

# **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, 23 August, 2010**

6 September 2010

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

The Mayor announced the meeting opened at 7:00 PM.

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

Mayor Kevin Morgan	Presiding Member
Cr Jack Walsh	
Cr Jay Birnbrauer	
Cr Rob Rowell	
Cr Greg Boland	
Cr Dan Cunningham	
Cr Jo Dawkins	
Cr Victor Strzina	
Cr Davina Goldthorpe	
Cr Patricia Carmichael	
Cr Ian Woodhill	

**Officers**

Mr Carl Askew	Chief Executive Officer
Mr Graham Patrick	Manager Corporate & Community Services
Mr Andrew Jackson	Manager Development Services
Ms Christina Guelfi	Community Development Officer

**Apologies**

Nil

**Officer Apologies**

Mr Geoff Trigg	Manager Engineering Services
Mrs Lydia Giles	Executive Assistant

**Leave of Absence (previously approved)**

Nil

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4 PUBLIC QUESTION TIME**

Nil

**5 PUBLIC STATEMENT TIME**

Mrs Jane Morrissey, 95 Grant St, Cottesloe

Mrs Morrissey is seeking justice for herself and her daughter as their vehicles have been impounded some time between 7 to 17 August. Both vehicles were left on median strip in front of their house and were impounded by Council. Mrs Morrissey stated that due to the Council action the car was damaged with repairs costing \$2,500. In addition she will have to hire a car for four weeks which will cost her \$1,400 and the towing and taxi fare has cost her \$600. Mrs Morrissey has lived in Cottesloe for 25 years and 11 years at her current address. The car is registered at her address. Mrs Morrissey would like the Council to reimburse the cost she incurred from the event.

The Mayor advised that Council officers had been responding to a resident complaint about the vehicles and that Rangers had followed due process, including the issue of notices in accordance with Council's Local Law. If there was damage to the vehicle by the action of the towing contractor that should be taken up with them. He suggested that if Elected Members wished to discuss the matter further he would allow a motion under "Urgent Business" to be considered at the start of the meeting.

**6 APPLICATIONS FOR LEAVE OF ABSENCE**

**Moved Cr Walsh, seconded Cr Strzina**

**That Cr Walsh's request for leave of absence from the September round of meetings be granted.**

**Carried 11/0**

**Moved Cr Cunningham, seconded Cr Strzina**

**That Cr Cunningham's request for leave of absence from the September round of meetings be granted.**

**Carried 11/0**

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**Moved Cr Walsh, seconded Cr Strzina**

[Minutes July 26 2010 Council.DOC](#)

**The Minutes of the Ordinary meeting of Council held on Monday, 26 July, 2010 be confirmed.**

**Carried 11/0**

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Mayor advised of the recent approach by the Minister for Local Government requesting Council re-consider the matter of Local Government Reform as outlined in the Minutes of the Strategic Planning Committee. He also advised of a letter from the Mayor of the Town of Claremont proposing an RTG between it and Cottesloe and noted that their current council resolution was for a G4 RTG. He stated that whilst he was comfortable to defer this matter for further discussion it did need to be addressed and was a fundamental matter about local control and representation. He stated that if we are to have an impact on strategic and regional issues such as planning and development controls, then we need to be a Council of size and substance in the western suburbs, and the RTG process moves Cottesloe towards that goal. Our community is looking to this Council to lead the way on this issue.

## **8.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE**

### **BACKGROUND**

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

Standing Orders 12.1 and 21.5 read as follows:

#### **Members to Rise**

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

#### **Suspension of Standing Orders**

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

### **COUNCIL RESOLUTION:**

**Moved Mayor Morgan, seconded Cr Strzina**

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

**Carried 11/0**

## **9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

For the benefit of the members of the public present and those who had made statements in relation to matters before Council, the following reports were dealt with first;

- 13.1.1 New Business of an Urgent Nature Introduced by Elected Members/Officers by Decision of Meeting – Impounding of Vehicles – Grant Street Median Strip
- 11.1.1 McNamara Way, Joinery Way, Pennefather Lane & Clive Road Precinct – Planning & Traffic Controls
- 11.1.2 No. 36 (Lot 50) Eric Street – Refurbishment of Local Shopping Centre
- 11.1.3 Indiana Licensed Restaurant - Proposed Extended Trading Permit Variation for Liquor Service without a Meal - Preliminary Request
- 11.2.1 Amendment to Fees and Charges 2010/2011
- 11.2.3 Cottesloe Ocean Adventure Triathlon – Event Application
- 11.2.4 Event Application - Tsvet Productions Present 'the Finger Things'
- 11.2.5 Havaianas Thong Challenge
- 11.2.11 Laneways/Right of Ways within the Town of Cottesloe

The remainder of the items from the Works and Corporate Services Committee were dealt with *en bloc*

- 11.2.2 Australian National Parking Steering Committee Conference
- 11.2.6 Health Service provision to Peppermint Grove
- 11.2.7 Records Management - Policies and Procedures Manual
- 11.2.8 Strategy for Liquor Licensing Appeal - represented
- 11.2.9 Australia Day Awardees Policy Update
- 11.2.10 Disability Access and Inclusion Policy
- 11.2.12 Statutory Financial Reports for the month of July 2010
- 11.2.13 Schedule of Investments & Loans as at 31 July 2010
- 11.2.14 Accounts paid in the month of July 2010
- 11.2.15 Property & Sundry Debtors Report for July 2010
- 11.2.16 Long Term Financial Plan
- 11.2.17 New Business of an Urgent Nature Introduced by Elected Members by Decision of Meeting -Land Owned by Local Government Not Be Subject To Adverse Possession Claims



**10 REPORTS OF OFFICERS**

Nil

**11 REPORTS OF COMMITTEES****11.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 16 AUGUST 2010****11.1.1 MCNAMARA WAY, JOINERY WAY, PENNEFATHER LANE & CLIVE ROAD  
PRECINCT – PLANNING & TRAFFIC CONTROLS**

**File No:** E17.10.61  
**Attachments:** [Mcnamara Way pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services

**Proposed Meeting Date:** 16 August 2010  
**Author Disclosure of Interest:** Nil

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**1. BACKGROUND**

Over recent years particular development proposals within the McNamara Way and associated lanes network have drawn attention to traffic management and other planning matters for review.

The area is bounded by Eric, Mann, Grant and Congdon Streets and Stirling Highway, and accessed internally by McNamara and Joinery Ways, Pennefather Lane and Clive Road. It is characterised generally by flats, townhouses and small lot houses between McNamara Way and the highway, and single dwellings throughout the remainder. Due to restricted access from the highway the lanes have become utilised for vehicular access and circulation, as well as by pedestrian and cyclists.

Council in March 2010, in determining an application for a four-car garage, workshop and studio building at the rear of 115 Grant Street, resolved also to: *Request the Planning and Engineering staff to further consider and report back on traffic management issues and potential improvements for McNamara Way, Joinery Way and Pennefather Lane, including assessing the degree of need, priority areas, optional measures or devices, budget and resource implications, statutory procedures and works programs.*

This echoes an earlier examination in relation to the townhouse development at Clive Road and McNamara Way, when Council resolved that: *In supporting the [scheme] amendment and having regard to ongoing development in this locality and its laneway system, review and improve the traffic calming and management measures provided.* This was taken into account in designing and approving the subsequent townhouse development.

In addition, recently Mann and Grant Streets have been identified as affected by district traffic rat-running to avoid congested main routes, especially at peak times, and Council has considered traffic controls accordingly.

In considering the 115 Grant Street proposal Council had regard to laneway setbacks and streetscape in relation to residential subdivision and development facing the lanes.

This report responds to the matters highlighted by Council for further investigation and advice. Planning matters are discussed first because they define the urban context in relation to traffic generation, behaviour and management.

## **2. PLANNING MATTERS**

Council's concerns relate to the nature of the precinct and extent to which ongoing residential development may increase traffic pressures or create amenity impacts. An analysis of the situation has revealed the following.

### **Existing pattern of development**

The precinct comprises two distinguishable portions. Firstly, the cluster of older flats, newer townhouses and several dwellings east of McNamara Way and south of Joinery Way; which relate to the lanes rather than the highway and is a secluded area. Secondly, the traditional lots fronting the perimeter local roads; which feature predominantly character homes/gardens and tree-lined streets. The built-up inner portion has an urban village atmosphere, whereas the outer surrounds have a typical suburban ambience.

It is the inner portion which takes advantage of the lanes for vehicular access and dwelling frontages, with the outer portion relying on street frontages for access – there are some rear garages, but backyard pools, differences in levels and laneway parking bays are prohibitive. Hence within the lanes there tends to be an open-aspect streetscape to the inner portion and a closed built form (solid, high fences/walls) to the rear boundaries of the peripheral properties.

### **Planning Schemes**

Current TPS2 and proposed LPS3 both reflect this existing pattern and density of development and maintain the status quo – they are not aimed at any significant subdivision or redevelopment of this established area. This is because the area is effectively fully-developed, a mix of well-maintained housing stock is provided and there is limited opportunity for infill.

Only the former Sea View Garage (now Automasters) and Telstra exchange (heritage listed) sites may become available in the future; the former for medium density dwellings and the latter for a single dwelling, compatible with adjacent housing.

### **Subdivision and development potential**

Besides being a well-developed area there are a number of other constraints to the potential for more residential subdivision or development in the precinct. These include density-coding, lot sizes, multiple ownerships, heritage, the highway road widening reservation, and the access/traffic dimension. Approvals processes and redevelopment costs are also factors.

While the rows of larger lots along Grant and Congdon Streets are capable of subdivision in terms of size, the majority of those properties are classified in Council's Municipal Heritage Inventory whereby demolition may not be supported. None of the Mann or Eric Streets lots are sized for subdivision. The few small lots/dwellings south of Joinery Way are the result of previous subdivision, essentially anomalous and unlikely to proliferate.

This means that little, if any, subdivision is anticipated to occur and that the incidence of new dwellings addressing the lanes would be nil or very low. Conceivably the old service station site could be subdivided for dwellings or developed with townhouses to Clive Road. The Telstra exchange can be expected to stay for many years to come.

It is observed that the 115 Grant Street proposal entailed a problematic intersection of the laneway network and a comparatively large outbuilding, which while technically compliant did raise special considerations that the revised design and approval addressed. Having dealt with that individual site, similar situations may seldom eventuate.

### **Development controls**

Given the situation described above, it is apparent that extensive subdivision or development is not envisaged; therefore, no major planning mechanisms are warranted. Nonetheless, it may be useful to devise some design guidelines for development proposals to help manage the laneway streetscapes, interfaces, and amenity and traffic arrangements.

These could be addressed by a Scheme Policy for statutory effect yet flexibility. It would contain the objectives and controls to be had regard to by all parties in formulating and determining applications. Public consultation would be undertaken in preparing the policy, to gather input and gauge expressions of support or objection.

Development aspects to be covered include laneway widening (by subdivision), vehicle manoeuvrability and sightlines, positioning of access, setbacks, built form, fencing/walls and streetscape. The policy could be confined to certain sections of the lanes. It should be noted that such controls would affect a number of ordinary residential properties fronting the main streets – ie increased setbacks, aesthetics of design, tree retention, quality of fencing.

Alternatively, as the demand for extra controls is arguably minimal, the present development control regime of the Scheme and Residential Design Codes (RDC) could be relied upon and proposals dealt with on a case-by-case basis.

### **3. TRAFFIC MATTERS**

In the past the laneway system functioned fairly well with the traffic flow focussed on the southern half of McNamara Way serving the blocks of flats. Otherwise the lanes provided localised rear access to dwellings. There was some non-residential traffic associated with the woodworking business in Joinery Way (a continuing non-conforming use) and the former National Measurement Institute (NMI) in Clive Road. From the mid-1990s the small lots and dwellings created at the junction of McNamara and Joinery Ways contributed additional traffic and access via the lanes.

**Townhouse development**

From 2005 the rezoning and redevelopment proposals for the NMI site for 14 medium-density townhouses drew attention to traffic concerns, which were assessed in conjunction with those processes.

There were 10 submissions on the rezoning – 6 from Mann Street, 2 from McNamara Way, 1 from Clive Road and 1 from outside the area. They expressed concern about the amount of traffic being increased and resultant safety issues, and made the following specific points:

- Traffic is a problem – need to share access between McNamara Way and Clive Road, as Clive Road access is not such a problem.
- Narrow lanes, blind spots, excessive speed and heavy pedestrian usage create conflict and danger – lack of footpaths in the lanes.
- Calming required to control current and future users, eg bollards, speed humps, etc.
- Traffic study flawed, eg re current worker versus future residential trips – the latter will increase rather than decrease traffic; does not address pedestrian safety; need to deal with McNamara Way difficulties – further assessment required.

In considering the traffic matters officers advised as follows:

- The original traffic consultant (ARRB) has reviewed the initial traffic material and the submissions, as well as revisited the site.
- It is reiterated that the current versus proposed uses will give rise to different traffic effects and that the residential traffic is assessed as being less of an impact or conflict.
- It is observed that some traffic calming devices are in place and that more measures could be implemented to improve the management of vehicular and pedestrian movement, with suggestions made, particularly paving colour treatments and signage.
- McNamara Way is still considered to be the preferred access rather than Clive Road, which has problematic traffic engineering.
- The laneway system in the locality serves to provide access as well as to shape the character of the neighbourhood, in terms of the combination of circulation (including for pedestrians), development opportunities and built form. While the nature of lanes tends to automatically moderate traffic behaviour, it can also invite indiscriminate driving and parking, whereby dedicated traffic calming and management may be called for.
- As to traffic generation, the proposed residential traffic would have a volume and pattern different to the existing worker traffic, however, it is likely to be more spread-out and the amount of replacement traffic would not overload the lanes or be inherently dangerous – the development proposes controlled (limited) access, shared crossovers/driveways and visitor parking.

- The avoidance of access via Clive Road is supported, as that access clearly lacks convenience and safety, yet should visitors use that access the proposal includes three parking bays in the verge (which would be available generally to people visiting other properties in Clive Road).
- The traffic consultant has advocated ways in which the laneway system could be improved, which Council could relatively easily do.
- Traffic is a manageable aspect associated with the proposed Amendment and ultimate development, which the special provisions and design have purposefully addressed.

Submissions on the detailed development application reflected concerns about traffic and parking in the lanes, traffic calming means, visibility at intersections, reversing from rear yards/garages and the condition of the laneway surfaces. Council's assessment considered vehicular and pedestrian access and circulation, and parking both on-site and visitor.

In considering such concerns the developer agreed to widen McNamara Way to 4.8m outside the site as a contribution which allows two cars to pass at a slow speed, to facilitate traffic circulation for the development and the laneways. Also, extra visitor parking bays were provided at the applicant's cost, with improved setbacks from McNamara Way over others existing, and these verge areas were ceded to the Town as part of the lane.

#### **Current circumstances**

The townhouse development has since been built and the lanes/Clive Road demonstrably cope with that traffic. For the overall network, however, driver behaviour, visitor misdemeanours, the layout of the lanes and the fact that they are not of a full road standard do trigger ongoing traffic flow and control concerns. For example, in November 2009 further submissions regarding traffic hazard at the intersection of McNamara and Joinery Ways was received from 26 Mann Street. The garage proposal at 115 Grant Street highlighted this concern.

The planning analysis above reveals that intensification of the precinct is not intended and that the potential for further housing with laneway frontages and vehicular access is limited. Outbuildings developments such as rear garages, workshops or studios may occur occasionally, introducing some new access points and traffic arrangements.

As mentioned, traffic management measures recently contemplated by Council at the Mann and Grant Streets intersection may lead to impacts on the lanes.

A field inspection has found that the existing traffic controls comprise as follows:

- Signs – for speed humps and their speed standard (20km/h), pedestrian crossings, traffic warnings, traffic direction, vehicle parking/standing control and traffic rules. These are quite comprehensive but some are in disrepair.
- Speed humps – as part of the bitumen surface exist at key entries/exits and intersections within the laneways, as a reminder for caution and deterrent to speed. They are large enough to be effective without making too much noise,

but the white markings are worn and those in Pennefather Lane are in poor condition. Additional speed humps midway along each laneway leg may assist, although the narrow mid-section of McNamara Way already positively influences slowing-down.

- Street lights – exist in McNamara Way and Clive Road as the main streets of the network carrying most traffic and with controlled parking. The lights enable the traffic control measures to be seen for convenience and safety at night.
- Traffic mirror – at the intersection Joinery Way and Pennefather Lane, which is narrow, to assist two-way traffic and traversing the corners. Additional mirrors may assist other intersections.
- Parking bays – line-marked public/visitor parking bays in McNamara Way provided this facility and assist traffic movement, yet could be improved. Joinery Way and Clive Road also accommodate parking, but that isn't line-marked so could be improved.

### **Scope for traffic improvements**

The range of suggestions for traffic calming and safety improvements made by residents and consultants includes:

- Larger speed humps along the one-way section of McNamara Way.
- Extra signage, such as Give Way or Stop signs in lieu of the existing Watch for Entering Traffic sign at the intersection of McNamara and Joinery Ways.
- Chicanes or other restrictive devices along the one-way section of McNamara Way.
- Mirrors to assist the owners of 26 Mann Street with egress from their property into McNamara Way.
- Closure of the northern Mann Street entry into McNamara Way.
- Coloured bitumen or paving.

The Manager Engineering Services has advised as follows:

- The lanes are gazetted public roads, whereby any narrowing, widening, partial closure or use of bollards requires a procedure under the Land Administration Act to legalise such, including 35-days advertising to all stakeholders for submissions – objections may prevent a change.
- Care is required so that any change or installation for one development or section does not cause negative impacts elsewhere; eg speed humps necessitate warning signs and lighting (at additional cost) and can attract noise complaints. Solar-powered light poles are fairly affordable but Western Power light poles are costly.
- The notion of one-way traffic movement requires public advertising and agreement by MRWA to line-marking and signposting; and can lead to speeding in the absence of oncoming traffic. MRWA must approve of all traffic-rules signs (eg Stop, Give-Way, No U-turn, etc).
- Pennefather Lane is included in the current 2010/2011 budget for resurfacing, so that can improvement can be achieved.

Recommendations for improvements are set out below.

## CONCLUSION

In terms of **planning matters**, the view to respect the streetscapes in the lanes can be appreciated, as the interrelationship involving dwellings and outbuildings or fences/walls opposite does have a bearing on amenity. The lanes comprise a mixture of property frontages (in the minority) and rears (in the majority, single and double-storey buildings, reduced setbacks and solid walls as well as open-aspect fences. This constitutes a more compact, closely-knit urban environment than conventional streets.

