

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, 2014**

CARL ASKEW
Chief Executive Officer

19 September 2014

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 7:02 PM.

2 DISCLAIMER

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

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor acknowledged all the work that was put into the highly successful staging of the Davis Cup tie held over three days mid September. She had received great feedback from the community and it was a credit to the Cottesloe Tennis Club. The Mayor also congratulated the Manager, Corporate and Community Services and the Rangers for a job well done with particular regard to traffic and parking arrangements.

The Mayor took the opportunity to congratulate Kate Sputore (Perth NRM officer based at Cottesloe) who won the Westpac Agribusiness Innovative Youth Landcare Leader Award. The National award was for understanding volunteer engagement and for encouraging new generations to join Coastcare and Landcare. She also coordinated the first Coastcare for Singles event in WA.

In her role as Coastal and Marine Program Manager, Kate began her association with Cottesloe in 2007 representing a number of local coastal councils and is well respected by the various Coastcare groups in the region. Her involvement with Coastcare has led to government grants being provided to groups in Cottesloe and other coastal areas. The national awards had strong nominations and the Mayor said Kate's win is very well deserved. A congratulatory letter will be sent on behalf of Council.

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

4.2 PUBLIC QUESTIONS

Nil

5 PUBLIC STATEMENT TIME

Nil

6 ATTENDANCE**Present**

Mayor Jo Dawkins

Cr Jack Walsh
Cr Helen Burke
Cr Jay Birnbrauer
Cr Philip Angers
Cr Katrina Downes

Officers Present

Mr Carl Askew
Mr Mat Humfrey
Mr Geoff Trigg
Mr Andrew Jackson
Mrs Siobhan French
Mrs Liz Yates

Chief Executive Officer
Manager Corporate & Community Services
Manager Engineering Services
Manager Development Services
Administration and Governance Officer
Development Services Administration
Officer

6.1 APOLOGIES

Cr Sally Pyvis
Cr Robert Rowell

Officer Apologies

Nil

6.2 APPROVED LEAVE OF ABSENCE

Cr Peter Jeanes

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 DECLARATION OF INTERESTS

Mayor Dawkins declared an impartiality interest in item 10.4.1 due to being a member of the Cottesloe Tennis Club.

Cr Downes declared an impartiality interest in item 10.4.1 due to being a member of the Cottesloe Tennis Club.

Cr Angers declared an impartiality interest in item 10.4.3 due to being the President of ProCott.

8 CONFIRMATION OF MINUTES

Moved Cr Walsh, seconded Cr Angers

[Minutes August 25 2014 Council.DOCX](#)

The Minutes of the Ordinary meeting of Council held on Monday, 25 August, 2014 be confirmed.

Carried 6/0

9 PRESENTATIONS**9.1 PETITIONS**

Nil

9.2 PRESENTATIONS

Nil

9.3 DEPUTATIONS

Nil

For the benefit of the members of public present, the Presiding Member advised that items 10.3.1, 10.3.2 and 10.3.3 had been withdrawn from the Development Services Committee and items 10.4.3 and 10.4.5 had been withdrawn from the Works and Corporate Services Committee. The remainder items were dealt with 'en bloc'.

10 REPORTS**10.1 REPORTS OF OFFICERS****10.1.1 19 PERTH STREET - INCLUSION ON LPS3 HERITAGE LIST**

File Ref:	SUB/343
Attachments:	19 Perth Street Aerial 19 Perth Street Floor Plan 19 Perth Street Neighbouring Property Photos 19 Perth Street MI Criteria Listing 19 Perth Street Heritage Assessment 19 Perth Street Heritage Opinion TOC 19 Perth Street Objection Letters Proposed Inclusion Heritage List Heritage Consultant Advice
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Andrew Jackson Manager Development Services
Proposed Meeting Date:	22 September 2014
Author Disclosure of Interest:	Nil

SUMMARY

This report presents to Council the proposed inclusion of 19 Perth Street on the Heritage List being created under Local Planning Scheme No. 3 (LPS3). The property has a long history of cultural heritage significance within the municipality and was fully-restored by the previous owners, preserving its heritage values and contributing to the streetscape as something of a local landmark.

The recommendation is to enter 19 Perth Street on the Heritage List.

BACKGROUND

LPS3 commenced on 1 August 2014 and Part 7 Heritage Protection requires Council to establish a Heritage List of places to be conserved drawn from its Municipal Inventory (MI). The Town has commenced this task for relevant properties throughout the district.

Prior to LPS3, on 23 June 2014 Council considered a report on an application for planning approval to demolish 19 Perth Street and refused the proposal for the following reasons:

- 1. The property is a place of cultural heritage significance included in the Town's Municipal Inventory and Town Planning Scheme Policy 12, as well as recommended to be included for heritage protection in existing Town Planning Scheme No. 2 and in proposed Local Planning Scheme No. 3.*
- 2. The heritage place has been restored to a high standard and is in excellent condition, contributing to the character and amenity of the street. Demolition of the heritage place would be detrimental to the street and locality.*

3. *The assessment provided by the applicant is not considered to be a convincing rationale for demolition of the heritage place.*
4. *An alternative heritage opinion provided to the Town supports that the heritage place ought to be retained and preserved.*
5. *Submissions invited by the Town in response to community concerns expressed about the proposed demolition attest to the cultural heritage significance of the place, and the information provided augments the knowledge of its history and fosters the appreciation of its values.*

The applicant subsequently applied to the State Administrative Tribunal (SAT) to review Council's decision. The SAT at its initial Directions Hearing on 6 August 2014 determined that consideration by Council of entering 19 Perth Street on the LPS3 Heritage List would have a direct bearing on the review of the proposed demolition. Hence a further SAT Directions Hearing has been scheduled for the day after the 22 September 2014 Council meeting to allow time for Council to decide whether to enter the property on the List. In turn this will enable the SAT to consider these two interrelated matters together, as a decision by Council to enter the property on the List is also open to review by the SAT.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Western Australian Planning Commission (WAPC) Heritage Policy

The WAPC State Planning Policy (SPP) 3.5 Historic Heritage Conservation was gazetted in 2007. The Policy has statutory bearing and its objectives are:

- to conserve places and areas of historic heritage significance;
- to ensure that development does not adversely affect the significance of heritage places and areas;
- to ensure that heritage significance at both the State and local levels is given due weight in planning decision-making; and
- to provide improved certainty to landowners and the community about the planning process for heritage identification, conservation and protection.

The Policy describes the statutory framework for heritage conservation and the relationship and responsibilities of the Heritage Council of Western Australia (HCWA), the WAPC and local governments.

It also specifies policy measures and the means for their implementation and requires local governments to have regard to specific matters relating to heritage in considering applications for planning approval. Those matters relevant to the proposed development include:

- the conservation and protection of any place or area that has been registered in the register of heritage places under the Heritage Act or is the subject of a conservation order under the Act, or which is included in the heritage list under a Scheme;

- the level of heritage significance of the place, based on a relevant heritage assessment;
- measures proposed to conserve the heritage significance of the place and its setting; and
- the structural condition of the place, and whether the place is reasonably capable of conservation.

Local government has a role in applying and supporting the policy through ensuring that due regard is given to heritage significance in development assessment, planning schemes and planning strategies.

Proposals should aim to meet this overarching policy guidance, satisfy the heritage values associated with the particular place under its heritage classifications, and address the heritage-related requirements of the local government's planning scheme and policies.

The Policy objectives and relevant matters promote the Scheme's Heritage List as an appropriate measure to recognise and protect the cultural heritage significance of higher-order heritage-classified places. 19 Perth Street is clearly such a property meriting inclusion on the Heritage List.

STATUTORY ENVIRONMENT

Planning & Development Act 2005
LPS3

FINANCIAL IMPLICATIONS

Nil.

STAFFING IMPLICATIONS

Nil.

CONSULTATION

In accordance with the LPS3 Part 7 provisions for creating the Heritage List, the Town has consulted the owners and occupiers of 19 Perth Street by notification letters (attached) inviting submissions on the proposal to enter the property on the Heritage List. No submission has been received.

The Town has also consulted a heritage consultant for a professional opinion (original attachments refer) on the merits of 19 Perth Street for consideration for entry on the Heritage List, irrespective of the proposed demolition.

Previous consultation by way of advertising the demolition proposal to nearby neighbours (original attachments refer) continues to inform Council on community views as to the heritage worth of the property.

STAFF COMMENT

Municipal Heritage Inventory

The property is classified in the Town's MI as a Category 2 place of heritage significance, which carries a preference for retention and conservation of heritage buildings rather than their loss through demolition. The MI description and history of the place is as follows:

An elegant presence in the street and of historic importance as a hospital and brothel. The original section of this house has historical significance for being constructed on part of the original subdivision prior to 1901.

A large timber-framed house built before 1901 with symmetrical front comprising a door and sidelights and flanking double-hung sash windows with flanking coupled sidelights. There is a major gable over the front door and surrounding bull-nosed verandah. It commenced life as a smaller cottage and has been enlarged at some time during its life.

In 1905 owned by Alfred Loveland, labourer. Nurse Loveland and her daughter Naomi had four rooms of this house as a hospital at some time. Reputed to also have been a boarding house and a brothel.

The associated Management Category statement defines the importance of Category 2 as:

Maximum incentives under Town Planning Scheme. High level of protection appropriate. Provide maximum encouragement to the owner under the Town Planning Scheme to conserve the significance of the place. Photographically record the place prior to any major redevelopment or demolition.

The Town's website elaborates that:

Buildings in Category 2 of the Municipal Inventory are considered to be highly important in terms of local heritage significance. Demolition approvals may be granted by the Council upon review and subsequent downgrading of the listing. As is the case with all buildings, development approval is required for any proposed alterations or additions.

The cultural heritage significance of 19 Perth Street as identified in the MI, and in complementary assessments, justifies it as a place worthy of conservation and protection under the provisions of the Scheme.

Review of MI Category 2 Places

In 2005 the Town undertook a review of MI Category 2 places and evaluation criteria towards an improved appreciation of heritage in the district, better protection of places and the future heritage list for LPS3.

The study report recommended that 19 Perth Street be retained as Category 2 and given higher protection by inclusion on Schedule 1 of then Town Planning Scheme No. 2 (TPS2). This outlook was consistent with then TPS2 Policy 12.

