financial year. Mosman Park's quotation suffered from their Council deciding to increase the profit margin to 25%, up from last year's 17% which in turn was 2% more than the original 15%.

- The cost of asphalt per tonne dramatically increased in 2007/08, in a year when we had the heaviest asphalt resurfacing program for many years. This resulted in over expenditures for the later jobs, particularly Curtin Avenue and Marine Parade. Curtin Avenue required extra asphalt because of wheel ruts and depressions which were not obvious at the time the original MRWA submission took place. If these large jobs had been undertaken early in the financial year and the over costs had been known, cut backs would have occurred in other work proposed for later in the year.

CONSULTATION

Nil

STAFF COMMENT

The unfavourable result means that the Town of Cottesloe will have to manage its finances far more carefully.

The Manager of Engineering Services has contacted the funding providers for the Water Smart project and informed them that we spent some of the current financial year's (2008/2009) funding last year (2007/2008). They have said that as long as invoices corroborating the expenditure last financial year are available, they are satisfied with a reduction in the current year's expenditure by the relevant overspend from last year and will reimburse the Town for the full amount.

The overspend on roadworks is being addressed in two ways.

Firstly the Manager of Engineering Services has identified a list of capital items whose purchase should be deferred to early next year (dependent on a budget review in February 2009) or even into the next financial year.

- | | |
|--|-----------|
| • No replacement of Kubota SP mower | \$ 26,000 |
| • No replacement of Isuzu Truck | \$ 50,000 |
| • No replacement of Tennant Vacuum machine | \$ 75,000 |

Secondly, cost savings should be sought on the following projects by reducing payments for materials and contractors:

- | | |
|--|-----------|
| • Reduce Drainage Maintenance | \$ 30,000 |
| • Reduce Road Maintenance | \$ 40,000 |
| • Reduce Car Park Maintenance | \$ 10,000 |
| • Reduce Footpath Maintenance | \$ 25,000 |
| • Reduce Parks & Reserves Maintenance | \$ 40,000 |
| • Reduce Street Tree Maintenance | \$ 40,000 |
| • Reduce Laneway Maintenance | \$ 5,000 |
| • Reduce Irrigation Maintenance | \$ 5,000 |
| • Reduce Street Furniture Construction | \$ 10,000 |
| • Reduce Plant, Machinery and Equipment purchases | \$ 2,000 |
| • Tighten up on new asphalt overlays for residential streets | \$ 21,100 |

- Water Smart Year 3 – credit for extra works done in 2007/08 \$ 66,000

These restrictions on expenditure in the short term should provide a total saving of \$445,100, the validity of which can be re-assessed at the February 2009 meeting of Council.

The proposed plant replacements can also be reconsidered at the same time or put off into 2009/10.

All necessary basic maintenance will be undertaken, as required, but any extra works normally booked to those numbers should be put off at least until the second quarter of 2009, particularly for materials and contractors.

While the deferral of the above expenditures deals with the immediate problem of the poor year end result, Council should also be aware that a number of unbudgeted items have already occurred or are in the immediate offing. They relate to:

- Unforeseen cost variations relating to the Civic Centre project.
- CEO recruitment costs.
- Increased town planning consultant costs associated with LPS No.3 and the EbD process.
- Town planning consultant costs associated with the proposed redevelopment of land in Station Street.
- Potential cost escalations with the library project.
- Implementation of the strategy to reduce hotel patron numbers.
- Repair of the Cottesloe Beach pylon.

In summary, it is likely that the year end result for 2008/09 will be a significant deficit unless preventative measures are undertaken. Accordingly recommendations are made to endorse the proposed strategy of deferring expenditure and undertaking a comprehensive budget review in February 2009.

VOTING

Simple majority

OFFICER RECOMMENDATION

That Council:

- (1) Endorse the proposed strategy of deferring discretionary expenditure until the second quarter of 2009 at least.
- (2) Undertake a comprehensive budget review at its first ordinary meeting in 2009.

11.1.4 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council:

- (1) **Endorse the proposed strategy of deferring discretionary expenditure until the second quarter of 2009 at least.**

- (2) Undertake a comprehensive budget review at its first ordinary meeting in 2009.**
- (3) Receive at the October meeting a report from staff on possible policy and procedures to ensure this problem does not occur in future years.**

Carried 7/0

11.1.5 LIBRARY PROJECT STEERING COMMITTEE

File No: SUB/547
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 9 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

This report provides an update on the progress of the Library Project Steering Committee.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

There are ongoing significant developments with the Library Project Steering Committee. As only two Councillors and the Manager Corporate services attend the Library Project Steering Committee meetings, the CEO determined that it would be beneficial to provide full information to all Councillors on a regular basis to the Works and Services Committee and Council.

CONSULTATION

Nil

STAFF COMMENT

The following provides a summary of the discussions from the last Library Project Steering Committee held on 23 August 2008:

Library Tender

The committee were informed that 11 copies of the tender documentation had gone out to date. There were 22 possible tenderers identified. The weighting for the tender selection criteria is as follows:

- Price 40%
- Resources 15%
- Safety Record 5%
- Previous Experience 15%

- Financial capability 15%
- Current capacity to complete

Land tenure issue

A letter was been sent to the Minister for Planning and Infrastructure via her Chief of Staff requesting information on what is happening with the Shire's submission that was waiting referral to Parliament but is now believed to be in her office .

No reply had been received at the time of compiling this MINUTES.

Tenders

The program and tender provisions are as follows:

Tenders Close:	01 October 2008
Prices to be held for sixty days:	30 November 2008
Tenders to quote price escalation over next thirty days.	30 December 2008

VOTING

Simple majority

11.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council accept the report.

Carried 6/1

11.2 ENGINEERING

11.2.1 DRAFT NATURAL AREAS MANAGEMENT PLAN - RESULTS OF COMMUNITY CONSULTATION

File No: SUB/620
Author: Ms Jade Hankin
Author Disclosure of Interest: Nil
Report Date: 10 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A draft report entitled 'Cottesloe Natural Areas Management Plan' (NAMP) has been prepared by Ecoscape Consulting for the Town of Cottesloe. This was released for a four week public comment period concluding on 29 August 2008. Since this time the NAMP has been updated and finalised by Ecoscape Consulting in conjunction with the Town of Cottesloe, taking into consideration relevant public comments received during the consultation process.

It is recommended that Council review and approve the content of the final NAMP, and note that a five years works plan will be developed from this Management Plan for implementation regarding natural areas management in the

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

The adoption of the final NAMP may have implications for the *WESROC Greening Plan* and various policies such as *Residential Verges, Street Trees and Streetscape*. These will be addressed if and when the NAMP is approved and implemented.

STRATEGIC IMPLICATIONS

One of the dynamic priorities contained within Council's Future Plan is to develop a District Management Plan. (Future Plan – Section 6). Also under Objective 3 – 'Enhance Beach Access and the Foreshore', Major Strategy 3.2 outlines the need to 'Improve Beach Access and Dune Conservation outside the Central Foreshore Zone'.

FINANCIAL IMPLICATIONS

Council had allocated \$25,000 in the 2008/2009 budget for the implementation of priority works as identified in the final NAMP.

Applications for external grant funding to match this amount is currently being sought in order to increase the quantity and scope of works planned.

BACKGROUND

In November 2007 expressions of interest were sought to obtain the services of an environmental consultancy to develop a Natural Areas Management Plan (NAMP) for the Town of Cottesloe.

The overarching aim of the NAMP was as follows:

To identify those areas in the Town of Cottesloe that are to be managed as natural areas and to provide guidelines and priorities for their management with a view to protecting, preserving and enhancing local biodiversity.

In December 2007, after expressions of interests were sought and assessed, Ecoscape Consulting Pty Ltd was engaged by the Town of Cottesloe to prepare a NAMP for the district.

In January 2008, a steering committee was formed consisting of the Ecoscape project team, several Town of Cottesloe staff and several members of Cottesloe Coastcare Association (CCA) to coordinate progress of the management plan.

Several stages were completed to reach the formulation of a draft Management Plan.

These included Ecoscape staff working together with CCA to map all natural areas utilising the vast amount of knowledge CCA members have of the local vegetation.

A workshop was also held with relevant stakeholders including Town of Cottesloe staff members, CCA members, coastal officers and local residents to establish goals and objectives for future natural areas management and to determine priority areas for future works within the region.

The draft NAMP produced covers an assessment of the social and physical environment; a management framework; prioritisation and strategies for existing and potential natural areas; and comprehensive guidelines for implementation of works with projected cost analysis within Cottesloe. These were the requirements specified and agreed upon within the initial brief.

CONSULTATION

A review of the draft plan has been undertaken by Town of Cottesloe staff and CCA to ensure there are no major omissions in the report. Minor alterations were made and both parties expressed willingness to release the report for a four week public comment period.

A four week public comment period was undertaken (open until 29 August 2008) to obtain the views and opinions of the community and relevant stakeholders on the content of the NAMP.

Public comments have been reviewed, considered and incorporated, where appropriate, into the NAMP. Changes made are listed on the index (see attachment 2).

STAFF COMMENT

During the public comment period 8 submissions were made (see attachments 3 to 10).

In general these submissions supported the development of the plan and the need to formulate robust management strategies to enhance and maintain natural areas in the Town of Cottesloe. Other common themes expressed were:

- Ensuring remnant existing natural areas remain the priority for rehabilitation and maintenance over potential natural areas, and that local native species are planted in these areas;
- Weed control is a major threat in this area, which needs to be carefully managed through a range of techniques;
- The employment of a Bushcare Officer, possibly across several Western Suburbs councils would be a good investment;

These comments and recommendations will need to be considered during the development of the five year works plan.

The implementation of the NAMP and development of the five year plan will also need to take into consideration climate change scenarios outlined in the report *Vulnerability of the Cottesloe Foreshore to the Potential Impacts of Climate Change* produced for the Town of Cottesloe by consultants Coastal Zone Management in June 2008.

During the creation of the five year works plan and public comment period, consultation will occur with Cottesloe Coastcare Association, who have extensive local knowledge and provided a detailed submission regarding the NAMP.

