

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 July, 2012

25 July 2012

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7:02 PM.

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

Elected Members

Mayor Kevin Morgan	Presiding Member
Cr Greg Boland	
Cr Katrina Downes	
Cr Yvonne Hart	
Cr Sally Pyvis	
Cr Peter Jeanes	
Cr Rob Rowell	
Cr Victor Strzina	

Officers

Mr Carl Askew	Chief Executive Officer
Mr Mat Humfrey	Manager Corporate & Community Services
Mr Louis Prospero	A/g Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Mrs Lydia Giles	Executive Officer

Apologies

Cr Jack Walsh

Officer Apologies

Mr Geoff Trigg	Manager Engineering Services
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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

Mr. Jay Birnbrauer, 64 Napier Street, Cottesloe – Re. Items: 11.1.1, 11.1.8, 11.1.9

In relation to item 11.1.1 (Greenhouse Gas Reduction Plan) Mr Birnbrauer was pleased to see that the matter of achieving Carbon Neutral status was being advanced with the implementation of the plan and he thanked the Council for its continued effort.

In relation to the trees on Congdon Street and Ozone Parade, he referred to his time on Council when the Street Tree Policy was developed. In retrospect he noted that the preservation of old, great trees, had not been included and he recommended that Council consider as part of the next review of the policy, a statement be included that old trees in healthy condition should not be replaced and to let public know that Council would do everything possible to keep such trees. He referred to how magnificent and beautiful the trees on Congdon Street and Ozone Parade were and that Council needs to make an effort to preserve them.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Jeanes, seconded Cr Strzina

That Cr Jeanes request for leave of absence from the August round of Development Services Committee meeting and possibly Council meeting be granted.

Carried 8/0

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Downes

[Minutes June 25 2012 Council.DOC](#)

The Minutes of the Ordinary meeting of Council held on Monday, 25 June, 2012 be confirmed.

Carried 8/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor advised that at the Volunteers Sundowner held in May 2012, and on behalf of Council, he recognised former Councillors Jo Dawkins, Davina Goldthorpe and Dan Cunningham. This evening he had the pleasure of recognising Jay Birnbrauer, with the presentation of a plaque for his contribution to Council and the Cottesloe community. As a resident of Cottesloe for over 30 years Jay (a retired Associate Professor of Psychology at Murdoch University) was a member of Cottesloe Council in the Central Ward from May 1999 to May 2003 and again in October 2007 to October 2011. Jay served as a member of the Development Services and Strategic

Planning Committees, as well as the Events Committee, Community Safety & Crime Prevention Committee, Station St Redevelopment Working Group and PROCOTT Board. He also undertook the role of the Deputy Chair of Development Services Committee. Jay was also a Member of Cottesloe Coast Care; Earth Carers and former President of the Cottesloe ratepayers association, SOS.

The Town has now finalised the documents that are required to initiate the legal challenge foreshadowed by the Council resolution in May 2012. The documents will be lodged with the Supreme Court tomorrow. The proceedings will challenge the validity of the decision by the Minister for Planning to require the Town to modify its draft Local Planning Scheme No.3 so as to provide maximum building heights greater than those sought by the Town. The proceedings are limited to challenging the requirement that the Town modify LPS3 to provide maximum building heights in excess of 5 storeys for the OBH and the Lido sites. The basis of the challenge is that the circumstances set out in State Planning Policy 2.6 in which these maximum building heights can be allowed have not been met, and that in requiring the maximum building heights to be provided, the Minister has failed to have due regard to that Policy. It is possible that the Minister may change the policy in order to ultimately out flank the Town and it is therefore important that we keep shining a light on the State Government in relation to its planning processes.

Unfortunately there are limited legal grounds to challenge the 5 story limit for the remaining beachfront sites even though we have yet to have explained to us any reasons for the extra storeys. Clearly it is not because of anti-social behaviour, because most of this was resolved by our liquor licensing working group, and nor could it be for better cafes and small bars, as these would have resulted under the low-rise in any event, and nor could it be to increase resident population to use the bars and cafes, because we know the residents above the cafes and bars will be least likely users of such facilities, and nor are the extra storeys necessary to make the developments commercially viable, because the EbD showed that they were more than viable under the low-rise plan. Why has the Premier and his government resorted to putting forward false reasons? In addition I note that the Premier last week stated that I oppose any development along the beachfront, even though this is not true. For myself and this Council we continue to support appropriate and suitable developments along the beachfront. The only benefit in the lengthy delays in this process to date has been to assist in informing the community of the real issues whereby they now appreciate the falsity of these justifications for the additional floors and the resulting multi-million dollar windfalls for a few lucky land owners. The Mayor noted recent reports that the Minister for Planning had a proximity interest in another of his planning decisions and that this didn't offend the Ministerial Code of Conduct, even though the Minister and Premier voted in Parliament for local government elected members to go to jail if they debated or participated in a decision in which they have a proximity interest.

The Mayor also referred to his meeting today with the Department of Fisheries Manager of the Shark Response Unit in relation to recent events. Discussions included detection systems, deterrent methods, ariel surveillance, communications and research, and specifically how to streamline the current

alert systems should sharks be identified in an area so that up to date information gets to beach users as soon as possible. The Mayor noted that he raised the possibility of engaging and linking government and private sector involvement in detection technology research, to increase funding sources and opportunities and the potential to establish a charitable foundation to lead such research. He acknowledged the difficulties for a single State Government agency to solely take this on and the Mayor indicated his intention to raise this issue with the Minister and Premier (local member for Cottesloe) for opportunities to leverage private investment, research and joint collaboration with educational institutions.

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 Cr Strzina, seconded Cr Hart

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 8/0

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

For the benefit of the members of public present, the Mayor determined to consider the following items first:

The Following Items From Works & Corporate Services Committee Were Withdrawn for Consideration

- 11.1.8 Request for Fig Tree Removal 37 and 39 Congdon Street Cottesloe
- 11.1.9 Request for the Removal of 3 New Zealand Christmas Trees 46 Ozone Parade Cottesloe
- 11.1.6 Forrest Street Parking Restrictions
- 11.1.7 Lease – Marmion Street Pre-Primary Building

The Remainder of the Officer Reports from Works & Corporate Services Committee Were Dealt with 'En Bloc'.