This work was performed by Hocking Planning & Architecture, now known as Hocking Heritage Studio, the consultancy which acted for the applicant wishing to

demolish the property. The study did not envisage demolition of the places reviewed and certainly did not foresee 19 Perth Street as a candidate for demolition.

It is noted that the report in discussing the evaluation process for Category 2 places subject to development applications advised:

The other redevelopment situation that needs to be addressed is whether Category 2 heritage places may be replaced by contemporary structures or significantly adapted.

Category 2 heritage places, determined by objective assessment methods, have that value ascribed by the community. Hocking Planning & Architecture considers that Category 2 places should only be considered for replacement by contemporary places of potentially greater cultural heritage value. The onus would be on the proponent to demonstrate how this principle would be satisfied.

In the case of 19 Perth Street, at this stage there is no replacement redevelopment proposal by the applicant or any purchaser of the three lots. It is unlikely that any modern housing developed on the land parcel could surpass the values derived from the heritage place and its significant presence in the street.

LPS3 Heritage List

Reflecting the above identified heritage value of 19 Perth Street, it is now intended to include the property on the Heritage List under LPS3.

Under LPS3 statutory heritage protection is afforded by a Heritage List created pursuant to Part 7, with listed properties drawn from (but not limited to) the MI:

7.1.1. The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.

7.1.2. In the preparation of the Heritage List the local government is to —

- (a) have regard to the municipal inventory prepared by the local government under section 45 of the Heritage of Western Australia Act 1990; and*
- (b) include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.*

The Town has commenced preparation of the Heritage List, including properties entered on the State Register of Heritage Places and on the MI Categories 1 and 2. In earlier Council workshops during the finalisation of LPS3 and recent Council briefings on the inception of LPS3 a draft Heritage List has been endorsed in-principle by Council as a basis for fulfilling the requirement under LPS3. As mentioned above, consideration of 19 Perth Street has been expedited to

accommodate the current SAT proceedings, while consideration of other properties is presently underway.

By entering 19 Perth Street on the List the aim is to accord the property a higher level of heritage protection than before.

Applicant's previous heritage report

As mentioned, the applicant previously engaged a heritage consultancy to provide a report on the proposed demolition (attached). The Town observed that the 2005 review undertaken for the Town by the same consultancy confirmed the MI Category 2 status of 19 Perth Street, as well as recommended that it be protected via then Schedule 1 of TPS2. The latter assessment report by the consultancy omitted to mention the recommendation for inclusion on Schedule 1 and attempted to diminish the bearing of TPS2 Policy 12.

The report acknowledged that 19 Perth Street demonstrates cultural heritage value, which it did not dispute. The report advised that: the dwelling is a good example of its era/type and retains many of its original architectural features, which can be visibly appreciated; the place reflects the early settlement pattern, has aesthetic value, is one of the grander houses in the street, the only one of its kind in the street and contributes to the mixed character of the street; it has aesthetic value in its own right, has specific [and locally uncommon] historic value and local social value [note: the submissions from the community elaborate on this]; and the dwelling is quite representative and in good condition, with a high level of integrity and a moderate degree of authenticity, and has been restored and well maintained.

The report concluded that 19 Perth Street has cultural heritage significance and merits its MI Category 2 classification. Despite that it then referenced the notion of context to discount this worth as "token" and put that demolition of the property would not matter. The officer assessment of that proposition was that it represents an unreasonable diminution of the value of heritage places and undermines heritage philosophy, and that demolition ought not to be allowed.

Town's previous heritage architect's opinion

At the same time the Town has obtained a detailed opinion (attached) from another heritage architect, who reviewed the applicable material and the report by the consultant for the applicant.

That advice provided a deeper analysis of the appropriate approach to assessment of the proposal to demolish the heritage place. It was unable to agree to the grounds argued by the applicant's consultant. It offered a more complete and sensitive appreciation of heritage evaluation and historical significance, including the facets of streetscape, sense of place and context.

This overview supported the higher-order local heritage standing of 19 Perth Street and its preservation in perpetuity, and concluded that demolition would be a retrograde act. It arrived at the correct conclusion that the property should be preserved and protected.

Town's additional heritage consultant's advice

Given the SAT review and the required action to establish a Heritage List the Town has sought further advice from another heritage consultant in considering the proposed inclusion of 19 Perth Street on the Heritage List in its own right; ie irrespective of the demolition proposal.

That advice is attached and provides a thorough overview of the heritage status of 19 Perth Street and its associated heritage values, as was recognised by the heritage management measures pursuant to TPS2 and as continuing to be recognised by virtue of the MI in relation to the Heritage List under LPS3. The advice also articulates appreciation of the heritage dimension of 'sense of place and the significant contribution made by 19 Perth Street in that respect. It finds that 19 Perth Street has considerable cultural heritage significance and recommends entry on the Heritage List under LPS3. This conclusion is based on a sound and comprehensive framework for the assessment of heritage significance whereby 19 Perth Street has demonstrable heritage values and standing to merit that the place is worthy of conservation under the provisions of the Scheme.

Description of place on Heritage List

As advised to the owners and occupiers of 19 Perth Street, the Town intends to use the following description of the place on the Heritage List:

An elegant presence in the street and of historic importance as a hospital and brothel. The original section of this house has historical significance for being constructed on part of the original subdivision prior to 1901. A large timber-framed house built before 1901 with symmetrical front comprising a door and sidelights and flanking double-hung sash windows with flanking coupled sidelights. There is a major gable over the front door and surrounding bull-nosed verandah. It commenced life as a smaller cottage and has been enlarged at some time during its life. In 1905 owned by Alfred Loveland, labourer. Nurse Loveland and her daughter Naomi had four rooms of this house as a hospital at some time. Reputed to also have been a boarding house and a brothel.

CONCLUSION

19 Perth Street is a clear candidate for entry on the Heritage List, as supported by its classification as Category 2 on Municipal Inventory and the examination of its cultural heritage significance in relation to the demolition application and the property in itself.

VOTING

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Angers

THAT Council:

- 1. Note this report on consideration of 19 Perth Street for entry on the Heritage List required under Local Planning Scheme No. 3, including the**

classification of 19 Perth Street on the Municipal Inventory as Category 2.

2. Note the previous report and attachments dealing with the proposed demolition of 19 Perth Street, which Council refused, as confirming the cultural heritage significance of 19 Perth Street and its Municipal Inventory Category 2 status.
3. Note that following the Town sending notification letters to the owners and occupiers of 19 Perth Street inviting submissions on the proposed entry of 19 Perth Street on the Heritage List, no submission has been received.
4. Note the advice to the Town from a further heritage consultant, supporting entry of 19 Perth Street on the Heritage List.
5. Determine to enter 19 Perth Street on the Local Planning Scheme No. 3 Heritage List, as a place of cultural heritage significance worthy of conservation under the provisions of the Scheme, together with a description of the place and the reasons for its entry as set out in this report.
6. Request staff to, as required by the Scheme, notify the Western Australian Planning Commission, the Heritage Council of Western Australia, and the owners and occupiers of 19 Perth Street that the property has been included on the Heritage List.

Carried 6/0

10.2 REPORTS OF COMMITTEES**10.3 DEVELOPMENT SERVICES COMMITTEE MINUTES - 15 SEPTEMBER 2014****10.3.1 LOCAL PLANNING SCHEME NO. 3 - TOWN AND LOCAL CENTRES DESIGN GUIDELINES**

File Ref: SUB/335
Attachments: [Proposed Design Guidelines](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 15 September 2014
Author Disclosure of Interest: Nil

SUMMARY

This report presents proposed Design Guidelines under Local Planning Scheme No. 3 (LPS3) for the Town Centre and Local Centres to supplement the Scheme provisions. The Design Guidelines relate to the main Town Centre, the Eric Street shopping centre Local Centre and the Railway Street Local Centre zones.

The proposed Design Guidelines are attached. The recommendation is to advertise the proposed Design Guidelines.

BACKGROUND

LPS3 in clause 5.9 provides for design guidelines to be created as policy as a vehicle for dealing with detail and discretion in the design aspects of development proposals:

5.9. Development requirements – Local Planning Policy Design Guidelines

5.9.1. *The local government may prepare and adopt Local Planning Policy Design Guidelines in accordance with the procedure outlined in clause 2.4, to augment the Scheme provisions with more detail to guide the planning and design of development proposals.*

5.9.2. *In considering an application for planning approval for land to which adopted Local Planning Policy Design Guidelines apply, the local government shall have regard to the Design Guidelines and shall use them as a basis on which to determine any variation allowed under the Scheme.*

The Scheme policy-making procedure is followed to accord design guidelines status under the Scheme. Local Planning Policy Design Guidelines have greater force and effect than design guidelines that are simply adopted by resolution or used in practice but not made officially pursuant to the Scheme:

2.2. Relationship of Local Planning Policies to Scheme

- 2.3.1. *If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.*
- 2.3.2. *A Local Planning Policy is not part of the Scheme and does not bind the local government in respect of any application for planning approval but the local government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.*

Note: Local Planning Policies are guidelines used to assist the local government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Design Codes. In considering an application for planning approval, the local government must have due regard to relevant Local Planning Policies as required under clause 10.2.

LPS3 in Table 2 lists specific development requirements/standards for particular zones and refers to design guidelines in a number of instances, including:

- Town Centre zone – minimum setbacks and maximum heights for the different sub-areas.
- Local Centre zone – maximum plot ratio and site cover and minimum setbacks. Although the Scheme does not mandate design guidelines here the discretion contained in these development requirements is appropriate to be addressed by such.

These typical design guidelines aspects relate to principles, standards or criteria for the design and assessment of proposed development allowing for guided flexibility and discretionary decision-making. Therefore for these zones Design Guidelines are necessary to enable development proposals to be formulated and determined.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Scheme Local Planning Policy Design Guidelines are to be had regard to.

STATUTORY ENVIRONMENT

LPS3.

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The scheme policy process for the creation of design guidelines includes public advertising and consideration of submissions, similar to for a scheme amendment.

DESIGN GUIDELINES PROPOSAL

The draft Design Guidelines were prepared by a town planning consultant based on a brief provided by staff in accordance with the framework of the Scheme aims, zone objectives and clause 10.2 matters to be considered. Preparation involved site inspections, map information and consideration of previous studies in order to appreciate the context and character of existing land use and development for each area.

The proposed Design Guidelines have been discussed by Elected Members at briefing sessions on LPS3. They have also been tested in discussing preliminary development proposals.