VOTING

Simple Majority

11.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Boland

That Council:

- (1) **Approve the content changes incorporated into the Natural Areas Management Plan and adopt the plan.**
- (2) **Note that a five year works plan regarding Natural Areas Management will be developed incorporating recommendations from the NAMP. This will include priorities for action and a works schedule which will be presented to council for approval in early 2009.**

Carried 7/0

11.2.2 FIG TREES ON CHARLES STREET VERGE, COTTESLOE

File No: SUB/229
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 10 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

Seven large fig trees exist on the eastern road verge of Charles Street, Cottesloe. A request has been received for the removal of these trees due to the expected eventual damage of private walls and fences from the root systems of these fast growing trees.

The recommendation is that Council inform all residents of Charles Street and the Flour Mill Estate that the fig trees on the east side verge of Charles Street are to be removed and replaced with an alternative species more suitable for growth on a narrow road verge.

STATUTORY ENVIRONMENT

All road verge trees are under Council's control, with Council being responsible for damage done by such trees, due to the road reserve being vested in the Town of Cottesloe with all liability and responsibilities attached.

POLICY IMPLICATIONS

Council's *Street Tree Policy* applies, which has been included as an attachment to this report.

STREET TREES**(1) OBJECTIVE:**

To recognise the environmental and aesthetic contribution that street trees make to the continuing development and presentation of streetscapes, by:

- selecting, planting and maintaining street trees, which enhance both existing and future streetscapes;
- creating a setting in sympathy with the function and appearance of the adjacent land uses, a safe and comfortable pedestrian environment, and cater for vehicular traffic;
- promoting the use of indigenous vegetation, including trees, on road reserves, to extend the habitat of native birds and animals in urban areas.

(2) PRINCIPLE:

Street trees should be established on every street and road in the Town of Cottesloe, with one tree fronting every property, supported by proper systems of protection, watering, pruning and processes for species selection.

(3) ISSUES:

- A balance is required between the Norfolk Island Pine tree as the Cottesloe 'Icon' tree and other tree species.
- Many existing tree species in Cottesloe were poorly chosen in the past and these mature trees are providing a variety of problems.
- The large range of street verge widths, up to 15 metres wide requires flexibility in species choice and planting locations to achieve the one tree per property aim.
- Ratepayers and residents vary in their attitudes to street trees and individual trees may suffer damage or die from 'unknown causes' in areas where they cause problems to houses and properties.
- Street trees can be a major source of public liability concerns due to root damage of drainage, paths, kerbing and crossovers on the verge and a variety of problems in private property.
- Supporting street trees on every verge is an expensive task, requiring substantial annual budget support. Normal maintenance costs are ongoing and the cost of damage caused by street trees in major storms can be very high.

(4) POLICY:

The Town of Cottesloe has demonstrated, in past years, its commitment to the amenity and visual image of the Town's streetscape by the introduction and maintenance of street trees.

This commitment will continue with the maintenance of existing trees and the establishment of new trees, based on the following conditions and requirements:

1. The Norfolk Island Pine tree is the icon or symbol of Cottesloe and shall be preserved.
2. The Town of Cottesloe shall aim at planting and maintaining one street tree per property frontage.
3. All individual street tree planting will be undertaken by Council staff. All other planting on verges, other than a lawn, will require a submission to the Town of Cottesloe for approval.
4. Tree pruning shall be aimed at producing a full canopy typical of the species, while still addressing legal obligations and the preservation of public safety. Major pruning may require the Manager Engineering Services to seek professional advice.
5. Tree removals must be seen as a last resort, used for dead and/or dangerous trees. The Manager Engineering Services must give approval for any tree removal.

The following reasons do not justify tree removals:

- tree litter/leaf fall ("messy:" tree),
- restoration of a view,
- alternative species requested by resident,
- a desire to re-landscape,
- house alterations requiring crossover relocation,
- shading of lawns, pools,
- swimming pool installation – root or falling leaf problems,
- perception that tree may fall in a storm.

6. A proposal to remove or replace multiple street trees in one street shall require an expert's report, public consultation and consideration by Council.
7. For development or building approvals, plans and drawings submitted must include the locations of all street trees on abutting road verges for the consideration of the effects of such land or building changes on these street trees.
8. A person or company identified as having damaged or removed a street tree(s) without Council approval, shall be required to provide full compensation to Council for all costs associated with the re-establishment of an advanced tree of that same species together with an assessed value determined by the Manager Engineering Services for the loss of amenity/aesthetic value of that tree(s).
9. The Town of Cottesloe will maintain a street tree species list of the most suitable tree species for the different soil and micro climate areas of the town, plus species determined as being unacceptable as street trees.

Such undesirable species would exhibit the following characteristics:

- intolerance to drought or low watering conditions;
- self pruning of larger limbs;
- suckering or adventitious growth patterns;
- roots that cause damage to paths, roads, buildings, pipelines;
- susceptibility to insect and pathogen infestation;
- aggressive self seeding; and
- unacceptable toxicity.

RESOLUTION NO: 12.2.11
ADOPTION: February, 2005
REVIEW: February, 2013

(Replaces W1, 28 February, 2000)

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

If the trees are removed soon, removal costs would be met under allocated maintenance funding.

If the trees are retained, then there is some potential for an action against the Town of Cottesloe for negligence if nearby walls and fences are damaged.

BACKGROUND

These fig trees have been in place for an unknown number of years. They are relatively young and small when compared to the age and size they can achieve.

A tree consultant believes the tree species is *Ficus Hillii* or Hills Weeping Fig. They can grow to 15-30 metres in height and 15-20 metres in diameter (branch extension). They are known to have invasive and wide spreading roots, with care normally required not to plant them near pipes, buildings, roads and paths.

This species is not a recommended one in Council's preferred Street Tree species list.

The City of Subiaco and the Town of Cambridge are experiencing ongoing problems with fig trees, with Cambridge having a removal program and Subiaco concerned with potential damage to infrastructure, including the rail tunnel.

Owners and residents of the Four Mill Estate have been divided on their attitudes regarding retention or removal. The most recent Council of Owners vote was in favour of removal and replacement with an alternative species.

CONSULTATION

The only properties affected by these trees are those fronting Charles Street from the east side, within the Flour Mill Estate. The property owners have had ongoing discussions regarding the need to remove or retain the trees.

No further consultation is proposed except a discussion with the corporate body on an alternative species to replace the fig trees.

STAFF COMMENT

There are several species of fig tree, including *Ficus Hillii*, that are well known for their habit of eventually becoming very large in the trunk diameter, the spread of their branches and the intrusive nature of their root systems. The seven fig trees on the eastern verge of Charles Street are relatively young at the moment but the root systems are already becoming obvious, with one property already having a retaining wall within the property disturbed by roots.

Pruning of the branches will have to be ongoing (approximately every two years) to keep branches away from building edges and back from hanging over kerb lines and the street edge.

The same is not possible with the root systems where root cutting is a short term solution and can only be undertaken to a shallow depth and only puts off the inevitable i.e. total tree removal.

The liability of tree root damage rests with Council, because of the vesting of the total road reserve in Council. On a 40 metre wide road reserve elsewhere in Cottesloe, such trees would normally have a longer useful life however Charles Street is a typical 20 metre road reserve with narrower verges. Apart from branch and root problems, fig trees drop large amounts of soft fruit when mature, creating a general mess over a large area.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That in order to remove the cause of inevitable damage to private walls and foundations usually resulting from Fig Tree root growth, Council inform all residents of Charles Street and the Flour Mill Estate that the fig trees on the eastern verge of Charles Street are to be removed and replaced with an alternative species more suitable for growth on a narrow road verge.

11.2.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council request the residents of Charles Street and the Flour Mill Estate to make a submission on a proposal to remove the fig trees on the eastern verge of Charles Street and that staff report back to Council on the results of the submissions.

Carried 7/0

**11.2.3 FORESHORE VULNERABILITY TO CLIMATE CHANGE IMPACT -
IMPACTS, PRIORITIES AND STUDY APPLICABILITY**

File No: SUB/537
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 10 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

At its June 2008 meeting, after receiving a consultant report on "Foreshore Vulnerability to Climate Change Impact", Council resolved to:

- (1) Receive the overview of the Coastal Zone Management Consultant Study on "Vulnerability of the Cottesloe Foreshore to the Potential Impacts of Climate Change".
- (2) Have staff supply a report on the proposed tasks identified in the study and their impacts, priorities and applicability to the Town of Cottesloe.
- (3) Allow the report to be made available to community groups, State Government authorities, other local governments and research organisations for study and to aid in the development of the understanding of the potential impacts of climate change on metropolitan foreshore areas.
- (4) Issue a press release authorised by the Chief Executive Officer and the Mayor to better inform the public on this matter.
- (5) Make a final copy of the report available for inspection or purchase from the front counter and available for download from the website.

This report recommends that staff undertake the following actions, to be completed by June 2009:

1. Write to the Department for Planning and Infrastructure to see where the Cottesloe foreshore area fits into the existing state beach monitoring program to ensure that this program can be combined with a new Town of Cottesloe program.
2. Write to all Perth based universities to encourage climate change research in Cottesloe.
3. Establish Coastal Monitoring Program, including regular beach width measuring and photographs at sites with existing historical information.
4. Investigate external sources of funding to allow a 'Management Options' study to be undertaken, to provide practical defence options to protect the Cottesloe foreshore.
5. Investigate external sources of funding for the specialist engineering assessment of existing key infrastructure related to the Cottesloe foreshore.
6. Establish and keep up to date a database of information on technology, systems and materials to aid in decision making relating to climate change, including applicable case studies on new installations and applications.