The traditional planning framework for assessing development proposals in this precinct comprises TPS2 and the RDC. There is a moderate degree of demand for a supplementary policy, if Council still deems it desirable.

In terms of **traffic matters**, it would be beneficial to make improvements throughout the laneways network. The preferred options and priorities identified are as follows:

- Signs – review, repair and enhance all Town of Cottesloe-managed traffic and parking control signage. MRWA road-rule signage is not proposed.
- Speed humps – repair and freshly line-mark all speed humps. Secondly, determine any additional speed hump locations and install them subject to community support and cost. High/noisy rubber speed mats are not proposed. Nor are raised brick-paved plateaus.
- Street lights – check and repair all street lighting. Determine any desirable additional street light locations and install them subject to community support and cost.
- Traffic mirrors – install additional mirrors at the intersections of McNamara Way along its N-S leg with its two E-W legs and with Joinery Way at its western end.
- Parking bays – review, rationalise, augment and freshly line-mark all public/visitor parking bays in the laneways and Clive Road.
- Intersection treatments – progressively apply coloured/textured paving surfaces at all intersections of the laneway network, in order of priority.
- Lane upgrades – upgrade Pennefather lane by bitumen re-sealing and a coloured/textured intersection with Joinery Way as an early priority.

The maintenance works are relatively minor and inexpensive and should be able to be performed as soon as possible under the current budget and works programmes. New signs and bitumen speed humps would also be fairly easy and cost-effective to provide. New mirrors are reasonably inexpensive. Street lights can be costly and may have to be phased-in. Upgrading Pennefather Lane and intersection pavement treatments can occur in the near future.

## VOTING

Simple Majority

**COMMITTEE COMMENT**

Committee commended the report in addressing the situation and in conclusion supported the recommended approach to solutions, as well as encouraged further liaison between interested residents and officers. Committee in passing discussed how to deal with any future widening of the laneways and whether traffic management for the surrounding local streets should be included. Mr Jackson advised that it would better to manage widening on a case-by-case basis depending on what subdivision or development is involved; and recommendation (b) could embrace this anyway. He also advised that the laneways should be managed as a distinct network operating apart from the local road system.

**COUNCIL COMMENT**

Crs Cunningham and Rowell acknowledged the report findings and supported traffic improvements, yet felt there was still a need to address special planning considerations for the laneways precinct. This was given the aspects that have arisen in the past and the potential for future subdivision / development, including the large highway sites. Clarification was also sought regarding the dedicated road status of these lanes, which Mr Jackson confirmed; however, he advised that the RDC nonetheless recognise them as under-width roads with lesser setback requirements. Mr Jackson went on to volunteer that staff would be willing to respond to a direction from Council for any supplementary policy or design guidelines (whether now or in years to come), but noted that the current closer analysis of the situation as conveyed in the report had concluded that the degree of planning change and call for additional controls was likely to be minimal.

**OFFICER & COMMITTEE RECOMMENDATION****Moved Cr Walsh, seconded Cr Strzina**

THAT Council:

- a) Notes the advice contained in this report that appropriate development parameters already exist for this laneways precinct whereby there is limited need for any additional controls.
- b) Requests Planning and Engineering staff to prepare and implement a schedule of local traffic management improvements for this laneways precinct, including any necessary further consideration by Council and community consultation, as outlined in the Conclusion section of this report.

**AMENDMENT****Moved Cr Cunningham, seconded Cr Rowell**

**That item (a) be changed to read: "That Council request Planning staff develop a supplementary policy to provide additional, appropriate development parameters (not provided by TPS2 or the residential design code) for the laneway precinct bounded by Grant, Congdon, Eric, Mann Streets and Stirling Highway"**

**Lost 3/8**

**For the Motion: Cr Rowell, Cr Boland and Cr Cunningham**



**Against the Motion:Cr Goldthorpe, Mayor Morgan, Cr Birnbrauer, Cr Carmichael, Cr Dawkins, Cr Strzina, Cr Walsh and Cr Woodhill**

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**THAT Council:**

- a) Notes the advice contained in this report that appropriate development parameters already exist for this laneways precinct whereby there is limited need for any additional controls.**
- b) Requests Planning and Engineering staff to prepare and implement a schedule of local traffic management improvements for this laneways precinct, including any necessary further consideration by Council and community consultation, as outlined in the Conclusion section of this report.**

**THE SUBSTANTIVE MOTION WAS PUT**

**Carried 8/3**

**For the Motion: Mayor Morgan, Cr Goldthorpe, Cr Birnbrauer, Cr Carmichael, Cr Dawkins, Cr Strzina, Cr Walsh and Cr Woodhill**

**Against the Motion:Cr Rowell, Cr Boland and Cr Cunningham**

**11.1.2 NO. 36 (LOT 50) ERIC STREET – REFURBISHMENT OF LOCAL SHOPPING CENTRE**

**File No:** 1994  
**Attachments:** [Photos Eric Street pdf](#)  
[Plans Eric Street pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ed Drewett  
Senior Planning Officer

**Proposed Meeting Date:** 16 August 2010  
**Author Disclosure of Interest:** Nil  
**Property Owner:** Harman Nominees Pty Ltd  
**Applicant:** Meyer Shircore & Associates Architects  
**Date of Application:** 9 July 2010  
**Zoning:** Business  
**Use:** P - A use that is permitted under this Scheme  
**Lot Area:** 2023m<sup>2</sup>  
**MRS Reservation:** Not applicable

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**SUMMARY**

The Eric Street shopping centre on the corner of Chamberlain Street is an established local centre serving the needs of the neighbourhood and greater Cottesloe. While well-used, the centre dates from the 1970s and is ageing and lacking in amenity by today's standards in terms of practicality, aesthetics and serving the community and visitors.

Under new ownership the current proposal is to upgrade and refurbish the existing building and, given the assessment that has been undertaken, the recommendation is to conditionally approve the application.

**PROPOSAL**

This proposal involves both internal and external alterations as summarised below:

Basement:

- Upgrade existing toilets.
- Provide secure bicycle store.

Ground floor:

- Increase floorspace of existing IGA supermarket from approximately 650m<sup>2</sup> to 728m<sup>2</sup> (thereby formalising the existing situation).
  - Consolidate four existing tenancies on the northern side to create two new tenancies (77m<sup>2</sup> & 155m<sup>2</sup>) and divide the existing video shop tenancy to create two new shops.
  - Create new coffee shop (94m<sup>2</sup>) in south-eastern corner.
  - Remove existing ground-floor shopfronts and install new bi-fold doors to all tenancies along internal arcade.
-

**First floor:**

- Re-configure and change the use of existing tenancies (mostly vacant) to create a hairdressers (approved separately under delegation), beauticians (53m<sup>2</sup>) and two offices (65m<sup>2</sup> & 112m<sup>2</sup>); Existing gym remains unchanged.

**External:**

- Install bi-fold doors to proposed coffee shop and replace all remaining external shopfronts with tinted glazing.
- Replace existing balustrade fronting Eric Street with new glass balustrade, stainless steel handrail and fixings.
- Replace balustrade along north elevation.
- Replace upper floor windows with flushline clear anodised aluminium glazing with green tinted vision panels and translucent spandrels fronting Eric Street, tinted glazing fronting Chamberlain Street, and translucent glazing to the upper floor (north elevation - replacing existing).
- Replace existing tiled awnings with new flat awnings at ground and first floor level.
- Compressed fibre-cement sheet cladding painted Dulux 'Flooded Gum' added to roofline along south and east elevations.
- Colorbond 'Surfmist' stainless steel Trimdeck cladding added to north, west and southern elevations.
- Compressed fibre cement signage panels provided in locations shown on drawings. Details subject to separate application.
- Re-configure existing disabled bay/loading bays and provide new landscaping and kerbing in Chamberlain Street.
- Install a scissor lift pit and regrade existing northern access driveway.

**STRATEGIC IMPLICATIONS**

The proposal is in-keeping with the strategic direction for this local activity centre.

**FINANCIAL IMPLICATIONS**

The proposed development includes improvements to the public domain such as new landscaping, kerbing and re-configuration of the existing disabled bays and loading bays in Chamberlain Street at no cost to Council.

**STATUTORY ENVIRONMENT**

- Town of Cottesloe Town Planning Scheme No. 2.
- Council's 'Advertising' Policy TPSP 010.
- Signs, Hoardings & Billposting By-Law No. 33.

**PROPOSED LOCAL PLANNING SCHEME NO 3**

The proposed refurbishment is consistent with the 'Local Centre & R50' zoning for the lot.

**CONSULTATION**

The Application was advertised as per Town Planning Scheme No 2. The advertising consisted of letters to 12 adjoining owners. While some viewed the plans, no submissions were received.

**BACKGROUND**

A summary of recent planning applications considered by Council for this site is as follows:

29 June 2007

*Town Planning Scheme No 2 - Amendment 43 gazetted* – Amended Scheme to include specific development standards for the Eric Street local centre based on indicative plans for refurbishment including residential apartments on the upper floor.

26 May 2008

Council granted planning approval for the redevelopment of the existing local centre to incorporate shops, a café and residential uses. This application has subsequently expired and the shopping centre has been sold.

**PLANNING COMMENT**

The following comments are made with respect to the relevant development standards under TPS 2 and Council Policies:

Land use

The proposed mix of uses are all 'permitted' under TPS 2 and LPS3 and are consistent with uses usually associated with a local shopping centre.

Plot ratio

A maximum plot ratio of 0.8 is permitted in a Business zone under TPS 2. However, the existing as-built plot ratio of the shopping centre (which pre-dates TPS2) is 1.0, which will remain unchanged as a result of the proposed refurbishment.

Height

The existing local centre is essentially two-storeys with an undercroft/basement carpark. At this scale it sits comfortably on its sloping site in relation to the two street frontages and surrounding development, which includes three-storey multiple dwellings to the west and two-storey dwellings to the north and in the vicinity.

The proposed refurbishment incorporates a new parapet fascia above the existing tiled rooftop awning (which will be removed) thereby increasing its height by 0.41m and resulting in an overall building height of 7.26m (RL: 30.410) above the existing ground floor.

Council has discretion to approve this height variation as it is an extension to the existing building and will be below the maximum 9m height limit (RL: 30.9) that is permitted under Amendment 43. The revamped building will present less bulk and scale than the previous approval.

Parking

The existing local centre has 64 undercroft parking bays and 7 on-street bays adjoining Eric Street. A further 8 bays are located in front of the adjacent flats, although these do not strictly belong to the shopping centre.

Under TPS 2 the current parking standard of 1 bay per 12m<sup>2</sup> gross leasable area (GLA) for shops was introduced well after the shopping centre was built and would require some 169 bays for the existing uses while the proposed refurbishment would require 140 bays, based on a total shop area of 1544m<sup>2</sup> and a proposed office area (including the existing gym) of 482m<sup>2</sup>.

Notwithstanding this technical shortfall under TPS2, like many local centres this one has been able to provide largely on-site parking by virtue of the basement and on-street parking; and undercover parking is a bonus in a local centre as it is usually only provided in major centres.

Amendment 43 also takes account of the actual likely demand for parking and permits a reduced parking provision of 1 bay per 30m<sup>2</sup> GLA for retail uses on this lot. If used as a basis for considering the proposed refurbishment, it reduces the overall requirement of parking bays to 64 bays which is the same as that proposed to be retained in the basement parking area.

Parking is not considered to be a problem at this local centre.

#### Northern access driveway

The applicant has advised that the existing northern access driveway will require regrading to provide level planes necessary for the safe loading and unloading of goods.

The submitted drawings show that the existing driveway will be lowered up to 0.7m as it transgresses the rear of the shopping centre. A new pit is also proposed in the driveway to allow for a mounted scissor lift to assist with deliveries.

The Manager Engineering Services has no objection to the proposed regrading or the scissor lift pit location subject to consideration of the structural impact on the adjoining masonry wall on the northern side of the driveway. This is a matter that will be considered at building licence stage with the provision of a dilapidation report.

The driveway is privately owned by the shopping centre (ie: is not a right-of-way) and has always been used primarily to service the rear of the centre. The proposed alterations (and overall refurbishment) are unlikely to have any significant impact on the adjoining residential property to the north as it is well-screened by a high parapet wall and has co-existed with the driveway and shopping centre in this location for many years. Furthermore, no objections have been received from the adjoining owner to the present proposal.

#### Colours and Finishes

Whilst the proposed external colours and finishes are considered generally acceptable for the local centre, it is nevertheless important to ensure that the proposed refurbishment both enhances the visual appearance of the existing building

and is in harmony with its surroundings. In this regard, alternative external materials to the proposed Colorbond Trimdeck cladding on the south, west and north elevations should be explored to improve overall aesthetics and reduce the likelihood of reflectivity and other problems, once completed. The amenity provisions of TPS2 make it clear that this is a legitimate planning consideration as follows:

#### *5.1.2 General*

*... in considering a proposed development Council shall have regard to and may impose conditions relating to the following - ... (c) the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally;*

#### *5.1.5 Appearance of Buildings*

*All buildings and land shall be maintained to preserve the amenity of the surrounding area. No building shall be so designed or constructed or finished or left unfinished that its external appearance would disfigure the locality, lack harmony with the exterior design of neighbouring buildings or tend to depreciate the value of the surrounding properties.*

Officers have raised this concern with the Architects, who have advised that the project is cost-sensitive and that high-end claddings are too expensive. Officers still consider that sheet-metal cladding is undesirable for a number of reasons:

- An industrial look is inconsistent with the surrounding residential development.
- It overemphasises the bulky end and these visible facades of the building by drawing attention to that
- Glare impact, rust over time and potential for storm damage.
- A tendency to become dented by commercial vehicles/activities, especially in the case of undercrofts and loading areas.
- Difficulties in detecting faults in and maintaining the masonry underneath, in mounting signs and in connecting services.
- Future maintenance and cost requires complete re-cladding or painting of the weathered powder-coating.

It is concluded that the sheet-metal cladding would be out of context and less attractive. The obvious alternative would be to paint, or render and paint, the existing masonry – and this is supported. It is less expensive and more flexible for the above reasons, being easy to maintain and to up-date in the future. A condition refers accordingly.

#### Signage

Under TPS 2 Council is required to consider signage applications in the light of the objectives of the Scheme and with particular reference to the character and amenity of the locality within which it is displayed.

The main proposed signage comprises a 25m<sup>2</sup> (5m x 5m) horizontal wall sign that projects 0.5m above the roofline for the existing IGA and pharmacy and will be located above the basement carpark entrance fronting Eric Street.

Four additional smaller signage panels are also proposed fronting both Eric Street and Chamberlain Street, in addition to building signage which names the local centre as 'Cottesloe Mews'.

Although the existing signage on the building is relatively large, the proposed 25m<sup>2</sup> sign well-exceeds the maximum 10m<sup>2</sup> permitted in a Business zone under Council's 'Advertising' Policy – TPSP010. It will also appear excessively large and over-bearing and generally out-of-keeping with the character of the predominantly residential area. It is therefore concluded that this signage should be reduced to a maximum 10m<sup>2</sup> to comply with Council Policy and be situated below the existing roofline.

Furthermore, although the applicant has advised that tenant signage shall be subject to a separate application, it is assessed that any additional signage (including individual window naming signage) should be significantly restricted unless a revised overall signage strategy is submitted and approved by Council. This should avoid the unnecessary clutter that currently exists, particularly on the ground floor.

Additional Comment:

In response to the abovementioned concerns regarding the scale of the main signage panel, the applicant submitted revised plans on 11 August 2010 which show the proposed 25m<sup>2</sup> signage panel being replaced by three separate signage panels of 8m<sup>2</sup> each, two on the south elevation above the basement carpark entrance and one facing west.

These revised signage panels are of a preferred scale and will be positioned below the roofline and are aligned with the upper floor windows so as to appear more in-character with the existing building and its surrounds. This pattern of signs would be less dominant and serve to break-up the bulkiness of the box-shaped building sitting above the undercroft. The signs are also compliant with TPS 2 and Council's 'Advertising' Policy so can be supported.

## **CONCLUSION**

The proposed development complies with TPS 2, with the exception of the proposed external cladding which should be more in-harmony with the surrounding character of the area. Notwithstanding this, the proposal will provide both visual and practical improvements to the shopping centre and allow opportunities for new tenants, including a café, without having a significant impact on existing car-parking arrangements or the amenity of the area.

## **VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee sought some clarification regarding signage, loading areas and cycle parking. Officers advised that the overall signage regime had been improved to manage signage panels; that adequate loading areas would continue in their current locations; and that existing cycle racks will remain and may be augmented over time. A minor amendment was made to condition (b) to elaborate on signage control. Committee was satisfied accordingly and also supported the condition to disallow the partial Trimdek cladding in favour of a more aesthetic finish.

**OFFICER RECOMMENDATION**

Moved Cr Birnbrauer, Seconded Cr Woodhill

That Council GRANT its Approval to Commence Development for the refurbishment of the local shopping centre at No. 36 Eric Street (Lot 50), Cottesloe in accordance with the revised plans submitted on 11 August 2010, subject to the following conditions:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction sites;
- (b) No additional external signage shall be permitted without the submission and approval of an overall signage strategy, signage applications and sign licences as required.
- (c) No additional use or change-of-use shall be permitted without the approval of a separate planning application and any associated building licence or health applications.
- (d) No goods or materials shall be stored in the parking areas, driveway or laneway. All goods and materials are to be stored elsewhere within the building.
- (e) Any requirement for supplementary delivery vehicle parking shall be included in the detailed plans submitted for a building licence and to the satisfaction of the Manager Development Services.
- (f) No verge trees adjoining the site are to be removed and the trees shall be protected at all times during construction, to the satisfaction of the Manager Engineering Services.
- (g) Prior to making any changes to the existing crossovers, the applicant shall apply to the Town of Cottesloe for approval to construct a crossover in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) The applicant shall be responsible for the costs of all changes to the public domain outside the site required by the development, including (but not limited to) any alteration to existing vehicle bays (including disabled bays and loading bays), upgrading of verge pavements, landscaping and any alterations of services and infrastructure. All such works shall be to the specification and satisfaction of the Manager Engineering Services.
- (i) The proposed Colorbond Trimdek sheet-metal wall cladding to the south, west and north elevations is excluded from this approval. Alternative appropriate



cladding may be considered acceptable, in liaison with the Town. Painting or rendering/painting the existing masonry is recommended.