The Design Guidelines document explains their role and purpose, describes a broad vision for each centre and sets out the relevant development parameters for each centre in relation to the Scheme provisions.

PROCEDURE

The Scheme procedure for creating policies/design guidelines is initiated by a Council resolution, followed by advertising of the proposal inviting submissions. Advertising entails public notices in a local newspaper and a minimum of 21 day period; while dissemination via the Town's website and other means may also occur. After considering any submissions, Council resolves whether to adopt the design guidelines and any modifications. Policies/design guidelines may also be amended from time-to-time, replaced, or revoked as needs evolve.

CONCLUSION

The subject Design Guidelines are required by the Scheme and will assist with development proposals in the Town Centre and Local Centres. Advertising of the draft Design Guidelines and consideration of any submissions will enable Council to refine and finalise them as a Local Planning Policy instrument under the Scheme.

COMMITTEE COMMENT

Committee discussed the proposal at some length and considered that, further to the earlier Council briefing sessions, it was desirable to hold a Council workshop on the Design Guidelines before reporting to Council and moving to advertising them. It was felt that the workshop would assist to recap on previous suggestions for improvements to the Town Centre in particular, as well as review the draft to reflect current aspects of relevance for the centres to be reflected in the Design Guidelines.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Downes, seconded Cr Jeanes

THAT Council note the proposed Design Guidelines for the Town Centre and Local Centres and undertake public consultation in accordance with the Local Planning Policy provisions of the Scheme, for the consideration of any submissions and further reporting to Council.

AMENDMENT

Moved Cr Jeanes, seconded Mayor Dawkins

THAT the item be deferred for a workshop of Councillors and Officers to discuss further details of the proposed Design Guidelines and report back to Council prior to initiating advertising.

Carried 5/1

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Downes, seconded Cr Angers

THAT the item be deferred for a workshop of Councillors and Officers to discuss further details of the proposed Design Guidelines and report back to Council prior to initiating advertising.

Carried 5/1

10.3.2 LOCAL PLANNING SCHEME NO. 3 - AMENDMENT NO. 1

File Ref: SUB/334-02
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 15 September 2014
Author Disclosure of Interest: Nil

SUMMARY

This report presents a proposed amendment to Local Planning Scheme No. 3 (LPS3) to enable changes to existing dwellings (eg: alterations, additions, extensions) to be approved above the height limits for residential development. The amendment:

- Relates only to existing dwellings in the Residential and other relevant zones.
- Does not relate to new residential development in those zones.
- Relates to specified classes of heritage places or areas in the district.
- Does not relate to non-residential development throughout the district.
- Does not alter height limits and measures for the beachfront zones under Special Control Area 2 or for the Development Zone under the structure plan provisions of the Scheme.

The recommendation is to proceed to prepare and advertise the proposed Scheme amendment documentation.

BACKGROUND

The LPS3 height provisions evolved from former Town Planning Scheme No. 2 (TPS2) and a range of considerations during the formulation of LPS3. Overall, the height provisions are more clearly defined and contain less discretion for variations. Building height is prescribed by Table 2, which for residential development in the Residential zone is limited to two storeys. Previous TPS2 height discretion catering for extensions to existing dwellings or for heritage buildings was not reflected in LPS3. The Scheme was finalised with this height control framework.

Whilst during the passage of LPS3 it became apparent that a degree of height flexibility to deal with changes to existing dwellings was desirable, with regard to gazetting the approved Scheme it was determined by the Department of Planning to address the matter by an amendment once the Scheme commenced.

A recent development application to add patios and balconies to a three-storey block of units at 108 Broome Street has highlighted the situation. The assessment found that in the absence of express prescription to deal with the proposal there is difficulty in applying LPS3 whereby not having the capacity to approve such proposals seems unduly restrictive. As a result Council at its 25 August 2014 meeting resolved to:

Request staff to report to Council on a potential amendment to Local Planning Scheme No. 3 to incorporate a reasonable degree of carefully-guided discretion into the height provisions for residential and other development, including existing buildings.

Following review, the proposed amendment focuses on carefully-guided height discretion for extensions to existing dwellings and for heritage properties, as well as makes some minor technical improvements to certain general height provisions. It does not change the fundamental height regime in terms of height limits, measures or key provisions controlling development throughout the district.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

Planning & Development Act.
Town Planning Regulations.
LPS3.

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

The scheme amendment process includes public advertising and consideration of submissions.

AMENDMENT PROPOSAL

Officers have examined the subject LP3 height provisions and drafted modifications for the proposed Scheme amendment. Several clauses manage height, but only some require modification. The substance of the intended amendment has also been discussed previously and recently with the Department of Planning, which anticipates an amendment.

The indicative amendment was outlined to Elected Members at a briefing session on 27 August 2014 and has been further refined. The focus of the amendment has been confined to existing dwellings and to heritage development, as well as to some technical improvements to operational height provisions. The necessary changes to the Scheme provisions are set-out below.

A new clause is required to cover the height discretion for existing dwellings. The parameters are clearly prescribed and the extent of discretion is appropriately proscribed. Changes to one other clause and one Schedule are required to correlate with the new clause. Another change, to the heritage variations clause, is necessary to permit height variations for that purpose.

Adding new clause 5.7.5 as follows:

In the case of proposed alterations, additions or extensions to existing dwellings in the Residential, Residential Office, Town Centre, Local Centre, Foreshore Centre and Restricted Foreshore Centre zones, the local government may vary the maximum heights specified in Table 2 and clause 5.7.2, where in its opinion warranted due the circumstances and merits of the proposal, having regard to:

- (a) The existing heights of the dwelling;*
- (b) Any relevant Local Planning Policy or Design Guidelines;*
- (c) Any heritage considerations relating to the dwelling;*
- (d) Relevant planning considerations identified in clause 10.2;*
- (e) Adequate direct sun into buildings and appurtenant open spaces;*
- (f) Adequate daylight to major openings into habitable rooms;*
- (g) Access to views of significance;*
- (h) Building design to ameliorate the visual effects of height; and*
- (i) The amenity of adjoining properties, including road and public open space reserves, and the character of the streetscape;*

and subject to the development:

- (a) Not exceeding the existing number of storeys;*
- (b) Not exceeding the height of the existing dwelling, unless the Council is satisfied with the design and its implications having regard to the above criteria; and*
- (c) In the Foreshore Centre Zone, the development not exceeding the requirements of clause 6.4.3.1 (a) and (b).*

An application for planning approval requiring the exercise of the discretion under this clause is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any height standard or requirement as the local government thinks fit.

Adding to clause 6.3.6 as shown underlined:

In this special control area, the height of all development for any use shall conform to the requirements for single-storey or two-storey development as set out in clause 5.7.2, except that in the case of any development to either of the existing heritage dwellings, the local government may apply its discretion in accordance with clause 5.7.5.

In clause 7.5, Variations to Scheme provisions for a heritage place or heritage area, deleting words as shown:

7.5.1 The local government may grant, by way of planning approval, a variation to any site or development standard or requirement, ~~with the exception of any height standard or requirement,~~ specified in the Scheme or the Residential Design Codes if, in the opinion of the local government, the variation is necessary in order to —

- (a) conserve a heritage place entered in the Register of Places under the Heritage of Western Australia Act 1990 or listed in the Heritage List under clause 7.1.1; or*

- (b) *enhance or preserve heritage values in a heritage area designated under clause 7.2.1;*

which is the subject of the proposed development.

7.5.2 *An application for planning approval requiring the exercise of the discretion under clause 7.5.1 above is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any standard or requirement as the local government thinks fit.*

7.5.3 *In considering an application for planning approval under this clause, the local government is to have regard to any submissions received in accordance with the advertising of the application under clause 9.4.*

In Schedule 13, adding reference to clauses as shown underlined:

3. *Height (clause 5.7, Table 2)*

- 3.1 *To avoid any uncertainty, the provisions of clause 5.7 are excluded from the operation of the discretion provided in clause 5.5.1.*
- 3.2 *To avoid any uncertainty, for residential development in the Residential Zone, the maximum height set out in Table 2 may only be varied in accordance with clause 5.7.4, 5.7.5 or 6.3.6, and the provisions of clause 5.7.4 are excluded from the operation of the discretion provided in clause 5.5.1.*
- 3.3 *To avoid any uncertainty, the maximum height provisions set out in Table 2 for development in the zones listed are excluded from the operation of the discretion in clause 5.5.1.*

PROCEDURE

The Scheme amendment procedure is initiated by a Council resolution, followed by preparation of official documents and any environmental clearance prior to advertising for submissions. After considering any submissions Council resolves whether to adopt the amendment and any modifications, for forwarding to the Western Australian Planning Commission (WAPC) for assessment then the Minister for Planning for approval. Given approval, upon publication in the Government Gazette the amendment becomes incorporated into the Scheme and those provisions apply.

CONCLUSION

Amendment of the Scheme is required to cater for development proposals involving existing dwellings, allowing a reasonable degree of carefully-guided discretion. Whilst only a few changes are necessary, they are significant in facilitating dealing with alterations, additions or extensions to existing dwellings, as well as heritage buildings.

Advertising of the draft amendment and consideration of any submissions will enable Council to refine and adopt the improved provisions for endorsement by the WAPC approval by the Minister.

COMMITTEE COMMENT

Committee indicated that overall it was satisfied with the proposal. Councillor Walsh advocated caution in relation to height discretion for heritage properties which led to some discussion. The Manager Development Services clarified that the proposed new clause 5.7.5 relates to existing dwellings, which may or may not involve heritage, while the proposed change to clause 7.5 was to provide for heritage properties specifically, both residential and non-residential, throughout the district. The latter echoes a similar provision in former TPS2 and also reflects heritage incentives in accordance with the Scheme.