- 11.1.1 Town of Cottesloe Greenhouse Gas Reduction Plan
- 11.1.2 Disability Access and Inclusion Plan – 2012 - 2017
- 11.1.3 Policy Review – Conferences, Seminars and Training
- 11.1.4 Delegated Powers
- 11.1.5 Chief Executive Officer's Annual Performance Review
- 11.1.10 Statutory Financial Reports for the Period 1 July 2011 to 30 June 2012
- 11.1.11 Schedules of Investments and Loans as at 30 June 2012
- 11.1.12 List of Accounts Paid for the Month of June 2012
- 11.1.13 Property and Sundry Debtors Reports as at 30 June 2012

10 REPORTS OF OFFICERS

Nil

11 REPORTS OF COMMITTEES**11.1 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 17 JULY 2012****11.1.1 TOWN OF COTTESLOE GREENHOUSE GAS REDUCTION PLAN**

File No: SUB/988
Attachments: [Greenhouse Gas Reduction Plan](#)
Responsible Officer: Andrew Jackson
Manager Development Services
Author: Nikki Pursell
Sustainability Officer

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest: Nil

SUMMARY

The completion of this Greenhouse Gas Reduction Plan (the Plan) is another step towards carbon neutrality for Cottesloe. The attached document, prepared by Greensense and the Town's Sustainability Officer, sets out a plan for reducing the Town's greenhouse gas (GHG) emissions through a range of abatement actions. It also establishes new emissions reduction targets (along with the overall goal of zero net emissions by 2015):

- Zero net emissions with internal abatement actions responsible for 15% reduction by 2015 (compared against 2009/10).
- Zero net emissions with internal abatement actions responsible for 20% reduction by 2020 (compared against 2009/10).

In the Plan, potential abatement actions have been assessed in regard to their cost and their abatement potential, with a number of actions found to be cost-effective for the Town. The installation of solar panels on the Civic Centre Administration Building (pending heritage approval) and a range of energy efficiency measures have the potential to reduce the Town's Carbon footprint and its expenditure on purchased electricity. The Plan recommends the implementation of a number of actions in order to reach the emissions reduction targets.

BACKGROUND

In February 2010 Council resolved to follow a four-step process to achieve carbon neutrality as soon as practical, and before 2015. Becoming 'carbon neutral' means reducing net GHG emissions to zero through avoiding, reducing and offsetting emissions. The four-step process currently being followed is:

Step 1: Measure GHG footprint.

Step 2: Reduce emissions through the development of a GHG Reduction Plan.

Step 3: Switch to energy sources that create less GHG emissions.

Step 4: Offset all remaining emissions.

The Town achieved Step 1 in July 2011, with the completion of a baseline inventory of Council-related emission for 2009-10. Since then, the Town has completed a second inventory for 2010-11, demonstrating a reduction in Carbon footprint of 82 tonnes CO₂-e. The Town then embarked on Step 2 of the process, the development of a Plan to reduce its emissions.

In March 2012 a suitably qualified and Perth-based consultant, Greensense, was appointed to assist the Town in the development of a plan to reduce its GHG emissions. The Plan built on a number of initial actions, including an energy audit of the Civic Centre Administration Building; an audit of Civic Centre waste; a survey of all staff to highlight opportunities and barriers to abatement; and a workshop with management staff to discuss and set abatement targets. This ensured the outcomes were both consultative and transparent. The consultant then produced a Marginal Abatement Cost Curve (MACC) (see staff comment for further explanation), an important tool to identify cost-effective abatement options. Finally, the attached GHG Reduction Plan was developed.

FINANCIAL IMPLICATIONS

The Plan takes an approach of least cost abatement, meaning actions that reduce the most emissions for the least cost should be implemented first. While implementation of the recommendations of this plan will have financial implications, many will result in long term savings from reduced reliance on purchased electricity. With the increasing cost of electricity in WA, these actions will reduce the Town's vulnerability to rising costs while reducing its emissions footprint and progressing towards carbon neutrality.

The Sustainability Officer has a budget of \$15,000 for implementation of the Plan in the 2012/13 financial year. Larger projects, such as the installation of solar panels, do not have funding allocated in the current budget. These will need to be considered either through the use of reserve funds, as part of the next budgetary process or as part of the mid year budget review.

SUSTAINABILITY IMPLICATIONS

Energy Efficiency

The Town has committed to using energy efficient equipment and appliances. With technology improving, it is important to keep abreast of improvements and occasionally reassess the Town's use of energy. The completion of a Building Audit and the attached Plan is an opportune time to reconsider equipment such as lighting, refrigeration and air-conditioning systems to ensure they represent best practice in energy efficiency.

Purchasing

The Town's Purchasing Policy encourages 'buying local' and supporting local produce, buying from organisations that have an environmental accreditation and purchasing of high energy star-rated appliances. These will be considered when implementing the Plan and upgrading the Town's equipment.

CONSULTATION

The Town employed a suitably qualified consultant to assist in the development of this Plan. In the dynamic field of sustainability, much of the knowledge is found in the private sector. By working closely with the consultant the Town has benefited from their experience and knowledge as well as increased its officers' capacity to tackle these issues in the future. A small number of other local governments have developed similar plans and strategies. The Town's Sustainability Officer liaised with the City of Cockburn prior to engaging Greensense to determine their experience with the consultant. Furthermore, the Sustainability Officer completed a short course on Carbon Accounting and Management at the West Coast Institute of Training to gain knowledge and ensure input to the process.

STAFF COMMENT AND FURTHER EXPLANATION

A MACC is used to assist decision-makers to make informed decisions about GHG abatement options, including how to prioritize resources and the timing of projects. Ranking abatement projects is done according to their cost effectiveness and considers life cycle costs, benefits and emissions reduction potential.

The MACC plots the amount of potential abatement from actions (i.e. how much emissions are saved) (X-axis) against the cost of abatement actions (Y-axis). The 'marginal abatement cost' represents the dollar cost to abate one tonne of GHG emissions. Projects that have high costs (or savings if X is negative) extend more on the X axis. Likewise, projects that have large abatement potential will extend further on the Y axis.

The MACC and actions table in the Plan demonstrate that the most cost-effective abatement action for Cottesloe is the installation of solar panels to produce electricity for the Administration Building. While there would be a significant initial cost for installation, this is quite quickly outweighed by reducing the cost of purchased electricity (approximately \$40,000 per annum), as well as potential revenue generated by the production of electricity. The Building Audit suggests that the installation of solar panels will mean an annual saving of almost \$13,000 from reduced electricity bills. More importantly, it would lead to an annual saving of almost 20 tonnes of CO₂-e, and be a key step towards becoming carbon neutral.

While the Plan was developed with the intention of making informed recommendations to Council, many activities still require investigation. Furthermore, larger projects have not been budgeted for this financial year. As such Council will be provided with reports and recommendations for funding along with detailed explanations as investigations are completed.