7. Request any information on geotechnical data relating to Marine Parade and the Cottesloe Beach foreshore from all service providers and relevant government agencies, for review and analysis.
8. From all available data, establish information gaps and needs then develop Terms of Reference for Geotechnical works along the Cottesloe foreshore.
9. Investigate external sources of funding for a consultant study of the geological conditions below surface level of the Cottesloe foreshore, and associated information.
10. Send copies of the study to key stakeholders, including all organisations operating west of Marine Parade, utility provider's relevant government departments and selected local government authorities.
11. Write to all utility providers requesting information or the implications for Council if their services are impacted on by major foreshore erosion, particularly for any services west of Marine Parade.
12. Ensure Cottesloe Coastcare is aware of the reports content relating to long term foreshore impact of Climate Change, particularly to sand dunes.
13. Develop a statement of step-by-step actions required to deal with a major storm erosion impact on the Cottesloe foreshore, to ensure speed of actions relating to emergency management.
14. Review insurance coverage of Council facilities on and adjacent to the Cottesloe foreshore.
15. Review and update any natural area management plans to ensure such plans incorporate the current and potential effects of climate change, to ensure management efforts are focused on long term achievable objectives.
16. Gather information and push all coastal protection stakeholders for the creation of a data base of proven techniques for coastal protection against extreme sea and weather events.
17. Initiate dialogue with relevant State Government department and authorities to ensure there is action towards new policy and planning regime creation, including the 'defendable line' concept.
18. Develop a policy to provide for the management and protection of Council's infrastructure assets on Marine Parade and the foreshore in relation to Climate Change impacts.
19. Modify Council development approval processes to incorporate a requirement for geotechnical investigations for developments close to the foreshore, for Council consideration and incorporation into a data base on geotechnical information available to all stakeholders.
20. In relation to climate change studies and data collection, initiate dialogue with key stakeholders to develop Memorandums of Understanding for the sharing of such information.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Council's Future Plan 2006-2010 is involved, indirectly, with Climate Change in the following areas:

Objective 1: Protect and enhance the lifestyle of residents and visitors:

Major Strategy 1.5: Develop a strategy for greater community engagement when change is needed.

Objective 3: Enhance Beach Access and the Foreshore:

Major Strategy 3.1: Develop the 'Foreshore Vision and Master Plan' in consultation with the community.

Major Strategy 3.2: Improve beach access and dune conservation outside the central foreshore zone.

Objective 5: Maintain infrastructure and Council buildings in a sustainable way.

Major Strategy 5.6: Develop a long term asset management plan and accompanying financial plan.

FINANCIAL IMPLICATIONS

The cost of potential climate change impacts on Council infrastructure in the future is unknown but will need to be taken into account when considering the placement of new or replacement items of infrastructure adjacent to the foreshore.

BACKGROUND

Throughout the world, the United Nations, other world bodies, national governments, state governments (including Western Australia) and a large variety of research institutes and private organisations are currently involved in gathering data on climate change.

All around Australia, in coastal urban areas and in a large portion of coastal rural areas, local governments have a significant investment in existing infrastructure used by local residents, ratepayers and visitors.

Any possible damage to this infrastructure caused by the sea in terms of rising sea levels and wind generated waves will have a direct financial, social and environmental impact. In addition, damage to private properties, access routes and service facilities owned by State and Commonwealth governments may also occur.

The Risk Management/Assessment study agreed to with the Commonwealth Government for the Cottesloe Foreshore area is meant to act as model for a typical Perth metropolitan beach/foreshore areas.

What applies to Cottesloe should also have a high degree of applicability to the metropolitan foreshore areas and other urban regional coastal areas e.g. Mandurah, Bunbury, Busselton.

This study is a first for Western Australia and builds on what has already taken place in the eastern states, particularly in Queensland.

Council has accepted the study content and made it available for all to consider. It provides immediate, short term and long term objectives for Council consideration. This report provides a recommended future program to address these recommendations.

CONSULTATION

A variety of government departments, universities and scientific organisations were consulted during the preparation of the study. The full report and attachments have been made available for public access on Council's web site.

STAFF COMMENT

The consultant, Coastal Zone Management, has provided in the report the recommended order in which risk management actions should be completed (Pages 85/86) and the time frames for implementation of recommended actions (Pages 76-79).

Proposed actions are broken up into three categories (1, 2, 3)

1. Can be completed by Council within current capacity and budget allocation.
2. Can be completed within Council but requires additional resourcing.
3. Requires external assistance.

The proposed timing of actions is broken up into:

- Immediate – 2008 to 2010 – 2 years
- Short Term – 2010 to 2015 – 5 years
- Medium Term – 2015 to 2030 – 15 years
- Long Term – 2030 to 2060 – 30 years

The majority of Immediate to short term actions involve writing letters, gathering existing data, setting up relationships with universities and government departments, creating or changing policies and undertaking desktop studies.

Effort is required to try to source funds for geotechnical investigations. Grant income would greatly assist efforts to gather data, particularly the location of underground rock layers using drilling or seismic methods.

For the medium to long term (i.e. beyond 2015) substantial information will be available on climate change worldwide which will either see expenditure by coastal councils on major engineering works or a reduction in concerns.

Therefore it is proposed that Council efforts be initially aimed at 'in-house' actions for the immediate to short term period. Such actions should include the search for state or federal grants to allow geotechnical investigations along the foreshore.

The results of those efforts, plus the ongoing international data collection and product development relating to climate change, will provide a basis for Council to adopt management actions with budget provisions in the medium to long term.

Now that Council and staff are more aware of the potential for negative climate change impacts on the Cottesloe Beach foreshore, 'common sense' considerations will include:

- The requirement for geotechnical reports on the sub surface conditions for any proposed new or extension works for buildings or infrastructure west of Marine Parade.
- The consideration of relocation options, particularly any items close to the active wave region e.g. dual use paths, public toilets etc. when the replacement of any Council infrastructure comes due on Marine Parade or the Cottesloe Beach foreshore area,
- Take every opportunity to gain copies of information on the geology of coastal lands and the coastal buffer area to build a more complete understanding of those areas.
- Stay aware of any new information on technical developments that will aid Council's understanding of climate change impacts and potential protective measures.

Major financial impacts would be concentrated on longer term construction of protective or upgrading works, if considered necessary once all available information has been assembled.

All efforts should be taken to apply for State or Federal Government grants, particularly those supplying 100% of the cost whenever these grants are available. This may mean earlier than scheduled consultant studies or geological testing for underground rock along the foreshore, if such financial aid becomes available.

The consultant's report has provided recommended actions and timeframes for those actions. The medium to long term actions are based on the results of many of the immediate to short term actions, such as data collection.

The proposed staff actions shown in the recommendations are, mostly, based on the consultant proposals for the immediate to short term.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council staff undertake the following actions, to be completed by June 2009:

- (1) Write to the Department for Planning and Infrastructure to see where the Cottesloe foreshore area fits into the existing state beach monitoring program

- to ensure that this program can be combined with a new Town of Cottesloe program.
- (2) Write to all Perth based universities to encourage climate change research in Cottesloe.
 - (3) Establish Coastal Monitoring Program, including regular beach width measuring and photographs at sites with existing historical information.
 - (4) Investigate external sources of funding to allow a 'Management Options' study to be undertaken, to provide practical defence options to protect the Cottesloe foreshore.
 - (5) Investigate external sources of funding for the specialist engineering assessment of existing key infrastructure related to the Cottesloe foreshore.
 - (6) Establish and keep up to date a database of information on technology, systems and materials to aid in decision making relating to climate change, including applicable case studies on new installations and applications.
 - (7) Request any information on geotechnical data relating to Marine Parade and the Cottesloe Beach foreshore from all service providers and relevant government agencies, for review and analysis.
 - (8) From all available data, establish information gaps and needs then develop Terms of Reference for Geotechnical works along the Cottesloe foreshore.
 - (9) Investigate external sources of funding for a consultant study of the geological conditions below surface level of the Cottesloe foreshore, and associated information.
 - (10) Send copies of the study to key stakeholders, including all organisations operating west of Marine Parade, utility provider's relevant government departments and selected local government authorities.
 - (11) Write to all utility providers requesting information or the implications for Council if their services are impacted on by major foreshore erosion, particularly for any services west of Marine Parade.
 - (12) Ensure Cottesloe Coastcare is aware of the reports content relating to long term foreshore impact of Climate Change, particularly to sand dunes.
 - (13) Develop a statement of step-by-step actions required to deal with a major storm erosion impact on the Cottesloe foreshore, to ensure speed of actions relating to emergency management.
 - (14) Review insurance coverage of Council facilities on and adjacent to the Cottesloe foreshore.
 - (15) Review and update any natural area management plans to ensure such plans incorporate the current and potential effects of climate change, to ensure management efforts are focused on long term achievable objectives.
 - (16) Gather information and push all coastal protection stakeholders for the creation of a data base of proven techniques for coastal protection against extreme sea and weather events.

- (17) Initiate dialogue with relevant State Government department and authorities to ensure there is action towards new policy and planning regime creation, including the 'defendable line' concept.
- (18) Develop a policy to provide for the management and protection of Council's infrastructure assets on Marine Parade and the foreshore in relation to Climate Change impacts.
- (19) Modify Council development approval processes to incorporate a requirement for geotechnical investigations for developments close to the foreshore, for Council consideration and incorporation into a data base on geotechnical information available to all stakeholders.
- (20) In relation to climate change studies and data collection, initiate dialogue with key stakeholders to develop Memorandums of Understanding for the sharing of such information.