VOTING

Simple Majority

OFFICER AND COMMITTEE RECOMMENDATION

Moved Cr Downes, seconded Cr Burke

THAT Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Local Planning Scheme No. 3 text, to provide for height variations in relation to existing dwellings and heritage buildings, by:

(A) Adding new clause 5.7.5 as follows:

In the case of proposed alterations, additions or extensions to existing dwellings in the Residential, Residential Office, Town Centre, Local Centre, Foreshore Centre and Restricted Foreshore Centre zones, the local government may vary the maximum heights specified in Table 2 and clause 5.7.2, where in its opinion warranted due the circumstances and merits of the proposal, having regard to:

- (a) The existing heights of the dwelling;*
- (b) Any relevant Local Planning Policy or Design Guidelines;*
- (c) Any heritage considerations relating to the dwelling;*
- (d) Relevant planning considerations identified in clause 10.2;*
- (e) Adequate direct sun into buildings and appurtenant open spaces;*
- (f) Adequate daylight to major openings into habitable rooms;*
- (g) Access to views of significance;*
- (h) Building design to ameliorate the visual effects of height; and*
- (i) The amenity of adjoining properties, including road and public open space reserves, and the character of the streetscape;*

and subject to the development:

- (a) Not exceeding the existing number of storeys;*
- (b) Not exceeding the height of the existing dwelling, unless the Council is satisfied with the design and its implications having regard to the above criteria; and*
- (c) In the Foreshore Centre Zone, the development not exceeding the requirements of clause 6.4.3.1 (a) and (b).*

An application for planning approval requiring the exercise of the discretion under this clause is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any height standard or requirement as the local government thinks fit.

(B) Adding to clause 6.3.6 as shown underlined:

In this special control area, the height of all development for any use shall conform to the requirements for single-storey or two-storey development as set out in clause 5.7.2, except that in the case of any development to either of the existing heritage dwellings, the local government may apply its discretion in accordance with clause 5.7.5.

(C) In clause 7.5, Variations to Scheme provisions for a heritage place or heritage area, deleting words as shown:

7.5.1 *The local government may grant, by way of planning approval, a variation to any site or development standard or requirement, ~~with the exception of any height standard or requirement,~~ specified in the Scheme or the Residential Design Codes if, in the opinion of the local government, the variation is necessary in order to —*

(a) conserve a heritage place entered in the Register of Places under the Heritage of Western Australia Act 1990 or listed in the Heritage List under clause 7.1.1; or

(b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1;

which is the subject of the proposed development.

7.5.4 *An application for planning approval requiring the exercise of the discretion under clause 7.5.1 above is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any standard or requirement as the local government thinks fit.*

7.5.5 *In considering an application for planning approval under this clause, the local government is to have regard to any submissions received in accordance with the advertising of the application under clause 9.4.*

(D) In Schedule 13, adding reference to clauses as shown underlined:

3. *Height (clause 5.7, Table 2)*

3.1 *To avoid any uncertainty, the provisions of clause 5.7 are excluded from the operation of the discretion provided in clause 5.5.1.*

3.2 *To avoid any uncertainty, for residential development in the Residential Zone, the maximum height set out in Table 2 may only be varied in accordance with clause 5.7.4, 5.7.5 or 6.3.6, and the provisions of clause 5.7.4 are excluded from the operation of the discretion provided in clause 5.5.1.*

3.3 *To avoid any uncertainty, the maximum height provisions set out in Table 2 for development in the zones listed are excluded from the operation of the discretion in clause 5.5.1.*

- (2) Request the Manager Development Services to prepare the amendment documents, upon which the Chief Executive Officer shall adopt and endorse the amendment documents on behalf of Council.
- (3) Pursuant to section 81 of the Planning and Development Act 2005, refer the proposed amendment to the Department of Environment for clearance prior to advertising.
- (4) Advertise the proposed amendment for public comment for a period of 42 days by:
 - (i) Placing a copy of the notice in the Post newspaper, on the Town's notice board/s and website, and at the Library; and
 - (ii) Placing a copy of the proposed amendment on display at the Town's Office, on the Town's website and at the Library.
- (5) Provide the Western Australian Planning Commission with a copy of the proposed scheme amendment.

COUNCIL COMMENT

Mayor Dawkins referred to the officer memorandum of 22 September 2014 advising of a desirable refinement to also apply height discretion to properties on the Municipal Inventory. As a result, Mayor Dawkins proposed to move an amendment to the officer and committee recommendation.

AMENDMENT

Moved Mayor Dawkins, seconded Cr Angers

That in item (C) after the word "shown" the words "and adding words as underlined" be added.

That in clause 7.5.1 (a) after the date "1990" the word "or" be deleted and a comma added.

That in clause 7.5.1 (a) after "7.1.1" the words "or classified in the municipal inventory" be added.

Carried 6/0

COUNCIL RESOLUTION

THAT Council:

- (1) **In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Local Planning Scheme No. 3 text, to provide for height variations in relation to existing dwellings and heritage buildings, by:**

(A) Adding new clause 5.7.5 as follows:

In the case of proposed alterations, additions or extensions to existing dwellings in the Residential, Residential Office, Town Centre, Local Centre, Foreshore Centre and Restricted Foreshore Centre zones, the

local government may vary the maximum heights specified in Table 2 and clause 5.7.2, where in its opinion warranted due the circumstances and merits of the proposal, having regard to:

- (a) The existing heights of the dwelling;*
- (b) Any relevant Local Planning Policy or Design Guidelines;*
- (c) Any heritage considerations relating to the dwelling;*
- (d) Relevant planning considerations identified in clause 10.2;*
- (e) Adequate direct sun into buildings and appurtenant open spaces;*
- (f) Adequate daylight to major openings into habitable rooms;*
- (g) Access to views of significance;*
- (h) Building design to ameliorate the visual effects of height; and*
- (i) The amenity of adjoining properties, including road and public open space reserves, and the character of the streetscape;*

and subject to the development:

- (a) Not exceeding the existing number of storeys;*
- (b) Not exceeding the height of the existing dwelling, unless the Council is satisfied with the design and its implications having regard to the above criteria; and*
- (c) In the Foreshore Centre Zone, the development not exceeding the requirements of clause 6.4.3.1 (a) and (b).*

An application for planning approval requiring the exercise of the discretion under this clause is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any height standard or requirement as the local government thinks fit.

(B) Adding to clause 6.3.6 as shown underlined:

In this special control area, the height of all development for any use shall conform to the requirements for single-storey or two-storey development as set out in clause 5.7.2, except that in the case of any development to either of the existing heritage dwellings, the local government may apply its discretion in accordance with clause 5.7.5.

(C) In clause 7.5, Variations to Scheme provisions for a heritage place or heritage area, deleting words as shown and adding words as underlined:

7.5.1 *The local government may grant, by way of planning approval, a variation to any site or development standard or requirement, ~~with the exception of any height standard or requirement,~~ specified in the Scheme or the Residential Design Codes if, in the opinion of the local government, the variation is necessary in order to —*

- (a) conserve a heritage place entered in the Register of Places under the Heritage of Western Australia Act 1990, listed in the Heritage List under clause 7.1.1 or classified in the municipal inventory; or*

(b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1;

which is the subject of the proposed development.

7.5.4 *An application for planning approval requiring the exercise of the discretion under clause 7.5.1 above is to be advertised in accordance with clause 9.4 and the notice of the application is to include such reference to the variation sought to any standard or requirement as the local government thinks fit.*

7.5.5 *In considering an application for planning approval under this clause, the local government is to have regard to any submissions received in accordance with the advertising of the application under clause 9.4.*

(D) In Schedule 13, adding reference to clauses as shown underlined:

3. *Height (clause 5.7, Table 2)*

3.1 *To avoid any uncertainty, the provisions of clause 5.7 are excluded from the operation of the discretion provided in clause 5.5.1.*

3.2 *To avoid any uncertainty, for residential development in the Residential Zone, the maximum height set out in Table 2 may only be varied in accordance with clause 5.7.4, 5.7.5 or 6.3.6, and the provisions of clause 5.7.4 are excluded from the operation of the discretion provided in clause 5.5.1.*

3.3 *To avoid any uncertainty, the maximum height provisions set out in Table 2 for development in the zones listed are excluded from the operation of the discretion in clause 5.5.1.*

- (2)** Request the Manager Development Services to prepare the amendment documents, upon which the Chief Executive Officer shall adopt and endorse the amendment documents on behalf of Council.
- (3)** Pursuant to section 81 of the Planning and Development Act 2005, refer the proposed amendment to the Department of Environment for clearance prior to advertising.
- (4)** Advertise the proposed amendment for public comment for a period of 42 days by:
- (iii)** Placing a copy of the notice in the Post newspaper, on the Town's notice board/s and website, and at the Library; and
 - (iv)** Placing a copy of the proposed amendment on display at the Town's Office, on the Town's website and at the Library.
- (5)** Provide the Western Australian Planning Commission with a copy of the proposed scheme amendment.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 5/1

10.3.3 REVIEW OF DELEGATION FOR PLANNING MATTERS

File Ref: SUB/38-02
Attachments: [Current Delegation](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 15 September 2014
Author Disclosure of Interest: Author's position has delegation

SUMMARY

This report presents a review of the delegation of planning powers to senior officers arising from the replacement of former Town Planning Scheme No. 2 (TPS2) by new Local Planning Scheme No. 3 (LPS3).

Preliminary explanation and discussion in this regard has occurred at Elected Member briefing sessions on LPS3. The recommendation is that Council adopt the updated delegation arrangement.

BACKGROUND

Decision-making for town planning matters involves delegation of some of Council's powers to senior staff for efficiency in handling lesser matters, reduced timelines for customers and manageable Development Services Committee meetings.

The power of this delegation stems from a local government's planning scheme. LPS3 in clause 11.3 Delegation of Functions provides for Council to delegate to the CEO any of its powers or duties under the Scheme, and for the CEO to sub-delegate such to any employee.

Delegation to the CEO, Manager Development Services (MDS) and the Senior Planning Officer for the MDS has operated well under previous TPS2 for many years. With the introduction of LPS3 it is necessary to continue the delegation arrangement and to review the details for consistency with the new Scheme and the latest Residential Design Codes (RDC).

In addition the delegation covers matters regarding the Metropolitan Region Scheme and subdivision procedures.

Although these planning delegations are perpetual they can be repeated annually with other Council delegations or updated whenever required.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

- Local Government Act 1995
- Planning & Development Act 2005
- Metropolitan Region Scheme
- Local Planning Scheme No. 3
- Residential Design Codes

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CURRENT DELEGATION

The current delegation statement (attached) is a somewhat complicated document, and is summarised as follows.

