

TOWN OF COTTESLOE



ORDINARY COUNCIL MEETING MINUTES

ORDINARY MEETING OF COUNCIL
HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
7.00 PM, Tuesday, 23 May 2017

MAT HUMFREY
Chief Executive Officer

22 June 2017

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 7:00 PM.

2 DISCLAIMER

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

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****QUESTIONS TAKEN ON NOTICE 26 APRIL 2017 ORDINARY COUNCIL MEETING**

Questions Provided by Cr Pyvis - Emailed 19 April 2017

DONATED SCULPTURE – "ICARUS 4"

Q1. What was the cost (eg. TOC staff hours and material resources) of installing DONATED MEMORIAL SCULPTURE – "ICARUS 4" on the grassed reserve located north west of the Grant St/Marine Pde roundabout?

A1. \$3,365.22

Q2. What was the cost (eg. TOC staff hours and material resources) of relocating (further north) the sculpture that previously occupied the site where DONATED MEMORIAL SCULPTURE – "ICARUS 4" is currently sited?

A2. \$1,529.34

Q3. What was the cost of the risk assessment report for public safety for DONATED MEMORIAL SCULPTURE – "ICARUS 4"?

A3. \$3,230.00 including the Engineers certification Report.

Q4. Who authored the risk assessment report for public safety for DONATED MEMORIAL SCULPTURE – "ICARUS 4"?

A4. Mr P Blaxendale Consulting Engineer.

Q5. What was the cost of the qualified engineer's certification report in regards to the installation specification DONATED MEMORIAL SCULPTURE – "ICARUS 4"?

A5. See question 3 above.

Q6. The Officer Report Ordinary Council Meeting 12 December 2017 refers to:

"The sculpture has been valued at \$34,000 by a licensed valuer"

6(i) Who was the Licensed Valuer?

6(ii) What was the date of this Valuation?

6(iii) What was the cost, if any, to TOC of this Valuation?

A6. (i) Joy Legge

(ii) March 2016

(iii) There was no cost to Council for this valuation which as supplied by the donor

Q7. Who will pay for the memorial plaque dedicated to DONATED MEMORIAL SCULPTURE – "ICARUS 4"?

A7. The donors have requested no specific recognition of the donation. A small plaque will be installed at the site to note the name of the artwork and the artist, which will be paid for by Council.

Q8. Has TOC received anonymous donations of public art in the past and, if so, what were these and when were they accepted?

A8. No, although the Town hasn't always publicised donations either.

Q9. Did the anonymous donor/s have any input into the selection of the installation site for DONATED MEMORIAL SCULPTURE – "ICARUS 4"?

A9. The donors identified several sites that they would like to have the sculpture installed, with the final site being determined by the Art Acquisition Advisory Committee, in consultation with the donors and Cottesloe Coastcare.

Q10. Why are some and not all Elected Members privy to the identity of the donor/s of DONATED MEMORIAL SCULPTURE – "ICARUS 4"?

A10. The donors of Icarus 4 approached some Elected Members to enquire about making such a donation, prior to the formal request being submitted to council for consideration.

Barb Dobson, 20 Florence Street, Cottesloe – Re. 11.3 Councillor Motion – Protecting and Re-engaging the State Government and the Cottesloe Community in the Importance of the Protection of the Cottesloe Reef Fish Habitat Protection Area.

Q1: I understand from my discussions with Fisheries WA that the timber signage for the Fish Habitat Protection Area (FHPA) has always belonged to the Town of Cottesloe and their responsibility to maintain. The timber is cracking, the nails are rusting, and the words 'Cottesloe Reef Fish Habitat Protection Area' are barely legible owing to the fading paint of the last 15 years. Fisheries WA said they are only responsible for the aluminium signage that is mounted onto the wooden frame. Why is it that this wooden signage has not been maintained by The Town of Cottesloe over the past 15 years since its installation?

A1: This type of signage is not normally maintained, but rather replaced when it reaches the end of its useful life, hence it is rarely used now. This signage will be replaced in due course.

Q2: Please can the signs be repainted, preferably in bold colours to make it clearly visible to the beach using public, as a lot of people are unaware that Cottesloe has a marine protected area?

A2: No – as stated above, this type of signage is usually replaced rather than repaired.

Ken Macintyre, 20 Florence Street, Cottesloe WA – Re. Cottesloe Marine Protected Area

Q1: Why has the Town of Cottesloe abrogated its part in promoting community awareness and protection of its valuable marine asset (i.e. the Cottesloe reefs and inshore waters) on its website? There is only one sentence on it's website (which is outdated by 14 years) mentioning its marine protected status (Fish Habitat Protection Area).

A1: The Marine environment is outside of the Town's boundaries. No funds have been set aside for public awareness campaigns in recent times.

Q2: Additionally, for what reason/s has the Town of Cottesloe not maintained the Cottesloe Beach Legislation which was put in place to protect the beach and beach users?

A2: The legislation is State Legislation which the Town has no direct control over. The Beaches and Beach Reserves Local Law, was adopted in 2012 and amended in 2013. It is not due for further review until 2020.

Benjamin Tiller, 117 Curtin Avenue, Cottesloe – Re. Right of Way 64

Q1: Can the Presiding Member advise why the Council has not formally notified me as a property owner with a boundary adjacent to Right of Way 64 as to the known dates and substance of any litigation, the potential to give evidence at hearings, any updates of hearing dates and decisions as per the undertakings made in council's resolution of 19 December, 2016?

A1: The resolution of December 2016 applied to future litigation and the ability to provide evidence. To date no such litigation has occurred.

Q2: Are Council aware that a fenced in area of approximately 6m² exists adjacent to my 4.2m pedestrian access to Right of Way 64 and that access is presented by two fences (one being the rear boundary fence at 21 Lillian Street and the other being the licensed gate)?

A2: Yes.