CONCLUSION

The attached GHG Reduction Plan represents step 2 of the four-step process Cottesloe is following to become a carbon neutral municipality. The MACC highlights a number of cost-effective options for the Town in regard to reducing its carbon footprint and reducing ongoing costs. Implementation of these recommendations will demonstrate leadership to the community and a commitment to the process. As such there are likely to be ongoing actions as a result of this Plan in the Town's progress towards carbon neutrality.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

THAT Council:

1. Note and endorse the GHG Reduction Plan as an important step towards carbon neutrality for Cottesloe.
2. Provide in-principle support for the recommendations of the Plan, noting that further investigations and reporting will be required for individual actions, for Council approval and budgeting.
3. Authorise a budget variation as follows:

Solar Panels Civic Centre	\$45,000
	(Buildings – Capital)
Transfer from Civic Centre Improvements Reserve	\$20,191
Transfer from Property Reserve	\$24,809

4. Authorise the Chief Executive Officer to seek and accept a quote from a suitably qualified contractor, to supply and install photo-voltaic cells at the Cottesloe Civic Centre, subject to approvals as required by the Town and the Heritage Council of WA.
5. Commit to transferring the balance of projected electricity costs less the actual electricity costs to a new reserve (Sustainability Projects) as calculated at 30 June each year. The purpose of this reserve is “to fund projects that reduce the Town’s carbon footprint or reliance on polluting energy sources”.

Carried 8/0

11.1.2 DISABILITY ACCESS AND INCLUSION PLAN – 2012 - 2017

File No: SUB/1080
Attachments: [Disability Access and Inclusion Plan 2012 to 2017](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate Services

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

Council is being asked to consider the proposed Disability Access and Inclusion Plan (DAIP) 2012 – 2017 for the Town of Cottesloe as attached.

BACKGROUND

The Town of Cottesloe is required to prepare, adopt and review as appropriate a Disability Access and Inclusion Plan as one of the requirements of the Disability Services Act 1993. The plan sets out policies and priorities that provide equality of access and inclusion for people with various disabilities, with a particular focus on ensuring that access to public facilities is universal.

The Town's current plan has expired and needs to be replaced. A review has been undertaken, as required, and the Community Development Officer together with the Disability Services Advisory Committee have been working on the new Plan.

STRATEGIC IMPLICATIONS

The Disability Access and Inclusion Plan sets out targets for the Town to achieve in ensuring access to public buildings in universal.

POLICY IMPLICATIONS

There are no policy changes recommended in the DAIP.

STATUTORY ENVIRONMENT

The Town is required under the Disability Services Act 1993 to have a DAIP – the attached plan meets all of the requirements of the Act.

FINANCIAL IMPLICATIONS

The projects and initiatives within the plan will be allocated for in Council's normal operating budgets.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

There have been two stages to the development of the DAIP, being a review of the previous plan and the development of the new plan.

During the review, advertisements were placed in local media, calling for people to make submissions to the review. The review was also discussed in depth at the Disability Services Advisory Committee.

The attached plan was first submitted to the Disability Services Advisory Committee in 2011. Since this time committee members have provided feedback, suggested changes and have undertaken research themselves on enhancements and improvements to the plan.

STAFF COMMENT

While it is a legislated requirement to have a Disability Access and Inclusion Plan, it is also good practice to ensure that access issues are considered for all public buildings. While people with disabilities clearly benefit the most from the improvements, access improvements also greatly benefit others in the community, such as parents with prams, the elderly or people recovering from injuries.

Many of the Town's built assets are of an age where they did not necessarily have universal access points as a part of their original design and construction. This means that the Town must retrofit many of these assets to ensure that everyone can access them. The most obvious example of this is the Civic Centre, with its many stairs and levels – which can provide a challenge for people with limited mobility. The Town has begun the program of retrofitting, however there is still a way to go.

The largest project that will be undertaken in the short to mid term will be the universal access ramp at Cottesloe Beach. At an expected cost of nearly \$300,000 (\$200,000 of which is being funded by LotteryWest) it represents a significant investment in universal access.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

That Council ADOPT the Disability Access and Inclusion Plan 2012 - 2017 as presented in the attachment of the Works and Corporate Services Committee 17 June 2012.

Carried 8/0

11.1.3 POLICY REVIEW – CONFERENCES, SEMINARS AND TRAINING

File No: SUB/48
Attachments: [Policy Conferences Seminars and Training](#)
[Policy Conferences](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Lydia Giles
Executive Officer
Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

The attached draft policy for Conferences, Seminars and Training is introduced as a proposed 'replacement' for the current Conferences Policy. This report recommends that Council adopt the amended policy, which has been enhanced to include range of matters to ensure that the process in relation to attendance at seminars and conferences, training courses and career planning are covered in one document, hence the policy is appropriately amended and re-named.

BACKGROUND

A process of review, deletion and renewal for all Council policies has been implemented by the Administration and policies are being presented to Council as they are reviewed for endorsement.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

New policy as replacement for an existing policy.

STATUTORY ENVIRONMENT

- Equal Opportunity Act 1984

FINANCIAL IMPLICATIONS

The costs involved in Elected Members and staff attending conferences, seminars and training are accommodated within existing budget allocations.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Internal consultation involving staff and managers is conducted on an annual basis during staff's performance review process. One of the issue discussed during the review process includes identification of training needs. At the conclusion of the

review process both the staff and manager will agree on training needs, including skill improvement, knowledge and/or organisational requirements.

In addition training and conference information is distributed to staff members from Agencies such as WALGA as well as other industry peak bodies and related organisations.

STAFF COMMENT

The proposed new policy has resulted from a review in the executive/human resources section to ensure the current policy is relevant to the Town of Cottesloe's current working environment. It has been amended to ensure any request for staff to attend a seminar, conference or training program can be administered accordingly.

The inclusion of new conditions which were not covered in the existing Conference Policy will ensure that staff who are required to attend training or wish to attend a relevant seminar are aware of the internal application and approval processes.

Identification of employee's professional development needs are also covered in the annual performance review process.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

THAT Council adopt the amended Conference, Seminars and Training Policy as presented in the attachment of the Works and Corporate Services Committee 17 June 2012.

Carried 8/0

11.1.4 DELEGATED POWERS

File No: SUB/38
Attachments: [Delegations List 2012](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

In order to expedite decision-making within the Town of Cottesloe, a recommendation is made to delegate a number of powers and duties to the Chief Executive Officer (and specialist officers) as provided for in the Local Government Act (1995) and other related Acts, Regulations and local laws.

BACKGROUND

Delegations allow the CEO (and specialist officers) to make decisions under the authority of Council without having to constantly refer business of a routine nature to Council.

The aim of delegated authority is to assist with improving the time taken to make decisions within the constraints allowed by relevant legislation. This is consistent with the Town's commitment to a strong customer service focus. Delegations are to be reviewed in accordance with the local Government Act 1995 once every financial year.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Sections 5.42, 5.43 and 5.44 of the *Local Government Act (1995)* provide as follows:-

5.42. Delegation of some powers and duties to CEO

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

* *Absolute majority required.*

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.43. Limits on delegations to CEO's

A local government cannot delegate to a CEO any of the following powers or duties:-

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor; or
- (i) such other powers or duties as may be prescribed.

5.44. CEO may delegate powers and duties to other employees

(1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

(3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty —

(a) the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and

(b) the exercise of that power or the discharge of that duty by the CEO's delegate,

are subject to any conditions imposed by the local government on its delegation to the CEO.