Development applications

The current delegation instrument permits senior staff to approve (or refuse, as guided) development applications for:

- Single dwellings and associated development (eg carports, sheds, pools, fences).
- Ancillary dwellings (eg granny flats).
- A maximum of two grouped dwellings (townhouses) or multiple dwellings (apartments).
- Home Occupations and Home Businesses (Home Offices as defined do not require planning approval).
- Additions and alterations to residential units.
- Additions and alterations to commercial premises.
- Changes of use.
- Demolition; except for places on the State Register, Scheme Heritage List or Municipal Inventory Categories 1 or 2.
- Renewal of or variations to Council approvals.

This includes dealing with such development applications in the Stirling Highway Primary Regional Road Reservation under the Metropolitan Region Scheme, as delegated to local governments by the Western Australian Planning Commission (WAPC).

Refusal under delegation may be exercised only when the proposal does not comply with mandatory provisions of the Scheme, Scheme Policies or RDC; ie discretionary refusals are to be determined by Council. This means that proposals for which the decisions may be appealed are considered by Council. The incidence of refusals under delegation or by Council is low.

Subdivision matters

Subdivision procedures involving local governments stem from the Planning Act rather than planning schemes.

Currently Council has delegated that senior staff can recommend approval and conditions or refusal to the WAPC, and clearance of conditions, for subdivision or amalgamation proposals, which includes strata proposals, for single dwellings that:

- Conform to the Scheme (and therein the RDC) and Scheme Policies.
- Conform to a related development approval.

This is except for places on the State Register, Scheme Heritage List or Municipal Inventory Category 1 and 2 buildings, which are to be dealt with by Council.

In addition, the delegation covers all minor residential or other subdivision or amalgamation proposals, such as boundary adjustments, ROW widenings, corner truncations, etc in relation to any zoning, land use or development; which are considered to be virtual technicalities and of no consequence to other parties nor of strategic significance. Often these arise from the implementation of development approvals.

Subdivision conditions recommended are to meet the requirements of the Scheme, Scheme Policies, RDC and development approvals and to preserve the amenity of the area by site controls.

Currently, in the case of an application to subdivide existing lots containing single dwellings, where those lots do not meet the average lot size for their density code, if the size of the overall site permits grouped dwellings, a recommendation to the WAPC may be made under delegation; otherwise the Town's recommendation on the proposal is determined by Council. Note that this is restrictive and could be expanded to include existing lots with grouped dwellings, as well applying the up to 5% site area concession under the RDC.

Exercising delegation

As currently written the delegation is to be exercised subject to:

- Advertising of proposals for submissions as required by the Scheme or otherwise.
- Submissions received where relevant being addressed by conditions or mediation.
- Residential development applications satisfying the deemed-to-comply provisions or the design principles of the RDC.
- Special Purpose Dwellings satisfying the deemed-to-comply provisions of the RDC; ie any discretion under the design principles of the RDC is to be determined by Council. Note that this is restrictive as minor variations under the design principles of the RDC are capable of being managed under delegation for this type of dwelling, as above for other types, and this type of residential development is both small and infrequent.

The current delegation excludes determining:

- Height variations under the Scheme.
- Density variations under the RDC (ie concessions or bonuses).
- Development forward of the six-metre primary street setback pursuant to Council's 2002 Resolution, unless permitted to be varied under Scheme Policy (eg for garages or carports). Note that under LPS3 this is now outmoded.
- Mixed-use development under the RDC.

The delegation administrative procedure of a weekly notice to Elected Members and the CEO with call-in capacity works well and is to remain unchanged.

PROPOSED DELEGATION

LPS3 differs from former TPS2 in various respects and the current RDC have also been significantly revised. The delegation needs to respond to these latest planning controls and the proposals they will attract and guide.

Determination of applications

The following changes to the nature or extent of matters covered by the delegation are identified as appropriate.

Applications generally:

- Increase the maximum number of grouped or multiple dwellings to be dealt with under delegation from two to four.
- Delegate dealing with conforming subdivision, amalgamation and strata proposals not only for single dwellings but also for grouped or multiple dwellings (which occurs with strata proposals anyway).
- Delegate dealing with Special Purpose Dwellings which satisfy not just the deemed-to-comply provisions of the RDC but also the design principles of the RDC; ie as delegated for other types of residential development.
- Delegate applying height variations as permitted under the Scheme, where no objection is received to an advertised proposal.
- Delegate dealing with residential density variations which may be permitted under and as guided by the RDC in association with development applications, eg aged and dependent persons dwellings.
- For clarity, delegate dealing with fences, walls and gatehouses which are in accordance with the Scheme, RDC and any relevant Scheme Policy or Local Law.

Specific matters under LPS3:

- Delegate dealing with all advertisements (ie signage), including for heritage places, but at the officer's discretion refer proposals to the Development Services Committee and Council.
- Delegate issuing notices to remove or repair existing advertising signage.

Residential setbacksOverview:

- In relation to TPS2, in 2002 Council passed a resolution to favour a 6m front setback for residential development throughout the district. This was despite the then Residential Planning Codes providing for lesser setbacks in a range of situations.
- It was also despite TPS2 and the Codes prevailing over a Council resolution in terms of statutory bearing; ie a Council resolution expresses a position or practice but does not have the status of a Council Policy or Scheme Policy.
- With the formulation and introduction of LPS3, as well as the latest RDC, the resolution has less relevance and weight. Also, over time Council has made numerous reasoned decisions departing from the resolution.
- Further, because the resolution was made in the context of (but not directly under the provisions of) now defunct TPS2 and the former Codes, it is effectively redundant.
- This overall change of circumstances and inconsistency needs to be reviewed.

Detailed discussion:

In today's schemes, including LPS3, residential setbacks are managed primarily by the RDC, which are incorporated into Schemes and are intentionally flexible, allowing for variation based on the assessment of design principles.

In 2002 Council passed a Resolution generally preferring a standard 6m front setback for residential development throughout the district, irrespective of density coding and excluding setback averaging. This responded to the Residential Planning Codes of the time and recognised the pattern of traditionally greater front setbacks affording uniform streetscapes in many (although not all) localities. For over a decade the Town has applied this informal policy fairly successfully, partly due to large sites and cooperation from owners/designers. Council has also relaxed this approach and permitted lesser front setbacks in a number of carefully-considered situations, such as corner subdivisions, small lots, where there are adjoining reduced setbacks, streets characterised by lesser setbacks and where there are no dwellings opposite (eg Marine Parade). This has been in R20 areas as well as medium density-coded areas (eg R30, R40), and for both extensions to existing dwellings and new dwellings.

It is noted, however, that the Resolution carries limited weight, and does not have the bearing of a Scheme provision or Policy. Essentially, the Scheme prevails and in this respect:

- LPS3 relies predominantly on the RDC setback controls, which have since evolved and vary across a range of density codes.
- Whilst under the RDC R20 density-coded areas have a 6m front setback as a starting point, they may attract averaged front setbacks and other setback variations in accordance with the latest RDC.
- Clause 5.3.7 of LPS3 is the only prescribed variation to the RDC front setbacks, and reads:

Despite anything contained in the Residential Design Codes to the contrary, in the case of areas with a residential density code of R30, the local government may require an R20 front setback of 6m to be applied, for the preservation of streetscapes, view corridors and amenity.

- This provision for a greater setback accords more force than the Resolution, but is not mandatory and is applied by Council at its discretion, hence is appealable (in the same way that RDC setback reductions sought but refused are appealable).
- Further, it is at odds with the facts that the Scheme does not apply this provision to areas with density codes of less than R30 and that areas of R30 or greater density code have lesser setbacks under the RDC, as well as at odds with higher density codes applied under LPS3.
- To address this situation and clarify its direction Council could consider amending the Scheme, including reviewing the above clause 5.3.7, or creating a Scheme Policy on streetscape setbacks, including having regard to heritage properties and areas.
- Alternatively, to be consistent with the Scheme as adopted by Council and approved, which overrides the Resolution, the officer delegation should now be extended to allow approval of development with front setbacks where compliant with the Scheme or RDC, ie including averaging and other variations as guided by the RDC.
- Front garages and carports would be included in applying averaged setbacks. Note that this differs from the previous TPS2 Policy for these structures in front setbacks; however, under the deemed-to-comply provisions of the RDC the streetscape visual result of such new development would tend to be better than under the previous Policy.
- On this basis it is concluded that the 2002 Council Resolution has become outmoded and should be rescinded.

Subdivision matters

- Expand the delegation *“In the case of an application to subdivide existing lots containing single dwellings, where those lots do not meet the average lot size for their density code, if the size of the overall site permits grouped dwellings, a recommendation to the WAPC may be made under delegation.”* to include existing lots with grouped dwellings, as well applying the up to 5% site area concession under the RDC.

Enforcement and administration

- Delegate to the CEO authorisation of employees to inspect properties for the purposes of the Scheme.

Exercising delegation

- Maintain the current administrative practices.

CONCLUSION

The purpose of the delegation is for efficiency for customers and Council. It has been successful for the following reasons:

- Being aware of quicker decisions under delegation applicants are more inclined to ensure complying proposals.
- Delegation is effective in distinguishing between minor and major matters and provides appropriate flexibility for applying guided discretion.
- Neighbour notification and liaison are part of the process.
- Officers vet applications for potential delegated decisions and if in doubt refer proposals to the Development Services Committee and Council.
- The notification procedure informs Councillors, who may enquire about a proposal and if concerned refer it to the Development Services Committee and Council.

A revised delegation arrangement for LPS3 will ensure updated, ongoing efficiency and consistency in processing and determining planning proposals. Following Council approval the revisions will be made to the current delegation statement.

COMMITTEE COMMENT

Committee indicated it was satisfied with proposed updated delegation arrangement and the Manager Development Services confirmed that the weekly Delegation Notice to Elected Members with call-in power would continue unchanged.

COMMITTEE COMMENT

Council discussed the report and recommendation and Cr Birnbrauer raised matters related to the use of “registered mail” and the renewal of or variation to Council approvals. The Manager Development Services advised that these aspects were already provided for by the Scheme and delegation, and Council determined that they be examined and dealt with as administrative procedures as appropriate.

VOTING

Absolute Majority required by Scheme.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Downes, seconded Cr Walsh

THAT Council:

1. Pursuant to clause 11.3 of Local Planning Scheme No. 3, continue the delegation of authority for town planning purposes from Council to the Chief Executive Officer, the Manager Development Services and the Senior Planning Officer in the absence of the Manager Development Services, subject to the following revisions:

Applications generally:

- Increase the maximum number of grouped or multiple dwellings to be dealt with under delegation from two to four.
- Delegate dealing with conforming subdivision, amalgamation and strata proposals not only for single dwellings but also for grouped or multiple dwellings.