11.2.3 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council staff undertake the following actions, to be completed and reported back to Council by June 2009:

- (1) Write to the Department for Planning and Infrastructure to see where the Cottesloe foreshore area fits into the existing state beach monitoring program to ensure that this program can be combined with a new Town of Cottesloe program.**
- (2) Write to all Perth based universities to encourage climate change research in Cottesloe.**
- (3) Establish Coastal Monitoring Program, including regular beach width measuring and photographs at sites with existing historical information.**
- (4) Investigate external sources of funding to allow a 'Management Options' study to be undertaken, to provide practical defence options to protect the Cottesloe foreshore.**
- (5) Investigate external sources of funding for the specialist engineering assessment of existing key infrastructure related to the Cottesloe foreshore.**
- (6) Establish and keep up to date a database of information on technology, systems and materials to aid in decision making relating to climate change, including applicable case studies on new installations and applications.**
- (7) Request any information on geotechnical data relating to Marine Parade and the Cottesloe Beach foreshore from all service providers and relevant government agencies, for review and analysis.**
- (8) From all available data, establish information gaps and needs then develop Terms of Reference for Geotechnical works along the Cottesloe foreshore.**

- (9) Investigate external sources of funding for a consultant study of the geological conditions below surface level of the Cottesloe foreshore, and associated information.
- (10) Send copies of the study to key stakeholders, including all organisations operating west of Marine Parade, utility provider's relevant government departments and selected local government authorities.
- (11) Write to all utility providers requesting information or the implications for Council if their services are impacted on by major foreshore erosion, particularly for any services west of Marine Parade.
- (12) Ensure Cottesloe Coastcare is aware of the reports content relating to long term foreshore impact of Climate Change, particularly to sand dunes.
- (13) Develop a statement of step-by-step actions required to deal with a major storm erosion impact on the Cottesloe foreshore, to ensure speed of actions relating to emergency management.
- (14) Review insurance coverage of Council facilities on and adjacent to the Cottesloe foreshore.
- (15) Review and update any natural area management plans to ensure such plans incorporate the current and potential effects of climate change, to ensure management efforts are focused on long term achievable objectives.
- (16) Gather information and push all coastal protection stakeholders for the creation of a data base of proven techniques for coastal protection against extreme sea and weather events.
- (17) Initiate dialogue with relevant State Government department and authorities to ensure there is action towards new policy and planning regime creation, including the 'defendable line' concept.
- (18) Develop a policy to provide for the management and protection of Council's infrastructure assets on Marine Parade and the foreshore in relation to Climate Change impacts.
- (19) Modify Council development approval processes to incorporate a requirement for geotechnical investigations for developments close to the foreshore, for Council consideration and incorporation into a data base on geotechnical information available to all stakeholders.
- (20) In relation to climate change studies and data collection, initiate dialogue with key stakeholders to develop Memorandums of Understanding for the sharing of such information.

Carried 7/0

11.2.4 REQUEST FOR CONTRIBUTION - UPGRADING OF ROW 77, COTTESLOE

File No: SUB/317
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 11 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The owners of properties fronting the unsealed section of ROW 77, giving access from Sydney Street, have requested a Council contribution of \$10,000 towards an approximately \$25,000 total estimated cost of sealing and draining the remaining unsealed section of the laneway.

The recommendation is made to accept the proposal that the Town of Cottesloe contribute \$10,000 towards the sealing and drainage of portion of ROW 77.

STATUTORY ENVIRONMENT

This laneway is owned freehold by the Town of Cottesloe.

There is a 'duty of care' for the owner to ensure that this access is safe for use, but there is no legal requirement for sealing of the laneway.

POLICY IMPLICATIONS

Council's *Right of Way/Laneways* Policy applies.

RIGHTS OF WAY / LANEWAYS**(1) OBJECTIVES:**

1. To provide a safe environment and trafficable surface for residents to access their properties while managing risk to the public and the Town of Cottesloe.
2. To establish a procedure for the progressive upgrading of all public Rights of Way and Laneways, by paving and drainage, using all available sources of funding.
3. To establish a procedure for private developments and subdivisions to contribute to the upgrading of public Rights of Way and Laneways, where those developments impact on those routes.
4. To establish a procedure for sections of private laneways to become Crown land, including land held by Council as private property and used by the public as access.

(2) PRINCIPLES:

1. To recognise that the Rights of Way (ROW)/Laneway network provides valuable access to residential and commercial properties.

2. To recognise that aesthetic improvements occur in street frontages when garages and carports are accessed from ROW's and Laneways.
3. To ensure that the costs of improvements to ROW's/Laneways are funded by developers and subdividers, if such improvements are required to service such developments.
4. To recognise that the ROW/Laneway network is of benefit to the whole community and that the Town of Cottesloe should contribute towards upgrading, if landowners wish to contribute towards ROW or Laneway upgrading.
5. To recognise that any ROW or Laneway used by the general public should be Crown land vested in Council for the purpose of public access, maintained by Council through the normal annual budgeted maintenance programs.
6. To discourage motorists from using laneways as de-facto streets or using laneways as shortcuts.

(3) ISSUES:

1. When compared with similar Local Government Authorities in the metropolitan area, the Town of Cottesloe has a high proportion of its ROW's and Laneways in a poor to undeveloped condition.
2. A large proportion of ROW's and Laneways in the Town of Cottesloe are privately owned by the Town, with the remaining sections being either Crown land or privately owned by various individuals or companies.
3. ROW's and Laneways are being progressively built, piecemeal, due to conditions placed on developments and subdivisions, with no long term air of this construction. Such construction has not included a requirement to connect the built section to a built street or existing built Laneway or ROW.
4. ROW's and Laneways often contain Service Authorities infrastructure eg; deep sewers, water supply pipes, as well as Council installed drainage systems. Machine access is required at all times to maintain and service this infrastructure, regardless of ownership.
5. The mixture of Crown control, private ownership and Council ownership of ROW's and Laneways has created confusion in the past for staff trying to maintain these accesses while trying not to expend Council funds on privately owned sections.
6. The amount of privately owned laneway sections (by Council and individuals) requires a lot of control regarding actions, filing, knowledge of ownership etc, which could be greatly simplified by their surrender to the Crown.
7. Past completion of various short sections of ROW and Laneway construction by various contractors organised by various developers to meet development conditions have left Council with varying levels, construction standards and quality standards of these sections throughout the Town area. This will inevitably result in a variety of maintenance problems as ROW and Laneway use grows.

8. Many of the past approved laneway constructed sections have been to a 100mm thick, un-reinforced concrete standard. With vehicle weights increasing and the use of heavy machinery by Service Authorities to service their infrastructure in laneways, it is also inevitable that Council will be involved in expensive repairs to cracked and damaged concrete laneway sections. Therefore laneway surfacing should be based on flexible rather than inflexible pavements.

(4) POLICY:

1. Council's attitude towards the status of ROW's/Laneways is that all such accesses should be Crown land, where they are used by the general public rather than for a specific restricted property access function.
2. Any sections of ROW's/Laneways owned by the Town of Cottesloe will be surrendered to the Crown under processes included in the *Local Government Act*. Any such sections owned by ratepayers of the Town of Cottesloe, which become available to Council for little or no cost, will also be surrendered to the Crown for Crown land.
3. When a ROW or Laneway is required for primary access to a new development the developer will upgrade by paving, kerbing and drainage, the ROW or Laneway from the nearest built gazetted road or existing built laneway to the furthestmost lot boundary, to the satisfaction of the Manager Engineering Services.
4. The developer may elect to have the Laneway upgrading works done by the Town of Cottesloe or by a Contractor.
 - (a) If the Town is to undertake the works, payment of the full estimated value of the works must be received by the Town before works commence.
 - (b) If the developer employs contractors, a supervision and inspection fee is to be charged, in accord with Section 6.16 of the *Local Government Act, 1995*.
5. The design of the ROW or Laneway must recognise the need to minimize vehicle speeds and maximize safety and security.
6. When a ROW is required for primary or secondary access from an existing property redevelopment, it is conditional (Town Planning) upon the developer to contribute an amount equivalent to 50% of the costs to construct a portion of standard ROW 4m x 20m in area.
 - (a) Where a charge has been applied, as condition of development for the upgrade of a ROW, the money is to be placed in a Reserve Account established under Section 6.11 of the *Local Government Act*, for the specific purpose of ROW upgrade.
7. Notwithstanding averaging requirements for developments under the residential codes for rear setbacks and fencing specifications in Council's fencing local laws, there shall be a minimum building setback for carports and garages, to allow a minimum turning circle of six (6) metres, measured from

the far side laneway boundary to the closest part of the structure, for each car bay, carport and garage designed at 90° to the laneway or ROW.

8. Fees and charges for contribution to works, supervision and inspection will be determined annually by Council in accordance with the provisions of Section 6.16 of the *Local Government Act, 1995*.
9. In situations where new developments or redevelopments are not factors in laneway upgrading and the condition of particular laneways has created concern regarding unsafe conditions for drivers and pedestrians, an increased public liability risk and ongoing maintenance requirements, the following shall apply regarding upgrading:
 - (a) A construction program of ROW's and Laneways will be determined by priority on the basis of vehicle and pedestrian usage, existing surface condition, drainage problems and condition of private fencing.
 - (b) The design of the ROW/Laneway will recognise the need to minimize vehicle speeds and maximize safety and security.
 - (c) All fences abutting ROW's and Laneways shall be constructed and maintained in accordance with Council's fencing Local Laws.
 - (d) The funds available for ROW/Laneway upgrading per budget year shall be total of:
 - (i) The equivalent of the total of minimum rates levied on privately owned ROW/Laneway sections per financial year; plus
 - (ii) Contributions received through the development process as covered under point #6, ie the contents of the Reserve Account for this purpose; plus
 - (iii) An amount determined by Council in each budget document, to be made available from Council funds for ROW/Laneway upgrading and construction.
 - (e) Where adjacent landowners wish to contribute to the cost of construction of a ROW/Laneway or section thereof, the project will be given priority over all other such works, subject to the following:
 - (i) The application shall contain confirmation by landowners of their request for the upgrading and the amount each is willing to contribute.
 - (ii) It will be the responsibility of the applicants to collect the contributions and deliver all monies to the Council.
 - (iii) A minimum of 50% of the total cost of the work, estimated by the Council's Manager Engineering Services will be required prior to acceptance of any application. If the ROW/Laneway or section thereof already includes work previously required to be done in the preceding five years then expenditure involved will be treated as contributions, in order to assess priorities and make up the minimum of 50%.
 - (iv) Work will not commence until the full amount of the contribution has been received by the Council.
 - (v) The programming and design of the work will be at the sole discretion of the Council.

- (vi) Applications will be approved in the order in which the full amount of the contribution is received by the Council and will be subject to the availability of funds to meet the Council's contribution through budget allocations each year.
10. The higher the percentage of cost of laneway upgrading to be provided by private property owner contribution, the higher the priority of project acceptance from Council, apart from the need to allow for funding to remove public liability risks and unsafe conditions on any other ROW or Laneway.
 11. As a general rule it is Council policy to keep Laneways open, even if un-constructed. Applications for closure are to be considered by Council.
 12. The widths of ROW's/Laneways, the need for truncations on 90° bends, 'Tee' junctions and outlets of laneways onto gazetted roads, and set back requirements from laneways are issues dealt with in other Council documents.
 13. On request Council will consider the naming of right-of-ways/laneways under the care, control and management of the Town of Cottesloe on the understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular right-of-way/laneway or services to same.
 14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW/Laneway to allow rear vehicle access, and the developer believes there is a substantial negative attitude from other affected landowners for such ROW/Laneway improvements, it is up to the developer to demonstrate to Council that attitude.
 15. Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of #16 to present Council will the case to prevent such sealing and drainage.
 16. The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least two thirds of all landowners affected by the proposal supporting the 'no sealing and drainage' case and accepting that any future request to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of two thirds of those owners for a differential rating payment system for those properties to fund such improvement works.