- (j) The building licence plans and supporting documentation shall be formulated to the satisfaction of the Manager Development Services and include:
- a. Full details of all proposed external materials, finishes and colours, including glazing, awnings or screens and the roof cladding, ideally selected to be of low-reflectivity. This shall include any agreed alternative cladding or painting/rendering as referred to in condition (i).
  - b. Full details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations.
  - c. If required, full details of new on-site and off-site drainage management, including any necessary arrangements to utilise land outside the site and link into the public drainage system.
  - d. All disabled access shall comply with AS1428.1 and energy efficiency and fire management requirements shall be in accordance with the BCA, Australian Standards and other relevant regulations.
  - e. A dilapidation report addressing the adjoining properties, with particular regard to the existing wall to the northern property along the service driveway, shall be submitted, to the satisfaction of the Principal Building Surveyor.
  - f. Full details showing adequate mechanical ventilation and satisfying all other relevant Environmental Health requirements for the proposed uses, including the café, shall be submitted for approval, to the satisfaction of the Principal Environmental Health Officer.

## **AMENDMENT**

Moved Cr Dawkins, seconded Cr Woodhill

That condition (b) is amended to read: No additional external signage shall be permitted without the submission and approval of an overall signage strategy (which includes provision for all tenancy requirements), signage applications and sign licences as required.

Carried 6/0

## **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Dawkins

**That Council GRANT its Approval to Commence Development for the refurbishment of the local shopping centre at No. 36 Eric Street (Lot 50), Cottesloe in accordance with the revised plans submitted on 11 August 2010, subject to the following conditions:**

- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction sites;**

- (b) No additional external signage shall be permitted without the submission and approval of an overall signage strategy (which includes provision for all tenancy requirements), signage applications and sign licences as required.
- (c) No additional use or change-of-use shall be permitted without the approval of a separate planning application and any associated building licence or health applications.
- (d) No goods or materials shall be stored in the parking areas, driveway or laneway. All goods and materials are to be stored elsewhere within the building.
- (e) Any requirement for supplementary delivery vehicle parking shall be included in the detailed plans submitted for a building licence and to the satisfaction of the Manager Development Services.
- (f) No verge trees adjoining the site are to be removed and the trees shall be protected at all times during construction, to the satisfaction of the Manager Engineering Services.
- (g) Prior to making any changes to the existing crossovers, the applicant shall apply to the Town of Cottesloe for approval to construct a crossover in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) The applicant shall be responsible for the costs of all changes to the public domain outside the site required by the development, including (but not limited to) any alteration to existing vehicle bays (including disabled bays and loading bays), upgrading of verge pavements, landscaping and any alterations of services and infrastructure. All such works shall be to the specification and satisfaction of the Manager Engineering Services.
- (i) The proposed Colorbond Trimdek sheet-metal wall cladding to the south, west and north elevations is excluded from this approval. Alternative appropriate cladding may be considered acceptable, in liaison with the Town. Painting or rendering/painting the existing masonry is recommended.
- (j) The building licence plans and supporting documentation shall be formulated to the satisfaction of the Manager Development Services and include:
  - a. Full details of all proposed external materials, finishes and colours, including glazing, awnings or screens and the roof cladding, ideally selected to be of low-reflectivity. This shall include any agreed alternative cladding or painting/rendering as referred to in condition (i).
  - b. Full details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations.

- c. If required, full details of new on-site and off-site drainage management, including any necessary arrangements to utilise land outside the site and link into the public drainage system.**
- d. All disabled access shall comply with AS1428.1 and energy efficiency and fire management requirements shall be in accordance with the BCA, Australian Standards and other relevant regulations.**
- e. A dilapidation report addressing the adjoining properties, with particular regard to the existing wall to the northern property along the service driveway, shall be submitted, to the satisfaction of the Principal Building Surveyor.**
- f. Full details showing adequate mechanical ventilation and satisfying all other relevant Environmental Health requirements for the proposed uses, including the café, shall be submitted for approval, to the satisfaction of the Principal Environmental Health Officer.**

**Carried 11/0**

**11.1.3 INDIANA LICENSED RESTAURANT - PROPOSED EXTENDED TRADING PERMIT VARIATION FOR LIQUOR SERVICE WITHOUT A MEAL - PRELIMINARY REQUEST**

**File No:** 91 Marine Pde  
**Attachments:** [Indiana Extended Trading pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services

**Proposed Meeting Date:** 16 August 2010  
**Author Disclosure of Interest:** Nil

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**INTRODUCTION**

This report presents a preliminary proposal from Indiana to reconfigure its liquor licence in relation to serving drinks without a meal. Indiana operates under a Restaurant Licence, together with an Extended Trading Permit (ETP) which allocates 20% of its patron area where liquor may be consumed without having to order food. Currently this is internal in the north-east portion of the premises.

The proposal is to allocate 100% of the patron area as available for where drinking without food may occur, including both the internal and al fresco floorspace. This does *not* mean that all of the patron area can be used at once just for drinking with no food. Rather, it means that the proportion of drinking-only allowed may take place anywhere in the patron area, instead of being confined to a dedicated area and the supervision of such. A 100% area ETP would be managed by a number of standard conditions and any special ones. No physical development or other change to the Restaurant Licence is involved.

Liquor licensing is governed by the Liquor Control Act (LCA), determined by the Director of Liquor Licensing (DLL) and administered by the Department of Racing, Gaming and Liquor (DRGL). At this stage Indiana has liaised with and written to the Town about the proposal seeking in-principle support, upon which it intends to formally apply to vary the ETP. In that event the Local Government (LG) is consulted by the DRGL for its position, plus the LG has a role to process any corresponding Section 39 (Heath) and Section 40 (Planning) Certificates. In the case of Indiana, the Town is also the lessor, so has a right to agree or disagree in that capacity.

Public advertising is part of the DRGL ETP application procedure, and Council may reinforce the need for consultation in its response. Alternatively Council as landlord, and other parties, may officially object to an ETP proposal.

**BACKGROUND**

Indiana is fundamentally a restaurant and has essentially functioned well as that for many years. Indiana has kept abreast of evolving social trends in the food and beverage sector and availed itself to the ETP provisions of the LCA. This reflects the overall diversification of liquor establishments in WA, most recently small bars, and is in keeping with the recreational/tourism focus of the Cottesloe beachfront.

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With regard to other restaurants in the vicinity, Il Lido has opened as an all-day tapas-menu licensed restaurant with an ETP and Blue Waters is a licensed restaurant with an ETP, neither of which have raised concerns, while the Cottesloe Beach Hotel under new ownership is anticipated to become more food-orientated and family-friendly.

A 20% area ETP is quite common in restaurants today and was first granted to Indiana in 2003. It was renewed in July 2010 for five years – copy attached. The Town supported the continuation given that there have been no complaints about this aspect of the restaurant's operation. The 20% ETP is limited to the prescribed area, with several conditions, which are summarised as follows:

1. A maximum of 48 persons, served and seated at dining tables.
2. No liquor-only service or consumption outside that area.
3. Trading hours equivalent to a hotel licence (this is standard pursuant to the LCA, covering the wide range of times that restaurants may be open).
4. The restaurant operating as the primary and predominant purpose under that licence with non-meal drinking being subordinate and incidental.

Given this mode of operation, as well as changing restaurant and drinking venue genres generally and in the district, Council in 2009 approved renovations at Indiana to create both casual and traditional dining areas, which includes al fresco. The proposed 100% area ETP is conceived to provide greater flexibility accordingly.

ETPs are guided by the DRGL policy on the matter and Council also has a policy regarding licensed premises. Assessment under the DRGL policy considers the public interest, taking into account:

- Harm and ill health minimisation.
- Amenity of the locality.
- Nuisance minimisation.
- Nature of business and clientele, including at different hours.
- Management plans.

Council's policy echoes this framework, with an emphasis on amenity, safety, operational implications and where relevant parking requirements. The report to Council on the initial 20% area ETP considered as follows:

*The Indiana Teahouse is an exclusive style dining venue attracting more sophisticated and mature patrons. No complaints have been received in relation to the behaviour of patrons of the restaurant. The proprietors of the restaurant have displayed a responsible attitude to alcohol consumption within the premises. Through their active involvement in the Western Accord, they are assisting to reduce the impact of alcohol consumption on the community. It is unlikely that problems associated with consumption of excessive alcohol will be experienced as a result of the proposed ETP.*

## **ASSESSMENT OF PROPOSAL**

The LCA provides that a restaurant may supply liquor without a meal to 100 per cent of its customers, subject to an ETP. In practice, to avoid restaurants becoming de facto bars, restrictions on the percentage area and/or number of patrons and related

operational aspects are applied to ensure that the licensed premises trades as a bona fide restaurant with drinking-only as an ancillary activity.

Indiana's 100% area ETP proposal is explained in the attached letter and supported by its existing Harm Minimisation Plan and established management practices. The proposal is to spread the table service/seating arrangements for drinking without food throughout the restaurant. This is apparently for ease of operations, customer choice/convenience and flexibility when changing layouts/décor occasionally. It is understood the DRGL indicated to Indiana that this approach may be more practical for the future.

The proposed 100% area ETP would be for the entire licensed area, which includes the al fresco. The proportion of patrons permitted to drink-only could be distributed-around, in several allocated areas or at random. This would offer freedom to be seated in a quiet area or to get a better view, for example; especially when the restaurant is not busy or patrons may wish to drink-only outside core meal times. A further example is when patrons desire liquor with just a snack, which is not classed as a substantial meal so they are required to sit in the non-dining area.

The proposal does not entail any change to the total number of patrons, hours of opening or other operational details under the main Restaurant Licence. All patrons must still have table service and be seated, in a typical restaurant format, not a bar environment. Parking demand would not be increased and the patterns of patronage would not be expected to alter to any significant degree.

### **Number of patrons**

Indiana has not yet clarified the number of patrons intended to be allowed to drink without a meal under the 100% area ETP. The existing 20% area ETP has a corresponding limit of 48 patrons. This equates to 20% of the overall maximum number of seated patrons (240) permitted by the original planning approval to create the teahouse, including the restaurant, kiosk and outdoor areas. The lease from the Town limits the restaurant portion to 170 patrons. In comparison, 48 patrons represents 28% of the lease limit.

Under the 100% area ETP, the same, another (less or more) or even no limit on the number of drinking-only patrons could be considered. There would have to be a rationale for the number, which would be stipulated in and controlled by the ETP, as in the current situation.

A numerical limit is the simplest method. A more complex method, as suggested by the DRGL policy, is the split between food and liquor sales, eg in a 60/40% ratio. Indiana has stated it currently trades at a 70/30% breakdown. This would have to be measured, recorded and monitored. Because the total amount of liquor sales would include that sold with a meal, the actual percentage of liquor-only sales would be less than the limit specified.

In this respect Indiana has advised that it usually attracts typically ten or so drinking-only patrons as a maximum at any one time and that once the restaurant gets busy staff are preoccupied with that service instead of concentrating on non-meal customers.

Indiana is known to trade at the up-market end of the restaurant spectrum, embracing both casual and formal dining with a high quality fit-out, high-calibre staff and a strong management presence. Indiana caters to local, regional and tourist clientele and experiences seasonal patronage patterns.

Therefore, the preliminary request appears acceptable whereby a 100% area ETP would be unlikely to be detrimental to the public interest or the amenity of the locality. Community consultation by the Town additional to the DRGL liquor licensing advertising procedure is not considered necessary.

The lease between the Town and Indiana is a related consideration and ought to be consistent with any liquor licence controls. This remains to be examined and any modification required as a result of the amended ETP would be at the cost of Indiana.

### **ETP conditions**

As a guide, ETP conditions derived from the DRGL Policy normally include as follows:

1. *Pursuant to section 50 of the Act, the purpose of the business carried on at the licensed premises must consist primarily and predominantly of the regular supply of meals (as defined by section 3 of the Act) to customers. For the purposes of establishing the primary purpose of the business under the licence, the licensee shall, if required to do so, provide to the Director of Liquor Licensing a record of all transactions entered into by or on behalf of the licensee involving the sale or other disposal of liquor and food.*
2. *The kitchen situated on the licensed premises, together with kitchen and food service staff, must be open and operating with the restaurant's regular full menu being available at all times liquor is sold and supplied to patrons.*
3. *Liquor may only be consumed by patrons while seated at a table, or a fixed structure used as a table for the eating of food, and not elsewhere. Therefore, the sale and supply of liquor to patrons is restricted to table service by staff of the licensee.*
4. *The premises must always be set up and presented for dining and tables cannot be removed or shifted in order to create dance floors or function areas.*
5. *The permit does not apply to any bar/servery area identified in the approved plans.*
6. *The licensee is prohibited from promoting and/or advertising the licensed premises as anything other than a restaurant.*
7. *The maximum permitted trading hours in respect of the permit are:*
  - a. *Monday to Saturday between the hours of 6am and 12 midnight;*
  - b. *Sunday from 10am to 10pm; and*
  - c. *No trading under the permit is authorised on Christmas Day, Good Friday or before noon on Anzac Day.*

This illustrates that suitable and enforceable controls would regulate any ETP.

**CONCLUSION**

It is concluded that Council can be satisfied as follows:

- The proposal for a 100% area ETP is reasonable on the basis of operational and customer convenience and contemporary licensed premises.
- The style of the restaurant and operation of the 100% area ETP in terms of a credible food/liquor balance would not cause detrimental impacts.
- The associated liquor management measures in place are effective.
- The number of drinking-only patrons should be limited and would be managed by conditions of the 100% area ETP.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee was satisfied that a more flexible ETP would be sensible and practical subject to appropriate conditions on the intended permit to manage and monitor the number of patrons drinking without a meal.

**OFFICER & COMMITTEE RECOMMENDATION****Moved Cr Walsh, seconded Cr Dawkins**

That Council advises Indiana that it is supportive in-principle of a 100% licensed area Extended Trading Permit (ETP) to sell and supply liquor without a meal to patrons seated at tables anywhere in the internal and external dining areas of the restaurant, subject to:

1. Consideration by Council of a formal ETP application referral.
2. The ETP application process including adequate public consultation in accordance with the Liquor Control Act.
3. Clarification of the intended number of and limit on drinking-only patrons proposed to be permitted, and the rationale for that, together with the associated management methods and liquor controls.
4. Appropriate conditions being imposed on the ETP in accordance with the Policy of the Department of Racing, Gaming and Liquor on Extended Trading Permits for Restaurants to Sell and Supply Liquor Without a Meal. The conditions should include a limit on the number of patrons allowed to be served liquor without a meal, a ratio of food/liquor sales not less than 60/40% respectively, the methods required to record and monitor these patron and sales measures, the liquor management strategies for the operation of the ETP and any other relevant aspect.
5. Any consequential amendments to the Lease between the Town and Indiana being made to the satisfaction of the Town and the full cost being paid by Indiana, within an agreed timeframe.



**AMENDMENT**

Moved Cr Birnbrauer, seconded Cr Boland

That the word 'and' after 'internal' in line three (3) be deleted and replace with "but excluding" to read, "and supply liquor without a meal to patrons seated at tables anywhere in the internal, but excluding external, dining areas of the restaurant, subject to:"

Lost 1/10

For the Motion: Cr Birnbrauer

Against the Motion: Mayor Morgan, Cr Rowell, Cr Boland and Cr Cunningham  
Cr Goldthorpe, Cr Carmichael, Cr Dawkins, Cr Strzina, Cr Walsh and Cr Woodhill

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

That Council advises Indiana that it is supportive in-principle of a 100% licensed area Extended Trading Permit (ETP) to sell and supply liquor without a meal to patrons seated at tables anywhere in the internal and external dining areas of the restaurant, subject to:

1. Consideration by Council of a formal ETP application referral.
2. The ETP application process including adequate public consultation in accordance with the Liquor Control Act.
3. Clarification of the intended number of and limit on drinking-only patrons proposed to be permitted, and the rationale for that, together with the associated management methods and liquor controls.
4. Appropriate conditions being imposed on the ETP in accordance with the Policy of the Department of Racing, Gaming and Liquor on Extended Trading Permits for Restaurants to Sell and Supply Liquor Without a Meal. The conditions should include a limit on the number of patrons allowed to be served liquor without a meal, a ratio of food/liquor sales not less than 60/40% respectively, the methods required to record and monitor these patron and sales measures, the liquor management strategies for the operation of the ETP and any other relevant aspect.
5. Any consequential amendments to the Lease between the Town and Indiana being made to the satisfaction of the Town and the full cost being paid by Indiana, within an agreed timeframe.

**THE SUBSTANTIVE MOTION WAS PUT**

Carried 10/1

For the Motion: Mayor Morgan, Cr Rowell, Cr Boland and Cr Cunningham  
Cr Goldthorpe, Cr Carmichael, Cr Dawkins, Cr Strzina, Cr Walsh and Cr Woodhill

Against the Motion: Cr Birnbrauer

**11.2 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 17  
AUGUST 2010****11.2.1 AMENDMENT TO FEES AND CHARGES 2010/2011**

**File No:** SUB/140  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Elizabeth Cox  
Principal Environmental Health Officer

**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to advise Council of an error in the 2010 -2011 Budget Fees and Charges – Eating Areas in Streets - Business, Town Centre & Foreshore Zone (as per Town Planning Scheme) – Adjacent to Restaurants, Dining Rooms& Take Away Food Premises and to seek an amendment to the fees and charges.

**BACKGROUND**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

In the 2010 -2011 Budget, Fees and Charges for Eating Areas in Streets, the charge is listed as \$200 per m<sup>2</sup>. However, the estimated income raised from this charge in the 2010 - 2011 budget is based upon the previous financial year's charge of \$130 per m<sup>2</sup>, not the proposed \$200 per m<sup>2</sup> as stated in the Fees and Charges. The figure of \$130m<sup>2</sup> per m<sup>2</sup> was supposed to have been maintained for 2010-2011 based upon market analysis.

An amendment to the fees and charges to reflect a charge of \$130m<sup>2</sup> would result in a nil budget impact for the year 2010 - 2011.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

It has come to administration's attention that the fees and charges for outdoor eating areas increased in the 2010 – 2011 budget. In 2009 -2010 the fess and charges for outdoor eating were \$130 per m<sup>2</sup> of footpath occupied. The fees and charges for the same activity in 2010 – 2011 have been listed at \$200 per m<sup>2</sup>.