Q3: How is the Council and Town of Cottesloe endeavouring to protect my interests in having pedestrian access to Right of Way 64 given my decision to purchase the property was in part based on the Council's resolution of 23 February, 2016?

A3: Until recently the Town was engaged in an appeal process over the condition that the gate remain unlocked. While that appeal was underway, the Town was not in a position to enforce that condition.

Perri Margaria, 119 Curtin Avenue, Cottesloe – Re. Right of Way 64

Q1: Why have residents not been notified of the approval of the gate of Right of Way 64?

A1: It is not normal practice to notify residents of an approval provided to another resident, unless it can be seen it will impact that resident. At the time the approval was given, no gates or otherwise existed onto neighbouring properties that could be seen.

Q2: Why have residents not been notified of past, current and future litigation with regard to Right of Way 64?

A2: The only litigation that existed was the start of an appeal, which was withdrawn prior to a directions hearing.

Q3: Why have satisfactory arrangements not been made to provide access to Right of Way 64 as per the resolution of 23 February, 2016?

A3: As stated above, there was appeal on the condition that the gate remain unlocked. The Town was not in a position to enforce that condition until the appeal was resolved.

4.2 PUBLIC QUESTIONS

Allison Manners, 9/136 Railway Street, Cottesloe – Re: 10.1.2 Short-Stay Accommodation Controls for Cottesloe.

Q1: Is the Council aware that the current Local Planning Scheme 3 (LPS3) limits short-stay accommodation to just a few streets within the foreshore zone?

A1: Yes.

Q2: Is Council aware that over 97% of short-stay accommodation occurs outside of this foreshore zone in rate payer's houses and apartments distributed across the residential zones of Cottesloe from Stirling Highway to Coast?

A2: Question was taken on notice.

Q3: How will a local law designed to regulate short-stay address the current uncertainty for most short-stay operators unless LPS3 is amended to reflect the geographical diversity of short-stay activity in residential Cottesloe?

A3: Question was taken on notice.

5 PUBLIC STATEMENT TIME

Lisa Dicks, 71 Solomon Street, Fremantle – Re. 10.1.12 Local Government Property Local Law 2001 Amendments – Ban on Release of Balloons and Smoking at Beach Reserves.

-) Spoke in support of Item 10.1.12, particularly the proposed ban on the release of balloons on beach reserves in Cottesloe.
-) Data collected from the last beach clean up conducted by Sea Shepherd showed 138 balloons found among the refuse.
-) Currently there are 5.25 trillion pieces of plastic floating in the ocean, and it is important that we carry out any measure which may help to reduce this amount.

Yvonne Hart of Cottesloe Residents and Ratepayers Association (CRRA) - Re: 10.1.2 Short-Stay Accommodation Controls for Cottesloe.

-) Spoke in support of the Officer Recommendation under Item 10.1.2
-) Short-stay accommodation in Cottesloe has been an ongoing issue for the town, with short-stay offering increasing from 30 to about 300 in the last 18 months.
-) The CRRA have lobbied Council and made various requests to prepare and adopt a policy to control short-stay accommodation in Cottesloe at the Annual General Meeting in 2015 and 2016, and at the Annual Elector's Meeting in 2015 and 2016. To date there has been no action.
-) For the Town of Cottesloe to state it has not received a lot of complaints about short-stay accommodation is contrary to the multitude of complaints from affected ratepayers. Again there has been no action.
-) Amending LPS3 is not the answer; a draft policy is needed on this matter.

Patricia Carmichael, 14/116 Marine Parade, Cottesloe - Re: 10.1.2 Short-Stay Accommodation Controls for Cottesloe.

-) Referred to a statement drafted by her neighbour, Peter Goff, which suggested that the report under item 10.1.2 is cursory, lacking in depth analysis and that Officer Recommendation points 1, 2 and 3 are limited and overlook a number of issues.
-) It is not clear what the preferred approach of Council is, however it seems to be simply to make life easier for Council staff.
-) The report does not fully address Building Code requirements, in addition to the grounds of refusal, developed in September 2016, where

it is stated that short-stay does not satisfy the LPS3 or the WA Planning Commission (WAPC) Guidelines.

-) The report also neglects matters such as: increased risk of public liability issues, conflicts with strata by-laws, Scheme provisions for parking, noise complaints etc.

)
Bridie Howe, 117A Curtin Avenue, Cottesloe – Re: 10.1.4 No. 117A (Lot 27) Curtin Avenue – Single-Storey Alterations and Additions Including Retaining and Front Garage, and;
Re: 13.1.2 Right of Way 64 (Confidential).

-) Spoke in support of the Officer Recommendations under Item 10.1.4 and urged Council to vote in favour of these Recommendations without modifications or further conditions.
-) Spoke in relation to Right of Way 64 and strongly urged Council to remove this gate which illegally blocks access to their property.

Patricia Carmichael, 14/116 Marine Parade, Cottesloe - Re: 10.1.6 Third Party Appeal Rights in Planning – WALGA Discussion Paper – For Comment.

-) Spoke in support of Cr Boulter's alternative recommendation to item 10.1.6
-) WA is the only state in Australia currently without third party appeal rights.
-) Referred to the article by Judge Trenorden as listed in Cr Boulter's alternative recommendation.

Barbara Pascoe, 17 Deane Street, Cottesloe – Re: 10.1.6 Third Party Appeal Rights in Planning – WALGA Discussion Paper – For Comment.

-) Spoke in support of Cr Boulter's alternative recommendation to item 10.1.6
-) Third party appeal rights are important, particularly with regard to State Administrative Tribunal (SAT) Reviews.
-) There should be more opportunity for third parties to be present at SAT and WAPC hearings.

Tony Rudd 2/134 Marine Parade, Cottesloe - Re: 10.1.6 Third Party Appeal Rights in Planning – WALGA Discussion Paper – For Comment.