RESOLUTION NO: 12.2.2
ADOPTION: 28 August, 2006
REVIEW: December, 2012

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Council has budgeted \$20,000 in the 2008/09 budget for upgrading works on its total ROW/Laneway system. This amount was not meant to be expended on a sealing of laneways program.

BACKGROUND

Council adopted a new policy on *Rights of Way/Laneways* in August 2006. The first two objectives of the policy are:

1. To provide a safe environment and trafficable surface for residents to access their properties while managing risk to the public and the Town of Cottesloe.
2. To establish a procedure for the progressive upgrading of all public Rights of Way and Laneways, by paving and drainage, using all available sources of funding.

Since 2006/07 a \$20,000 allowance has been made for minor upgrading works throughout the ROW/Laneway network. This figure is not sufficient to install proper base materials, drainage pits and similar needs per year, over the unsealed section of the ROW system. Only minor sealing has been undertaken in 3 years, particularly where a development contribution has been made for a half width of ROW to be sealed.

There are no programs in place to bring the ROW network up to a quality condition, apart from individual sealing works tied to a development condition for a new house construction.

The laneway/ROW requested for a contribution towards sealing and drainage is 40m long, 4.1m wide and is the most southern section of ROW 77, which runs south from Sydney Street. The first section has been sealed and drained for many years.

Drainage water on this unsealed sand surface laneway section is uncontrolled, similar to most other unsealed laneways in Cottesloe.

CONSULTATION

Nil

STAFF COMMENT

The total ROW/Laneway network is approximately 50% sealed in asphalt, concrete or brick paving and 50% natural surface (sand).

The sealed proportion is slowly increasing as private developments meet their development conditions to seal the laneways from their new rear garages to the closest sealed street or laneway section.

The remainder of the unsealed laneways receive minimal maintenance, with the surface remaining sand apart from short sections where cold planed material from the surface of old asphalt street surfaces is used to firm up the softest areas, particularly in late summer.

During the various discussions regarding the adoption of the new 'Rights of Way/Laneways' policy in 2006, it was the then Council's attitude that Council would not be pursuing a long term plan where all unsealed laneways would be bought up to a sealed quality standard using Council funds. There is a relatively minor allocation (\$25,000) for ROW Surface maintenance, per year, which covers minor hole patching, clean out of drains and minor surface levelling. Spread over the total 10.3km of Crown or Town of Cottesloe owned laneways over the year, only minor works are possible of a maintenance nature.

The comments included in the received letter are similar to other comments received by staff regarding unsealed laneways.

The ROW/Laneway network is one of the few asset types under Council's control that is not included in a long term program for sustainable development.

Council has been offered shared cost 'deals' in the past for laneway sealing but has not accepted them. A \$10,000 contribution to this laneway sealing would be half of the total budget allocation of or 2008/09.

VOTING

Absolute Majority – unbudgeted expenditure.

OFFICER RECOMMENDATION

That Council accept the proposal that the Town of Cottesloe contribute \$10,000 towards the sealing and drainage of portion of ROW 77 subject to the applicants compliance with clause 9(e) of Council's Rights of Way/Laneways Policy.

11.2.4 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Birnbrauer

That Council decline the proposal that the Town of Cottesloe contribute \$10,000 towards the sealing and drainage of portion of ROW 77.

Carried 6/1

11.2.5 REQUEST TO INSTALL A CANARY ISLAND DATE PALM, AS A VERGE TREE, STANHOPE STREET, COTTESLOE

File No: PRO/3481
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 4 September 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A request has been received for permission to plant a mature Canary Island Date Palm on the verge of Stanhope Street in front of No. 6 Stanhope Street.

Council's Street Tree policy and preferred species list does not include this tree type as being approved.

The recommendation is **not** to permit the planting of a mature Canary Island Date Palm in front of No. 6 Stanhope Street, and that the applicant be informed of Council's decision.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Council's Street Tree policy and list of recommended species applies.

STREET TREES**(1) OBJECTIVE**

To recognise the environmental and aesthetic contribution that street trees make to the continuing development and presentation of streetscapes, by:

- selecting, planting and maintaining street trees, which enhance both existing and future streetscapes;
- creating a setting in sympathy with the function and appearance of the adjacent land uses, a safe and comfortable pedestrian environment, and cater for vehicular traffic;
- promoting the use of indigenous vegetation, including trees, on road reserves, to extend the habitat of native birds and animals in urban areas.

(2) PRINCIPLE:

Street trees should be established on every street and road in the Town of Cottesloe, with one tree fronting every property, supported by proper systems of protection, watering, pruning and processes for species selection.

(3) ISSUES:

- A balance is required between the Norfolk Island Pine tree as the Cottesloe 'Icon' tree and other tree species.

- Many existing tree species in Cottesloe were poorly chosen in the past and these mature trees are providing a variety of problems.
- The large range of street verge widths, up to 15 metres wide requires flexibility in species choice and planting locations to achieve the one tree per property aim.
- Ratepayers and residents vary in their attitudes to street trees and individual trees may suffer damage or die from 'unknown causes' in areas where they cause problems to houses and properties.
- Street trees can be a major source of public liability concerns due to root damage of drainage, paths, kerbing and crossovers on the verge and a variety of problems in private property.
- Supporting street trees on every verge is an expensive task, requiring substantial annual budget support. Normal maintenance costs are ongoing and the cost of damage caused by street trees in major storms can be very high.

(4) POLICY:

The Town of Cottesloe has demonstrated, in past years, its commitment to the amenity and visual image of the Town's streetscape by the introduction and maintenance of street trees.

This commitment will continue with the maintenance of existing trees and the establishment of new trees, based on the following conditions and requirements:

1. The Norfolk Island Pine tree is the icon or symbol of Cottesloe and shall be preserved.
2. The Town of Cottesloe shall aim at planting and maintaining one street tree per property frontage.
3. All individual street tree planting will be undertaken by Council staff. All other planting on verges, other than a lawn, will require a submission to the Town of Cottesloe for approval.
4. Tree pruning shall be aimed at producing a full canopy typical of the species, while still addressing legal obligations and the preservation of public safety. Major pruning may require the Manager Engineering Services to seek professional advice.
5. Tree removals must be seen as a last resort, used for dead and/or dangerous trees. The Manager Engineering Services must give approval for any tree removal.

The following reasons do not justify tree removals:

- tree litter/leaf fall ("messy:" tree),
- restoration of a view,
- alternative species requested by resident,
- a desire to re-landscape,
- house alterations requiring crossover relocation,
- shading of lawns, pools,
- swimming pool installation – root or falling leaf problems,
- perception that tree may fall in a storm.

6. A proposal to remove or replace multiple street trees in one street shall require an expert's report, public consultation and consideration by Council.
7. For development or building approvals, plans and drawings submitted must include the locations of all street trees on abutting road verges for the consideration of the effects of such land or building changes on these street trees.
8. A person or company identified as having damaged or removed a street tree(s) without Council approval, shall be required to provide full compensation to Council for all costs associated with the re-establishment of an advanced tree of that same species together with an assessed value determined by the Manager Engineering Services for the loss of amenity/aesthetic value of that tree(s).
9. The Town of Cottesloe will maintain a street tree species list of the most suitable tree species for the different soil and micro climate areas of the town, plus species determined as being unacceptable as street trees.

Such undesirable species would exhibit the following characteristics:

- intolerance to drought or low watering conditions;
- self pruning of larger limbs;
- suckering or adventitious growth patterns;
- roots that cause damage to paths, roads, buildings, pipelines;
- susceptibility to insect and pathogen infestation;
- aggressive self seeding; and
- unacceptable toxicity.

RESOLUTION NO: 12.2.11
ADOPTION: February, 2005
REVIEW: February, 2013

(Replaces W1, 28 February, 2000)

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

Council has a Street Tree policy and a list of species recommended for planting on Cottesloe street verges. Street trees are now installed, maintained and removed if necessary, by Council staff.

At various times in past years a large variety of street trees have been planted by various residents and land owners, many of which are unsuitable for a number of reasons.

Canary Island Date Palms are not on the recommended tree species list for the Town of Cottesloe and therefore, the initial request for this mature installation was rejected. This tree type, once grown, requires pruning by a cherry picker and are spread with seeds carried by birds.

CONSULTATION

This is only a single tree in front of one property. A wider consultation process is not seen as necessary.

STAFF COMMENT

Council's Street Tree policy content and the street tree species list are regularly quoted to residents in regards to queries raised. Over a long period of time, various unsuitable tree types are being removed and replaced with species from Council's tree list.

As unsuitable trees are removed maintenance complexity and costs are reducing, liability potential, due to dangerous species existing on road verges is reducing and the effectiveness and compliance with Council's policy is strengthening.

In the case of Stanhope Street, the main justification appears to be that because the wrong tree types have been planted in the past, they should continue to be planted, regardless of Council policy.

VOTING

Simple Majority

11.2.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council not permit the planting of a mature Canary Island Date Palm in front of No. 6 Stanhope Street and that the applicant be informed of Council's decision.

Carried 7/0

11.2.6 UNAPPROVED VEGETABLE & HERB GARDEN- VERGE AT 19 LYONS STREET

File No: SUB/474 & PRO/2129
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 4 September 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

Recently, staff informed the owner of 19 Lyons Street that the vegetable and herb garden planted on the road verge did not comply with Council's Residential Verge policy, that it was not approved and should be removed.

The property owner then contacted a newspaper with the story, which was also picked up by a TV program.

This report presents the facts regarding the issue and recommends that Council:

1. Retain the Residential Verges policy, unchanged, including the requirement from all works on the verges other than flat lawn areas, to require a submission of the proposal and approval prior to works proceeding.
2. Invite submissions for the establishment of a community vegetable and herb garden on an area under Council control that is free of underground public utilities and street trees.