(4) Subsection (3)(b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.

(5) In subsections (3) and (4) —

conditions includes qualifications, limitations or exceptions.

[Section 5.44 amended by No. 1 of 1998 s. 14(1).]

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

Additional delegations are recommended from the list that was approved by Council in 2011 and these have been highlighted in red in the attachment. The additions relate to the operation and function of the new Building Act 2011 and Building Regulations 2012 which came into force in April 2012. The Building Act 2011 only allows delegation direct to a qualified officer. As a consequence the previous delegations in relation to the Local Government (Miscellaneous Provisions) Act 1960 can be removed as they have been superseded.

Delegations are recommended on the basis of operational efficiency as it is considered more practical for these activities to be delegated, with the responsibility for administration held by the CEO or respective specialist officers who is both "registered" and qualified to administer such delegations, in this case, specifically the Principal Building Surveyor.

Some delegations are "on-delegated" from the CEO to other specialist officers such as Principal Environmental Health Officer, Manager Development Services, Manager Corporate and Community Services.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**Moved Cr Boland, seconded Cr Strzina****THAT Council delegate the powers and duties to the Chief Executive Officer and/or respective specialist officers, effective to 30 June, 2013 as submitted in the attachment of the 17 July 2012 Works and Corporate Services Committee.****Carried 8/0**

11.1.5 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: 17 July 2012

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

SUMMARY

This report recommends that Council confirm the establishment of the 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 December 2011 Council resolved, in part, as follows:

THAT COUNCIL:

4. *Adopt the following Key Result Areas for the 2012 appraisal period*
 - (a) *Report to Council in February 2012 on concepts for the Town's Foreshore Development Plan.*
 - (b) *Finalise and adopt the Town's new Beaches and Beach Reserves Local Law.*
 - (c) *Subject to WAPC & Ministerial determination, finalise the gazettal of the Local Planning Scheme No. 3.*
 - (d) *Progress and finalise the preferred solution for Council's Depot services and redevelopment/sale of the current site.*
 - (e) *Advise Council, and manage the Local Government Reform Agenda as it relates to the Town.*
 - (f) *Assist Council with the development of a Community Plan (Strategic Plan) as part of the Integrated Strategic Planning Framework.*
 - (g) *Finalise and adopt the Town's new Standing Orders Local Law.*
 - (h) *Assist and support the ongoing redevelopment of the WANSLEA and Eric Street (Scouts) sites for community use.*
 - (i) *Develop a Town Centre Parking Plan.*
 - (j) *Finalise and adopt a plan for the Town Centre and Station Street.*
 5. *Conduct the next review of the CEO's performance by December 2012, in accordance with the contract of employment between Council and Mr Askew,*
-

with the process to include the opportunity for elected members to meet with the facilitator to provide feedback.

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.

STRATEGIC IMPLICATIONS

The achievement of Council's Future Plan is 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 a budgetary impact. The current budget allows for an increase in line with the Town's current Enterprise Agreement.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Mayor

STAFF COMMENT

As listed above, a number of specific Key Result Areas (KRA's) for the CEO were identified in December 2011. In addition, 2012 has seen ongoing challenges placed before Council, including the local government reform agenda, budget, and Local Planning Scheme 3.

In October 2011 Council resolved that the Strategic Planning Committee be appointed as the CEO's Contract and Performance Review Panel. The review process is conducted by the 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 December 2011 resolution, the CEO's performance and remuneration review should be completed by December 2012. Initial contact with Mr John Phillips, Executive Manager WALGA Workplace Solutions has confirmed his availability to once again support Council and the Review Panel with facilitation and professional advisory services. Recommendation 5 of the December 2011 resolution included reference to "the opportunity for elected members to meet with the facilitator to provide feedback" and this has been discussed with Mr Phillips for inclusion in the review process.

Section 4 of the CEO's contract (Term of Employment) indicates that the current contract expires on 6 January 2014. Section 5 (Further Contract) states *"There is no compulsion on either the Council or the CEO to agree to a new Contract. The Council and/or CEO shall initiate discussions no later than 12 months prior to the expiry of the Term for the parties to enter into a new Contract for a further term with the Council making a decision to finalise those discussions not later than nine months prior to the expiry of the term of this Contract. In the event that the Council and the CEO agree to a new contract, a new contract will be executed"*. In accordance with the CEO's contract therefore the Review Panel may wish to consider such discussions with a view to finalising those discussions by March 2013.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

THAT Council

- 1. Confirm the appointment of the Strategic Planning Committee as the CEO's Contract and Performance Review Panel with its role/responsibility being to;**
 - a. Conduct the CEO's annual performance review based upon the performance objectives set for 2012 with the process to include the opportunity for elected members to meet with the facilitator to provide feedback.**
 - b. Make recommendations to Council on the CEO's contract, remuneration and performance objectives for 2013.**
 - c. Initiate discussions no later than 12 months prior to the expiry of the CEO's term, for parties to enter into a new contract for a further term and advise Council of those discussions no later than nine months prior to the expiry of the term of this Contract.**
- 2. Invite a representative from WALGA's Workplace Solutions to join the panel to provide independent facilitation and professional advisory services.**

Carried 8/0

Cr Pyvis declared a proximity interest in Item 11.1.6 due to owning a property on Forrest Street and left the Chambers at 7.45PM.

11.1.6 FORREST STREET PARKING RESTRICTIONS

File No: SUB/841
Attachments: [Map Forrest Street](#)
[Current Sign Photo](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate Services
Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

Council is being asked to consider amending the parking restrictions on Forrest Street between Broome Street and Marine Parade.

BACKGROUND

At present the section of Forrest Street between Broome Street and Marine Parade has a “No Standing – Road or Verge” zone on the northern side of the road. This has been implemented to prevent people parking on these verges while attending the beach, particular during summer when parking in the area is at a premium.

In April this year, several infringements were given to residents (or their guests) of this area for parking on the verge outside of their homes or their unit complex. Four of these people have appealed their infringements, citing that they believed that they were entitled to park on the verge immediately adjacent to their property. However, when an area has signs indicating that there is “no standing” or “no parking”, there are no exceptions for residents either.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

The Town of Cottesloe Parking and Parking Facilities Local Law 2009, allows the Town to designate verges as areas where parking is controlled. The local law has provisions for making such areas as no standing or no parking, with or without exceptions.

FINANCIAL IMPLICATIONS

There would be no material change in revenue or expenditure from amending the parking controls as recommended.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

At the time of writing this report, administration had not undertaken any formal consultation on this issue. However five residents on this section of Forrest Street have appealed their infringements, stating that they believed that they should be allowed to park on these verges. Two have stated that they will be writing to Council to formally request the change, however they as yet have not done so.