-) Spoke on behalf of Mr Chris Wiggins in support of third party appeal rights in WA.
-) Referred to a statement written by Mr Chris Wiggins and delivered to Council at this meeting.
-) The WALGA Discussion Paper on this matter is outdated, protects incompetence and ignores the democratic rights of third parties.

Mercedes Elliott, 12 Windsor Street, Claremont – Re: 10.1.6 Third Party Appeal Rights in Planning – WALGA Discussion Paper – For Comment.

-) Spoke in support of third party appeal rights.

-) It is important for those persons who are directly and indirectly affected by planning decisions to have the right of appeal.

Yvonne Hart of Cottesloe Residents and Ratepayers Association (CRRRA) - Re: 10.1.2 Short-Stay Accommodation Controls for Cottesloe.

-) Spoke in support of third party appeal rights.
-) The WALGA Discussion Paper on this matter is out of touch with community, neighbourhood values and progress.
-) It is the role of Council to make strategic decisions, and for the Town of Cottesloe to make an Officer Recommendation to Council on a WALGA discussion paper that has not been discussed with residents is unacceptable.
-) This will improve the planning process and ensures that planners and developers properly consider the interests of all stakeholders, and ensures that they are answerable to the local community.

Jack Walsh, 35 Grant Street, Cottesloe - Re: 10.1.6 Third Party Appeal Rights in Planning – WALGA Discussion Paper – For Comment.

-) Spoke in support of third party appeal rights.
-) Despite increasing the administration and caseloads for regulators, it also ensures that the work is done correctly or the right of appeal will then be exercised creating more work.

Jack Walsh, 35 Grant Street, Cottesloe - Re: 13.1.2 Right of Way 64 (Confidential) and; 10.1.2 Short-Stay Accommodation Controls for Cottesloe.

-) It seems clear that the claim for adverse possession of the laneway cannot be successful due to original discussion had between Council and the builders of the gate several years ago. This discussion removes the laneway from any grounds for adverse possession.
-) However, the gate should now be removed since it has been approved with the condition that the gate remain locked; if it is not being locked then the grounds for adverse possession may come in at a later date.
-) The Town needs to be careful with its definition of 'short-stay' as there may exist some grey areas between that and long-stay accommodation.

Lisa Hills, 25 Hulbert Street, South Fremantle - Re. 10.1.12 Local Government Property Local Law 2001 Amendments – Ban on Release of Balloons and Smoking at Beach Reserves.

-) Spoke in favour of the proposed ban on the release of balloons and congratulated the Town of Cottesloe for putting forward this initiative.
-) The release of balloons kills wildlife and marine animals as they do not biodegrade.
-) Ms Hills tabled various photographs and balloon samples.

Dr Erina Young, 7 Third Street, Bicton - Re. 10.1.12 Local Government Property Local Law 2001 Amendments – Ban on Release of Balloons and Smoking at Beach Reserves.

- J Spoke in favour of the proposed ban on the release of balloons at Cottesloe beach reserves.
- J Banning balloons will save the lives of many marine animals and turtles who often mistake the latex for a food source.
- J Autopsies carried out on deceased turtles often show causes of death relating to human behaviour, including ingestion of balloons and other debris.
- J Dr Young tabled various photographs to support this cause.

Piers Verstegen, 9 Simper Crescent, Whitegum Valley - Re. 10.1.12 Local Government Property Local Law 2001 Amendments – Ban on Release of Balloons and Smoking at Beach Reserves and;
Re: 10.1.6 Third Party Appeal Rights in Planning – WALGA Discussion Paper – For Comment.

- J Mr Verstegen of the Conservation Council spoke in support of the proposed ban on the release of balloons at Cottesloe beach reserves.
- J Protection of marine life is a responsibility for coastal suburbs and balloons are a large contributing factor currently impacting on the lives of marine animals.
- J Spoke in support of approving third party appeal rights in planning; third party appeal rights exist under the *Environmental Protection Act 1986* for large decisions made, and this should also take effect under the *Planning and Development Act 2005*.

Perri Margaria, 119 Curtin Avenue, Cottesloe - Re: 13.1.2 Right of Way 64
(Confidential)

- J The gate licence issued to the owners of 21 Lillian Street was done without any consultation with adjoining owners, and should never have been issued in the first place.
- J Why have the Council allowed one property owner sole rights to approximately \$250,000 worth of Crown land.
- J Elector's roles are to represent the needs of the locals; currently there are numerous residents who require access to this lane way in order to develop their properties using Right of Way 64.

Katrina Tiller, 117 Curtin Avenue, Cottesloe - Re: 13.1.2 Right of Way 64
(Confidential)

- J Right of Way 64 provides safety for residents who wish to avoid the heavily trafficked Curtin Avenue.
- J Rear pedestrian access significantly increases property value.
- J For one property owner to stake a claim on a gate seems somewhat deceptive; particularly as the gate was installed originally without seeking approval from Council.

6 ATTENDANCE**Present**

Mayor Jo Dawkins
Cr Philip Angers
Cr Sandra Boulter
Cr Katrina Downes
Cr Sally Pyvis
Cr Mark Rodda
Cr Rob Thomas

Officers Present

Mr Mat Humfrey	Chief Executive Officer
Mr Garry Bird	Manager Corporate & Community Services
Mr Nick Woodhouse	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Samantha Hornby	Governance Coordinator

6.1 APOLOGIES**Officer Apologies**

Cr Jay Birnbrauer

6.2 APPROVED LEAVE OF ABSENCE

Cr Helen Burke

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Cr Angers requested a leave of absence for the month of July.

Seconded Cr Downes

CARRIED 7/0

7 DECLARATION OF INTERESTS

Cr Boulter declared an impartiality interest against Item 10.1.14 Preliminary Report - Proposed Depot Location at SeaView Golf Club Inc. as an acquaintance of Mr Bill Cox, President of SeaView Golf Club.