- Delegate dealing with Special Purpose Dwellings which satisfy not just the deemed-to-comply provisions of the RDC but also the design principles of the RDC.
- Delegate applying height variations as permitted under the Scheme, where no objection is received to an advertised proposal.
- Delegate dealing with residential density variations which may be permitted under and as guided by the RDC in association with development applications.
- Delegate dealing with fences, walls and gatehouses which are in accordance with the Scheme, RDC and any relevant Scheme Policy or Local Law.

Specific matters under LPS3:

- Delegate dealing with all advertisements, including for heritage places, but at the officer's discretion proposals may be referred to the Development Services Committee and Council.
- Delegate issuing notices to remove or repair existing advertising signage.
- Delegate approval of residential development, including garages, carports and other structures, with front setbacks where compliant with the Scheme or RDC, including averaging and other variations as guided by the RDC,

Subdivision matters:

- Expand the delegation *"In the case of an application to subdivide existing lots containing single dwellings, where those lots do not meet the average lot size for their density code, if the size of the overall site permits grouped dwellings, a recommendation to the WAPC may be made under delegation."* to include existing lots with grouped dwellings, as well applying the up to 5% site area concession under the RDC.

Enforcement and administration:

- Delegate to the CEO authorisation of employees to inspect properties for the purposes of the Scheme.
2. Given the provisions under Local Planning Scheme No. 3 and the Residential Design Codes for the control of front setbacks, rescind its 28 October 2002 Resolution to generally require a six metre front setback for residential development, without averaging, in the district.

Carried 6/0

**10.4 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 16
SEPTEMBER 2014**

Mayor Dawkins declared an impartiality interest in item 10.4.1 due to being a member of the Cottesloe Tennis Club, and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she would consider the matter on its merits and vote accordingly.

Cr Downes declared an impartiality interest in item 10.4.1 due to being a member of the Cottesloe Tennis Club, and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she would consider the matter on its merits and vote accordingly.

**10.4.1 COTTESLOE TENNIS CLUB – APPLICATION FOR COMMUNITY SPORT
AND RECREATION FACILITY FUND (CSRFF)**

File Ref:	SUB/1873
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Mat Humfrey Manager Corporate & Community Services
Proposed Meeting Date:	16 September 2014
Author Disclosure of Interest:	Nil

SUMMARY

Council is being asked to consider endorsing the Cottesloe Tennis Club's (CTC) application to the Department of Sport and Recreation's (DSR) Community Sport and Recreation Facility Fund (CSRFF) and how the Town may contribute to the one third of the project cost traditionally associated with such projects.

BACKGROUND

The Department of Sport and Recreation makes funding available on an annual basis for the development of new community sport and recreation facilities. The main funding pool used for this purpose is the Community Sport and Recreation Facility Fund (CSRFF) – which has very specific guidelines and submission requirements.

The Cottesloe Tennis Club have prepared an application to CSRFF and have developed the associated supporting material. As a part of the application process, CTC needed to have their application to the Town no later than 31 August 2014 – which they achieved. The Town has to submit the application to the Department of Sport and Recreation no later than 30 September 2014. Even if Council does not support the application, it is customary for the application to be forwarded with the appropriate Council minutes.

Traditionally, CSRFF projects are funded on a sharing basis between CSRFF, the club making the application and the local government in which the club is situated, on a one third basis. CSRFF specifically state that they will not fund more than one third, leaving the remaining two thirds to be worked out between the local government and club making the application.

When the Long Term Financial Plan (LTFP) was prepared late last year, this project was not known and hence no allocation has been made within it. The LTFP will be reviewed in the near future and could be amended to show an allocation, or other funding options for this project, should Council wish to do so.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

Council is being asked to consider contributing \$284,000 to this project. At this stage, no funding allocations have been made in either the LTFP or annual budgets for such a project.

The Town has a history of making available self supporting loans to sporting clubs seeking to improve their facilities. In recent times, loans have been made available to the Cottesloe Tennis Club and Seaview Golf Club for improvements.

The current self supporting loan to the Cottesloe Tennis Club will be finalised in the first half of the current financial year. The yearly payments on that loan were approximately \$61,000 per annum. As the club has not made any formal approaches regarding a loan for their contribution, it is feasible that the Town's one third could be comprised of a mixture of loan and contribution.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

According to the documentation provided by the CTC, the reconfiguration of the courts will reduce the water and energy requirements of the facility. It will also concentrate the "floodlit" court area, reducing the impact of light spilling into nearby John Black Dune Park.

CONSULTATION

Nil

STAFF COMMENT

The application put forward by the Cottesloe Tennis Club is well put together and presents the application in the best possible light. The required Needs Analysis and Feasibility Report have been included and are professionally presented. The CTC should be commended on the effort that they have put into preparing the documentation.

The challenge that this application will face is the cost of the project against the number of additional courts that it will deliver. Judging from the drawings provided in the Feasibility Study, the complex will end up with an additional three hard courts and two synthetic courts. The remainder of the cost is for the moving of current facilities.

The Department of Sport and Recreation, who administer these grants, have a long held position of not funding replacement facilities. They will fund upgrades or additions, but not straight replacements. The rationale is that once in place, facilities should be able to be maintained and replaced from the contributions received from the users of such facilities.

It is also worth noting that the CSRFF process is a competitive tender. If the fund is oversubscribed this year, the threshold for the funding of projects will be higher than in a year where the fund is undersubscribed. As such, it isn't always just a matter of meeting the criteria, the return on the project will also be compared to other similar applications, all competing for the same grant.

While it is always requested that Councils provide an indication on whether or not financial support will be given to a project, the final allocation cannot be made until the Council sets its budget each year. The earliest that Council could actually commit funds to the project would be in June 2015.

The selection process for CSRFF usually concludes in March each year, with successful applicants advised in April. If the CTC is successful in attaining a grant, any allocation provided could be included in the following year's budget, via the normal budget process.

The recommendation below suggests that the application should be endorsed and a self supporting loan facility provided. As stated, the presence of the loan facility and any funding is only an indication and does not represent a final commitment.

Lastly, the Town has a number of sporting facilities, most of which could benefit from a grant from the CSRFF process. The grants from CSRFF are usually for large projects with significant capital costs. This could include floodlighting, new surfaces or replacement change and ablution facilities. If the Town agrees to fund the one third in this instance, it is likely that other clubs will ask for similar grants in following years to update or expand their own facilities.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Cr Downes queried how the Town will contribute one third of the project cost. Manager Corporate and Community Services (MCCS) advised that the Town does not currently have an allocation in the Long Term Financial Plan for contributing to Cottesloe Tennis Club improvements and expansion. MCCS commented that if the Club's application for funding is successful, an allocation for the works can be considered as part of next year's budget process. MCCS added that the Department of Sport and Recreation do not require information on how the Town will contribute towards the project simply that the Town is willing to commit to contributing the funds.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council:

- 1. Endorse the application from the Cottesloe Tennis Club and forward it to the Department of Sport and Recreation; and**
- 2. Include an amount of \$284,000 in the Long Term Financial Plan as a self supporting loan for the one third contribution from the Town.**

Carried 6/0

10.4.2 LEASE EXTENSION – 81 FORREST STREET - SHINE COMMUNITY SERVICES

File Ref: SUB/987
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate & Community Services
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

The extension for 81 Forrest Street, Cottesloe (Shine Community Services), is being presented for final approval.

BACKGROUND

At its July meeting, Council approved the advertising of its intention to extend the lease for 81 Forrest Street, to Shine Community Services, for a further period of 10 years. The extension was to be on the same terms and conditions as the current lease agreement.

The relevant notices and advertisements have been placed and no submissions were received.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

Nil

As the lease will be extended on the same terms and conditions, there are no perceived financial implications from the extension of the lease.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The intention to lease the property to Shine was advertised in the local newspaper and a notice placed on all Council notice boards. No submissions or comments were received.

STAFF COMMENT

Shine Community Services (formerly TAPPS) have provided a needed community service for the region for many years now. The relationship between the Town and Shine has been a positive one and there are no issues that have been raised with their continuing use of the building.

As the intention has been advertised and relevant notices placed, Council can now authorise the signing and sealing of the lease extension.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council authorise the Mayor and Chief Executive Officer to execute the lease extension for Shine Community Services under common seal.

Carried 6/0

Cr Angers declared an impartiality interest in item 10.4.3 due to being the President of ProCott, and stated that as a consequence there may be a perception that his impartiality may be affected and declared that he would consider the matter on its merits and vote accordingly.

10.4.3 COTTESLOE VILLAGE CARNIVAL

File Ref: SUB/1863
Attachments: [Cottesloe Village Carnival Event Application](#)
[Cottesloe Village Carnival Site Map](#)
Responsible Officer: Mat Humfrey
Manager Corporate & Community Services
Author: Sherilee Macready
Community Development Officer
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

Cottesloe Village Carnival is a street festival organised by Procott and held in the Cottesloe Village. This year's event is scheduled for Saturday 8 November 2014, between 12.00pm and 7.00pm.

BACKGROUND

The event (formerly named, Hullabaloo in the Village), is a celebration of the best things that Cottesloe has to offer, promoting the lifestyle and opportunities available to the Cottesloe community. This year the Festival is one day in duration, as was the 2013 event.

The theme this year is "classic coastal culture" with a focus on a variety of local community stalls which incorporate creative artists as well as food and entertainment.

The event is being organised by Procott, the local business association, and I Spy Entertainment. I Spy Entertainment organise many large events at an elite and administrative level, ranging from, but not limited to: the Official Heath Ledger Tribute (2011); the Perth Thunder Ice Hockey Launch (2012); the Resolution NYD rooftop pool party in Kings Park; and 'A Night Under the Stars' at Movies by Burswood.

I Spy Entertainment also pride themselves on collaborating with quality brands and individuals to provide high quality outcomes. Groups which have included: Channel 7; Kailis Jewellery; His Majesty's Theatre Foundation; Campari Group; Russell James; Hawaiian Group; Perth Fashion Festival; Sony Music Australia; Cable Beach Club Broome and The Terrace Hotel.