STATUTORY ENVIRONMENT

Under the *Local Government Act 1995*, Council has vested power over road reserves within the Town of Cottesloe other than MRWA controlled highways. This includes the control of road reserves, where responsibility for the care, control and management rests with the Town of Cottesloe. This applies to all local governments in the State.

Council's local law on "Activities on Thoroughfares and Trading in Thoroughfares and Public Places" also applies in regards to establishing and enforcing Council's control of road reserves.

POLICY IMPLICATIONS

Council's Residential Verges policy applies:

RESIDENTIAL VERGES**(1) OBJECTIVE:**

1. To develop an attractive and safe streetscape.
2. To discourage verge parking wherever alternatives exist.
3. To encourage owners and occupiers of premises to maintain their street verges.

4. To ensure that verge treatments comply with the Local Law relating to thoroughfares.
5. To ensure that verge developments are not hazardous to pedestrians, cyclists or motorists.
6. To encourage alternatives for verge treatments which remove or reduce the use of bore water, fertilisers, weedicides, pesticides and non-absorbent materials.
7. To encourage the use of indigenous plant species.

(2) PRINCIPLE:

1. The road reserve area is under the control of the Town of Cottesloe but owners and occupiers are encouraged to maintain street verges.
2. All developments on street verges must be safe at all times for the general public when using the road verge for normal, legal activities.
3. The Town of Cottesloe plus a range of Service Authorities will impact on the road reserve from time to time with infrastructure construction and maintenance activities.
4. With the reducing availability of mains water and bore water supplies, Council supports alternatives to reticulated verge lawns, particularly the use of indigenous plant species.

(3) ISSUES:

- (a) All verges are affected by intermittent construction activities, to improve paths, drainage and roads, as well as for the maintenance of public services eg; power, water, communications and sewer lines.
- (b) Landscape designs for the road verge must have compliance standards to ensure 'extreme' or dangerous treatments do not occur.
- (c) If plants larger than semi-prostrate species are to be planted, then the general maximum height allowed is 600mm, unless on a 40 metres wide road reserve where the maximum height is 1.5 metres, apart from street trees.
- (d) Verge treatments undertaken by owners or occupants do not include street trees. All street trees are installed and maintained by the Town of Cottesloe.
- (e) A permit is not needed for a grass lawn area.
- (f) Verge treatments are not approved for the purpose of providing extra parking space on the verge.
- (g) All verge treatments must comply with Council's Local Law "Activities on Thoroughfares and Trading in Thoroughfares and Public Places."
- (h) The construction of tree houses, tree swings and the installation of play structures is not considered appropriate within the road reserve due to safety issues.

(4) POLICY:

The Town's Responsibilities

1. Inspection
Each verge development will be inspected by Engineering Services from time to time, to ensure that the development has been carried out in accordance with the foregoing Council Policy.
2. Breach

If any verge development does not comply with this policy, then the breach may be made good by the Town and the costs recovered from the owner or occupier.

3. Fees
The Town will not charge a fee for the inspection of verge developments.

The Owner's Responsibilities

1. Accept all costs involved in the construction of the verge development.
2. Keep the verge treatment in a safe and tidy condition.
3. Accept all liability in respect of damages to persons or property as a result of a verge development.
4. Accept that the verge remains a public space and may be traversed by the public as and when required.
5. Water or maintain the verge in such a manner as to not cause a nuisance to other people.
6. Accept that the improvements automatically become the property of the Town of Cottesloe.
7. Contact the Perth One Call System (Dial Before You Dig) on 1100 and locate all underground services prior to undertaking any works within the verge area and take all care to ensure that no damage is caused to underground services.

Species Selection

The Town of Cottesloe encourages the use of planting of native and in particular indigenous plants (plants naturally occurring within the Town of Cottesloe) within verge areas. Owners are free however to choose the species of plants planted within their verge and are not restricted to native or indigenous plants. All species of plants whether native or exotic must comply with the aforementioned clauses and be suitable for the location in which they are planted.

Procedure

No permit is required from Council for planting lawn on verges.

A permit is required for all other works in the verge such as garden beds, shrubs, kerbing, paving, retaining walls, pipelines and below ground reticulation systems. This shall be obtained by the owner/occupier submitting an application in writing with a sketch plan that shows the details of the proposal.

Landscape Design

Landscape designs must comply with the following conditions:

- i) Comply with the Local Law relating to Thoroughfares.
- ii) Provide adequate access to the letterbox for mail delivery.

- iii) Provide unobstructed pedestrian access to existing signs, water meter, telecom pit and manhole covers.
- iv) Where there is a bus stop, provide clear access of at least 1.2 metres wide around the bus stop, and between the footpath and the bus stop.
- v) Pathways through verge plants may be constructed of any solid material such as tree rings and stepping stones, providing they do not protrude above kerb level and are laid flush with the surrounding ground.
- vi) Height and placement of plants must not obstruct slight distance for pedestrians and road users.
- vii) On 20 metre wide road reserves, no plant shall exceed 600 mm in height. The same applies to intersections for sight clearance. On 40 metre wide road reserves, plants shall not exceed 600 mm in height 2 metres from the kerb line and from the property boundary. On these very wide road reserves plants are allowed up to 1.5 metres high in the centre of the verge width, ramping down to 600 mm high 2 metres from the kerb line and property boundary.
- viii) Paving of generally only one third of the residential verge area, including the crossover, is permitted. Verges adjacent to approved commercial premises may exceed this providing the area is broken up with landscaping to adjacent areas or around approved street trees. All brick paving must have a header course on all edges.
- ix) Retaining walls, rocks and sleepers are permitted only in special circumstances where difficult site conditions prevail.
- x) All garden kerbing shall be flush with the ground surface unless around garden beds.
- xi) Bollards, star iron pickets, stakes, spikes or other objects that could cause injury to the public are not permitted.
- xii) Materials that may cause a hazard to the public are not permitted. This includes loose gravel and pea gravel. Rocks and earth mounding are permitted in garden beds.
- xiii) Plants must not present a hazard to pedestrians eg; cactus, and will not include species classified as declared weeds by the Department of Agriculture's "Agriculture and Related Resources Protection Act (1976).
- xiv) Any polythene or impervious layer laid beneath the surface must be pierced with sufficient number of holes to ensure adequate drainage without runoff.
- xv) In new developments where verges are grassed, provision is to be made for the reticulation to be connected to the domestic water supply on completion of the dwelling. No valves or controllers for reticulation are permitted in the verge.
- xvi) No fixed structures including those attached to trees eg cubby/tree houses, swings etc shall be permitted within the verge area.
- xvii) Lighting or electrical cabling must be of low voltage (eg 12 volt) with all transformers, power supply and switching located within the adjacent property and not within the verge. Lighting must not cause a nuisance to neighbouring properties.
- xviii) Council staff shall maintain a list of species suitable for use in the Town of Cottesloe, which can be considered for verge treatments. This list shall be modified as species prove to be unsuitable or when new species have a proven success rate.
- ixx) Council staff can provide advice regarding verge developments using native and indigenous plants, particularly where reticulated lawn areas are being replaced with non-lawn, non reticulated or low water use species.

RESOLUTION NO: 12.2.7

ADOPTION: November, 2004

REVIEW: November, 2012

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Liability exposure increase and hence potential for insurance premiums increasing is the only financial potential if changes are made to the policy to approve verge vegetable gardens.

BACKGROUND

Council adopted the current Residential Verges policy in 2004 which basically allows the establishment of level reticulated lawns without a permit or any staff involvement. Anything other than a flat lawn requires an application so that the proposed treatment can be checked by staff. The main reasons for this process is to ensure public safety is retained and extreme treatments are rejected e.g. walls, depressions, rocks, bollards, dangerous or unsuitable plants e.g. cactus, toxic plants, invasive root systems etc.

In past years, vegetable gardens on verges and laneways have been removed after staff have enforced Council's policy.

Staff are not expected to be selective as to which policy or part of policy is applied to which resident. Anything that complies with policy is approved. Anything that clashes with policy is removed. All residents and land owners have the right to appeal to Council and request a policy change. Any such change should then apply to all properties in the Town of Cottesloe.

In the case of 19 Lyons Street, staff were inspecting a nearby crossover, noticed the vegetable and herb garden and after requesting advice from the Manager Engineering Services, wrote to the property owner, and requested the vegetable and herb garden to be removed, as per Council policy. The owner then chose to go to the newspaper rather than discuss the matter or request a review of the policy. A TV program then picked the story up.

The owner of No. 19 Lyons Street has now written to Council (see attachment) on the matter.

CONSULTATION

Nil

STAFF COMMENT

The scale of this vegetable and herb garden is small, with the main danger being the small peppermint verge tree, around which the plants are gathered. Digging in the existing garden would continue to damage the root systems of this young tree and limit its future.

The main issue for debate is the applicability of the existing policy to vegetable/herb gardens, regardless of the scale of any particular garden.

The main controls established by the policy come under a number of main headings:

Public Safety

The road verge contains a number of services, some of them dangerous e.g. power, gas. Staff experience has been that these services are often nowhere near the depth required. Anyone digging on the verge can cut such services, causing injuries and damage to essential underground services.

Public Health

Contractors and staff arrange for footpaths and kerblines to be sprayed for weeds and grass control. Such spraying should not be subject to stop/start application because of the presence of various vegetable/herb garden sites and the potential for adverse wind drift of weedicides.

Suitability of Use for Crown Land

The road verge is part of the road reserve which is Crown Land to be used for the public thoroughfare, including vehicles, pedestrians and cyclists. It provides for vehicle entry/exit over crossovers and for the provision of a variety of services to private and public buildings. To improve aesthetics, an alignment for street trees has been established for all road verges, to ensure street tree growth does not clash with service installation and maintenance. The typical approved alignments for a standard road verge are shown on the page from the Utility Providers Code of Practice (see attached).

Environmental Health

Vegetable/herb gardens often involve the use of fertilisers, sprays, annual manures, compost, insects and rotten vegetables. They also attract animals which leave 'deposits' in such areas. If these gardens are on private properties, then proper controls are the private owners responsibility, where such practices are expected to occur by visitors and neighbours.

With the expectation of sprays or animal 'visits', the use of fresh herbs/vegetables becomes less attractive.