Cr Boulter declared an impartiality interest against Item 10.1.2 Short-Stay Accommodation Controls for Cottesloe after having met this month with short-stay host Mr David Sharp to discuss this Item.

Cr Angers declared a financial interest against Item 10.1.2 Short-Stay Accommodation Controls for Cottesloe, and will leave the room during proceedings on this item.

Cr Pyvis declared an impartiality interest against Item 13.1.2 Right of Way 64 (**Confidential**) as an acquaintance of the resident of 119 Curtin Avenue, Cottesloe, and declared that she could consider the matter on its merits and vote accordingly.

Cr Downes declared a proximity interest against Item 10.1.14 Preliminary Report - Proposed Depot Location at SeaView Golf Club Inc. and will leave the room during proceedings on this item.

Cr Downes declared an impartiality interest against Item 10.1.5 Lots 13, 14, 15 & 16 (1, 5, 7 & 9) Rosendo Street – Additions, Alterations and Conservation Works to the Heritage Listed Dwelling Known as ‘Tukurua’, as her husband is the cousin of the property owner, and declared that she could consider the matter on its merits and vote accordingly.

8 CONFIRMATION OF MINUTES
Moved Cr Rodda, seconded Cr Downes

AMENDMENT
Moved Cr Boulter, seconded Cr Pyvis

That the minutes of the Ordinary Council Meeting (OCM) April meeting are adopted subject to inclusion of the memo from the Manager Engineering Services (MES) read out at the APRIL Council meeting concerning Item 10.1.8 Street Tree Removal Requests.

LOST 3/4

The Minutes of the Ordinary meeting of Council held on Tuesday 26 April 2017 be confirmed

[Minutes 26 April 2017 Council.DOCX](#)

CARRIED 4/3

For: Mayor Dawkins, Crs Rodda, Downes and Angers
Against: Crs Thomas, Pyvis and Boulter

9 PRESENTATIONS

9.1 PETITIONS

Nil.

9.2 PRESENTATIONS

Nil.

9.3 DEPUTATIONS

Nil.

For the benefit of the members of the public present, the Mayor determined to consider item 10.1.6 first and then return to the published order of the agenda.

Items 8.0, 10.1.2, 10.1.3, 10.1.5, 10.1.6, 10.1.8, 10.1.11, 10.1.13, 10.1.14 and 13.1.2 were withdrawn. Items 10.1.1, 10.1.4, 10.1.7, 10.1.9, 10.1.10, 10.1.12 were dealt with ‘en bloc’.

10 REPORTS**10.1 REPORTS OF OFFICERS****10.1.6 THIRD PARTY APPEAL RIGHTS IN PLANNING – WALGA
DISCUSSION PAPER – FOR COMMENT**

File Ref: SUB/2316
Attachments: WALGA Discussion Paper
Responsible Officer: Mat Humfrey, Chief Executive Officer
Author: Andrew Jackson, Manager Development Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

The Western Australian Local Government Association has prepared a discussion paper entitled *Third Party Appeal Rights in Planning* and circulated it to Local Governments for comments by 31 May 2017.

This report presents the matter to Council for consideration.

BACKGROUND

The Association's website introduction to the topic states as follows:

In December 2016 WALGA State Council resolved to undertake research on third party appeals around Australia and further consult with members regarding the current policy position.

The decision-making environment in Western Australia has changed since the formation of the current policy position in 2008. Given the substantial changes that have occurred, the Association considers it appropriate to initiate a discussion on the possible role of third party appeal rights in the Western Australian planning system.

A discussion paper has been prepared which provides background on the development of WALGA's current policy position and a review of the arguments both for and against third party appeals. Feedback is being sought from the Local Government planning community and Elected Members which will be used to consider any review of WALGA's policy position on third party appeal rights.

WALGA welcomes feedback or comments on all aspects of the discussion paper, and in particular on the following:

-) Would you be in favour of the introduction of some form of Third Party Appeal Rights in Western Australia? Why or Why not?*
-) Do you feel your Council is likely to support some form of Third Party Appeal Rights?*
-) Any other comments relating to Third Party Appeal Rights.*

Having regard to the discussion paper the following observations are made:

-) Western Australia has never had state-wide third party appeal rights.
-) Local Governments, the Western Australian Local Government Association and the State Government have continually not supported third party appeal rights.
-) State Government planning reforms have removed power from Local Governments and the community in favour of the development industry. Third party appeal rights would not be consistent with that position.
-) In other states and territories the approach to third party appeal rights ranges from limited to broad, but are closely guided in defined circumstances. The proportion of third party appeals is not particularly high, there tends to be a high rate of withdrawal, and the outcomes are not necessarily successful.
-) Further to initial consultation in the planning process, third party appeal rights are available to a limited extent via the State Administrative Tribunal and judicial review by a higher court.
-) The arguments identified for and against third party appeal rights indicate pros and cons on both sides.
-) The arguments for are founded on the role and value of participation in the planning process, but seem to detract from the fact that decision-makers are entrusted by the body public to govern on its behalf, and do not recognise the complications that arise from third party appeal rights.
-) The arguments against are essentially that third party appeal rights contort representativeness, encumber the planning system, are a governance burden, and can distort outcomes (ie decisions can even backfire against third parties by inflating developments).
-) These competing viewpoints reflect the tension between efficiency and effectiveness in administering the planning system, as well as ponder the best way to reconcile property rights with the public interest.
-) Once illegitimate grounds for third party appeals are excluded, the apparent need for such rights becomes narrow.

STRATEGIC IMPLICATIONS

Third party appeal rights would allow stronger intervention in the determination of development applications, which would have a bearing on how well strategic planning objectives are met, ie their fulfilment could be helped or hindered.