I Spy Entertainment claim to bring a wealth of experience and creativity, to ensure that the 2014 event moving forward becomes a fixed event on the West Australian social calendar. This will be through initiatives that include more of a focus on 'online' and 'social media' marketing than in previous years, with a view to building a substantial event database to effectively market the event to West Australians, as well as initiatives within the event itself. The event will still look to keep its 'local community' focus, but with a purpose to make it more *open* and *appealing* to the

greater West Australian population. A rebranding of the event name (approved by the Procott Board), to 'Cottesloe Village Carnival', reflects *both* the event *and* the local community, in the way that the Beaufort Street Festival, or the Fremantle Festival does, for example.

Napoleon Street will be closed to traffic entering from Stirling Hwy and Railway Street. The road will close at 3.00pm on Friday 7 November 2014 and reopen at 10.00am on Sunday 9 November 2014. A private car park at the western end of Station Street will also be closed to traffic at 3.00pm on Friday 7 November 2014, and will reopen at 10.00am on Sunday 9 November 2014. Organisers have gained approval from the car park owners to close the car park. I Spy Entertainment will engage the services of a Certified Traffic Management Planner, to write and implement a traffic management plan. Procott have also been advised of the requirement to have authority from Main Roads WA to close a road.

This year's event is building on the 2013 event which had more of an 'arts feel', with engagement of high quality 'busking style' acoustic entertainers, local schools groups and local musical acts, in addition to the various stalls on Napoleon Street. Raising the height of the event stage with a purpose to elevate the viewing height for patrons has been briefly floated as an idea for the event.

A wine and boutique beer tasting stall will again be set up at the western private car park on Station Street and will be open to the public between 12.00pm and 7.00pm, indicated on the attached map. The required Alcohol Permit will be in place for the event. A sectioned licensed alcohol service area will be cordoned off with bunting, and will have crowd control security in attendance.

Suitable Certificates of Currency for Public Liability Insurance are required to be presented to the satisfaction of the Chief Executive Officer prior to the event.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Outdoor Concerts and Large Public Events Policy

STATUTORY ENVIRONMENT

Main Roads WA is the statutory authority that can authorise road closures.

FINANCIAL IMPLICATIONS

The main cost to the Town in approving this event will be in the officer's time, particularly the Community Development Officer who will assist with preparation tasks leading up to the event, and Rangers, who will be required to assist at the event. The costs can be met within existing budgets.

Council also contributes over \$80,000 annually to Procott to assist with activities to promote the Town Centre. This money is raised through the application of a differential rate.

STAFFING IMPLICATIONS

Rangers will be required to assist at the event.

SUSTAINABILITY IMPLICATIONS

Adequate arrangements are made for rubbish collection and removal, including the provision for recycling.

Encouragement of water conservation initiatives by organisers will be suggested based on the Sustainability Officer's recommendations.

CONSULTATION

Procott as the organisers of the event will consult with all the businesses that will be directly or indirectly affected by the running of this event, through the event management company employed to coordinate the event.

STAFF COMMENT

The Procott Board have promoted that a Festival/Carnival would optimise opportunities to bring both the retailers, service providers and local community groups in the Cottesloe business district together in a village style atmosphere that would highlight the best that Cottesloe has to offer.

The event showcases Cottesloe to wider community as having a relaxed atmosphere, and an alternative to Subiaco and Claremont.

Last year's Hullabaloo in the Village event was a success, with approximately 8,000 people attending the one day Festival on Napoleon Street, together with the Western car park of Station Street, which was an increase on the previous two years, and included an increase in the number of families attending the event. Feedback received highlighted the friendly atmosphere of the event, together with the addition of the quality "upmarket" stalls, and engaging "busker style" acoustic entertainment.

Noise levels generated by the entertainment, which were a concern of previous years, were well addressed in the 2013 event, with again a higher proportion of positive feedback received from retailers and patrons to the low key "busking style" acoustic entertainment. Organisers of this year's event are planning to use similar style entertainers, together with engaging local community groups and entertainers.

To counteract lack of parking at the event, only Napoleon Street will be closed to traffic and parking, together with the Western car park on Station Street. In addition, patrons attending the event will be encouraged to walk, cycle or catch the train to the event, and for those that have to drive to the event, places to park will be promoted by the organisers.

Due to the positive feedback received regarding the 2013 event, the thorough risk assessment and event management plan, officers recommend that the event be allowed to proceed with conditions. The conditions are intended to ensure that Procott are aware of their obligations and to protect the interests of the Town.

COMMITTEE DISCUSSION

Committee discussed the report at length querying the serving of alcohol and the midday start time. Committee expressed concern that the event is traditionally a family event and by commencing at midday, it may be too late and too hot for many families to attend. Cr Angers advised that he will discuss Committee's concerns with ProCott and if necessary, propose an alternative start time before the next Council meeting.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Birnbrauer

THAT Council approve the application from I Spy Entertainment and Procott to hold the Cottesloe Village Carnival on Napoleon Street, on Saturday 8 November 2014 from 12:00pm to 7.00pm, with the following conditions:

1. Adequate arrangements are made for rubbish collection and removal, including the provision for recycling.
2. Compliance with the *Environmental Protection (Noise) Regulations 1997*.
3. Compliance with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*.
4. Class the event as "Charitable/Community" and charge no fee for the event.
5. Provision of a certificate of currency to certify that organisers have adequate Public Liability Insurance for all components of the event.
6. Appropriate road closure permits are granted by Main Roads WA.
7. Appropriate Alcohol Permits are granted by the Department of Racing, Gaming and Liquor.
8. The Traffic Management Plan and provider are approved by Main Roads WA, and the plan provided to Cottesloe Police.

COUNCIL DISCUSSION

The Mayor referred to the officer memorandum of 22 September 2014, advising that ProCott have requested that the start time for the Cottesloe Village Carnival be changed to 10.00am. As a result, Cr Downes proposed to move an amendment to change the start time of the event.

AMENDMENT

Moved Cr Downes, seconded Cr Walsh

That after the word "from" the time "12:00pm" be removed and replaced with "10:00am".

Carried 6/0

COUNCIL RESOLUTION

THAT Council approve the application from I Spy Entertainment and Procott to hold the Cottesloe Village Carnival on Napoleon Street, on Saturday 8 November 2014 from 10:00am to 7.00pm, with the following conditions:

- 1. Adequate arrangements are made for rubbish collection and removal, including the provision for recycling.**
- 2. Compliance with the *Environmental Protection (Noise) Regulations 1997*.**
- 3. Compliance with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*.**
- 4. Class the event as “Charitable/Community” and charge no fee for the event.**
- 5. Provision of a certificate of currency to certify that organisers have adequate Public Liability Insurance for all components of the event.**
- 6. Appropriate road closure permits are granted by Main Roads WA.**
- 7. Appropriate Alcohol Permits are granted by the Department of Racing, Gaming and Liquor.**
- 8. The Traffic Management Plan and provider are approved by Main Roads WA, and the plan provided to Cottesloe Police.**

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 6/0

10.4.4 HBF ROTTNEST CHANNEL SWIM - 2015

File Ref: SUB/1871
Attachments: [Event Application](#)
[Event Map](#)
Responsible Officer: Mat Humfrey
Manager Corporate & Community Services
Author: Sherilee Macready
Community Development Officer
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

The Rottnest Channel Swim Association Inc. is seeking Council's approval to host the 2015 HBF Rottnest Channel Swim from Cottesloe Beachfront on Saturday 21 February 2015.

BACKGROUND

The HBF Rottnest Channel Swim is an annual event, commencing from Cottesloe Beach to Rottnest Island, with approximately 2300 swimmers participating, 850 of which are expected to depart from Cottesloe at 5.45am.

Last year's event was successfully held on Saturday 22 February 2014, again reaching its maximum participation capacity.

The 2015 HBF Rottnest Channel Swim will be held on Saturday 21 February 2015, with the first wave of solo swimmers leaving Cottesloe at 5.45am and the last wave of team swimmers expected to leave the beach by 7.45am. The event has four participation categories for competitors, which are: Solo; Duo; Team (of 4); and Charity Challenge (teams of 4), with entries opening on the 3 November 2014 for one week.

The 2015 event finishes at Thomson Bay, Rottnest Island, and the race distance is 19.7km.

The age requirement for the 2015 HBF Rottnest Channel Swim is a minimum of 14 years of age (on the day of the event), in accordance with the FINA rules for open water swimming (OWS 1.2).

Organisers will provide extra toilets and bins to cater for the expected number of patrons attending the event. Suitable parking arrangements to cater for the expected patrons will be investigated.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Beach Policy – This event appears to be in compliance with the Town of Cottesloe's Beach Policy.

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Nil

STAFFING IMPLICATIONS

Ranger Services, which are met within normal budgeting allocations.

SUSTAINABILITY IMPLICATIONS

Adequate arrangements are made for rubbish collection and removal, including the provision for recycling.

CONSULTATION

Nil

STAFF COMMENT

In 2014, parking arrangements which were trialled at Cottesloe Oval, and staffed by a local Cottesloe sporting club, were unfortunately not a success. Parking arrangements, possibly located closer to the beach, with a requirement that they are significantly promoted by the event organisers prior to the event, will be investigated this year.

Due to the history of this event and the success of the organisers in previous years, the officer recommendation is to approve this application.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council approve the application to hold the 2015 HBF Rottnest Channel Swim at Cottesloe Beachfront, on Saturday 21 February 2015, from 5.45am to 7.45am, subject to the following conditions:

- 1. Adequate arrangements for rubbish removal and collection, including the provision for recycling.**
- 2. Compliance with the Environmental Protection (Noise) Regulations 1997.**
- 3. Compliance with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*.**
- 4. Appropriate Public Liability Insurance, with cover no less than 10 million dollars.**

5. **Compliance with the Town's Beaches and Beaches Reserves Local Law 2012.**
6. **Class the event as "Charitable" and charge no fee for the event.**
7. **Administration to investigate suitable parking and traffic management arrangements for this event.**

Carried 6/0

10.4.5 REQUEST FOR CAPE LILAC TREE REMOVALS, JARRAD STREET, COTTESLOE

File Ref: SUB/465
Attachments: [Plan of Location](#)
[Copy of Letter and Advice](#)
[Copy of Street Trees Policy](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

A request has been received from 12 Jarrad Street, Cottesloe, for the removal of three Cape Lilac trees, because of the problem of a severe caterpillar plague generated from these trees each year, which enter adjacent houses,

The recommendation is that Council contact the owners of numbers 14 and 16 Jarrad Street to discuss the potential removal of Cape Lilac trees fronting their properties and, if support is given the three affected Cape Lilac trees on the Jarrad Street verge be removed.