A review of the fees and charges for the same activity for the beach side suburbs of the City of Joondalup, City of Stirling, City of Fremantle, City of Rockingham, together with the commercial centres of the City of Perth, City of Subiaco and Town of Claremont have revealed that maintaining a, a charge of \$130per m<sup>2</sup> represents a comparable rate with neighbouring councils. It is therefore recommended that Council amend its Fees and Charges accordingly to reflect and maintain the 2009.2010 figure.

**VOTING**

Absolute Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Boland, seconded Cr Rowell

**THAT COUNCIL:**

1. **Amend the fees and charges listed in the 2010/2011 Budget – Eating Areas in Streets – from \$200 per m<sup>2</sup> to \$130 per m<sup>2</sup> consistent with the expected income in the 2010/2011 budget.**
2. **A refund reflecting the difference between the listed charge and the amended charge be provided to any business where payment may have already been made.**

**Carried 11/0**

**11.2.2 AUSTRALIAN NATIONAL PARKING STEERING COMMITTEE  
CONFERENCE**

**File No:** SUB/83  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Ernie Polis  
Senior Ranger

**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Report recommends Senior Ranger attends conference

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**SUMMARY**

Every two years, a major conference is organised by the Australian National Parking Steering Group (ANPSSG) on a large range of Local Government issues regarding parking. It attracts local governments from around Australia. This year the conference will be held in Hobart from 29th September to 1st October 2010. This report requests approval to attend this conference by the Senior Ranger.

**BACKGROUND**

ANPSG is a national association of local government and industry leaders. The Hobart conference is the fourteenth of its type and is the major national event for local governments occurring every two years. This conference attracts a large variety of industry representatives.

A number of keynote speakers will also contribute to the program.

The program is attached.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Council's *Conferences Policy* applies:

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

The estimate of the conference attendance, accommodation, meals and travel for this conference is \$1800. The 2010/2011 budget includes an allowance of this amount for training costs of Ranger Services.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

One of the most important sources of current information and training for experienced local government officers occurs in conferences and seminars, particularly if delivered by high quality, practicing experts working in the industry.

New ideas are picked up from these presentations (ie: meter eyes), trends occurring throughout Australia and new products are presented.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council**

- 1. Approve the attendance of the Acting Senior Ranger at the ANPSG Conference, as per attachment 10.2.1, in Hobart, Tasmania, from 29<sup>th</sup> September to 1st October, 2010.**
- 2. Receive a report within two months of the conference detailing applicable items of benefit to the Town.**

**Carried 11/0**

**11.2.3 COTTESLOE OCEAN ADVENTURE TRIATHLON – EVENT APPLICATION**

**File No:** SUB/550-02  
**Attachments:** [Event Application Ocean Adventure and Cottesloe Beach Triathlon.pdf](#)  
[Beach Policy.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Annaliese Davis  
Events Support Officer  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The Town of Cottesloe has received an event application from Stephen Doyle from Sports Performance and Management for the 'Cottesloe Ocean Adventure Triathlon'. The event is scheduled to take place on 12<sup>th</sup> February 2011 between 6:15/6:30am and 9:30am.

The same event was held on 12<sup>th</sup> February 2010 and called 'Cottesloe SLSC 100<sup>TH</sup> Anniversary Adventure Challenge'. The event is run in conjunction with the Cottesloe Surf Life Saving Club.

The recommendation is that Council:

1. Support the Cottesloe Ocean Adventure Triathlon on Saturday 12 February 2011 as per the attached event application. Approval is subject to the following conditions:

- a) Road closure approval form signed by Main Roads and the Police before it can be approved by the Manager Engineering Services.
- b) Provision of a transport/parking plan and appropriate access/signage to and from the event.
- c) Adequate arrangements for rubbish collection and removal, including the provision for recycling/
- d) Compliance with noise regulations
- e) Compliance with relevant health and safety legislation with regard to food, hygiene and provisions of toilet facilities.
- f) Appropriate public liability insurance no less than \$10million.
- g) Compliance with additional relevant sections of the Beach Policy.

2. Class the event as a charity/community classification and charge only the ranger fee (\$110 per hour) and bond (\$1,000) for this event.

The event is an individual and team challenge which involves an ocean swim, ocean paddle, bike ride and coast run. Each competitor will complete the swim first, then bike, run and finish with the paddle. The event will require the closure of 2.5 kilometres of Marine Parade (see attached map) for 4 hours from 5:30am to 9:30am.

**BACKGROUND**

The same event took place on the 12<sup>th</sup> February 2010 but was called the Cottesloe SLSC 100<sup>th</sup> Anniversary Adventure Challenge. The event had the same requirements as this current application.

The Council resolution from 24 August 2009 in regards to the same event was:

*THAT Council:*

*1. Support the Cottesloe Surf Life Saving Club 100<sup>th</sup> Anniversary Adventure Challenge as per the event application attachment subject to the organisers of the event addressing the following matters, with appropriate collaboration and assistance of council staff, to the satisfaction of the Chief Executive Officer;*

- a. Provision of a Risk Management*
- b. Road closure approval form signed by Main Roads and the Police, for Council's approval.*
- c. Provision of a transport/parking plan and appropriate access/signage to and from the event.*
- d. Adequate arrangements for rubbish collection and removal, including the provision for recycling.*
- e. Compliance with noise regulations.*
- f. Compliance with relevant health and safety legislations with regard to food, hygiene and provision of toilet facilities.*
- g. Appropriate public liability insurance of not less than \$10 million.*
- h. Compliance with additional relevant sections of Council's Outdoor Concerts and Large Public Events Guidelines.*

*2. Class the Event as a Charity/Community classification and charge only the ranger fee and bond for the event.*

The Senior Ranger for the Town of Cottesloe has confirmed that this year's event in February was well organised and there were no issues with the event. The Town's Works Supervisor also advised that no issues arose as a consequence of the event.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

The Beach Policy is relevant when considering the recommendation.

The Beach policy states (in part);

*1. "Subject to:*

- the provisions of the Beaches and Beach Reserve Local Law.*
- consideration of how timing, location and activities may affect other beach users and residents,*
- using discretion to ensure that the prime usage of Cottesloe and North Cottesloe beaches reminds passive recreation, and*
- the payment of the fee as set out in Council's list of fees and charges.*

*the CEO may approve applications for significant beach events without reference to Council in the following circumstances.*

- II. Only one significant beach event per month to be approved without specific referral to Council.*
- III. Significant events with any commercial or profit making goals will not be approved by the CEO in the first instance. At the CEO's absolute discretion, applications for such events may be referred to Council for approval which may or may not be granted by the Council.*
- IV. Beach event organisers are required to submit evidence to the CEO's satisfaction that:*
  - An appropriate public liability is in force*
  - A suitable risk management plan has been prepared*
  - Safety measures are in place, which are appropriate for the event. An aquatic safety plan is considered an appropriate safety measure for significant events with more than 3000 attendees.*
  - All relevant statutory requirements have been met (e.g. health, traffic, safety regulations)*
  - The Town of Cottesloe is indemnified against all claims arising from the event.*
  - A strategy is in place for clean up after the event.*
  - Noise limits from any equipment will not exceed statutory levels.*
  - Public access to facilities will not be impeded.*
  - Relevant emergency authorities have been informed of the event.*
- V. Beach event organisers are required to observe the directions of authorised Council officers throughout any event.*

## **STATUTORY ENVIRONMENT**

- Health Act 1958
- Traffic Act 1974

## **FINANCIAL IMPLICATIONS**

This event based upon the fees and charges schedule would be classed as a category 3 under special events:

Category	Type	Entry Fee	Liquor Licence	Time	No. of patrons
3	Charity/Community	Yes	Yes/No	Day/evening	> 1000 - < 3000

As shown in the 2010/11 Fees and Charges, Category (3) events require a fee of \$1,100 and a bond of \$1000. If a ranger is required to be at the event from 5:30am till 9:30am it would be at cost of \$110/per hour/per ranger. It should be noted that last year the event was not charged any 'fee' and only charged a bond of \$1000.

## **CONSULTATION**

Nil



**STAFF COMMENT**

The Cottesloe Ocean Adventure Triathlon is designed to involve all aspects of the Cottesloe community. Primarily the event will be supporting the Surf Life Saving Western Australia and Cottesloe SLSC but will also aims to have a flow on effect to other businesses in the area. The Town of Cottesloe will be included in all materials associated with the event and the local community will be invited to participate as competitors or spectators.

The event will be held on Saturday 12<sup>th</sup> February 2011 at approximately 6:15am. The set up for the event will take place on Friday 18<sup>th</sup> February from 3:00pm. A security guard will be positioned from approximately 8:00pm on Friday until 4:00am on the Saturday morning.

Similar to this year's event, the event organisers have requested to use car park 1 to place the bike racks. The car park will be closed from the Friday evening until approximately 10am on Saturday morning. The event organisers will ensure the following notice is given for the closure of the car park and the road closure on Marine Parade:

**Residents:**

- Notification will be given to residents for the closure by letter
- One month prior to the event residents and businesses will be given a detailed letter concerning the closures and times and possible movements.
- A second reminder letter will be distributed in the week prior to the event.

**Advertising:**

- The road closure will be advertised in the local paper.

Please refer to the attachment for the map and list of all advisory signs and road closures that will happen as a result of the event. A traffic management plan is still to be received.

The event will commence on the Cottesloe main beach with a transition area at the main carp park. The start and presentation area requires some electrical source for a public address system and the electronic timing system and will hold four freestanding tents (3, x 3m). The transition area will have bike racks and bunting (flags) and the finishing area will have a finish stand and bike racks.

The swim is expected to start at the Groyne area south on the main beach and finish in front of Indiana with competitors exiting the water and running up the stairs/ramp to the transition area. Surf Life Saving WA (Cottesloe SLSC) will be providing all water safety for the event.

The bike leg starts in the transition area (car park) and riders are required to finish a 5km course loop five (5) times. The cycle progresses south on Marine Parade, incorporates a lap of Beach Street, Avonmore Terrace and Gibney Street, continuing south on Marine Parade to "U" turn 20 metres prior to the intersection of Curtin Avenue. The cycle course will require the closure of Marine Parade from Curtin Avenue to Napier Street from 5:00am to 9:30am. This closure may be less due to the cycle following the swim with roads not being closed till 6:20am and opened by

8:30am. It is expected the first cyclist will start at 7:00am and the last will leave the course at 8:20am.

The run leg of the course will commence from the transition area and pass down the steps south of Cottesloe SLSC and progress along the beach for 2.0 kilometres towards Leighton Beach. The runners will return via the beach and path to finish at Cottesloe.

Competitors will paddle around a series of buoys from Cottesloe Beach to Leighton Beach and return. Cottesloe SLSC will be patrolling the paddle could with IRB's and jet skis to help any paddles having difficulty.

Cottesloe held this event last year and as previously discussed, it was a success. The event was well organised by Stephen Doyle and the Cottesloe SLSC. The attached application also outlines security, signs, emergency plans, insurance and a range of other issues that need to be taken into consideration.

Based on last year's event, the organisers are expecting:

- 500+ competitors
- 60 Staff
- 500 spectators.

Depending on the expected numbers portaloo toilets will be organised for the event to ensure adequate toilet facilities are available. At council last year, elected members raised concerns about the sufficient toilets and regular cleaning of the temporary facilities. A condition of the event will be that the portaloo toilets are inspected throughout the event and that they are removed from the site as soon after the event as possible.

There will be no food vendors at the event; the event is aimed to support local businesses.

All rubbish will be managed and collected by event organisers and the Town of Cottesloe will request that extra bins are organised to ensure an appropriate waste management plan is in place. Stephen Doyle and Cottesloe SLSC have requested that sweeping of the roads (mainly corners) that are used on the course is organised prior to the event, by the Town of Cottesloe.

Stephen Doyle will ensure the correct bodies are contacted regarding the event as listed in section (5) of the attached application.

## **VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Rowell**

**That council:**

- 1. Support the Cottesloe ocean adventure triathlon on Saturday 12 February 2011 as per the attached event application. approval is subject to the following conditions:**
  - a) road closure approval form signed by main roads and the police before it can be approved by the manager engineering services.**
  - b) provision of a transport/parking plan and appropriate access/signage to and from the event.**
  - c) adequate arrangements for rubbish collection and removal, including the provision for recycling/**
  - d) compliance with noise regulations**
  - e) compliance with relevant health and safety legislation with regard to food, hygiene and provisions of toilet facilities.**
  - f) appropriate public liability insurance no less than \$10million.**
  - g) compliance with additional relevant sections of the beach policy.**
- 2. Class the event as a charity/community classification and charge only the ranger fee (\$110 per hour) and bond (\$1,000) for this event.**

**Carried 11/0**

**11.2.4 EVENT APPLICATION - TSVET PRODUCTIONS PRESENT 'THE FINGER THINGS'**

**File No:** SUB/1006  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Annaliese Davis  
Events Support Officer  
  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

Tsvet Productions have contacted the Town of Cottesloe requesting to hold a charity event on the Civic Centre Main Lawn on Saturday 19<sup>th</sup> February 2011. The event is a not for profit event aimed to promote food and wine appreciation as well as conducting an auction to fundraise for the selected charity, Love Angels (ticket sales, auction).

The Love Angels Foundation is aimed at teaching children to reach out and help other people with the notion of giving and expecting nothing in return. All proceeds from this event will go directly to the foundation. Their website is [www.loveangels.com.au](http://www.loveangels.com.au).

The 'Outdoor Concerts and Large Public Events' Policy states that administration must have 'in-principle' support of the Council before the CEO can approve the event as per the required event guidelines.

The recommendation is that Council:

1. Give in-principal approval for 'The Finger Things' event subject to the following conditions:
  - a) the event application form is completed in full and includes all relevant sections addressed to the standards specified by Manager of Corporate & Community Services or CEO.
  - b) ensure that relevant sound monitoring is carried out throughout the event with a bond of \$2,000 to ensure the event organisers comply with sound monitoring officers.
2. Class the event as a Charity/Community event category 2 with a fee of \$550 and a bond of \$1,000. In addition there will be fees associated for sound monitoring or others at the discretion of the CEO.

**BACKGROUND**

Nil

**STRATEGIC IMPLICATIONS**

Nil

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**POLICY IMPLICATIONS**

The Outdoor Concerts & Large Public Events policy and guidelines are both relevant when considering this application. As stated in the policy:

*(b.) All outdoor concerts and major public events shall comply with the Town of Cottesloe's Guide to Outdoor Concerts and Large Public Events. Please see attached for these guidelines.*

In addition the policy states that:

*(f) An application for an event is to be made to Council on the Event Application and Checklist Form not less than 90 days prior to an event. The CEO may request additional information or action as deemed appropriate*

*(g) The in-principle support of the Council of the Town of Cottesloe to stage an outdoor concert or large public event does not constitute an approval. Approval for an event will only be given by the CEO upon satisfactory compliance with all statutory and other requirements at least 24 hours prior to the commencement of an event.*

The event application received from Tsvet Productions is included in the attachments. At present, there are sections of the application which have not been completed. Tsvet Productions will continue liaise with the Town and provide relevant information once the venue has been confirmed. They have been informed that before approval can be given by the CEO, the event application form must be completed in full.

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

The event organisers will be required to pay the fees and bond's as shown in the 2010/2011 Fees and Charges.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The following is a broad schedule of the event:

**Tentative Date/Tickets:**

February 19<sup>th</sup> 2011 from 3:00pm till 8:00pm and all tickets are pre-sold.

**Guests:**

Initially the number of guests was 450 however this has now changed to 250. Approximately 77% of the guests will be 25 to 40 years old with the remainder in the 40-55+ age.

**Draft schedule of events:**

- 3:00 – 4:00pm: Guests will arrive and there will be stand up drinks and canapés in the marquee. Classical piano music or Jazz will play (TBC)
- 4:00 – 7:00pm: There will be commentary for food and wine appreciation over the afternoon displaying 30 different courses of tapas with wines that compliment, all from restaurants across Perth.  
A fundraising auction for Love Angels Foundation will also take place in this time. This is the main source of fundraising for the event and will have items such as jewellery, fine wines, holidays, and memorabilia which have all been kindly donated to auction off.
- 7:00pm – 8:00pm DJ (to be confirmed) will play from 7:00pm till 8:00pm

The event will conclude at 8:00pm.

There will be security at the event and water will be freely available. It will be a smoke free environment. The event organisers will require the main lawn from Friday 18<sup>th</sup> February and Sunday 19<sup>th</sup> February for set up and break down.

If in-principle approval is granted by Council, the Events Officer and Principal Environmental Health Officer will begin collecting all relevant information regarding compliance with noise, health and safety regulations. The final approval will only be given once all the requirements have been met by Tsvet Productions to the satisfaction of the CEO with reference to the Outdoor Concerts and Large Public Event Guidelines (attached).

The main concern of administration is the level of noise to local residents. However as the event will only be between 3:00pm and 8:00pm and noise monitoring systems will be in place, noise will be controlled. Additionally, requesting the bond of \$2,000 will ensure that the event organisers comply with the sound monitors request on the day of event.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION**

**Moved Cr Boland, seconded Cr Goldthorpe**

THAT COUNCIL:

1. Give in-principle approval for 'the finger things' event subject to the following conditions:
  - a) the event application form is completed in full and includes all relevant sections addressed to the standards specified by manager of corporate and community services or CEO.
  - b) ensure that relevant sound monitoring is carried out throughout the event with a bond of \$2,000 to ensure the event organisers comply with sound monitoring officers.

2. Class the event as a charity/community event category 2 with a fee of \$550 and a bond of \$1,000. In addition there will be fees associated for sound monitoring at the discretion of the CEO.

**AMENDMENT**

**Moved Cr Dawkins, seconded Cr Strzina**

**That the item be referred back to the Administration.**

**Reason: To request a completed application form be presented before Council makes a decision.**

**Carried 7/4**

**COUNCIL RESOLUTION**

**That Council refer the mater back to administration in order to finalise the application form and re-present to Council.**

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 11/0**

**11.2.5 HAVAIANAS THONG CHALLENGE**

**File No:** SUB/550-02  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Annaliese Davis  
Events Support Officer  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The Town of Cottesloe has received an application for Urban Media to hold the Havaianas Thong Challenge on the main Cottesloe beach on Australia Day, 26 January 2011 between 8am and 4pm. This is the 6<sup>th</sup> year for this national event and the second consecutive year for Cottesloe.

The event involves an attempt at a world record for the largest chain of people floating out on the water on blow up lilo's (Havaiana thong). Entry to the event is \$30.00 with \$10.00 from each registration going to the Cottesloe Surf Life Saving Club Nippers.

The same event took place on Australia Day this year and there were no complaints received from residents or general participants.