POLICY IMPLICATIONS

Third party appeal rights may influence Council policy on development applications, consultation and expenditure.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

State Administrative Tribunal Act, Regulations and Rules 2004

Region Schemes

Local Planning Schemes

FINANCIAL IMPLICATIONS

Third party appeal rights would increase costs to Local Governments in appeal proceedings, including for solicitors and consultants.

STAFFING IMPLICATIONS

Third party appeal rights would increase staff workloads and could require additional staff.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

This Western Australian Local Government Association consultation is to gauge the views of Local Governments on the matter for a policy position.

Any proposed legislation to introduce third party appeal rights would entail comprehensive public consultation and the necessary parliamentary procedures.

STAFF COMMENT**Current context**

In Australia appeal (review) rights are an established part of the planning process. The basic right is for an applicant (the first party) to appeal against a decision, which the regulator (the second party) defends. Third parties, such as an adjoining owner, a community group or an agency, have limited appeal rights generally.

Western Australia does not have third party appeal rights, although there is some scope for the State Administrative Tribunal to allow a third party submission on a matter, as an exception rather than a rule.

The main opportunity for third parties to be involved in development applications is via public consultation, such as through submissions and attendance at Council meetings. The role of the regulator, and the Tribunal on appeal, is to have due regard to public input in reaching decisions.

The evolution of participatory democracy is shifting the balance between proponents, decision-makers and the public, for our social systems to be more open, inclusive and flexible. This influences our thinking about the planning process and appeal rights.

Implications of change

For applicants, third party appeal rights would be an added risk-factor to proposals, potentially affecting outcomes, costs and timelines.

For regulators, third party appeal rights would mean that making decisions and undertaking reviews is more complex and contentious, increasing administration and caseloads.

For the public, third party appeal rights would give a voice to third parties, subject to the resources, time and costs involved, but could also create unrealistic expectations.

Overall, the planning process would become more complicated and drawn-out, even cumbersome. The development environment could change from a constructive endeavour to a combative arena, with less certainty and consistency, and extend timeframes for determination. In turn this would erode social cohesion, stifle economic prosperity and frustrate efficient governance. The tenor of planning and development would alter from a positive approach to a negative experience.

Ironically, this is counter to the philosophy of greater consultation and collaboration towards shared aims, as well as to the intent of planning reforms for streamlined approvals to stimulate development. Planning by definition is to devise a course of action to be implemented to achieve the desired end, whereas third party appeal rights would enable proposals to be further and more widely contested after the initial decision. Conversely, the spectre of third party appeals could motivate applicants to “do the right thing” and regulators to “get things right up-front” for acceptable proposals and decisions. This would entail working with all stakeholders to overcome conflict and reach consensus at an early stage, thereby avoiding a last-ditch challenge and the threat of the process unravelling, for the sake of all concerned.

Another effect is that Local Governments would have less control over development applications, which would be reshaped by the appeal process and at the mercy of mediation and legal argument (occasionally including to a higher court). This could compromise planning for areas, but could also deliver good results.

CONCLUSION

Third party appeal rights are not a panacea and should not be introduced in haste. They can be onerous for third party appellants and create imbalance in the planning process. The perceived benefits of third party appeal rights tend to be outweighed by the impacts on the overall planning and development sector.

VOTING

Simple majority

OFFICER RECOMMENDATION

THAT Council NOTES the Western Australian Local Government Association discussion paper *Third Party Appeal Rights in Planning* and submits the following comments to the Association:

Having considered the discussion paper Council is not supportive of third party appeal rights for the following reasons.

1. Third party appeal rights, together with the transfer of Local Government powers to alternative decision-makers, take away planning participation from the broader community and governance responsibility from Local Governments.
2. Third party appeal rights are not considered to be a substitute for proper public participation in the formulation, assessment and determination of planning applications.

3. Third party appeal rights can encumber the planning process, be an administrative burden and do not necessarily succeed or contribute to appropriate outcome. The benefits of third party appeal rights are diminished by such significant impacts.
4. Wide third party appeal rights would be unmanageable, whilst confined rights would be of limited value to the planning system.
5. More equitable, feasible and palatable measures to provide for meaningful third party participation should instead be pursued, such as improved consultation frameworks, enhanced engagement in the State Administrative Tribunal, and devolving some judicial review authority to the Tribunal to expedite that avenue of legal inquiry.

FORESHADOWED MOTION – Cr Rodda

Cr Rodda wished to raise a foreshadowed motion subject to Cr Boulter's amendment being unsuccessful.

COUNCILLOR MOTION

Moved Cr Boulter, seconded Cr Pyvis

That Council:

1. Council notes the undated Third Party Appeal Right Discussion Paper from WALGA circulated to Local governments around April/May 2017 with comments due by 31 May 2017.
2. Council strongly supports the introduction into the State Administrative Tribunal of third party appeal rights against development approvals and/or the conditions or absence of conditions of an approval.
3. That the TOC administration forward the Council resolution to WALGA before the comment period is closed.

CARRIED 4/3

RATIONALE

Following debate on this item, Council resolved to support the introduction of third party appeal rights.

PLANNING

Cr Angers declared a financial interest against Item 10.1.2 Short-Stay Accommodation Controls for Cottesloe and left the room at 8:14 PM

10.1.2 SHORT-STAY ACCOMMODATION CONTROLS FOR COTTESLOE

File Ref: SUB/2068
Attachments: Discussion Paper
Briefing Forum reports
Responsible Officer: Mat Humfrey, Chief Executive Officer
Author: Andrew Jackson, Manager Development Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

Short-stay accommodation is a current planning topic and this report presents specific suggested control methods for Cottesloe.

BACKGROUND

At the 1 November 2016 Briefing Forum an internal discussion paper on short-stay accommodation was discussed and an update was provided at the 6 December 2016 Briefing Forum – refer attached.

Participating Councillors favoured a Local Law and possible Local Planning Scheme Amendment to address the matter.