The Town has also received complaints from one resident of Forrest Street, regarding people parking their cars on the verges. This complaint was initially a complaint about the verge adjacent to their property which had been parked on during a large event at the beach, but continued to residents parking on their verges in general in that area.

STAFF COMMENT

The two competing sides to this issue are as follows;

1. If parking is allowed on these verges, even for residents, then the verges could degrade and become "dust-bowls" over the summer; and
2. People should be allowed to park on the verge adjacent to their property, particularly given that they pay for the maintenance of these verges.

Given the popularity of parking in this area in the summer months, there have been good reasons to make the entire area a no parking zone. If people are parked on the verges (even with permits displayed) other people who are not familiar with area may park there as well, assuming it is okay to do so, which will create problems for residents.

The Town has a mix of parking controls on roads between Broome Street and Marine Parade, which include complete bans on parking for all, permit zones and zones that become permit zones at certain times (after 4pm on Sundays for example). Each of these solutions looks at the particular problems that parking causes on each road, and takes into account the width of the road, the amount of traffic and the amount of off-street parking.

This section of Forrest Street has wide verges, Seaview Golf Course on the southern side and several examples of grouped dwelling, which tend to increase pressure on on-street parking.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed the potential precedent and implications for other streets in issuing permits, and the current adequacy of on-site parking on Forrest Street, including the capacity to park on the south side of the street. Consideration was

given to not proceeding with the recommendation but on balance Committee determined to undertake the consultation.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Jeanes

That Council request that Chief Executive Officer write to all residents and owners of this section of Forrest Street;

- 1. Advising that a review of the parking restrictions on this section of Forrest Street is being undertaken**
- 2. Asking them for their comments and to indicate their preferred option from the following;**
 - i. Leaving the current restrictions in place; or**
 - ii. Making the verges “No Parking – Permits Excepted” (and issuing permits as per the Parking Local Law)**

with the results to be submitted to the August 2012 meeting of Committee and Council for consideration.

Carried 5/2

Cr Pyvis returned to the meeting at 7.49PM.

11.1.7 LEASE – MARMION STREET PRE-PRIMARY BUILDING

File No: SUB/985
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Mat Humfrey
Manager Corporate Services

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

Council is being asked to authorise the Mayor and Chief Executive Officer to sign a lease with the Cottesloe Community Child Care Centre, for the Marmion Street Child and Family Centre (formerly Pre-Primary Building).

BACKGROUND

As a part of a series of community projects, Cottesloe Community Child Care Centre have been successful in obtaining funding from LotteryWest that will allow the pre-primary located on-site at North Cottesloe Primary School as part of the North Cottesloe Primary School Early Childhood Education Centre and for the Community Child Care Centre to move to the existing pre-primary building on Marmion Street. Both buildings require improvements and refurbishing in order to make this possible – the costs of which has been covered from number of sources including the National Trust, Education Department and LotteryWest.

The Marmion Street Pre-Primary site is currently vested in the Town, for the purposes of a “pre-primary”. The process of having the vesting amended to also include child care activities has been initiated, and the pre-primary have already vacated the building. The Town is currently in discussions with the Department of Education to terminate the existing lease for this site.

As part of the grant application by Cottesloe Community Child Care the CEO, on behalf of the Town, acted as a referee for the application. An indication was also given that the Town would favourably consider a request for a donation (cash and/or in kind) in support of this project. Whilst the overall grant includes an allocation for redevelopment and refurbishment as well as professional and project management costs, it would be appropriate that Council, as the beneficiary of an upgraded facility set aside an allocation toward the project, which will be completed in two stages. It is recommended that Council consider a donation of up to \$20,000 in the form of *in kind* works (eg. site landscaping) and/or cash as part of its mid year budget review when the project is further advanced.

STRATEGIC IMPLICATIONS

Objective 1 of the current Strategic Plan is to “Protect and Enhance the Lifestyle of Residents” and objective 5 is to “Maintain infrastructure and Council buildings in a sustainable way”.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

The Town currently receives annual lease payments from the Department of Education of approximately \$3,500. The Town is also responsible for some of the maintenance associated with the building. If a “peppercorn” arrangement were entered into with the Child Care Centre there would be no lease payments – however this would be offset by having no maintenance obligations.

The improvements being made to the building are being funded by LotteryWest. Given there can often be hidden costs with such projects, and that the Town has a community grants program, it is appropriate that the Child Care Centre be favourably considered for future support, as part of this project.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Jill Cameron and Associates, who are coordinating the project on behalf of LotteryWest, have liaised with all parties involved to ensure the process runs smoothly.

A number of community group within the Town are involved and will benefit from this project including; North Cottesloe Primary School, Cottesloe Child Care Centre, Cottesloe Playgroup, Cottesloe Toy Library, North Cottesloe Surf Club and Scouts WA.

This project has been supported by; Department of Education, National Trust, LotteryWest and the Town of Cottesloe.

STAFF COMMENT

The improvements being made to the Marmion Street building as a part of this project will reduce the Town’s liabilities in the future years by reducing the need for major maintenance items, such as re-painting. It will also provide some level of security of tenure for the Child Care Centre, which provides a valuable service to the community.

As the funds for this project are not being provided by the Town and that as a result of this project, the building will be in a significantly improved condition, a “peppercorn lease” is seen as the most appropriate option for all parties. It will not necessarily burden the child care centre with large maintenance bills, while at the same time minimising the cash expenses of the child care centre. The Town for its part has one of its buildings refurbished and improved at little or no cost to the Town.

There is some urgency with the lease situation, in that the pre-primary have already vacated and will need their building at North Cottesloe Primary School from mid 2013. While the school can accommodate them in temporary accommodation for the remainder of this year, and part of 2013, this is not "ideal" and the sooner works can be completed the better. The stage 1 works at the Marmion Street site need to start as soon as possible, will take approximately 2-3 months and need to be completed before the Child Care Centre can re-locate.

As a part of the recommendation, it has been suggested that the Chief Executive Officer be authorised to enter into an agreement to allow works to start on the Marmion Street building, on the condition that a lease be entered into as soon as practicable. The lease will need to be endorsed by the Minister for Lands and recent experience with the Seaview Kindergarten Lease has shown that this could take between 4 and 6 weeks.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed the term of the lease and were of the opinion that the initial term should be for 10 years, with the opportunity after that time for both the Council and Child Care Centre to renegotiate the lease for a further period. As the building redevelopment included a significant grant from LotteryWest it was requested that the CEO liaise with them to confirm that there are no conditions within the application or Board determination that may be impacted by the term of the Lease. As a consequence of their discussion Cr Pyvis proposed an amendment to the officer recommendation.