This report recommends that Council:

1. Approve the Havaianas Thong Challenge on the 26<sup>th</sup> January 2011 subject to:
  - a.) Extensive risk management and water safety plan.
  - b.) Adequate arrangements for rubbish collection and removal, including the provision for recycling.
  - c.) Compliance with noise regulations
  - d.) Compliance with relevant health and safety.
  - e.) Appropriate public liability insurance of no less than \$10 million.
  - f.) All fees to be paid prior to the event, including fees to cover additional costs of cleaning the public toilets and ranger services (if required).
2. Class the event as a commercial event and charge the fee of \$3,300 and a bond of \$2,000.
3. Inform the applicant of Council's decision and requirements.

**BACKGROUND**

This event took place this year in Cottesloe on Australia Day for the first time. There were no issues with the event as it was well organised and promoted a fun alcohol free activity for people to be involved in for the public holiday.



Council requested last year that applicant cover any additional costs of cleaning the public toilets and ranger services, this was agreed by the applicant and has again been included in the officer recommendation.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

The beach policy requires consideration with this report.

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

This event will be at no cost to Council. The applicant will pay the required fee as set in the 2010/2011 Fees and Charges and any other additional fees (cleaning toilets, ranger services) that are applicable.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The Havaiana Thong Challenge is an event that will attract many people to the Cottesloe Beach for Australia Day and will support the local Cottesloe Surf Life Saving Club (nippers) in the process. The event is well supported by the Cottesloe Surf Life Saving Club and comes highly recommended by the City of Joondalup (see attachments). Additionally there were no complaints from this year's event and the local community enjoyed the fun atmosphere the event created.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Boland, seconded Cr Rowell

**THAT COUNCIL:**

1. Approve the Havaianas Thong Challenge on the 26th January 2011 subject to:
  - a) extensive risk management and water safety plan.
  - b) adequate arrangements for rubbish collection and removal, including the provision for recycling.
  - c) compliance with noise regulations
  - d) compliance with relevant health and safety.
  - e) appropriate public liability insurance of no less than \$10 million.

- f) all fees to be paid prior to the event, including fees to cover additional costs of cleaning the public toilets and ranger services (if required).
- 2. Class the event as a commercial event and charge the fee of \$3,300 and a bond of \$2,000.
- 3. Inform the applicant of council's decision and requirements.

**Carried 11/0**

**11.2.6 HEALTH SERVICE PROVISION TO PEPPERMINT GROVE**

**File No:** SUB/1098  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Elizabeth Cox  
A/Principal Environmental Health Officer  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

This report is to inform Council of a request by the Shire of Peppermint Grove for the Town of Cottesloe to undertake its statutory Environmental Health functions for a twelve month trial at an annual fee of \$8,500. These functions are currently by a contractor as a fee for service basis.

**BACKGROUND**

The Shire of Peppermint Grove is a relatively small local government authority with an equally small administration. As a consequence some of their activities and functions are undertaken by contract staff, as required. Environmental Health Services are one such service, which delivered by a contract EHO under the supervision of the Shire's Manager Planning, Building & Health Services. Other services are delivered in a similar way such as ranger services, which are currently contracted to the Town of Mosman Park. As a member of WESROC the Shire also participants in a range of shared services and resource opportunities. The most successful and longstanding of which is the Grove Library, a tri-partite agreement between the shire and the Town's of Cottesloe and Mosman Park.

The Town of Cottesloe has an established Environmental Health and Service and program and is capable of extending that service given the limited nature and volume of the work associated with the Shire of Peppermint Grove.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Environmental Health Officers can be authorised by the Health Department for any number of local government authorities. The CEO of Peppermint Grove has delegated approval to authorise officers under the Food Act.

**FINANCIAL IMPLICATIONS**

The Shire of Peppermint Grove is prepared to pay an annual fee of \$8,500 based on a service arrangement of 1 day per week for the first two months to accommodate the establishment of the service and afterwards at half a day per week. This will provide

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additional income to the Town of Cottesloe without the need for additional human resources and will not adversely affect current workloads. The Town's existing staffing structure is flexible in that the Town has a full time Principal Environmental Health Officer and part time Environment Health Officer (3 days per week). If required, the option to negotiate an increase in the part time hours is available, subject to need.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Council's Environmental Health team has met with the Shire of Peppermint Grove to discuss the proposal. During the month of July council's officers reviewed the work to be carried out and have met with various proprietors in the district. The work load is acceptable and can be accommodated within the Environmental Health program at the Town of Cottesloe.

**STAFF COMMENT**

The request by the Shire of Peppermint Grove for the Town of Cottesloe to carry out the Environmental Health functions has a number of advantages, the most significant being the proximity of the commercial areas of both Councils and the synergies of the two communities.

During the month of July officers from the Town of Cottesloe carried out an investigation to determine the scope of the work and how it could be included within the existing Cottesloe program and it was subsequently considered that the work load could be accommodated.

The service is to be provided on as 'as needs' basis however it is acknowledged that there are routine inspections which are required to be carried out. The estimation of hours required are the officers "best guess" and the trial will enable the workload to be verified and, if required, adjusted.

The services to be carried out will include:

- Assessment of all food premises and introduction of the Food Act
- Inspection of Public Buildings and Public Pools
- Food Sampling
- Water Sampling
- Investigate and act on any general health complaints
- Maintain a data base of all health premises, correspondence and inspection records that will be provided to the Shire of Peppermint Grove when the trial is concluded.
- Monthly reports to the Shire of Peppermint Grove on activities undertaken

A records system relating to the Peppermint Grove premises will be established as part of the introductory program. All fees and charges together with other financial activities will remain with the Shire of Peppermint Grove.

**VOTING****ABSOLUTE MAJORITY**

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**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council**

- 1. Accept and endorse the request from the Shire of Peppermint Grove to undertake the statutory Environmental Health functions for the shire for a 12 month trial period.**
- 2. That a charge of \$8,500 be made to the Shire of Peppermint Grove for the provision of the service.**
- 3. Pursuant to Section 6.8 of the Local Government Act 1995**
  - i. Authorise the following expenditure – Statutory Environmental Health Services for the Shire of Peppermint Grove at a cost \$8,500.**
  - ii. Amend the 2010/2011 Adopted Budget (to accommodate the above authorised expenditure) as follows:**
    - a. Increase the Preventative Services – Administration – Inspections (Revenue) by \$8,500.**
    - b. Invoice the Shire of Peppermint Grove for a charge of \$8,500.**

**Carried 11/0**

**11.2.7 RECORDS MANAGEMENT - POLICIES AND PROCEDURES MANUAL**

**File No:** SUB/184  
**Responsible Officer:** Graham Pattrick  
Manager Corporate Services  
**Author:** Asha Boudville  
Records Manager  
  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

A recommendation is made to adopt the updated Records Management – Policies and Procedures manual.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Records Management Policy

**STATUTORY ENVIRONMENT**

The *State Records Act 2000* (“Act”) has specific provisions relating to the responsibility to create, manage and dispose of records in accordance with principles and standards issues by the State Records Commission.

Electronic mail transmissions are included within the meaning of the Act’s definition of a “record” which includes *“anything on which information has been stored or recorded, either mechanically, magnetically, or electronically”*.

**FINANCIAL IMPLICATIONS**

Officer time to research and prepare documents.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Executive/Senior Staff

**STAFF COMMENT**

Due to legislative requirements the Town of Cottesloe is required to submit a revised Recordkeeping Plan to the State Records Office every five (5) years. This plan will outline our current recordkeeping policy and procedures. Updating our Records Management Policy and Procedure manual is included in this requirement.

Records are an important information resource to the Town and we are obliged to maintain a records management system that completely, accurately and reliably

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creates and maintains evidential records of business activities carried out by the Town of Cottesloe.

This Policy and Procedure Manual applies to all staff within the Town of Cottesloe including Councillors, part-time employees and contractors.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council;**

**Adopt the updated Records Management – Policies and Procedures manual as per the attached document submitted to the 17 August 2010 meeting of the Works and Corporate Services Committee.**

**Carried 11/0**

**11.2.8 STRATEGY FOR LIQUOR LICENSING APPEAL - REPRESENTED**

**File No:** SUB/362  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate & Community Services  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

A recommendation is made to observe behaviour at the beachfront hotels this summer prior to initiating further action regarding S64 application to the Department of Racing, Gaming & Liquor.

**BACKGROUND**

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

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



and the preparation of the abovementioned plans of action and communications strategy, including the preparation for Council approval of any proposal to lodge a submission with the Liquor Licensing Authority seeking to invoke a review under section 64.

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

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

A recommendation was put to Council in May 2010 to :

1. authorise the preparation of a section 64 application under the Liquor License Control Act to the Director of Liquor Licensing to reduce the patron numbers at the Cottesloe beachfront hotels based on the evidence collected by the Town, including surveillance over the past 2 summers.
2. seek the support of local Police, Police Liquor Enforcement Division, and related Agencies to provide evidence to supplement its claims.
3. provide sufficient supporting information, including a cover letter from the Mayor which outlines the Town's concerns and request the Mayor meet with the Director of Liquor Licensing and Commission of Police as part of lodging its application.
4. not exceed its budget of \$5,000 in preparing its application to the Director of Liquor Licensing.

The Mayor highlighted the issues of concern and the changes that have been noticed in recent times. He referred to the impact of the surveillance activities and concerns with the current "grandfathering" of licence conditions, as compared to current requirements for determining patron numbers. He was of the opinion that a deferral for 3 months had merit and would allow the new owners time to present their plans and make changes. He proposed an amendment to the Committee recommendation and this was supported by Council. The issue was deferred until the current Council meeting.

## **STRATEGIC IMPLICATIONS**

### **Objective 1: Lifestyle**

*To protect and enhance the lifestyle of residents*

- Reduce beachfront hotel patron numbers to a sustainable level.

## **POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

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

**s64. Power of licensing authority to impose, vary or cancel conditions**

- (1) Subject to this Act, in relation to any licence, or to any permit, the licensing authority may at its discretion impose conditions —
  - (a) in addition to the conditions specifically imposed by this Act; or
  - (b) in such a manner as to make more restrictive a condition specifically imposed by this Act,and may vary or cancel any condition previously imposed by the licensing authority, having regard to the tenor of the licence or permit and the circumstances in relation to which the licensing authority intends that it should operate.
- (1a) The licensing authority may impose, vary or cancel a condition under subsection (1) —
  - (a) of its own motion; or
  - (b) on the application of the licensee; or
  - (c) at the written request of the parties to a liquor accord.
- (1b) In subsection (1a) —
  - “**liquor accord**” means a written agreement or other arrangement —
    - (a) that is entered into by 2 or more licensees in a local community, and persons who represent the licensing authority, departments of the Public Service, State agencies or local government, and other persons; and
    - (b) that has the purposes of minimising the harm caused in the local community by the excessive consumption of liquor and promoting responsible practices in the sale, supply and service of liquor in the local community; and
    - (c) that is approved by the Director.
- (2) The power conferred by subsection (1) may, subject to compliance with section 31(6)(b), be exercised at any time, but a condition takes effect on —
  - (a) the date of the grant of the licence or the issue of the permit in relation to which it was imposed; or
  - (b) such other date as is specified in the notice setting out the particulars, or in the endorsement or revised version of the licence or permit made, under section 31(6),whichever is the later.
- (2a) If the licensing authority proposes to impose, vary or cancel a condition under this section, the licensing authority may, by notice in writing, require the licensee to show cause to the licensing authority why the condition should not be imposed, varied or cancelled.

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

- (f) prohibit persons being, or limit the number of persons who may be, present on, or on any particular part of, the licensed premises or any area which is subject to the control or management of the licensee and is adjacent to those premises; or
  - (fa) prohibit entry to the licensed premises after a specified time; or
  - (g) prohibit the provision of entertainment, or limit the kind of entertainment that may be provided, on, or in an area under the control of the licensee adjacent to, the licensed premises; or
  - (ga) prohibit promotional activity in which drinks are offered free or at reduced prices, or limit the circumstances in which this may be done; or
  - (gb) prohibit any practices which encourage irresponsible drinking; or
  - (h) otherwise limit the authority conferred under a licence or permit; or
  - (j) require action therein specified to be undertaken by the licensee —
    - (i) within a time or at times therein specified; or
    - (ii) on occasions or in circumstances therein specified, in relation to the licensed premises or any part of those premises, the conduct of the business carried on under the licence, or otherwise in the public interest; or
  - (k) prevent improper arrangements or practices calculated to increase any subsidy payable; or
  - (m) ensure compliance with the requirements of, or with terms fixed or conditions imposed by or under, this Act.
- (4) If there is an inconsistency between a condition imposed under this Act and a requirement of, or made under, any other written law, the condition or requirement which is more onerous for the licensee shall prevail.
- [(5) *repealed*]
- (6) A condition imposed under this section may relate to —
- (a) any aspects of the business carried on under the licence; and
  - (b) any activity carried on at the licensed premises, at any time and whether or not related to the business carried on under the licence.
- (7) Where a condition imposed under this section in relation to a licence has been contravened the licensing authority may —
- (a) impose a more restrictive condition in relation to that licence; or
  - (b) impose on the licence holder a monetary penalty not exceeding \$500 for each day on which the contravention continues, which shall be payable to the Crown by that person,

or both.

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

**s117. Complaints about noise or behaviour related to licensed premises**

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

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

- (d) if the complainant is a person referred to in subsection (2)(d) — whether the complainant (or, if subsection (2)(d)(ii) applies, the complainant's child) began to reside, work, worship, attend or be a patient at any relevant premises before or after the licensee began to conduct business at the licensed premises; and
  - (e) any provision of the Environmental Protection Act 1986, or of any regulations made under that Act, that is relevant to the subject matter of the complaint.
- (4c) The Director —
  - (a) may defer making a determination under subsection (4a) for any period the Director considers appropriate; and
  - (b) may make an interim order that has effect for that period for any purpose for which an order may be made under subsection (5).
- (5) For the purposes of this section, whether pursuant to conciliation or negotiation or by way of an order, the Director may —
  - (a) vary the existing conditions of the licence;
  - (b) redefine, or redesignate a part of, the licensed premises;
  - (c) prohibit the licensee from providing entertainment or any other activity of a kind specified by the Director during a period specified by the Director or otherwise than in circumstances specified by the Director, and impose that prohibition as a condition to which the licence is to be subject; or
  - (d) otherwise deal with the matter in such a manner as is likely, in the opinion of the Director, to resolve the subject matter of the complaint.
- (6) Where, under section 25, a determination made by the Director under this section is to be reviewed by the Commission —
  - (a) effect shall be given to any determination made by the Director; and
  - (b) any order made, or other action taken, by the Director under subsection (5) remains in force until revoked by the Director or quashed by the Commission,

unless the Commission, by way of interim order, otherwise directs.
- (7) A licensee who contravenes an order made under this section commits an offence.

Penalty: \$10 000.

## FINANCIAL IMPLICATIONS

There are costs in officer time to monitor ongoing behaviour at the beachfront hotels as well as costs (up to \$5,000) to prepare and lodge an application to the Director of Liquor Licensing.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

New owners of the Cottesloe Beach Hotel.

**STAFF COMMENT**

The CEO, Manager Planning Services and Manager Corporate & Community Services met with the new owners of the Cottesloe Beach Hotel (CBH) on 27<sup>th</sup> July 2010 where they outlined their plans for the hotel. The new owners/managers include Peter and Garry Prendeville and they have extensive experience in hotel management in WA including the Norfolk, Leederville and Rottne Arms Hotels. Their intent with the CBH is to change its operation style from a hotel driven only by bar trade during a Sunday session to a venue that has appeal to families, females, tourists and corporate functions/activities. As with all of their hotels there is a strong focus on quality food and for their staff culture to be customer focussed. Their initial changes, other than physical upgrades and refurbishment to some facilities, will be to reassess their staff management and operating model (including security) and they are looking to re-engage with the local community and mend some bridges. They have a five to ten year outlook to progressively change the hotel activities and patronage and recognise that such changes may lose them trade in the short term. In addition they are working with their architects Danny Jones and Graham Taylor to identify future changes to the hotel, including the rear garden areas, and will look to introduce further changes in May 2011 after the peak summer season is over. There was a recognition that they have a heritage listed asset that requires preservation and want to make the hotel more inviting and open to the general public. The new owners were also enthusiastic about enhancing the Cottesloe beachfront amenity and streetscape in accordance with Council's foreshore vision.

Following the meeting with council officers one of the owners met with local member for Cottesloe and State Premier, the Honourable Colin Barnett MLA regarding their plans and stated their desire "to cohesively enhance and develop the precinct with other stakeholders, in a way that will make a difference to this outstanding iconic area".

There is a view by officers that the proposed plans and changes outlined by the new owner to create a better, safer place for the Cottesloe Community and beach precinct should be allowed to be put in place and associated patrons behaviour monitored during the summer.

**VOTING**

Simple Majority

**COMMITTEE COMMENT:**

In discussing the report and officer recommendation Cr Woodhill reminded Committee that the information collected to date must be held pending any future action by Council in regard to this matter. All members acknowledged that behaviour had improved in recent times and wanted to allow the new owners the opportunity to continue this trend and prove their commitment to the Cottesloe community. In discussing the "monitoring" of behaviour Committee were also of the view that there



was not a need for external support at this time and that reports from existing sources including rangers and community, would be sufficient, however if matters deteriorated officers were to report back to Council with a view to pursuing the Section 64 application.

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council monitor the levels of anti-social behaviour at the beachfront this summer and determine whether it is necessary to lodge the s64 complaint at the end of the summer season.**

**Carried 11/0**

**11.2.9 AUSTRALIA DAY AWARDEES POLICY UPDATE**

**File No:** SUB/1036  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Carl Askew  
Chief Executive Officer  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

This report seeks to update a pre-existing policy for Australia Day Awards. It recommends that Council adopt the amended policy as per the attachment.

**BACKGROUND**

The Town of Cottesloe has participated in Australia Day celebrations with the Town of Mosman Park and the Shire of Peppermint Grove under a memorandum of understanding. At this event, awards are given in three categories, Australian Citizen of the Year, Young Australian Citizen of the Year and Event or Community Group of the Year.

In 2000 the criteria and conditions of being able to apply for any of the above awards were set out in the Australia Day Policy, this report provides an update of that policy for Council's consideration.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Australia Day: (Resolution No: C110, Adopted: September, 2000)

This report seeks to update this policy.