The former State Government was examining getting involved in the matter, with a focus on the Airbnb-type sector, but the change of State Government has halted that.

As a first step this report considers a Local Law rather than Amendment of the Local Planning Scheme (unless as a complimentary measure).

Having regard to Council's approach towards addressing short-stay accommodation, it is noted that at the Annual General Electors Meeting on 16 December 2015 an electors' resolution was passed: *that Council adopt a local planning policy to control short-stay accommodation within the district and prosecute people who have been told to stop operating short-stay accommodation but refuse to.*

STRATEGIC IMPLICATIONS

-) The Strategic Community Plan 2013 to 2023 recognises the tourism dimension of Cottesloe including short-stay accommodation and holiday rentals: *Around 13 percent of private dwellings are classified as unoccupied, with many being used for holiday purposes.* In broad terms the strategic priorities for managing wellbeing, amenity and development embrace the ramifications of short-stay accommodation.

-) The Local Planning Strategy outlines the tourism attraction of the beaches and a focus on the Foreshore Centre Zone for short-stay accommodation.
-) More specific and wider control of short-stay accommodation would improve clarity and certainty.
-) At the same time it would if successful curtail the activity, which while advantageous in some respects could diminish the attraction and vitality of Cottesloe as a seaside suburb.

POLICY IMPLICATIONS

-) A planning policy under the Scheme is one option to guide and manage short-stay accommodation, albeit less effective.
-) It would have an interface with regional planning direction and policy on the matter.

STATUTORY ENVIRONMENT

-) *Local Government Act 1995*
-) *Planning and Development Act 2005*
-) *Planning and Development (Local Planning Schemes) Regulations 2015*
-) Local Planning Scheme No. 3
-) Residential Design Codes

FINANCIAL IMPLICATIONS

-) To the Town the cost of advertising proposals and any future legal costs for compliance actions.
-) To short-stay operators potential loss of income due to restrictions and regulations.
-) To local business potential loss of income due to fewer short-stay visitors.

STAFFING IMPLICATIONS

-) Administration of new controls, including any inspections and compliance actions – increased enforcement would require more resources.

SUSTAINABILITY IMPLICATIONS

-) Greater control over short-stay accommodation would restrict this relatively unregulated sector of the shared economy and its flow-on benefits.
-) Whilst fostering residential amenity and reducing social friction, it would conversely curtail freedom to use and enjoy residential accommodation in its various forms by owners and short-stayers alike.

CONSULTATION

Preparation of the discussion paper included informal consultation with some stakeholders and consideration by Councillors.

Initiation of proposed statutory or policy controls would include community and stakeholder consultation in accordance with the relevant processes through a range of means.

Advertising a proposed Local Law (and any Scheme Amendment) would canvass the public generally for submissions. This would inform Council regarding the issues,

need, levels of support or non-support, any further review, and the methods and details of control, towards an ultimate outcome. That approach could, however, be seen as somewhat presumptive and premature.

Alternatively, Council could advertise the discussion paper for comment to gauge reaction and gain fuller input to formulating a preferred policy position and methods of control. A quicker technique might be to advertise the favoured controls and background discussion paper together.

STAFF COMMENT

Discussion paper findings:

Key points from the discussion paper are:

-) Short stay accommodation is characteristic of and prevalent throughout Cottesloe as an attractive seaside suburb and visitor destination.
-) The land use legality of short-stay accommodation in its various forms as defined is controlled by Local Planning Scheme No. 3, and such uses have limited permissibility in the Residential zone generally. A Scheme Amendment would be required to tighten or loosen restrictions and requirements for short-stay accommodation.
-) Strata-title law is a complicating factor in the matter and may impose its own restrictions and remedies.
-) Airbnb-type short-stay accommodation tends to escape conventional planning regulation and is a source of conflicts and complaints between property owners, neighbours and the community.
-) To date the Town has not strongly pursued prosecution of unauthorised short-stay activities; however, augmentation of controls would help guide its policy position and practice in this respect.
-) The Scheme provisions do not deal with the operational aspects and implications of short-stay accommodation, hence other management controls appear necessary.
-) The Western Australian Planning Commission provides some broad policy guidance on the matter, although that has become outmoded as short-stay accommodation has evolved and spread. Nonetheless it identifies typical impacts and appropriate management measures, including a registration system.
-) To address short-stay accommodation a local planning policy made under the Scheme would have limited force and effect.
-) A Local Law complimenting the Scheme would have more regulatory bearing, including enforcement powers.
-) Self-regulation by the holiday accommodation industry or by property owners is considered insufficient; however, the management codes and house rules devised and adopted are of assistance.
-) A few other Local Governments have adopted a mixture of different policy or Local Law measures for short-stay accommodation.
-) Options available to the Town include:
 - o Amend and apply the Scheme for greater certainty and consistency.
 - o Formulate a Local Law to address the practical issues of short-stay accommodation.

- Introduce a local planning policy for strategic guidance and educative improvements.

Briefing forum considerations

Councillors have considered the situation at two Briefing Forums and taken the overall view that:

-) In having resolved to address the matter the approach should be aimed at greater compliance and improved performance, whilst noting the difficulties of enforcement.
-) It is desirable to address the grey-areas of short-stay accommodation that fall outside existing planning or other controls but are in need of governance to ameliorate social and amenity issues.
-) Amending the Scheme substantially at this stage is not envisaged, except for correlation with a Local Law. On the other hand, strict adherence to the Scheme would precipitate a regime of enforcement, which would go against the grain of inoffensive, low-key short-stay and the trend of Airbnb-type accommodation.
-) A Local Law is favoured as a pragmatic and enforceable mechanism, offering a registration and management framework for the benefit of operators, users and the community.