OFFICER RECOMMENDATION

Moved Cr Strzina, seconded Cr Boland

THAT Council

1. Authorise the Mayor and Chief Executive Officer to execute a deed under Common Seal ending the Department of Education's lease on the Marmion Street Pre-Primary building with no penalties and both parties responsible for their own costs associated with ending the lease.
2. Authorise the Mayor and Chief Executive Officer to sign under Common Seal a lease with the Cottesloe Child Care Centre for the Marmion Street Pre-Primary building with the following conditions;
 - a) The lease be on a peppercorn basis, with similar requirements and conditions to the Seaview Kindergarten lease; and
 - b) The Term of the lease to be for 10 years with a 10 year extension
3. Authorise the Chief Executive Officer to enter into an agreement with the Cottesloe Child Care Centre that;
 - a) Sets out all of the conditions that will be in the final lease;

- b) Commits the Town and Cottesloe Child Care Centre to entering a lease subject to the approval of the Minister for Lands; and
 - c) Allows the Cottesloe Child Care Centre to take immediate possession of the building, subject to the terms specified, to allow the works required to the building to be carried out.
4. Consider an allocation of up to \$20,000 cash and/or *in kind* as part of the mid year budget review.

AMENDMENT

Moved Cr Pyvis, Seconded Cr Strzina

That in part 2(b) of the officer recommendation the words "with a 10 year extension" be deleted.

Carried 4/0

COMMITTEE RECOMMENDATION

THAT Council

1. Authorise the Mayor and Chief Executive Officer to execute a deed under Common Seal ending the Department of Education's lease on the Marmion Street Pre-Primary building with no penalties and both parties responsible for their own costs associated with ending the lease.
2. Authorise the Mayor and Chief Executive Officer to sign under Common Seal a lease with the Cottesloe Child Care Centre for the Marmion Street Pre-Primary building with the following conditions;
 - a) The lease be on a peppercorn basis, with similar requirements and conditions to the Seaview Kindergarten lease; and
 - b) The Term of the lease to be for 10 years.
3. Authorise the Chief Executive Officer to enter into an agreement with the Cottesloe Child Care Centre that;
 - a) Sets out all of the conditions that will be in the final lease;
 - b) Commits the Town and Cottesloe Child Care Centre to entering a lease subject to the approval of the Minister for Lands; and
 - c) Allows the Cottesloe Child Care Centre to take immediate possession of the building, subject to the terms specified, to allow the works required to the building to be carried out.
4. Consider an allocation of up to \$20,000 cash and/or *in kind* as part of the mid year budget review.

AMENDMENT

Moved Cr Boland, seconded Mayor Morgan

That in part 2(b) of the recommendation the word “initial” be inserted before the word “Term” and the words “with an option for the lessee of a 10 year extension” be added after the word years.

Carried 8/0

COUNCIL RESOLUTION

THAT Council

1. Authorise the Mayor and Chief Executive Officer to execute a deed under Common Seal ending the Department of Education’s lease on the Marmion Street Pre-Primary building with no penalties and both parties responsible for their own costs associated with ending the lease.
2. Authorise the Mayor and Chief Executive Officer to sign under Common Seal a lease with the Cottesloe Child Care Centre for the Marmion Street Pre-Primary building with the following conditions;
 - a) The lease be on a peppercorn basis, with similar requirements and conditions to the Seaview Kindergarten lease; and
 - b) The initial Term of the lease to be for 10 years with an option for the lessee of a 10 year extension.
3. Authorise the Chief Executive Officer to enter into an agreement with the Cottesloe Child Care Centre that;
 - a) Sets out all of the conditions that will be in the final lease;
 - b) Commits the Town and Cottesloe Child Care Centre to entering a lease subject to the approval of the Minister for Lands; and
 - c) Allows the Cottesloe Child Care Centre to take immediate possession of the building, subject to the terms specified, to allow the works required to the building to be carried out.
4. Consider an allocation of up to \$20,000 cash and/or *in kind* as part of the mid year budget review.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 8/0

**11.1.8 REQUEST FOR FIG TREE REMOVAL 37 AND 39 CONGDON STREET
COTTESLOE**

File No: PR51478
Attachments: [Previous Reports and Attachments](#)
[Resident Correspondence To Remove the Trees](#)
[Resident Correspondence To Keep the Trees](#)
[Arborist Assessment and Report](#)

Responsible Officer: Carl Askew
Chief Executive Officer

Author: Louis Prospero
Acting Manager Engineering Services

Proposed Meeting Date: 17 July 2012

Author Disclosure of Interest Nil

SUMMARY

An application was received in May 2012 from the owners of 37 Congdon Street, Cottesloe, for the removal of one fig tree on the road verge, which affects their property because of safety concerns and the large volume of debris continually being dropped onto their property, footpath and crossover. Council resolved to obtain an experts report and to advertise for public comment.

The advertised time period for consultation has ended with a number of submissions being received. The recommendation is to support the removal of the trees and replace them with suitable nature trees.

BACKGROUND

In February 2012, Council received a similar request from the owners of 39 Congdon Street, mentioning two fig trees, one of which was this tree. At the time, Council declined to remove those trees.

This tree will grow much larger, and is bounded by the public footpath, the street kerbing and a crossover. These assets are not yet being lifted by the tree roots. Fig trees are well known for their invasive root systems and the large amount of debris dropped.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Council's Street Tree Policy applies.

STATUTORY ENVIRONMENT

There are no legal or statutory issues relating to where street trees must be planted and how they should be maintained, apart from the standard liability issues regarding potentially dangerous street trees in the public domain.

FINANCIAL IMPLICATIONS

These trees would cost approximately \$1,500 to remove / per tree.

The maintenance of these trees would require the Town's staff to work at least an hour per day over a 12 week period when the trees drop their fruit. The ongoing costs to the Town to maintain the road, footpath, verge and private property free from debris and to annually prune the trees on an annual basis would amount to approximately \$12,000 per year.

SUSTAINABILITY IMPLICATIONS

Native species of suitable street trees planted in locations where the root systems can develop without being restricted or causing damage to infrastructure are of high value to a community's sustainability objectives. Unfortunately, these fig trees, like a number of Cottesloe street trees, are not suitable species to be planted in the existing locations, because of the size they will grow to and the probable damage from invasive tree roots in the future.

CONSULTATION

This matter has been advertised for public comment in the Post newspaper, on the Town of Cottesloe website and on the notice boards at the Grove Library and Cottesloe Civic Centre, with the submission period being from 9th June 2012 to 6th July 2012.

STAFF COMMENT

Council's Street Tree policy includes a list of reasons why street trees would normally not be removed. One of these reasons is for the tree litter / leaf fall (messy tree). The other secondary reasons – root invasion into private property, cracks in paths and driveways and the fear of slipping over on the squashed berries – are standard complaints about large fig trees.

At the May 2012 meeting, Council resolved "in accordance with it's Street Tree Policy, obtain an expert's report and conduct public consultation in relation to the removal and replacement of either one or both of the fig trees fronting 37, 39 and 41 Congdon Street, and report back to Council."