**STATUTORY ENVIRONMENT**

None known

**FINANCIAL IMPLICATIONS**

No financial resource impact.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

The Public Events Committee recently requested that all criteria relevant to Public Events need to be updated. This update is the first policy in response to that request. The Public Events Committee approved the changes earlier in the year.

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**STAFF COMMENT**

The changes that have been made to the policy are minimal and aim at updating the relevance of the policy. The main change in the policy is the change to increase advertising; this has been added due to the lack of nominations received in previous years.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Boland, seconded Cr Strzina

That Council adopt the updated policy for Australia Day Awards as per the attachment submitted to the 17 August 2010 meeting of the Works & Corporate Services Committee.

Carried 11/0

**11.2.10      DISABILITY ACCESS AND INCLUSION POLICY**

**File No:** POL/73  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Christina Guelfi  
Community Development Officer

**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

In association with the Town's Disability Access and Inclusion Plan, this report presents a Disability Access and Inclusion Policy which identifies a standard of access and inclusion and fosters a sense of community for all people who live and visit Cottesloe, no matter their disability. This report recommends that Council;

1. Adopt the Disability Access and Inclusion Policy as presented in the attachments,
2. Endorse the Town of Cottesloe's affiliation with the Companionship Card policies as outlined by ACROD Australia, and;
3. Endorse the use of the Contractor's Disability Access and Inclusion Induction Checklist.

**BACKGROUND**

Council has always worked to ensure its buildings and events are as access and inclusion friendly as possible. By developing a policy that addresses the Disability Services Commission's requirements for every local government to have an up-to-date Access and Inclusion Policy in addition to a Disability Access and Inclusion Plan (DAIP), the Town will formalise what the Council has already begun to achieve.

**STRATEGIC IMPLICATIONS**

This policy will enhance the Council's ongoing strategic commitment to invest in ways to involve, include and acknowledge people with a disability.

**POLICY IMPLICATIONS**

This report will recommend the adoption of an Access and Inclusion Policy.

**STATUTORY ENVIRONMENT**

- Disability Services Act 1993 (Western Australia, amended 2004).
- Commonwealth Disability Discrimination Act (1992)
- Equal Opportunity Act (Western Australian, amended 1988)

**FINANCIAL IMPLICATIONS**

The officer's time to maintain the policy is a financial consideration and also any loss of income due to the cost of entrance or participation in an event, due to free admission to the carer.

**SUSTAINABILITY IMPLICATIONS**

None Known

**CONSULTATION**

Consultation with the Town of Mosman Park and Shire of Peppermint Grove was undertaken to contrast their present Disability Access and Inclusion Policies. Advice was also sought from the Disability Services Commission (DSC).

**STAFF COMMENT**

The policies of the County of Inland Disability Future Directions program from the DSC and the Companionship Card were also consulted and included in the writing of this policy.

This policy highlights some areas of importance that require formalising of the procedures when hiring contractors/consultants and approving events that will be run within the Council's infrastructure or supported or sponsored by the Town.

It also provides the standard for our internal department when approving extensions or building/planning approvals, that the universal design conditions be outlined and considered when making decisions that will affect future or current residents or visitors to the area.

Although the Town of Cottesloe has already achieved so much in the area of access and inclusion, there are still areas we can improve on. One of these areas is the endorsement of the validity of the Companionship Card. This card means that the carrier is the carer of the person who is entering an event with a disability and allows the carrier free access to the event.

Examples of other organisations that have already affiliated with this program are as follows, but not limited to;

- Town of Vincent
- Town of Cambridge
- City of Armadale
- City of Joondalup
- City of Melville
- Hoyts Cinemas
- Greater Union
- Kings Park and Botanical Gardens
- Skywest Airlines
- Rottnest Island Authority

Endorsing the Companionship Card will identify Cottesloe as a disability friendly area. This will mean that all events run by the Town and events supported by the Town will require adherence to its conditions. For a list of these conditions of affiliation see the attachments.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT COUNCIL:**

- 1. Adopt the Disability Access and Inclusion Policy as presented in the attachments;**
- 2. Endorse the Town of Cottesloe's affiliation with the Companionship Card policies as outlined by ACROD Australia;**
- 3. Endorse the use of the Contractor's Disability Access and Inclusion Induction Checklist as per the attachment.**

**Carried 11/0**

**11.2.11      LANEWAYS/RIGHT OF WAYS WITHIN THE TOWN OF COTTESLOE**

**File No:** SUB/260 & POL/59  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Geoff Trigg  
Manager Engineering Services  
**Proposed Meeting Date:** 20 July 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

Staff have written to the Department of Regional Development and Lands to request information on how ROW's/Laneways owned by Council could become Crown Land, but vested in Council for control. This action came from Councils decision in November 2009 about the need to remove obstructions and stop adverse possession claims on Councils privately owned laneways.

The Department has offered two alternatives to have these laneways converted to Crown Land.

The recommendation is that Council resolve to:

1. apply to the Department of Regional Development and Lands for all laneways or Right of Way's owned by the Town of Cottesloe to be dedicated as roads under section 56 (i)(c) of the Land Administration Act (1997)
2. indemnify the Department against any claims of compensation or costs relating to this dedication.

**BACKGROUND**

Councils Right of Way/Laneways policy includes, as an objective, the conversion of Council owned laneways to Crown Land. This matter came up during the Florence St laneway adverse possession debate. If the laneway had been Crown Land, no adverse possession would have been possible.

In November 2009, as a result of a Council discussion on laneway/Right of Ways in the Town of Cottesloe, Council resolved:

That Council:

1. Write to the property owners of properties encroaching into laneway/Right of Way numbers 6, 28B, 22, 64, 20 and 68 as proposed by the Manager Engineering Services.
  2. Take action and provide for continuing public access on laneways, and the removal of potential adverse possessions claims, from laneways in the Town of Cottesloe.
-

In relation to part 2 of the resolution, conversion of Councils privately owned laneways to Crown Land would guarantee the removal of further adverse possession claims.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Council's Right of Way/Laneways policy applies.

**STATUTORY ENVIRONMENT**

Councils privately owned laneways could remain in their current status, with no change to the public rights for use, but with the potential possibilities of adverse possession claims, as occurred on the laneway on the north side of properties fronting Florence Street.

If these laneways were converted to a form of Crown Land, public rights of access would remain and be guaranteed. Also, no adverse possession claims can apply to Crown Land. In both cases, Council is responsible for maintenance and liability issues. Also Section 56 of the Land Administration Act 1997 applies.

**FINANCIAL IMPLICATIONS**

A status change from Council Ownership to Crown Land would have no impact on finance apart from the associated costs if Council chose to have the land reserved as "Right of Way".

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

This potential laneway ownership and status change would apply to 49 separate sections of Laneway or ROW, in varying widths and conditions. The vast majority of these laneways have multiple use, daily, by residents and ratepayers, with Council funding and maintenance needs.

The general public have used these accesses for many years and legal closure or sale by Council to a private owner would be extremely difficult if the purpose included the future denial of public access.

Many of the alignments contain service authority installations, particularly deep sewer lines, which require access for maintenance or upgrading at various times. This proposed conversion to Crown Land would not impact on existing Crown Land ROW's/Laneways or laneways privately owned by land owners. The existing laneways that have been previously dedicated under section 56 (i)(c) of the land Administration Act 1997 include McNamana Way, Joinery Way, Pennefather Lane, DeNandi Lane and Clapham Lane.



All of these are Crown Land, Public Streets, vested in the Town of Cottesloe for care, control and management. The only laneways the Department will not deal with are laneways where current adverse possession claims exist. Possessory Application 319435 (see Departmental letter) relates to one of the two original Florence Street laneway claims.

The two options offered by the Department; 'Right of Way' and 'Road' dedication only differ where the first option into 'Right of Way' status will have associated costs and be more complicated. Dedication as sections of road reserve, option 2, would give the alignments the same status as the previously listed, and named laneways.

In both cases, the laneways are vested in Council for care, control and management and can be funded from Council funds.

### **VOTING**

Simple Majority

In accordance with the correspondence dated 12 August 2010<sup>1</sup> from the Department of Local Government in relation to the Town's application under Section 5.69 of the Local Government Act for Mayor Morgan and Crs Dawkins, Cunningham, Strzina and Walsh to participate in the discussion and decision making relating to the private laneways or rights of way situation within the Town's districts; Mayor Morgan and Crs Dawkins, Cunningham, Strzina and Walsh declared an interest in the item 11.2.1 due to proximity to the laneways under consideration. As a consequence there may be a perception that their impartiality on the matter may be affected, however they declare they would consider the matter on its merit and vote accordingly.

### **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Mayor Morgan**

**THAT COUNCIL:**

- 1. Apply to the Department of Regional Development and Lands for all laneways, or Right of Way's owned by the Town of Cottesloe to be dedicated as roads under section 56 (i)(c) of the Land Administration Act (1997)**
- 2. Indemnify the Department of Regional Development and Lands against any claims of compensation or costs relating to this dedication.**

**Carried 11/0**

**11.2.12      STATUTORY FINANCIAL REPORTS FOR THE MONTH OF JULY 2010**

**File No:** SUB/137  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services

**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 July 2010, to Council.

**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**

These reports are not conclusive as they're the first set of accounts for the year. They do provide an indicative position that reflects a positive start for the Town of Cottesloe.

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD net profit or loss of \$64,663 as at 31 July 2010. Operating Revenue is below budget by \$71,732 (1%). Operating Expenditure is \$131,866 (16%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 July 2010 is shown on page 7.

The Capital Works Program is listed on pages 23 - 28 and shows total expenditure of \$600,094 compared to YTD budget of \$586,575.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 July, 2010, as per the attached Financial Statements, submitted to the 17 August 2010 meeting of the Works and Corporate Services Committee**

**Carried 11/0**

**11.2.13 SCHEDULE OF INVESTMENTS & LOANS AS AT 31 JULY 2010**

**File No:** SUB/150 & SUB/151  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 July 2010, as per attachment, to Council.

**BACKGROUND**

N/A

**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 Financial Statements shows that \$913,732.49 was invested as at 31 July 2010.

Reserve Funds make up \$646,470.72 of the total invested and are restricted funds. Approximately 62% of the funds are invested with the National Australia Bank, 28% with Westpac, and 10% with BankWest.

The Schedule of Loans on page 19 shows a balance of \$6,827,123.41 as at 31 July, 2010. There is \$459,792.00 included in this balance that relates to self supporting loans.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 July 2010, as per the attached Financial Statements, as submitted to the 17 August 2010 meeting of the Works and Corporate Services Committee.**

**Carried 11/0**

**11.2.14 ACCOUNTS PAID IN THE MONTH OF JULY 2010**

**File No:** SUB/137  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the list of accounts paid for the period ending 31 July 2010 to Council, as per the attached financial statements.

**BACKGROUND**

N/A

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

- \$11,000.00 to City of Nedlands for contribution towards Travel Smart Officer
- \$15,599.82 to WA Local Govt Super Fund for staff deductions
- \$14,148.10 to Water Corp for annual service to various bores
- \$15,080.14 to WA Local Govt Super Fund for staff deductions
- \$10,560.00 to Breac P/L for environmental health services
- \$17,204.00 to Holcim for various soakwells, lids, etc

- \$131,738.48 to the Shire of Peppermint Grove for quarterly contribution towards library operation
- \$18,733.00 to Civica for annual Authority & e-Services licence renewal
- \$16,032.96 to WALGA for annual subs for 2010/2011
- \$23,560.44 to WMRC for tipping fees for May and June 2010
- \$27,564.64 to Red 11 for hardware purchases including 2 new servers
- \$34,119.80 to Claremont Asphalt for installation of soakpits in various locations
- \$21,653.54 to the Shire of Peppermint Grove for contributions towards new library construction
- \$20,453.63 to LGIS for vehicle insurance premiums for 2010/2011
- \$27,160.10 to Playground Solutions for installation of equipment at Railway St playground
- \$560,181.02 to the Shire of Peppermint Grove for contributions towards new library construction
- \$20,285.72 to WMRC for tipping fees for June 2010
- \$48,687.23 to Ocean IT for new hardware and virtualization implementation on new servers
- \$34,201.51 to Transpacific Cleanaway for domestic & commercial waste disposal in June 2010
- \$10,142.00 to Jaymar Pumps for work to bore at Grant Marine Park
- \$23,908.50 to Lightsense Australia for installation of street lights
- \$24,987.57 to LGIS for Property Insurance Scheme contribution for 2010/2011
- \$37,203.15 to Giant Nissan for purchase of new vehicle
- \$44,000 to Tyco Flow Control for mainline upgrade to the Civic Centre
- \$17,779.78 to WMRC for tipping fees for July 2010
- \$67,744.80 and \$65,897.03 for staff payroll.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council receive the List of Accounts for the period ending 31 July 2010, as per the attached Financial Statements, as submitted to the 17 August 2010 meeting of the Works and Corporate Services Committee.**

**Carried 11/0**

**11.2.15      PROPERTY & SUNDRY DEBTORS REPORT FOR JULY 2010**

**File No:** SUB/145  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services  
  
**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 July 2010 to Council.

**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 commences on page 20 of the Financial Statements and shows a balance of \$189,212.63 of which \$122,623.51 relates to the current month. The balance of aged debtors over 30 days stood at \$66,589.12

Property Debtors are shown in the Rates and Charges analysis on page 22 of the Financial Statements and show a balance of \$7,903,690.21. Of this amount \$210,196.63 and \$981,947.87 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$7,694,969 in 2010 compared to \$7,067,180 last year.



**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council receive the Property and Sundry Debtors Report for the period ending 31 July 2010, as per the attached Financial Statements, as submitted to the 17 August 2010 meeting of the Works and Corporate Services Committee.**

**Carried 11/0**

**11.2.16 LONG TERM FINANCIAL PLAN**

**File No:** SUB/553  
**Attachments:** [LTFP.pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Graham Pattrick  
Manager Corporate Services

**Proposed Meeting Date:** 17 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

A recommendation is made to approve the Long Term Financial Plan (LTFP) 2009-2019 (attached).

**STRATEGIC IMPLICATIONS****Objective 5: Infrastructure**

*To maintain infrastructure and council buildings in a sustainable way*

- Develop a long term asset management plan and accompanying financial plan.

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

Nil

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

The LTFP has been presented to the Audit Committee. A recommendation was accepted by the Audit Committee that any significant item of capital expenditure relating to projects outside of standard infrastructure should be supported by a business plan if it is to be adopted by Council.

**STAFF COMMENT**

The LTFP forms the basis for determining and substantiating the long term financial sustainability of the Town. The important assumptions contained in this LTFP include:

- The sale of the depot in 2011/2012
- Capital purchase estimates from the Manager of Engineering Services and other executive staff
- Current levels of inflation to be maintained

The plan shows that the Council has a sound financial future based on the assumptions used in the model.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council adopt the Long Term Financial Plan for 2009 – 2019 as per the attached document submitted to the 17 August 2010 meeting of the Works and Corporate Services Committee.**

**Carried 11/0**

**11.2.17 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY  
ELECTED MEMBERS BY DECISION OF MEETING -LAND OWNED BY  
LOCAL GOVERNMENT NOT BE SUBJECT TO ADVERSE POSESSION  
CLAIMS**

**File No: SUB/260 & POL/59**

**Proposed Meeting Date: 23 August 2010**

**Author Disclosure of Interest Nil**

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**SUMMARY**

At the Works and Corporate Services Committee meeting 17 August 2010 Cr Boland proposed a motion in relation to Committee discussion regarding agenda item 10.2.1 Laneways/Right of Ways within the Town of Cottesloe.

Cr Boland proposed that Committee consider, as a matter of urgent business, that Council 'seek law reform by the State Government that land owned by Local Government not be subject to adverse possession claims'. This motion was accepted and carried by the Committee.

**VOTING**

Simple Majority

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Cr Boland, seconded Cr Strzina**

**THAT Council seek law reform by the State Government that land owned by Local Governments not be subject to adverse possession claims.**

**Carried 11/0**

**11.3 STRATEGIC PLANNING COMMITTEE MINUTES - 18 AUGUST 2010****11.3.1 CHIEF EXECUTIVE OFFICER'S ANNUAL PERFORMANCE REVIEW**

**File No:** PER/94  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Carl Askew  
Chief Executive Officer

**Proposed Meeting Date:** 18 August 2010

**Author Disclosure of Interest** The author has an interest in the matter as it directly relates to his employment.

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**SUMMARY**

This report recommends that Council confirm the establishment and appointment of the Performance Review Panel for the Chief Executive Officer's annual performance appraisal in order to make recommendations to Council in accordance with Clause 8 of the Chief Executive Officer's contract of employment. It further recommends that Council invite a representative from WALGA's Workplace Solutions to join the panel to provide independent facilitation and professional advisory services.

**BACKGROUND**

**In February 2010 Council resolved as follows:**

*That Council:*

- 1 Receive this Performance Review report and endorses the overall rating of; "satisfactory - meeting the performance requirements of the position of Chief Executive Officer of the Town of Cottesloe".*
  - 2 Conduct the next review of the CEO's performance by December 2010.*
  - 3 Adopt the following Key Result Areas for the 2010 appraisal period.*
    - 3.1 Finalise the gazettal of the Local Planning Scheme No. 3 including the preparation of draft policies to be ready by gazettal.*
    - 3.2 Manage the Local Government Reform Strategy as determined and supported by Council*
    - 3.3 Progress the preferred solution for Council's Depot services and redevelopment of the current site.*
    - 3.4 Complete the development of the new joint Library and Community Centre*
    - 3.5 Subject to external funding, implement a strategy to oversee the realisation of the Foreshore Concept Plan.*
    - 3.6 Revitalisation and ongoing management of the use of the Civic Centre and grounds.*
-

*3.7 Develop a short and long term asset management plan and accompanying financial plan that takes into account the community call for better quality public buildings inclusive of environmentally sensitive design (ESD) initiatives and universal design features.*

*3.8 Finalise and adopt a plan for the Town Centre and Station Street.*

*3.9 Develop, finalise and launch a new website for the Town.*

*3.10 Assess and manage the impact of the introduction of the Local Government Industry Award 2010.*

*4 Review the CEO's remuneration in accordance with the terms of the contract of employment*

*5 Conduct subsequent remuneration reviews as part of the appraisal process and tabled at each December Ordinary Meeting of Council.*

**In March 2010 Council resolved as follows;**

*That Council note the remuneration review conducted by the CEO Performance Review Panel and endorse that no change in the CEO's remuneration package be made at this time.*

In accordance with the Position Description for the Chief Executive Officer the principal Objectives of the position are;

- Provides visionary leadership and strategic management and direction for the Town of Cottesloe.
- Provides the primary link through effective engagement between the Council, Staff, Stakeholders and the Community to achieve the Town's goals and objectives.
- Responsible for ensuring the highest level of business excellence, integrity, corporate governance and accountability, which is demonstrated within an environment of transparency, trust, openness, honesty and fairness for all.
- Commits to "Broad Objectives for the Future" in the Future Plan 2006 – 2010, namely:
  - Protecting and enhancing the lifestyle of residents and visitors.
  - Resolving the divisive nature of the configuration of the railway and main roads.
  - Enhancing beach access and the foreshore.
  - Managing the complexities involved in pressures for development.
  - Managing infrastructure and council buildings in a sustainable way.
  - Earning the community's confidence in council.