Approach to a Local Law

It is considered that the spirit of a Local Law, while a regulatory instrument, should be more “carrot” than “stick” in that it should facilitate the registration and effective operation of short-stay accommodation as an incentive to compliance; but it would have the benefit of enforcement power if required. The aim is to encourage compliance, promote good management and oversee operations.

As a document it should be straightforward, concise and clear, and avoid being too complex, so that the requirements whilst comprehensive are not an undue administrative burden on the operators or the Town.

The management plans and house rules should be thorough but easy to understand and reasonable to satisfy. The Local Law could include pro forma versions, to be adapted as appropriate.

With this in mind the intended scope of a Local Law on short-stay accommodation is outlined as follows:

Preliminaries

-) Citation / Commencement date / Area of applicability / Terminology.
-) The Local Law would apply throughout the district of the Town of Cottesloe.

Purpose

-) To ensure effective management controls for short-stay accommodation operations in Cottesloe, with particular attention to Airbnb-type letting.

Objective

To ensure that Airbnb-type and other short-stay accommodation is:

-) Suited to the locality and premises.

-) Appropriately limited in nature, scale and duration.
-) Properly operated to preserve residential character and amenity.
-) Subject to monitoring and periodic approval.

Principles

-) The phenomenon and growth of Airbnb-type and other short-stay accommodation is acknowledged as a reality.
-) Its diverse nature, scale, location and impacts demand a degree of regulation by the Local Government.
-) The land use permissibility of short-stay accommodation is governed by Local Planning Scheme No. 3, which prevails over this Local Law – this Local Law does not exempt short-stay accommodation from the requirements of the Scheme.
-) Nor does this Local Law override strata title laws in relation to short-stay accommodation.

Provisions

-) Registration:
 - o Annual registration / permits, subject to satisfactory conduct – able to be cancelled by the Local Government.
 - o Conditions and requirements of operation.
 - o Record of guests to be kept.
 - o Neighbour notifications as necessary.
-) Number of occupants – maximum of six as per the definition of a dwelling, or less in other situations.
-) Car parking – minimum number on-site and maximum number on-street as permitted, subject to dwelling type, size and location.
-) Design and amenity:
 - o Usage, access (including universal), parking, open space, common areas, noise.
-) Building Code of Australia, Health Act 1911, Health Local Law and Fire Regulations compliance.
-) Management requirements:
 - o Code of conduct.
 - o Guest house rules.
 - o Servicing strategy.
 - o Industry accreditation.
-) Complaints procedure – contacts, log book, responses and remedies.
-) Compliance / enforcement:
 - o Mediated solutions.
 - o Offences / penalties.
 - o Warning / infringement notices.
 - o Cancellation of registration / permits.

Process

The process to create a Local Law entails Council support in-principle, initial formulation, detailed drafting (with legal assistance), advertising, consideration of

submissions, final drafting and Council approval to proceed; followed by forwarding to the Minister for Local Government for consideration and Parliamentary committee examination, leading to acceptance or rejection; and if accepted publication in the Government Gazette, whence it commences.

This consultation and scrutiny would take several months at least. In comparison a Scheme Amendment if also undertaken at some stage would typically take six months or more. A Local Planning Policy (to the extent that it may be useful) could be put in place in less time, unless it proves controversial.

CONCLUSION

Short-stay accommodation is problematic for Local Governments and something of a moving target, so better control is warranted. Short-stay accommodation is prevalent in Cottesloe, including Airbnb-type letting which is often undetected.

Local Planning Scheme No. 3 controls basic land use permissibility for short-stay accommodation but does not extend to detailed operational requirements. Therefore, a separate mechanism is needed to manage the day-to-day practical aspects and impacts involved. As an option a Local Law would provide regulatory provisions and powers to that end.

When the short-stay accommodation controls have been progressed the Town could place information on its website to educate and guide property owners and the public about the matter.

VOTING

Simple majority.

OFFICER RECOMMENDATION

Moved Cr Rodda, seconded Mayor Dawkins

THAT Council:

1. Note the contents of the Discussion Paper, consideration at the Briefing Forums and this update report on the short-stay accommodation situation and ways to address it.
2. Authorise the Chief Executive Officer to prepare a Local Law to control short-stay accommodation, in particular informal/occasional letting, for Council's consideration.
3. In relation to point 2, request the Chief Executive Officer to examine for Council's consideration possible corresponding Amendment of Local Planning Scheme No. 3, such as the land use definitions for short-stay accommodation.

AMENDMENT 1

Moved Cr Boulter, seconded Cr Thomas

1. As written.
2. As written but inserting the words "for the regulation of permissible short stay accommodation use" after the word "letting".

EQUALITY 3/3

For: Crs Thomas, Pyvis and Boulter

Against: Mayor Dawkins, Crs Rodda and Downes

**The Presiding Member exercised her casting vote against the amendment
LOST 3/4**

AMENDMENT 2

Moved Cr Boulter, seconded Cr Thomas

That a new third point be added which reads:

- 3. Organise a specific Councillor Workshop to discuss amendment of the Local Planning Scheme No 3, regulation of short stay accommodation use, at the earliest convenience of the administration and Councillors.**

CARRIED 5/1

For: Mayor Dawkins, Crs Downes, Thomas, Pyvis and Boulter

Against: Cr Rodda

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

THAT Council:

- 1. Note the contents of the Discussion Paper, consideration at the Briefing Forums and this update report on the short-stay accommodation situation and ways to address it.**
- 2. Authorise the Chief Executive Officer to prepare a Local Law to control short-stay accommodation, in particular informal/occasional letting, for Council's consideration.**
- 3. Organise a specific Councillor Workshop to discuss amendment of the Local Planning Scheme No 3' regulation of short stay accommodation use, at the earliest convenience of the administration and Councillors.**

CARRIED 6/0

Cr Angers returned to the room at 8:44 PM

Cr Downes declared an impartiality interest against Item 10.1.5 Lots 13, 14, 15 & 16 (1, 5, 7 & 9) Rosendo Street – Additions, Alterations and Conservation Works to the Heritage Listed Dwelling Known as ‘Tukurua’, as her husband is the cousin of the property owner, and declared that she could consider the matter on its merits and vote accordingly.