The Town engaged a certified arborist to provide an assessment and report. The terms of reference provided to the arborist were the following:

1. An assessment of the trees characteristics and physiology
2. An assessment of any factors that might influence the trees health or stability.
3. Analyses of the hazard presented by the location or potential failure of the tree or any part.
4. Recommendations from any action required to manage the tree.

The species of the tree was identified as a *Ficus rubiginosa* – Commonly called a Port Jackson Fig.

The arborist reported the following recommendations:

- Conduct some selective canopy works.
- The trees do add significant aesthetic value to the streetscape and aid to the ecological values.
- Pruning will need to be done annually, to maintain road and property clearances.
- Associated root problems will continue, possibly increasing as the trees mature. Action can assist with root issues, although the results are often short term within ongoing maintenance and repair being required.
- Removal of any major deadwood from the canopy with a diameter 25-35mm or greater.
- Selectively reduce the overhang to adjacent properties by reducing limbs back to most suitable growth points no less than 1/3 the diameter of limb being reduced.
- Thin remaining canopy by no more than 10-15% where needed only

The Town has received numerous of emails, letters and facsimile regarding this issue.

A significant amount of the correspondence received came from outside of the Town. There were 5 items of correspondence received that wanted the trees to remain, 2 from residents living in the same street. One of those residents did not comment directly on the removal or retention but rather indicated support to retain the fig trees outside of their own property. 13 items of correspondence and 1 petition (with 28 signatures) was received in support of the trees being removed and replaced. 7 of these were from Cottesloe residents, 4 were from the other suburbs and 1 from Canberra (family member and former resident). There were 3 signatures in the petition that came from Cottesloe, 5 from the Cottesloe area and a number from Trinity Village, Duncraig.

FACTOR IN THIS CONSIDERATION.

The Town recently removed a similar species of trees, as the trees became unmanageable and intrusive to the public infrastructure and private property in Charles Street and Curtain Ave.

The Port Jackson Fig trees are not list in the Town's street policy because Council has identified that this species is inappropriate to be planted in the verge area. The trees in the past may have been more manageable as they were smaller and easier to maintain, however in this case, the trees have grown to a significant size and are becoming intrusive and have damaged public infrastructure and the adjacent properties. The Town has a duty of care to the community to install suitable infrastructure that minimises any risk of damaging property (public or private) and is safe.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed the report and associated issues, with Cr Strzina stating that Council should retain trees however, where possible, in his opinion ficus trees are not suitable for verges, this particular situation will only get worse, and that Council should replace these trees with more suitable species as per Policy. Cr Jeanes supported Cr Strzina and referred to the comments from the arborist that the situation will not improve, ficus species are unsuitable and the overwhelming number of residents in the street support their removal. Cr Pyvis spoke in favour of retaining the trees and suggested that time was needed to establish replacement trees on the median strip opposite. Cr Boland also opposed the removal of the trees noting comments in the arborist report. He also supported the planting on the median as a replacement, in the future, for the fig trees. As a consequence he foreshadowed a new motion to decline the removal of the trees and plan for future removal and replacement, should the officer recommendation be lost.

OFFICER RECOMMENDATION

Moved Cr Strzina, Seconded Cr Jeanes

THAT Council;

1. Remove the two fig trees fronting 37 and 39 Congdon Street and replace them with suitable native trees; and
2. Notify the applicant(s) of Council's decision.

EQUALITY 2/2
CASTING VOTE AGAINST
LOST 2/3

NEW MOTION/COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Boland, Seconded Cr Pyvis

THAT Council;

1. Decline the request to remove the two fig trees fronting 37 and 39 Congdon Street;
2. Request administration develop a plan for planting on median strip as a replacement for the future removal and replacement of the fig trees, including revegetation of both the verge and median strip; and
3. Notify the applicant(s) of Council's decision.

EQUALITY 4/4
CASTING VOTE FOR
CARRIED 5/4

11.1.9 REQUEST FOR THE REMOVAL OF 3 NEW ZEALAND CHRISTMAS TREES 46 OZONE PARADE COTTESLOE

File No: PR50770
Attachments: [Previous Report and Attachments](#)
[Email from Ms Belinda Taranto](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Louis Prospero
Acting Manager Engineering Services
Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

Three New Zealand Christmas trees grow as verge trees in front of 46 Ozone Parade. The property owners have requested the removal of these trees and their replacement with WA Peppermint trees. The reasons for this request are the very aggressive root system of the species and their heavy use of water. This matter was considered by Council in May 2012, with a resolution that it be advertised for public comment. The recommendation is to support removal of the trees and replacement with WA Peppermint trees with the owner of 46 Ozone Parade to fund the removal and replacement.

BACKGROUND

These street trees are mature and are not breaking up kerbing or footpaths at present. Several of the same species have been removed over the last few years due to a tree dying, a tree being in the way of an approved crossover / entry or a combination of damage and poor health.

A large development on the corner of Margaret Street and Ozone Street originally had a dying pine tree and two poor quality gum trees fronting the site which were removed. As part of the landscaping to be undertaken on the site, the verge planting will include WA Peppermint trees as street trees. All other gaps in this verge will be planted with the same species. Council no longer uses the New Zealand Christmas trees as a street tree because of the root issues.

This matter went to Council in May 2012, with a decision that the matter be advertised for public comment. A number of attachments were provided with the May report including a copy of a letter from the owner of 46 Ozone Parade, photos of the trees, a site plan and description of the tree type.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Council's Street Tree policy applies.

STATUTORY ENVIRONMENT

There are no legal or statutory issues relating to the planting of street trees or the choice of species for such planting.

FINANCIAL IMPLICATIONS

The removal of these trees would be by Council staff, at an estimated total cost of \$2,000, which is recommended to be met by the owners of 46 Ozone Parade.

SUSTAINABILITY IMPLICATIONS

The New Zealand Christmas Tree is not a native species of Australia and the most sustainable street tree type is normally a local native species such as the WA Peppermint tree.

CONSULTATION

When the item was considered by Council in May 2012 one resident contacted a number of councillors by email to advise of her inability to attend the meeting and to express her support the retention of all native trees in Cottesloe.

As consequence of the Council resolution in May 2012 this matter was advertised for public comment in the Post newspaper, on the Town of Cottesloe website and on the notice boards at the Grove Library and Cottesloe Civic Centre, with the submission period being from 9th June 2012 to 6th July 2012.

STAFF COMMENT

The Town had followed the consultation process and procedures requested by the Council. At the conclusion of the advertising period no correspondence or submissions other than the one sent in May 2012, was received by the Town, either in favour or against in having the trees removed.

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed the report and request, with Cr Strzina noting that the tree species is not native and is not consistent with other species in the street. Members recognised the “charm” of the street and discussed a replacement process over time. Other views expressed suggested that root spread could be controlled with correct pruning and that this species was relatively drought resistant, with the current trees providing both bird habitat and shade. After discussion Cr Boland foreshadowed that if the recommendation is “lost” that an alternative motion will be put to decline the request for removal.