Permits Required

The current policy requires submission of a plan for all except a lawned verge. This gives staff a chance to 'weed out' extreme ideas which may create a public danger.

No notice was given or permission requested from the owners of 19 Lyons Street when a herb/vegetable garden was created around the base of a Council installed young peppermint tree.

Procedure

If the policy is altered to allow verge vegetable and herb gardens it would apply, potentially, to all verge areas ranging up to 15metres wide on the 40m road reserve areas. Vandalism, damage from parked cars, product theft, etc may push up the need for staff controls and inspections. The prospect of damage to street trees and underground services would increase due to deeper digging.

Public Use of the Road Reserve

Council is vested with the responsibility of the maintenance of its vested road reserves for the use of the general public with the 'thoroughfare' being the entire road reserve width. Road surfaces and footpaths are built to maximise the access but the road verge is also to be kept clear of obstructions, including bollards, stakes, fences, rocks and other obstructions. The expansion of vegetable gardens on verges would work against the need to provide for public access.

Support for Community Gardens

There are a number of positive reasons why gardens accessible to the public/community should be encouraged, if such gardens cannot be placed on private properties. All of the good health reasons for eating fresh fruit/vegetables/herbs apply. It aids in the growth of a community 'spirit'. It allows access to cheap, quality food for the disadvantaged. It also provides for healthy exercise and a good example for children.

Is the road verge the best place for a community garden? Not if another site can be found!

It would be possible to allocate a Council controlled area for a community garden which has no issues regarding safety, health and access issues. One such site is the south east corner of Grant Marine Park on the 'other' side of Hamersley Street/Hawkstone Street. It is already reticulated, gets little to no use for any sporting or community group and is currently maintained by Council staff for purely aesthetic reasons.

If the general community supported such a garden, Council could arrange initial 'set up' works to promote the concept. The benefits listed above would apply.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) Retain the Residential Verges policy, unchanged, including the requirement for all works on the verges, other than flat lawn areas, to require a submission of the proposal and approval prior to the works proceeding.
- (2) Invite submissions for the establishment of a community vegetable and herb garden on an area under Council control that is free of underground essential services and street trees.

AMENDMENT

Moved Mayor Morgan, seconded Cr Birnbrauer

That the recommendation be amended to read:

That Council:

- (1) Take no further action as regards the unapproved herb and vegetable garden on the road verge adjacent to 19 Lyons Street, Cottesloe.
- (2) Prepare a draft revised Residential Verges policy that allows for herb and/or vegetable gardens on residential street verges subject to:
 - (a) Strict compliance with existing or new requirements for:
 - (i) The proposed layout, plant species and use of any insecticides, chemicals or fertilizers being submitted in advance and approved by Council prior to any works.
 - (ii) The proposed garden not posing undue risk to pedestrian, bike or vehicle users of the road or verge.
 - (iii) The proposed layout not posing undue risk to underground utility services or users of the garden.
 - (b) Any proposed plant species not posing undue risk of being likely to escape the garden and invade other areas particularly other areas that are currently colonised by native species.
 - (c) The produce of the garden being available to all members of the public and not likely to pose any hidden dangers to them.
 - (d) The proposed garden not being for any commercial purposes.
 - (e) Council being able to charge a fee which is commensurate with the cost of processing an application for such a garden, and possibly a bond to cover the cost that Council might incur in the event that it is later left to Council to remediate the site.
 - (f) Staff providing further advice on any other recommended changes to give effect to the spirit and intent of the above.
- (3) Consider the draft revised policy which, if acceptable, be released for community consultation before being considered for adoption by Council.

Carried 7/0

11.2.6 COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council:

- (1) Take no further action as regards the unapproved herb and vegetable garden on the road verge adjacent to 19 Lyons Street, Cottesloe.
- (2) Prepare a draft revised Residential Verges policy that allows for herb and/or vegetable gardens on residential street verges subject to:
 - (a) Strict compliance with existing or new requirements for:
 - (i) The proposed layout, plant species and use of any insecticides, chemicals or fertilizers being submitted in advance and approved by Council prior to any works.

- (ii) The proposed garden not posing undue risk to pedestrian, bike or vehicle users of the road or verge.
 - (iii) The proposed layout not posing undue risk to underground utility services or users of the garden.
 - (b) Any proposed plant species not posing undue risk of being likely to escape the garden and invade other areas particularly other areas that are currently colonised by native species.
 - (c) The produce of the garden being available to all members of the public and not likely to pose any hidden dangers to them.
 - (d) The proposed garden not being for any commercial purposes.
 - (e) Council being able to charge a fee which is commensurate with the cost of processing an application for such a garden, and possibly a bond to cover the cost that Council might incur in the event that it is later left to Council to remediate the site.
 - (f) Staff providing further advice on any other recommended changes to give effect to the spirit and intent of the above.
- (3) Consider the draft revised policy which, if acceptable, be released for community consultation before being considered for adoption by Council.

Carried 7/0

11.3 FINANCE**11.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 AUGUST 2008**

File No:	SUB/137
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Period Ending:	31 August 2008
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 August 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$483,430 as at 31 August 2008. Operating Revenue is ahead of budget by \$8,130 (0.11%). Operating Expenditure is \$394,860 (27.13%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 August 2008 is shown on page 7.

The main cause of the lower than anticipated expenditure is depreciation. We are required to wait for the audit sign off of the accounts before we run depreciation in the new financial year. The budgeted amount YTD for depreciation is \$239,388.

The Capital Works Program is listed on pages 20 & 21 and shows total expenditure of \$432,889 compared to YTD budget of \$882,578. The difference is timing and it is anticipated a normal correlation to budget for the 2008/2009 financial year.

VOTING

Simple Majority

11.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 August 2008, as submitted to the 16 September, 2008 meeting of the Works and Corporate Services Committee.

Carried 7/0

11.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 AUGUST 2008

File No: SUB/150 & SUB/151
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 August 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 August 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Schedule of Investments and Schedule of Loans are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 15 of the Financial Statements shows that \$2,860,351.63 was invested as at 31 August, 2008

Reserve Funds make up \$2,402,203.87 of the total invested and are restricted funds. Approximately 54% of the funds are invested with the National Australia Bank, 37% with Home Building Society and 9% with BankWest.

The Schedule of Loans on page 16 shows a balance of \$220,384.02 as at 31 August, 2008. There is \$142,456.50 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

11.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 August 2008, as submitted to the 16 September, 2008 meeting of the Works and Corporate Services Committee.

Carried 7/0

11.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 AUGUST 2008

File No: SUB/144
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 August 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 August 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 9 of the Financial Statements:

- \$29,934.98 to WA Local Govt Super Fund for staff deductions
 - \$13,191.55 to Water Corp for annual service provision
 - \$35,140.60 to Cobblestone Concrete for installation of footpaths
 - \$18,348.00 to Optus International Consultants for Cottesloe local bike plan
 - \$12,232.00 to Optus International Consultants for Cottesloe local bike plan
 - \$28,817.15 to WA Local Govt Super Fund for staff deductions
 - \$44,312.85 to Landgate for 2008 GRV revaluation
 - \$11,197.56 to Town of Mosman Park for road construction costs
 - \$10,615.00 to encapsulate for new agenda software
 - \$120,291.24 to Shire of Peppermint Grove for contribution to Library
 - \$160,564.88 to KMC for Civic Centre progress claim
 - \$16,500.00 to Apace Aid for Landscaping Masterplan
 - \$34,684.62 to Trum P/L for waste collection
-

- \$115,273.00 to Town of Mosman Park for road construction costs
- \$10,486.65 to Comestibles for catering for pioneers day
- \$17,993.80 to Ecoscape for Cottesloe natural areas management plan
- \$46,113.08 to Road 2000 for roadworks on Marine Parade
- \$44,067.13 to WMRC for disposal and tipping fees
- \$13,532.75 to Brian Curtis for consultancy for enquiry by design
- \$28,725.40 to LGIS for instalment on insurance premium
- \$36,520.00 to LGIS for Workers Comp premium
- \$15,462.80 to encapsulate for 2nd instalment of agenda software
- \$16,631.45 to WALGA for annual subscription
- \$20,816.15 to WMRC for disposal and tipping fees
- \$16,890.50 to Brian Curtis for consultancy for enquiry by design
- \$11,035.65 to Custom Service leasing for July fuel account
- \$15,626.68 to Hays Recruiting for staff recruiting
- \$12,102.75 to Zipform for printing the annual rates notices
- \$13,644.65 to Shire of Peppermint Grove for contribution to Library
- \$11,585.61 to Flexi Staff for temporary depot staff
- \$15,122.30 to Ocean IT for on site support
- \$104,884.66 to KMC for Civic Centre progress claim
- \$10,456.60 to Industrial Scrubbing for footpath cleaning
- \$138,220.70 for staff payroll

VOTING

Simple Majority

11.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council receive the List of Accounts for the period ending 31 August 2008, as submitted to the 16 September, 2008 meeting of the Works and Corporate Services Committee.

Carried 7/0

**11.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 AUGUST, 2008**

File No: SUB/145
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 August, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 August, 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 17 to 18 of the Financial Statements shows a balance of \$355,266.06 of which \$211,226.70 relates to the current month. The balance of aged debt greater than 30 days stood at \$115,019.07 of which \$96,410.51 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

Property Debtors are shown in the Rates and Charges analysis on page 17 of the Financial Statements and show a balance of \$4,741,268.61. Of this amount \$234,313.85 and \$573,318.27 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$4,358,781 in 2008 compared to \$4,455,000 last year.

VOTING

Simple Majority

11.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Mayor Morgan

That Council:

- (1) **Receive and endorse the Property Debtors Report for the period ending 31 August, 2008; and**
- (2) **Receive the Sundry Debtors Report for the period ending 31 August, 2008.**

Carried 7/0

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**12.1 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBER****12.1.1 STILL POINT INITIATIVE**

File No: SUB/551
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 16 September, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

It is proposed that Council consider the following proposal from St Philips Church Council to provide a safe 'Still Point' in Cottesloe. The proposal as received from St Philips Church is outlined below:

Still Point**The Concept**

The provision of a mantle of safety in the Cottesloe Beach precinct at its most alcohol charged time.