Clause 7 of the CEO's contract reads as follows;

**7. PERFORMANCE CRITERIA & KEY RESULT AREAS**

*The following performance criteria apply to this contract:*

- *Provide accurate and timely advice to Council based on available and appropriate information;*
- *Works collaboratively with Council;*
- *Facilitate the development and achievement of the Local Government's strategic plan through the involvement of stakeholders and the persistent application of effort;*
- *Maintain a work environment that facilitates the development of people and encourages them to perform at a high level;*
- *Ensure the effective and accountable application of financial and physical resources;*
- *Develop and implement continuous improvement strategies to enhance service delivery;*
- *Initiate the development, implementation and review of Policy.*

*These performance criteria may be varied and any other criteria may be included by agreement between the parties at any time during the term of this contract.*

**Key Result Areas**

- *Key Result Areas will be developed for each 12-month period of the Contract.*
- *Key Result Areas are not intended to cover all aspects of the position, only those which are most clearly linked to the achievement of the Local Government's strategic objectives and Future Plan.*
- *Key Result Areas will be tangible and measurable and within the Employee's area of control and authority.*

Clause 12 of the CEO's contract reads as follows;

**12. REMUNERATION**

*12.2.1 The remuneration package referred to in sub-clause 12.1 shall be reviewed annually by Council. A review shall not result in a decrease in the remuneration package.*

As part of the Town's Future Plan 2006 to 2010 there are a number of *Strategic Priorities and Dynamic Priority Projects*. In relation to both the Action Plan and Dynamic Projects, the following strategies were identified by Council as ongoing priorities for 2010 at its May 2010 meeting.

Priority	Item	Related Objective
1	Finalise Local Planning Scheme No. 3 including the preparation of all draft policies	DP1 A
2	Progress options for the Council depot site	Objective 5.1
3	Implement a strategy to oversee the realisation of the Foreshore Concept Plan	Objective 3.1
4	Proactively pursue solutions for Curtin Avenue and the railway	Objective 2.1
5	Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe	DP 2
6	Complete the development of new joint library facilities	Objective 5.2
7	Finalise and adopt a plan for the Town Centre and Station Street.	Objective 5.3
8	Enhance use of the Civic Centre	Objective 1.5
9	Implement a Community Safety Strategy	Objective 1.9
10	Develop sustainability and capacity criteria to assess major strategies	

## STRATEGIC IMPLICATIONS

The achievement of Council's Future Plan is directly related to the performance of the Chief Executive Officer.

## POLICY IMPLICATIONS

None known

## STATUTORY ENVIRONMENT

The relevant sections of the Local Government Act read, in part, as follows:

### **5.23. Meetings generally open to the public**

- (1) *Subject to subsection (2), the following are to be open to members of the public —*
- (a) *all council meetings; and*
  - (b) *all meetings of any committee to which a local government power or duty has been delegated.*



- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
  - (a) *a matter affecting an employee or employees;*
  - (b) *the personal affairs of any person;*
  - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

**5.38. Annual review of certain employees' performances**

*The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.*

**5.39. Contracts for CEO's and senior employees**

*(1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.*

*(1a) Despite subsection (1) -*

- (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and*
- (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.*

*(2) A contract under this section -*

- (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;*
- (b) in every other case, cannot be for a term exceeding 5 years.*

*(3) A contract under this section is of no effect unless -*

- (a) the expiry date is specified in the contract;*
- (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and*
- (c) any other matter that has been prescribed as a matter to be included in the contract has been included.*

*(4) A contract under this section is to be renewable and subject to subsection (5), may be varied.*

*(5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.*

*(6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.*

*(7) A report made by the Salaries and Allowances Tribunal, under section 7A of the Salaries and Allowances Act 1975, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.*

Regulation 18D:

- ***The performance of the CEO be reviewed at least once a year;***
- ***The CEO will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review. and,***

*A Local Government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.*

### **FINANCIAL IMPLICATIONS**

Any change in remuneration will have an budgetary impact. The current budget allows for a CPI increase.

### **SUSTAINABILITY IMPLICATIONS**

Nil

### **CONSULTATION**

Mayor

### **STAFF COMMENT**

As listed above, a number of organisational strategies were identified by Council as ongoing priorities for 2009/10 whilst a number of specific Key Result Areas (KRA's) for the CEO were also identified in February 2010. In addition, 2010 has seen ongoing challenges placed before Council, including the future of WESROC and the ongoing local government reform agenda.

The review process is conducted by the Review Panel under the auspices of the Mayor (whose role is to *"liaise with the CEO on the Local Government's affairs and the performance of its functions"*) and it is recommended that evaluation of performance should also invite input from all elected members.

In accordance with Council's February 2010 resolution, the CEO's performance and remuneration review should be completed by December 2010. Initial contact with Mr John Phillips, Executive Manager WALGA Workplace Solutions has confirmed his availability to support Council and the Review Panel with facilitation and professional advisory services.

### **VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION**

**Moved Mayor Morgan, seconded Cr Walsh**

**THAT Council:**

- 1. Confirm the appointment of the Mayor, Deputy Mayor and Deputy Presiding Members of the Development Services and Works & Corporate Services Committees as members of the CEO's Performance Review Panel with its role/responsibility being to;**
  - a. Conduct the CEO's annual performance review based upon the performance objectives set for 2010.**
  - b. Make recommendations to Council on the CEO's contract, remuneration and performance objectives for 2011.**
- 2. Invite a representative from WALGA's Workplace Solutions to join the panel to provide independent facilitation and professional advisory services.**

**Carried 11/0**

**11.3.2 WARD BOUNDARY REVIEW & NUMBERS OF ELECTED MEMBERS**

**File No:** Sub/41  
**Attachments:** [Report to Council May 2009 pdf](#)  
**Responsible Officer:** Carl Askew  
Chief Executive Officer  
**Author:** Carl Askew  
Chief Executive Officer  
  
**Proposed Meeting Date:** 18 August 2010  
**Author Disclosure of Interest** Nil

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**SUMMARY**

In May 2009 Council resolved as follows:

*That Council:*

- 1. Note the information provided in relation to elected member numbers, wards and boundaries.*
- 2. Appoint the Mayor, Chief Executive Officer and Cr Birnbrauer as members of the Town of Cottesloe Project Team for the preparation of the Town's Reform Submission to the Minister for Local Government by 31 August 2009.*
- 3. Based upon its final Reform Submission and any subsequent decisions by the Minister, determine to commence the process of reviewing its elected member numbers, wards and boundaries in time for the October 2011 local government elections.*

This report addresses part three of Council's resolution and recommends that Council:

1. Commence the process of a review of wards and representation,
2. Give local public notice that a review is to be carried out and seek submissions from the public,
3. Receive a subsequent report which considers all submissions and relevant factors, and
4. Submit a report to the Local Government Advisory Board for its consideration..

**BACKGROUND**

The Minister for Local Government, the Hon John Castrilli MLA, announced a local government reform strategy on 5 February 2009. The reforms are based on amalgamations of local governments in WA, the reduction of elected members and the formation of appropriate regional groupings of local governments.

The Town of Cottesloe last undertook a formal review of its ward boundaries and representation in 2004. The review outcome and subsequent Council resolution was to;

*Advise the Local Government Advisory Board that the Town of Cottesloe has made a review of its ward boundaries and representation is unable to recommend an order for change.*

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Council is required to review its ward boundaries and number of offices of councillors for each ward *from time to time so that not more than eight (8) years elapse between successive reviews*. The typical review process involves a number of steps;

- Council resolves to undertake a review on ward boundaries and the number of offices of councillor
- Prior to conducting a review a local government is to give local public notice that a review is to be carried out
- Public submission period opens (local advertising and website) – minimum of 42 days
- Information provided to community for discussion including a range of alternatives to the current ward system
- Public submission period closes – minimum of 42 days from date of notice
- Council considers all submissions and relevant facts and makes a decision
- Council submits a report to the Local Government Advisory Board for consideration (the Board considers that the ratio of councillors to electors is always significant and it is expected that each local government will have similar ratios of electors to councillors across the wards of its district with no resulting ratio being plus or minus 10% of the average ratio for that local government).
- If a change is proposed the Board submits a recommendation to the Minister for Local Government
- Any changes approved by the Minister, where possible, will be in place for the next ordinary election

Boundaries and representation are generally assessed against a number of criteria including;

- community of interest,
- physical and topographic features,
- demographic trends,
- economic factors, and
- the ratio of councillors to electors in the various wards.

According to the Department of Local Government in their circular of November 2008 related to *Review of Wards and Representation*, after the community comment period any feedback is assessed and summarized and presented to Council for consideration and resolution. Once a decision is made the local government may consider the impact of implementing any change at the next ordinary election. In some circumstances elected members may be unable to complete their term of office in view of the implementation of changes.

Once the local government has completed its review it must provide a written report about the review to the Local Government Advisory Board. If a local government expects changes to be in place in time for an ordinary election, it must submit its report to the Board by the end of December in the year prior to an ordinary election day. This will allow sufficient time for any changes to be considered and processed for the beginning of the election cycle.

The current situation at Cottesloe has a Mayor elected “by the community” plus a total of 10 Councillors elected from four (4) wards as follows:

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2373	4	593	-10.37%
East	997	2	499	7.26%
South	1044	2	522	2.88%
Central	961	2	481	10.60%
	<b>5375</b>	<b>10</b>	<b>538</b>	

*Note: Data is from the Electoral Commission and based upon eligible voters as of the October 2009 elections.*

Attachment 1 shows the current ward boundaries. The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole local government and the councillor/elector ratio for each ward. It can be seen that there is a significant imbalance in representation across the Town. According to the Advisory Board it is recommended that a balanced representation would be reflected in the % ratio deviation being within plus or minus 10%.

## STRATEGIC IMPLICATIONS

Whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2010/11 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform, including changes to the number of elected members. The impact of changing the number of elected members affects elector representation ratios, Committee and Council membership/functions and, in some circumstances, elected members may be unable to complete their term of office based upon endorsed implementation timeframes.

## POLICY IMPLICATIONS

Nil

## STATUTORY ENVIRONMENT

Local Government Act 1995, particularly Section 2.1 and Schedules 2.1 and 2.2.

### Part 2 — CONSTITUTION OF LOCAL GOVERNMENT

#### Division 1 — Districts and Wards

##### 2.1. State divided into districts

- (1) The Governor, on the recommendation of the Minister, may make an order —
  - (a) declaring an area of the State to be a district;
  - (b) changing the boundaries of a district;
  - (c) abolishing a district; or
  - (d) as to a combination of any of those matters.
- (2) Schedule 2.1 (which deals with creating, changing the boundaries of, and abolishing districts) has effect.

- (3) The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.1 that the order in question should be made.

## 2.2. Districts may be divided into wards

- (1) The Governor, on the recommendation of the Minister, may make an order —
- (a) dividing a district into wards;
  - (b) creating new wards in a district that is already divided into wards;
  - (c) changing the boundaries of a ward;
  - (d) abolishing any or all of the wards into which a district is divided; or
  - (e) as to a combination of any of those matters.
- (2) For the purposes of this Act —
- (a) an order that divides a district into wards is to be regarded as establishing a ward system for the district; and
  - (b) an order that abolishes all of the wards into which a district is divided and does not create new wards, is to be regarded as discontinuing the ward system for the district.
- (3) Schedule 2.2 (which deals with wards and representation) has effect.
- (4) The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.2 that the order in question should be made.

## **Schedule 2.1 — Provisions about creating, changing the boundaries of, and abolishing districts**

[Section 2.1(2)]

### **1. Interpretation**

In this Schedule, unless the contrary intention appears —

**“affected electors”**, in relation to a proposal, means —

- (a) electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal; or
- (b) where an area of the State is not within or is not declared to be a district, people who could be electors if it were because of residence, or ownership or occupation of property, in the area directly affected by the proposal;

**“affected local government”** means a local government directly affected by a proposal;

**“notice”** means notice given or published in such manner as the Advisory Board considers appropriate in the circumstances;

**“proposal”** means a proposal made under clause 2 that an order be made as to any or all of the matters referred to in section 2.1.

### **2. Making a proposal**

- (1) A proposal may be made to the Advisory Board by —
- (a) the Minister;
  - (b) an affected local government;
  - (c) 2 or more affected local governments, jointly; or

- (d) affected electors who —
  - (i) are at least 250 in number; or
  - (ii) are at least 10% of the total number of affected electors.
- (2) A proposal is to —
  - (a) set out clearly the nature of the proposal and the effects of the proposal on local governments;
  - (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and
  - (c) comply with any regulations about proposals.

### **3. Dealing with proposals**

- (1) The Advisory Board is to consider any proposal.
- (2) The Advisory Board may, in a written report to the Minister, recommend\* that the Minister reject a proposal if, in the Board's opinion —
  - (a) the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made; or
  - (b) the proposal is frivolous or otherwise not in the interests of good government.

*\* Absolute majority required.*

- (3) If, in the Advisory Board's opinion, the proposal is —
  - (a) one of a minor nature; and
  - (b) not one about which public submissions need be invited,

the Board may, in a written report to the Minister, recommend\* that the Minister reject the proposal or that an order be made in accordance with the proposal.

*\* Absolute majority required.*

- (4) Unless it makes a recommendation under subclause (2) or (3), the Advisory Board is to formally inquire into the proposal.

### **4. Notice of inquiry**

- (1) Where a formal inquiry is required the Advisory Board is to give —
  - (a) notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
  - (b) a report to the Minister.
- (2) The notice and report under subclause (1) are to —
  - (a) advise that there will be a formal inquiry into the proposal;
  - (b) set out details of the inquiry and its proposed scope; and
  - (c) advise that submissions may be made to the Board not later than 6 weeks after the date the notice is first given about —
    - (i) the proposal; or
    - (ii) the scope of the inquiry.
- (3) If, after considering submissions made under subclause (2)(c), the Advisory Board decides\* that the scope of the formal inquiry is to be significantly different from that set out in the notice and report under subclause (1), it is to give —



- (a) another notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and
  - (b) another report to the Minister.
- (4) The notice and report under subclause (3) are to —
  - (a) set out the revised scope of the inquiry; and
  - (b) advise that further submissions about the proposal, or submissions about matters relevant to the revised scope of the inquiry, may be made to the Board within the time set out in the notice.

*\* Absolute majority required.*

## **5. Conduct of inquiry**

- (1) A formal inquiry is to be carried out, and any hearing for the purposes of the inquiry is to be conducted, in a way that makes it as easy as possible for interested parties to participate fully.
- (2) In carrying out a formal inquiry the Advisory Board is to consider submissions made to it under clause 4(2)(c) and (4)(b) and have regard, where applicable, to —
  - (a) community of interests;
  - (b) physical and topographic features;
  - (c) demographic trends;
  - (d) economic factors;
  - (e) the history of the area;
  - (f) transport and communication;
  - (g) matters affecting the viability of local governments; and
  - (h) the effective delivery of local government services,

but this does not limit the matters that it may take into consideration.

## **6. Recommendation by Advisory Board**

- (1) After formally inquiring into a proposal, the Advisory Board, in a written report to the Minister, is to recommend\* —
  - (a) that the Minister reject the proposal;
  - (b) that an order be made in accordance with the proposal; or
  - (c) if it thinks fit after complying with subclause (2), the making of some other order that may be made under section 2.1.

*\* Absolute majority required.*

- (2) The Advisory Board is not to recommend to the Minister the making of an order that is significantly different from the proposal into which it formally inquired unless the Board has —
  - (a) given\* notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation of its intention to do so;
  - (b) afforded adequate opportunity for submissions to be made about the intended order; and
  - (c) considered any submissions made.

*\* Absolute majority required.*

**7. Minister may require a poll of electors**

In order to assist in deciding whether or not to accept a recommendation of the Advisory Board made under clause 6, the Minister may require that the Board's recommendation be put to a poll of the electors of districts directly affected by the recommendation.

**8. Electors may demand a poll on a recommended amalgamation**

- (1) Where the Advisory Board recommends to the Minister the making of an order to abolish 2 or more districts ("**the districts**") and amalgamate them into one or more districts, the Board is to give notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation about the recommendation.
- (2) The notice to affected electors has to notify them of their right to request a poll about the recommendation under subclause (3).
- (3) If, within one month after the notice is given, the Minister receives a request made in accordance with regulations and signed by at least 250, or at least 10%, of the electors of one of the districts asking for the recommendation to be put to a poll of electors of that district, the Minister is to require that the Board's recommendation be put to a poll accordingly.
- (4) This clause does not limit the Minister's power under clause 7 to require a recommendation to be put to a poll in any case.

**9. Procedure for holding poll**

Where, under clause 7 or 8, the Minister requires that a recommendation be put to a poll —

- (a) the Advisory Board is to —
  - (i) determine the question or questions to be answered by electors; and
  - (ii) prepare a summary of the case for each way of answering the question or questions;
- and
- (b) any local government directed by the Minister to do so is to —
  - (i) in accordance with directions by the Minister, make the summary available to the electors before the poll is conducted; and
  - (ii) conduct the poll under Part 4 and return the results to the Minister.

**10. Minister may accept or reject recommendation**

- (1) Subject to subclause (2), the Minister may accept or reject a recommendation of the Advisory Board made under clause 3 or 6.
- (2) If at a poll held as required by clause 8 —
  - (a) at least 50% of the electors of one of the districts vote; and
  - (b) of those electors of that district who vote, a majority vote against the recommendation,the Minister is to reject the recommendation.
- (3) If the recommendation is that an order be made and it is accepted, the Minister can make an appropriate recommendation to the Governor under section 2.1.