BACKGROUND

Over the years, Council staff have removed many Cape Lilac trees from Cottesloe verges due to the major problem of caterpillars, in plague numbers, leaving these tress at this time every year and moving into adjacent houses. The alternative to tree removal is poison spraying, sometimes several times in one season around the same trees. On this section of Jarrad Street verge, one Cape Lilac tree was previously removed and the remaining three trees sprayed around three times.

Of the three trees mentioned in the letter, two front number 14 Jarrad Street and one fronts number 16. As seen in the attached photo, the verge has more verge trees fronting these properties than is normal in Cottesloe.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Council's Street Trees Policy applies (see attachments).

As mentioned in this policy, one issue is that many verge tree species chosen in the past were poorly chosen and this has provided a variety of problems, including such caterpillar infestations.

STATUTORY ENVIRONMENT

No issue.

FINANCIAL IMPLICATIONS

Dealing with seasonal caterpillar infestations generated by this tree species can absorb staff time and the use of costly contractor-spraying, Tree removal is estimated as \$2000.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Cape Lilac trees in Western Australia are not an Australian species. Their removal and possible replacement with a locally available species would be more sustainable. The only main alternative of poison spraying is not preferred or sustainable.

CONSULTATION

Only with the owner of number 12 Jarrad Street.

STAFF COMMENT

One Cape Lilac tree was removed from the frontage of number 10 Jarrad Street, after spraying was unsuccessful and in answer to a complaint.

Staff have not planted Cape Lilac Trees in Cottesloe for at least 10 years, and a number of these trees have been removed from various streets, due to the problem of caterpillar plagues moving from the trees into adjacent houses.

The infestation problem occurred last year, as well, but not before that. The expectation is that the issues will continue each year with each generation laying eggs for the following year.

Any tree removals would first need to be discussed with the owners numbers 14 and 16 Jarrad Street.

VOTING

Simple Majority

COUNCIL DISCUSSION

Cr Walsh spoke to the item and referred the successful use of polyester collar at the base of this type of tree as way of successfully reducing/stopping the effort of caterpillar infestations. As a consequence he proposed an amendment to the Committee recommendation for a trial over one season.

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Downes

THAT Council contact the owners of numbers 14 and 16 Jarrad Street to discuss the potential removal of Cape Lilac trees fronting their properties and, if support is given the three affected Cape Lilac trees on the Jarrad Street verge be removed and suitable replacements, in accordance with Council's list of approved street trees, installed.

AMENDMENT

Moved Cr Walsh, seconded Mayor Dawkins

That the words “if support is given the three affected Cape Lilac trees on the Jarrad Street verge be removed and suitable replacements, in accordance with Council’s list of approved street trees, installed” be removed.

That after the words “properties and” the words “investigate a trial of trunk banding with polyester, prior to the item being brought back to Council with comments” be added.

Carried 6/0

COUNCIL RESOLUTION

THAT Council contact the owners of numbers 14 and 16 Jarrad Street to discuss the potential removal of Cape Lilac trees fronting their properties and investigate a trial of trunk banding with polyester, prior to the item being brought back to Council with comments.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 6/0

**10.4.6 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2014
TO 31 AUGUST 2014**

File Ref: SUB/1720
Responsible Officer: Mat Humfrey
Manager Corporate & Community Services
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

The purpose of this report is to present the Statutory Financial Statements and other supporting financial information to Council for the period 1 July 2014 to 31 August 2014.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Statement of Financial Activity on page 1 of the Financial Statements shows unfavourable operating revenue of \$7,924,497 or 95% which relates almost totally to the timing of property disposals. All material variances are detailed in the Variance Analysis Report on pages 7 to 9 of the attached Financial Statements. Operating expenditure is \$468,386 or 24% less than year to date budget the main factors contributing towards this are timing factors and depreciation not posted. Capital expenditure is itemised on pages 24 to 27 of the attached Financial Statements.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council receive the Statutory Financial Statements including other supporting financial information as submitted to the 16 September 2014 meeting of the Works and Corporate Services Committee.

Carried 6/0

10.4.7 SCHEDULES OF INVESTMENTS AND LOANS AS AT 31 AUGUST 2014

File Ref: SUB/1720
Responsible Officer: Mat Humfrey
Manager Corporate & Community Services
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

The purpose of this report is to present to Council the Schedule of Investments and the Schedule of Loans as at 31 August 2014, as included in the attached Financial Statements.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 18 of the attached Financial Statements shows that \$3,807,271.66 was invested as at 31 August 2014. Approximately 27% of the funds were invested with Westpac Bank, 26% with the Commonwealth Bank of Australia, 24% with Bankwest and the remaining 23% with National Australia Bank.

The Schedule of Loans on page 19 of the attached Financial Statements shows a balance of \$5,513,130.24 as at 31 August 2014. Included in this balance is \$365,758.53 that relates to self supporting loans.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council receive the Schedule of Investments and the Schedule of Loans as at 31 August 2014. These schedules are included in the attached Financial Statements as submitted to the meeting of the Works and Corporate Services Committee on 16 September 2014.

Carried 6/0

10.4.8 LIST OF ACCOUNTS FOR THE MONTH OF AUGUST 2014

File Ref: SUB/1720
Responsible Officer: Mat Humfrey
Manager Corporate & Community Services
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

The purpose of this report is to present to Council the list of accounts paid for the month of August 2014, as included in the attached Financial Statements.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The list of accounts paid for the month of August 2014 is included on pages 10 to 14 of the attached Financial Statements. The following significant payments are brought to Council's attention;

- \$45,005.61 to Main Roads WA for blackspot works at Curtin/Eric Street.
- \$25,348.95 to Cobblestone Concrete for various footpath, crossover and base construction works.
- \$68,529.41 to Site Environmental and Remediation for works at the old Depot site.
- \$162,658.10 to the Shire of Peppermint Grove for the quarterly library contribution.

- \$400,000.00 & \$500,000.00 to National Australia Bank being transfers to investments.
- \$82,791.59 & \$82,843.58 to Town of Cottesloe staff for fortnightly payroll.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council receive the list of accounts paid for the month of August 2014 as included in the attached financial Statements, as submitted to the 16 September 2014 meeting of the Works and Corporate Services Committee.

Carried 6/0

10.4.9 RATES AND SUNDRY DEBTORS REPORTS AS AT 31 AUGUST 2014

File Ref: SUB/1720
Responsible Officer: Mat Humfrey
Manager Corporate & Community Services
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

The purpose of this report is to present the Rates and Sundry Debtors Reports, as included in the attached Financial Statements, to Council.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 20 to 22 of the attached Financial Statements shows a total balance outstanding of \$69,886.02 as at 31 August 2014. Of this amount, \$27,812.74 relates to the current period and the balance of aged debtors is \$42,073.28.

The Rates and Charges Analysis on page 23 of the attached Financial Statements shows a total balance outstanding of \$5,554,570.73 of which \$197,998.72 and \$763,335.96 relates to deferred rates and outstanding emergency services levies respectively. The Statement of Financial Position on page 4 of the attached Financial Statements shows total rates outstanding as a current asset of \$5,815,639 as compared to \$5,655,076 at the same time last year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council receive the Rates and Charges Analysis and Sundry Debtors Report as at 31 August 2014 as submitted to the 16 September 2014 meeting of the Works and Corporate Services Committee.

Carried 6/0

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

Nil

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

12.1 ELECTED MEMBERS

Nil

12.2 OFFICERS

Nil

13 MEETING CLOSED TO PUBLIC

13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

MOTION FOR BEHIND CLOSED DOORS

Moved Mayor Dawkins, seconded Cr Downes

In accordance with Standing Orders 15.10 "That the Council meets behind closed doors – Effect of Motion" (LG Act s5.23(2)) that Council discuss the confidential report behind closed doors.

Carried 5/1

Members of the media were requested to leave the meeting at 7:31 PM

13.1.1 BUDGET VARIATION – CAPITAL COST OF REMEDIAL WORKS AT FORMER DEPOT SITE

File Ref: SUB/1824
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate & Community Services
Proposed Meeting Date: 16 September 2014
Author Disclosure of Interest: Nil

SUMMARY

This report recommends that Council notes the information contained in the confidential officer report in relation to the capital cost of remedial works at the former depot site and endorses the officer recommendation.

BACKGROUND

Refer to the confidential report attached.

STRATEGIC IMPLICATIONS

Refer to the confidential report attached.

POLICY IMPLICATIONS

Refer to the confidential report attached

STATUTORY ENVIRONMENT

Local Government Act 1995 – s5.23 – Closing a meeting to the public.

(2)(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter being discussed at the meeting;

(d) legal advice obtained, or which may be entered into, by the local government and which relates to the matter to be discussed at the meeting;

(e) a matter if disclosed, would reveal –

(i) a trade secret;

(ii) information that has a commercial value to a person; or

(iii) information about the business, professional, commercial or financial affairs of a person

Where the trade secret of information is held by, or is about a person other than the local government.

FINANCIAL IMPLICATIONS

Refer to the confidential report attached.

SUSTAINABILITY IMPLICATIONS

Refer to the confidential report attached.

CONSULTATION

Refer to the confidential report attached.

STAFF COMMENT

As the content of the report contains information that meets the conditions set in the Local Government Act s5.23(2) (c) and (e), it is recommended that the meeting be closed to the public while considering this item.

VOTING

Absolute Majority

COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Burke

THAT Council, by Absolute Majority, authorise:

- 1. That the 2014/2015 operating budget be amended to include an allocation for the partial remediation of the Former Depot Site at 2B Nailsworth Street, Cottesloe; and**
- 2. That the Mayor and Chief Executive Officer sign an amendment to the sale of contract (clause 8) allowing for the partial remediation of the Former Depot Site, prior to settlement occurring.**

Carried 6/0

MOTION FOR BEHIND CLOSED DOORS

Moved Mayor Dawkins, seconded Cr Walsh

“In accordance with Standing Orders 15.10 that the meeting be re-opened to members of the public and media”

Carried 6/0

Members of the media returned to the meeting at 7:40 PM.

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

The Mayor read aloud the Council resolution for item 13.1.1 to the media.

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 7:42 PM.

CONFIRMED MINUTES OF 26 September 2014 PAGES 1 – 63 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

DATE: / /