While police and security are responsible for law and order there is room for a dynamic of care for mostly young people who find themselves overwhelmed, at risk or out of control and need a place to chill out and regroup before going home, or in some cases some assistance in getting home. A safe Still Point.

- A van and stall set up on a Sunday night during summer from about 10pm until 1am.
- Staffed voluntarily by appropriately trained community members.
- Still Point is a physical location where people can come to find safety and space in what can be a charged and even toxic environment.
- The location would have a staff ideally of 6people and provide seating, tea, coffee, water and information.
 - It may be a place where people can access phone communication.
 - It may be a place where, in some circumstances, people may be able to get transport to the railway station.
- Two members of staff in a pair would wander the street wearing identifying clothing acting as "Street Pastors". Neither security or police, Street Pastors take a caring role for people, conversing, offering advice, identifying the Still Point location etc.

The Accountabilities

- St Philips Church Council
- Cottesloe Council
- WA Police
- Cottesloe Chamber of Commerce
- Security contractors

The Possible Partners

- St Philips Church
- West Coast Churches
- Appropriate Clubs and Societies

The Proposed Location

Car Park opposite Cottesloe Hotel

The Materials

Appropriate team members, van, awning, plastic chairs, water, tea and coffee facilities, signage, identifying clothing, printed materials, fridge magnets

The Funding

Combined participating churches

The Issues

Appropriate volunteers, Training, Materials, Funding, Permissions, Liason and boundaries of operation

The Challenge

Be positive and solution focused and not get stuck by the possible hinderances to such a proposal

Contact

Malcolm Potts
Minister
St Philips Church Cottesloe
0401189071
malcolm.potts@stphilips.net.au

VOTING

Simple Majority

12.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council welcome the Still Point initiative and request administration to provide reasonable assistance in working with St Philips Church to implement the initiative.

Carried 7/0

13 STRATEGIC PLANNING COMMITTEE MEETING HELD ON 17 SEPTEMBER 2008**13.1 GENERAL****13.1.1 DRAFT ACTION PLAN REPORT**

File No: SUB/108
Attachment(s): [Report Update](#) (with track changes)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 17 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

Following the adoption in July 2007 of the *Future Plan 2006 – 2010* for the Town of Cottesloe, an *Action Plan* has been prepared and is now submitted for the consideration of the Committee.

BACKGROUND

The following strategies were identified by Council as priorities for 2008/09 at its July 2008 meeting.

- 1.2 Reduce beachfront hotel numbers to a sustainable level.
- 1.5 Identify increased opportunities to use existing facilities or provide new venues for formal community cultural events and activities.
- 2.1 Produce a draft Structure Plan for consultation purposes showing the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links.
- 3.1 Develop the 'Foreshore Vision and Master Plan' in consultation with the community.
- 3.4 Introduce electronically timed parking.
- 4.1 Develop planning incentives for heritage properties.
- 4.5 Consider undeveloped Government owned land for higher density development provided there is both public support and benefit for the Cottesloe community.
- 5.1 Adopt a policy position on assets that have a realisable value such as the Depot and Sumps.
- 5.2 Subject to the satisfactory resolution of land tenure, design and funding requirements, progress the development of new joint library facilities.
- 5.3 Develop an integrated Town Centre plan to improve all aspects of the infrastructure of the Town Centre.
- 5.6 Develop a long term asset management plan and accompanying financial plan.

- 6.1 Further improve the community consultation policy in recognition that there are different techniques for different objectives.
- DP1 Complete the Civic Centre additions and renovations on budget and on time.
- DP2 Complete the adoption of Local Planning Scheme No. 3 including the preparation of all draft policies to a stage where they can be advertised for public comment.
- DP3 Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe

CONSULTATION

Nil

STAFF COMMENT

This agenda item represents an opportunity for committee members to review progress and provide informal feedback on where staff should be headed in terms of implementing individual actions.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

That Council receive the updated *Action Plan* report.

AMENDMENT

Moved Mayor Morgan, seconded Cr Miller

That the word 'receive' be replaced with the word 'adopt'.

Carried 6/1

13.1.1 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Miller

That Council adopt the updated *Action Plan* report.

Carried 6/1

13.1.2 SUSTAINABILITY HEALTH CHECK REPORT

File No: SUB/108
Author: Ms Jade Hankin
Author Disclosure of Interest: Nil
Report Date: 17 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

As part of the Sustainability Officer's portfolio a recommendation is made to assess and review the Town of Cottesloe's organisational sustainability, utilising the framework of the NSW Local Government Sustainability Health Check (SHC).

STATUTORY ENVIRONMENT

There are various pieces of legislation that identify the importance of sustainability at both a global and local level.

Global

In 1987, under the authority of the United Nations Brundtland Commission, *the Brundtland Report* was released. This report deals with [sustainable development](#) and the change of politics needed for achieving that.

The commission was originally created to address growing concern about the accelerating deterioration of the [human environment](#) and [natural resources](#) and the consequences of that deterioration for [economic](#) and [social development](#). In establishing the commission, the UN General Assembly recognised that environmental problems were global in nature and determined that it was in the common interest of all nations to establish policies for [sustainable development](#)

In the *Brundtland Report* 'Sustainable Development' is outlined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

Local

ICLEI – Local Governments for Sustainability (ICLEI) is an international, not-for-profit association of local governments and local government organisations that have made a commitment to sustainable development.

ICLEI's mission is to build a movement of councils to achieve tangible improvements in environmental conditions through the cumulative impact of local action.

The Town of Cottesloe is involved in the ICLEI program, with both the Cities for Climate Protection (CCP) program and the Water Campaign. The program works through the establishment of goals and the meeting of these goals over a period of time, through a range of actions.

BACKGROUND

The Concept of Sustainability

Organisations are increasingly attempting to incorporate sustainability practices and management systems into their operations. Local governments in Western Australia are particularly recognising the need for improved sustainability management.

The *Local Government Act 1995* was amended in 2004 to require that the function of Local Government be related to sustainability.

Section 1(3) (3) of the Act now states:

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

However there is no guidance or standard available to assist Local Councils to manage this process or ensure that objectives and targets are met.

This Health Check can provide standardisation.

Sustainability Health Check

The Sustainability Health Check produced by Sustainable Futures Australia, the Local Government Managers Association (NSW), and Department of Environment and Conservation (NSW) is a tool to assist councils in their transition to sustainability. It allows councils to assess and monitor to what extent sustainability principles are understood and used in their social, economic and environmental decision-making.

The *NSW Local Government Sustainability Health Check* (SHC) is a management tool that can improve a council's performance by integrating the different elements and principles of sustainability throughout the organisation. It focuses on corporate systems, strategic planning and operations. It also examines the relationships councils have with their communities, including leadership, promoting change and being responsive to community needs. The SHC helps councils identify weaknesses and strengths, and opportunities and ways to improve their overall sustainability outcomes. (See attachment 1).

CONSULTATION

This Health Check will be undertaken in consultation with a range of internal staff members including:

- Chief Executive Officer
- Sustainability Officer
- Manager, Corporate Services
- Manager, Engineering Services
- Manager, Development Services
- Senior Ranger

Consultation has, and will continue to occur with Amy Rayner, Town of Cambridge Sustainability Officer, who is undertaking a similar process at the Town of Cambridge.

STAFF COMMENT

Undertaking this SHC will consist of a desktop review of documentation and discussion between key internal staff members in the Town. It will work in a similar vein to a gap analysis with an aim to provide a benchmark of the Town's current structure and operations regarding sustainability principles. The results will be highlighted to council for further considerations.

The coordination of this undertaking will lie with the Town of Cottesloe Sustainability Officer.

POLICY IMPLICATIONS

The development and/or review of various policies may come out of undertaking the Sustainability Health Check. Areas that may be identified as lacking in sufficient direction or management may require policy review or development.

STRATEGIC IMPLICATIONS

The outcome of this will have implications with Section 4: Underpinning sustainability principles, in the Town of Cottesloe's Future Plan: This section states:

Under legislation, the council is required to meet the needs of current and future generations in a sustainable way. In carrying out its functions, the council is committed to the 4 inter-connected principles of sustainability:

1. Sustainable development: *To embrace and integrate sustainable development principles including social, economic, environmental and cultural aspects when planning for the district.*

2. Community participation: *Effective community participation in decisions about the district and its future.*

3. Good governance: *Leadership, transparency, accountability, probity, proper management, effective services, equitable access to services, commitment to partnership working and organisational capacity building.*

4. Co-operation: *The exchange of good practice, support and mutual learning and partnerships with government and other stakeholders to progress the Town.*

To ensure that sustainable principles will be incorporated into major strategies council will use its policy making role to set out criteria that will assist the council to make decisions in the interests of the community and its future. Major strategies will go through a sustainability and capacity assessment process before the council makes a final commitment to move forward.

Undertaking the Sustainability Health Check (SHC) will provide a benchmark for where the Town of Cottesloe is at in terms of sustainability policies, systems and management.

FINANCIAL IMPLICATIONS

There are no required financial implications in undertaking an initial assessment of council operations utilising the SHC. However, there is the option of purchasing a \$100 CD which contains the SHC manual and can be used electronically.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Approve the undertaking of an assessment and review of the Town of Cottesloe's organisational sustainability, utilising the framework of the NSW Local Government Sustainability Health Check.
- (2) Note the outcomes of the Sustainability Health Check and discuss options for improvement and progression towards sustainability within council, based on these outcomes.

13.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Walsh

That Council:

- (1) **Approve the undertaking of an assessment and review of the Town of Cottesloe's organisational sustainability by the end of February 2009, utilising the framework of the NSW Local Government Sustainability Health Check.**
- (2) **Note the outcomes of the Sustainability Health Check and discuss options for improvement and progression towards sustainability within council, based on these outcomes.**

Carried 6/1

Mayor Morgan requested that the vote be recorded:

For: Mayor Morgan, Cr Birnbrauer, Cr Boland, Cr Dawkins, Cr Miller, Cr Walsh,

Against: Cr Utting

14 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

15 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING

Nil

16 MEETING CLOSURE

The Mayor announced the closure of the meeting at 8.31 pm.

CONFIRMED: MAYOR DATE: / /