**10A. Recommendations regarding names, wards and representation**

- (1) The Advisory Board may —
  - (a) when it makes its recommendations under clause 3 or 6; or

- (b) after the Minister has accepted its recommendations under clause 10, in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.
- (2) In making its recommendations under subclause (1) the Advisory Board —
  - (a) may consult with the public and interested parties to such extent as it considers appropriate; and
  - (b) is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.

## **11. Transitional arrangements for orders about districts**

- (1) Regulations may provide for matters to give effect to orders made under section 2.1 including —
  - (a) the vesting, transfer, assumption or adjustment of property, rights and liabilities of a local government;
  - (b) the extinguishment of rights of a local government;
  - (c) the winding up of the affairs of a local government;
  - (d) the continuation of actions and other proceedings brought by or against a local government before the taking effect of an order under section 2.1;
  - (e) the bringing of actions and other proceedings that could have been brought by or against a local government before the taking effect of an order under section 2.1;
  - (f) if the effect of an order under section 2.1 is to unite 2 or more districts, the determination of the persons who are to be the first mayor or president, and deputy mayor or deputy president, of the new local government;
  - (g) the continuation of any act, matter or thing being done under another written law by, or involving, a local government.
- (2) Subject to regulations referred to in subclause (1), where an order is made under section 2.1 any local governments affected by the order (including any new local government created as a result of the order) are to negotiate as to any adjustment or transfer between them of property, rights and liabilities.
- (3) Where an order is made under section 2.1 the Governor may, by order under section 9.62(1), give directions as to any of the matters set out in subclause (1) if, and to the extent that, those matters are not resolved by regulations referred to in that subclause or by negotiation under subclause (2).
- (4) A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless —
  - (a) compensation acceptable to the person is made; or
  - (b) a period of at least 2 years has elapsed since the order had effect.
- (5) The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.
- (6) If land ceases to be in a particular district as a result of an order under section 2.1, any written law that would have applied in respect of it if the order had not been made continues to apply in respect of the land to the extent that its continued application would be consistent with —

- (a) any written law made after the order was made; and
  - (b) any order made by the Governor under subclause (8).
- (7) Regulations may make provision as to whether or not, or the modifications subject to which, a written law continues to apply in respect of land under subclause (6).
- (8) The Governor may, in a particular case, by order, vary the effect of subclause (6) and regulations made in accordance with subclause (7).

*[Schedule 2.1 amended by No. 64 of 1998 s.52.]*

## **Schedule 2.2 — Provisions about names, wards and representation**

[Section 2.2(3)]

### **1. Interpretation**

In this Schedule, unless the contrary intention appears —

“**affected electors**”, in relation to a submission, means electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the submission;

“**review**” means a review required by clause 4(4) or 6 or authorized by clause 5(a);

“**submission**” means a submission under clause 3 that an order be made to do any or all of the things referred to in section 2.2(1), 2.3(3) or 2.18(3).

### **2. Advisory Board to make recommendations relating to new district**

- (1) When a local government is newly established, the Advisory Board —
  - (a) at the direction of the Minister; or
  - (b) after receiving a report made by a commissioner appointed under section 2.6(4) after carrying out a review,

is, in a written report to the Minister, to recommend the making of an order to do all or any of the things referred to in section 2.2(1)(a), 2.3(2) or 2.18(1).

- (2) In making its recommendations under subclause (1) the Advisory Board is to take into account the matters referred to in clause 8(c) to (g) so far as they are applicable.

### **3. Who may make submissions about ward changes etc.**

- (1) A submission may be made to a local government by affected electors who —
  - (a) are at least 250 in number; or
  - (b) are at least 10% of the total number of affected electors.
- (2) A submission is to comply with any regulations about the making of submissions.

### **4. Dealing with submissions**

- (1) The local government is to consider any submission made under clause 3.
- (2) If, in the council's opinion, a submission is —
  - (a) one of a minor nature; and
  - (b) not one about which public submissions need be invited,the local government may either reject the submission or deal with it under clause 5(b).
- (3) If, in the council's opinion, a submission is substantially similar in effect to a submission about which the local government has made a decision (whether an approval or otherwise)

within the period of 2 years immediately before the submission is made, the local government may reject the submission.

- (4) Unless, under subclause (2) or (3), the local government rejects the submission or decides to deal with it under clause 5(b), the local government is to carry out a review of whether or not the order sought should, in the council's opinion, be made.

**5. Local government may propose ward changes or make minor proposals**

A local government may, whether or not it has received a submission —

- (a) carry out a review of whether or not an order under section 2.2, 2.3(3) or 2.18 should, in the council's opinion, be made;
  - (b) propose\* to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3) if, in the opinion of the council, the proposal is —
    - (i) one of a minor nature; and
    - (ii) not one about which public submissions need be invited;
- or
- (c) propose\* to the Minister the making of an order changing the name of the district or a ward.

*\* Absolute majority required.*

**6. Local government with wards to review periodically**

A local government the district of which is divided into wards is to carry out reviews of —

- (a) its ward boundaries; and
- (b) the number of offices of councillor for each ward,

from time to time so that not more than 8 years elapse between successive reviews.

**7. Reviews**

- (1) Before carrying out a review a local government has to give local public notice advising —
  - (a) that the review is to be carried out; and
  - (b) that submissions may be made to the local government before a day fixed by the notice, being a day that is not less than 6 weeks after the notice is first given.
- (2) In carrying out the review the local government is to consider submissions made to it before the day fixed by the notice.

**8. Matters to be considered in respect of wards**

Before a local government proposes that an order be made —

- (a) to do any of the matters in section 2.2(1), other than discontinuing a ward system; or
- (b) to specify or change the number of offices of councillor for a ward,

its council is to have regard, where applicable, to —

- (c) community of interests;
- (d) physical and topographic features;
- (e) demographic trends;
- (f) economic factors; and
- (g) the ratio of councillors to electors in the various wards.

**9. Proposal by local government**

On completing a review, the local government is to make a report in writing to the Advisory Board and may propose\* to the Board the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit.

*\* Absolute majority required.*

**10. Recommendation by Advisory Board**

- (1) Where under clause 5(b) a local government proposes to the Advisory Board the making of an order under section 2.2(1), 2.3(3) or 2.18(3), and the Board is of the opinion that the proposal is —

- (a) one of a minor nature; and
- (b) not one about which public submissions need be invited,

the Board, in a written report to the Minister, is to recommend the making of the order but otherwise is to inform the local government accordingly and the local government is to carry out a review.

- (2) Where under clause 9 a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, correctly takes into account the matters referred to in clause 8(c) to (g), the Board, in a written report to the Minister, is to recommend the making of the order.

- (3) Where a local government proposes to the Advisory Board the making of an order of a kind referred to in clause 8 that, in the Board's opinion, does not correctly take into account the matters referred to in that clause —

- (a) the Board may inform the local government accordingly and notify the local government that a proposal that does correctly take those matters into account is to be made within such time as is set out in the notice; and
- (b) if the local government does not make a proposal as required by a notice under paragraph (a), the Board may, in a written report to the Minister, recommend\* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account those matters.

*\* Absolute majority required.*

- (4) Where a local government fails to carry out a review as required by clause 6, the Advisory Board, in a written report to the Minister, may recommend\* the making of any order under section 2.2(1), 2.3(3) or 2.18(3) it thinks fit that would correctly take into account the matters referred to in clause 8.

*\* Absolute majority required.*

**11. Inquiry by Advisory Board**

- (1) For the purposes of deciding on the recommendation, if any, it is to make under clause 10(3)(b) or (4), the Advisory Board may carry out any inquiry it thinks necessary.
- (2) The Advisory Board may recover the amount of the costs connected with an inquiry under subclause (1) from the local government concerned as if it were for a debt due.

**12. Minister may accept or reject recommendation**

- (1) The Minister may accept or reject a recommendation of the Advisory Board made under clause 10.
- (2) If the recommendation is accepted the Minister can make a recommendation to the Governor for the making of the appropriate order.

*[Schedule 2.2 amended by No. 64 of 1998 s.53.]*

**FINANCIAL IMPLICATIONS**

There will be costs associated with any proposal for ward boundary changes (including community consultation) and associated elections as a consequence of any change to elected member numbers.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The ideal number of elected members for a local government is for the local government to determine. There is a diverse range of councillor/elector ratios across Western Australia reflecting the sparsely populated remote areas and the highly populated urban areas. The structure of the Council's operations will provide some input into the number of elected members needed to service the local government.

As part of the community consultation period a discussion paper is prepared which outlines the factors considered and against which options are to be assessed, as well as including maps to show the current situation and possible alternative options. The Board considers that the ratio of councillors to electors is always significant and it is expected that each local government will have similar ratios of electors to councillors across the wards of its district. In the report in May 2009 Council considered a number of related issues including the use of Wards and a reduction in the number of members to either six or eight, exclusive of a directly elected Mayor. Any such change affects both the councilor/elector ratio as well as changes in actual ward boundaries.

In relation to timing, and as mentioned above, conducting a ward and representation review can be a lengthy process and, according to the Department of Local Government any changes to be implemented before the 2011 local government elections must be gazetted 80 days before the election date.

During the last twelve (12) months most Council's have been focussed on the Minister's reform agenda including potential amalgamation of local governments. Based upon Council's current position with regard to reform and the lack of willingness of its nominated partners to participate in a Regional Transition Group (RTG) process, little voluntary advancement can be achieved at this time. Given the time elapsed since Council last completed a ward/boundary review and in support of Council's current outstanding resolution it is recommended that Council now formally carry out such a review.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Boland

THAT Council:

1. Commence the process of a review of wards and representation.
2. Give local public notice that a review is to be carried out and seek submissions from the public.
3. Receive a subsequent report which considers all submissions and relevant factors, and;
4. Submit a report to the Local Government Advisory Board for its consideration.

**COMMITTEE COMMENT:**

Committee considered the report and made reference to Councils previous resolutions and discussion in terms of elected member numbers. Council's previously discussed position was for a reduction from ten (10) to eight (8) elected members across four (4) wards retaining a directly elected Mayor. Committee requested that this position be made clear in all community consultation (including discussion paper) so that residents and ratepayers were aware of Council's discussions.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Boland

That a new item 2 be added which reads: "affirm its preferred position that Councillor numbers be reduced from ten (10) to eight (8) across the four (4) Wards, retaining a directly elected Mayor". Remaining items to be renumbered

Carried 3/0

**COMMITTEE RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Strzina

THAT Council:

1. Commence the process of a review of wards and representation.
2. Affirm its preferred position that Councillor numbers be reduced from ten (10) to eight (8) across the four (4) Wards, retaining a directly elected Mayor.
3. Give local public notice that a review is to be carried out and seek submissions from the public.
4. Receive a subsequent report which considers all submissions and relevant factors, and;
5. Submit a report to the Local Government Advisory Board for its consideration.



**AMENDMENT**

**Moved Cr Birnbrauer, seconded Mayor Morgan**

**That the word 'the' after 'across' in item 2 be deleted**

**Carried 11/0**

**COUNCIL RESOLUTION**

**Moved Cr Mayor Morgan, seconded Cr Strzina**

**THAT Council:**

- 1. Commence the process of a review of wards and representation.**
- 2. Affirm its preferred position that Councillor numbers be reduced from ten (10) to eight (8) across four (4) Wards, retaining a directly elected Mayor.**
- 3. Give local public notice that a review is to be carried out and seek submissions from the public.**
- 4. Receive a subsequent report which considers all submissions and relevant factors, and;**
- 5. Submit a report to the Local Government Advisory Board for its consideration.**

**Carried 11/0**

**11.3.3 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS BY DECISION OF MEETING - LOCAL GOVERNMENT REFORM – PARTICIPATION IN A REGIONAL TRANSITION GROUP (RTG)****File No:** SUB/793-02**Proposed Meeting Date:** 23 August 2010**Author Disclosure of Interest** Nil

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**SUMMARY**

At the Strategic Planning Committee Meeting 18 August 2010 Mayor Morgan moved a motion in relation to a letter from the Minister for Local Government requesting that the Councils of Claremont, Cottesloe, Mosman Park and Peppermint Grove reconsider engagement in the Local Government Reform program in view of the decisions by the cities of Nedlands and Subiaco to proceed to a Regional Transition Group (RTG).

In addition, the CEO advised Committee on the resolution of Claremont Council in relation to this matter, from their meeting on 17 August which was:

1. Council advise the Minister for Local Government that the Town of Claremont confirms it is willing to enter into a Regional Transition Group
2. Council's preference remains to join with the Towns of Cottesloe and Mosman Park and Shire of Peppermint Grove to form a Regional Transition Group
3. In the event any one of the councils does not wish to participate then the RTG be with the remaining local governments.

**VOTING**

Simple Majority

**COMMITTEE RECOMMENDATION**

Moved Mayor Morgan, seconded Cr Strzina

That Council:

1. Note the letter from the Minister for Local Government inviting Cottesloe, Claremont, Mosman Park and Peppermint Grove councils to reconsider participating in a Regional Transition Group ("RTG")
2. Reaffirm Council's willingness to join an RTG on terms as follow:
  - (a). Council's preference remains to join with the Towns of Claremont and Mosman Park and Shire of Peppermint Grove to form an RTG

- (b). In the event that any one of the Council's does not wish to participate then the RTG be with remaining two local governments
- (c). The Town not formally entering into the RTG until the Council has undertaken prior community consultation confirming support for Cottesloe to enter into the RTG.
- (d). The participants in the RTG being entitled (if they so choose after stage 1) to not proceed to amalgamate and to instead adapt the Business Plan for use by a regional council.
- (e). The business plan being prepared on the basis that:
  - (i). The Cottesloe Civic Centre, grounds and the War Memorial Town Hall, will be preserved as a community asset accessible to the general community; and
  - (ii). An amalgamation will not cause any forced redundancies of Council's staff.
- (f). That the Minister notify the Town of Cottesloe of the quantum of state funding for any Regional Transition Group development of a Regional Business Plan prior to entering into any agreement.
- (g). Request that the Minister for Local Government support and approve the boundary adjustments as resolved by Council in September 2009 as part of the RTG, to include the communities of Swanbourne in the north and North Fremantle in the south.
- (h). That the Regional Transition Group agreement incorporate the scope to include a Regional Business Plan with boundary adjustments.
- (i). That the Regional Transition Group agreement incorporate that election for any new local government take place prior to the commencement of the new Local Government.

**AMENDMENT**

**Moved Mayor Morgan, seconded Walsh**

**That the words "other than Peppermint Grove" be inserted in part 2(b) after the word "Council's" and before the word "does".**

**Lost 2/9**

**AMENDMENT**

**Moved Mayor Morgan, seconded \_\_\_\_\_**

**Insert new 2(c), and change the existing 2(c) to become 2(d) and renumber all clauses accordingly.**

**(c) Council's alternative preference is to invite the Towns of Cambridge and Claremont to join with Cottesloe in approaching the Cities of Nedlands and Subiaco as to joining their existing RTG.**

**THE MOTION LAPSED FOR WANT OF A SECONDER**

**AMENDMENT**

Moved Mayor Morgan, seconded \_\_\_\_\_

That Council delete item (i) as it pre-supposes boundary adjustments with other Council's who have not yet indicated a preference to join an RTG.

**THE MOTION LAPSED FOR WANT OF A SECONDER**

**THE SUBSTANTIVE MOTION WAS PUT**

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

That Council:

1. Note the letter from the Minister for Local Government inviting Cottesloe, Claremont, Mosman Park and Peppermint Grove councils to reconsider participating in a Regional Transition Group ("RTG")
  2. Reaffirm Council's willingness to join an RTG on terms as follow:
    - (a). Council's preference remains to join with the Towns of Claremont and Mosman Park and Shire of Peppermint Grove to form an RTG
    - (b). In the event that any one of the Council's does not wish to participate then the RTG be with remaining two local governments
    - (c). The Town not formally entering into the RTG until the Council has undertaken prior community consultation confirming support for Cottesloe to enter into the RTG.
    - (d). The participants in the RTG being entitled (if they so choose after stage 1) to not proceed to amalgamate and to instead adapt the Business Plan for use by a regional council.
    - (e). The business plan being prepared on the basis that:
      - (i). The Cottesloe Civic Centre, grounds and the War Memorial Town Hall, will be preserved as a community asset accessible to the general community; and
      - (ii). An amalgamation will not cause any forced redundancies of Council's staff.
    - (f). That the Minister notify the Town of Cottesloe of the quantum of state funding for any Regional Transition Group development of a Regional Business Plan prior to entering into any agreement.
    - (g). Request that the Minister for Local Government support and approve the boundary adjustments as resolved by
-

Council in September 2009 as part of the RTG, to include the communities of Swanbourne in the north and North Fremantle in the south.

- (h). That the Regional Transition Group agreement incorporate the scope to include a Regional Business Plan with boundary adjustments.
- (i). That the Regional Transition Group agreement incorporate that election for any new local government take place prior to the commencement of the new Local Government.

**Carried 9/2**

<b>For the Motion:</b>	<b>Cr Goldthorpe, Cr Rowell, Cr Birnbrauer, Cr Boland, Cr Carmichael, Cr Cunningham, Cr Dawkins, Cr Strzina and Cr Woodhill</b>
<b>Against the Motion:</b>	<b>Mayor Morgan and Cr Walsh</b>

**12 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Further to the statement by Mrs Jane Morrissey in relation to the impounding of her vehicle and the information supplied by her, Council considered the matter as urgent business.

**DISCUSSION**

Council discussed the matter at length including the need to clarify all the circumstances surrounding the removal and impounding of the vehicle and all associated issues related to any damage to the vehicle. Council was keen to ensure that all the facts were available before making any decisions including a full report and also wanted prompt action to revoke the matter given the circumstances. In moving their resolution Council indicated it was important to allow a moratorium on the infringement process with no enforcement action to take place. Council was supportive of the CEO continuing to deal administratively with this matter whilst it was investigated and to liaise with Mrs Morrissey as required in order to resolve the matter as soon as possible.

**Moved Cr Rowell, seconded Cr Woodhill**

**That the matter be considered as New Business of an urgent nature introduced by Elected Members by decision of meeting.**

**Carried 10/1**

**13.1.1 IMPOUNDING OF VEHICLES – GRANT STREET MEDIAN STRIP**

**Moved Mayor Morgan, seconded Cr Strzina**

**That Council request the CEO to investigate and report to the next Council meeting in relation to Council's actions and liabilities related to this matter. In the mean time no enforcement action will be taken regarding Council fines and without constraining the CEO from resolving the issue beforehand.**

**Carried 11/0**

**14 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 8:45 PM

CONFIRMED: MAYOR ..... DATE: ..... / ..... / .....