OFFICER RECOMMENDATION

Moved Cr Strzina, Seconded Cr Pyvis

THAT Council;

1. Support the request from the owners of 46 Ozone Parade to remove three New Zealand Christmas trees from the verge, with the owners to fund this removal and planting of two new WA peppermint trees as replacements.
2. Notify the applicant of Council's decision.

LOST 1/3

NEW MOTION/COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Boland, Seconded Cr Pyvis

THAT Council;

1. Decline the request from the owners of 46 Ozone Parade to remove three New Zealand Christmas trees from the verge; and
2. Notify the applicant of Council's decision.

Carried 7/1

11.1.10 STATUTORY FINANCIAL REPORTS FOR THE PERIOD 1 JULY 2011 TO 30 JUNE 2012

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present to Council the Statement of Financial Activity, the Operating Statements by Program and by Nature and Type, the Statement of Financial Position, and supporting financial information for the period 1 July 2011 to 30 June 2012 as included in the attached Financial Statements.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Statement of Financial Activity on page 1 of the attached Financial Statements shows a favourable closing surplus of \$1,059,109. However it should be noted that there are month/year end accruals yet to be posted which will reduce this figure and the final statutory accounts for 2011-2012 will be submitted to the Auditors by the end of August 2012. These preliminary year end accounts show favourable operating revenue of \$176,840 or 7% of total operating revenue excluding rates. Council received an advance payment of \$140,663 of its Financial Assistance Grant relating

to the 2012-2013 year and this amount has been transferred to reserves. Operating expenditure is \$417,196 or 4% less than year to date budget. Material variances are outlined on the Variance Analysis Report on pages 7 to 10 of the attached Financial Statements. Capital expenditure is reported in detail on pages 24 to 28 of the attached Financial Statements.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

THAT Council receive the Statement of Financial Activity, Operating Statements by Program and by Nature and Type, Statement of Financial Position, and other supporting financial information as included in the attached Financial Statements for the period 1 July 2011 to 30 June 2012, as submitted to the Works and Corporate Services Committee.

Carried 8/0

11.1.11 SCHEDULES OF INVESTMENTS AND LOANS AS AT 30 JUNE 2012

File No: SUB/150 & SUB/151
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Schedule of Investments and the Schedule of Loans as at 30 June 2012, as included in the attached Financial Statements, to Council.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 19 of the attached Financial Statements shows that \$2,405,398.86 was invested as at 30 June 2012. Approximately 39% of the funds are invested with Westpac Bank, 38% with National Australia Bank, 12% with Commonwealth Bank of Australia and the remaining 11% with Bankwest.

The Schedule of Loans on page 20 of the attached Financial Statements shows a balance of \$6,208,229.62 as at 30 June 2012. Included in this balance is \$337,457.33 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 the Schedule of Loans as at 30 June 2012. These schedules are included in the attached Financial; Statements as submitted to 17 July 2012 meeting of the Works and Corporate Services Committee.

Carried 8/0

11.1.12 LIST OF ACCOUNTS PAID FOR THE MONTH OF JUNE 2012

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the list of accounts paid for the month of June 2012, as included in the attached Financial Statements, to Council.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The list of accounts paid in June 2012 is included in the report on pages 11 to 16 of the attached Financial Statements. The following significant payments are brought to Council's attention:-

- \$13,916.90 & \$14,833.94 to WA Local Government superannuation Fund for staff superannuation contributions.
 - \$13,942.81 to Synergy for street lighting charges.
 - \$17,377.01 to the Australian Taxation Office for the monthly Business Activity Statement.
 - \$35,965.81 to B & N Waste for a green and bulk waste collection.
 - \$17,801.75 & \$18,482.10 to WMRC for waste disposal charges.
-

- \$25,025.00 to Claremont Asphalt for works at the Civic Centre.
- \$13,150.50 to Jackson Macdonald Lawyers for legal advice.
- \$36,254.26 to Transpacific Cleanaway for waste collection and disposal services.
- \$15,737.50 to GT Earthmoving (WA) Pty Ltd for the removal of two underground fuel tanks at the Depot.
- \$10,230.00 to DG & SA Painting Contractors for painting works at the Caretakers Cottage.
- \$75,924.87 & \$78,289.78 to Town staff for fortnightly payroll.
- \$140,963.01 to National Australia Bank term deposit being a transfer to reserves.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

THAT Council receive the List of Accounts Paid for the month of June 2012 as included in the attached Financial Statements, as submitted to the 17 July 2012 meeting of the Works and Corporate Services Committee.

Carried 8/0

11.1.13 PROPERTY AND SUNDRY DEBTORS REPORTS AS AT 30 JUNE 2012

File No: SUB/145
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Wayne Richards
Finance Manager

Proposed Meeting Date: 17 July 2012
Author Disclosure of Interest Nil

SUMMARY

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

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 21 and 22 of the attached Financial Statements shows a balance of \$82,749.19 of which \$59,540.79 relates to the current month. The balance of aged debtors is \$23,208.40.

The Rates and Charges Analysis on page 23 of the attached Financial Statements shows a total balance outstanding of \$311,653.72. Of this amount, \$205,419.76 and \$49,671.06 relates to deferred rates and outstanding emergency services levies respectively. The Statement of Financial Position on page 4 shows a balance of \$107,140 as compared to \$51,361 this time last year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

THAT Council receive the Property and Sundry Debtors Reports as at 30 June 2012. These reports are included in the attached Financial Statements as submitted to the 17 July 2012 meeting of the Works and Corporate Services Committee.

Carried 8/0

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

Cr Rowell requested an update from the Mayor in relation to local government reform and in particular the proposed G4 amalgamation. The Mayor confirmed that he had recently met with the Shire President of Peppermint Grove and the Mayor of Mosman Park to discuss this matter. Peppermint Grove remain a reluctant participant in the process and would prefer to await the outcome of the State Government's consideration of the Robson Report before consulting with its residents on possible options for the future. The Mayor of Mosman Park was personally supportive of the G4 concept however support for it was yet to be resolved by Council. There remains a view that forcing such amalgamations was not endearing people to the cause. The alternative proposal discussed was to consider a regional council to deliver shared services whilst retaining Council independence however this also did not get universal support. Councils have limited alternative options other than to await the position of the State Government to be announced. The Mayor reiterated that Cottesloe's position has not changed and we are supportive of a G4 Council, however this needs to be achieved via persuasion not force. In relation to the recent meeting with the Premier and his personal support for a G4, the Mayor reiterated that this was the Premier's personal view and had not been confirmed or supported by the State Government to date.

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 8:00 PM

CONFIRMED MINUTES OF 23 July 2012 PAGES 1 – 46 INCLUSIVE.

PRESIDING MEMBER:
POSITION:

.....

DATE: / /