10.1.5 LOTS 13, 14, 15 & 16 (1, 5, 7 & 9) ROSENDO STREET – ADDITIONS, ALTERATIONS AND CONSERVATION WORKS TO THE HERITAGE LISTED DWELLING KNOWN AS ‘TUKURUA’

File Ref: 3492
Attachments: Applicant’s Report – December 2016
Applicant’s Heritage Impact Statement – December 2016
Applicant’s Submission to State Heritage Office – 27 January 2017
Applicant’s Additional Information letter to Town – 10 February 2017
Applicant’s Response to Submissions letter to Town – 27 April 2017
Heritage Council advice letter to Applicant – 19 December 2016
Heritage Consultant advice letter to Town – 23 March 2017
1-9 Rosendo Street – Site Photos
1-9 Rosendo Street – Plans

Responsible Officer: Andrew Jackson
Manager Development Services

Author: Ed Drewett
Senior Planning Officer

Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

This application has been assessed in the context of the property’s State and local level heritage significance, relevant statutory planning provisions, and whether the nature, extent and design of the works are appropriate to Local Planning Scheme No. 3 Special Control Area 1 which is specifically relevant to the site.

The application is seeking building height variation of up to a 0.95m for a portion of the proposed first-floor addition on the western side of the existing dwelling. This can be approved under Local Planning Scheme No. 3 and is supported.

Given the assessment that has been undertaken, the recommendation is to conditionally approve the application.

BACKGROUND

Property address:	Lots 13, 14, 15 & 16 (Nos 1, 5, 7 & 9) Rosendo Street, Cottesloe	
Owner:	JAH and NM Forrest	
Applicant:	TPG + Place Match	
Zoning	MRS:	Urban
	LPS:	Residential R30
Use class:	P (means the use is permitted provided that it complies with the relevant development standards and requirements of the Scheme)	
Development Scheme:	Local Planning Scheme No. 3	
Heritage listing:	State Register of Heritage Places; Local Planning Scheme No. 3 Heritage List Town of Cottesloe Municipal Inventory	
Lot size:	5001m ²	
Existing and proposed land use:	Single dwelling	

On 4 January 2017 referral of an application to amalgamate the existing lots was received from the Western Australian Planning Commission. The Town has conditionally supported the amalgamation, which is awaiting the Commission's approval.

STRATEGIC IMPLICATIONS

Heritage is recognised as a cornerstone of the character and amenity of Cottesloe, which Council aims to foster through the planning approvals process and related measures.

POLICY IMPLICATIONS

Western Australian Planning Commission State Planning Policy 3.5: Historic Heritage Conservation.

STATUTORY ENVIRONMENT

-) *Planning and Development Act 2005*
-) *Planning and Development (Local Planning Schemes) Regulations 2015*
-) *Heritage of Western Australia Act 1990*
-) Local Planning Scheme No. 3
-) Residential Design Codes

FINANCIAL IMPLICATIONS

Nil.

STAFFING IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

The proposal includes significant conservation works to the existing heritage-listed dwelling.

CONSULTATION

The application was referred to the Heritage Council of Western Australia for comment and was advertised to 66 neighbouring owners and occupiers, including on the opposite side of Rosendo Street. The application was also referred to a heritage consultant for the Town, Stephen Carrick Architects, for comment and advice, as discussed in the Staff Comment section of this report.

To date the Heritage Council has provided preliminary support for the proposal to the applicant. It is anticipated that the formal advice to the Town will be received shortly to be provided to Council before or at its meetings.

Three submissions were received to the Town's advertising of the application, all from the units at 11 Rosendo Street adjoining the eastern boundary of the site. A summary of the submissions is as follows:

Summary of submissions received during public consultation

-) The proposed increased height would totally obscure ocean views for some owners of the eastern adjoining units.
-) Limiting the height of the additions would be a relatively small change against the scale of the overall proposed development.
-) There appears no reason to consent to the building height variation and there are probably grounds to request a lesser height.
-) The plans should be shared with the Western Australian public via social media and/or press for such a significant proposal.
-) Council's height limits are required to be maintained to preserve the character of the area and avoid developments that impede the views of others.
-) The proposed increased height would decrease the beautiful heritage-listed house and open space.
-) Higher buildings should be restricted to between the Ocean Beach Hotel and Cottesloe Hotel.

A summary of these comments was provided to the applicant on 11 April 2017 and a response was received on 21 April 2017 as summarised below:

Summary of applicant's response to submissions

-) An existing two-storey garage located on the south-eastern corner of the site which was impeding views is intended to be demolished.
-) The eastern neighbours' view is more than 50m across the site to the eastern wall face of the proposed addition, not the western wall face where the height variation is sought.
-) The first-floor eastern face of the addition is compliant in height (6.58m at the highest point) and will shield views of the western portion of the addition which seeks up to a 0.95m height variation.
-) The height variation is sought above the lower natural ground level to the west, as opposed to placing a height-compliant proposal against the

eastern boundary where the natural ground levels are higher and thus would have greater impact on neighbours.

-) The heritage building is being conserved and is remaining the focal point of the development.

STAFF COMMENT

The tables below set out the planning assessment of the proposal against the provisions of Local Planning Scheme No. 3, the Residential Design Codes, heritage considerations, the Planning and Development (Local Planning Schemes) Regulations 2015 (as amended) and the submissions received.

Planning assessment	Complies	Requires exercise of discretion
Use – single dwelling	✓	
Building height		✓
Street setback	✓	
Lot boundary setbacks	✓	
Setbacks of garages and carports	✓	
Garage width	✓	
Street surveillance	✓	
Open space	✓	
Solar access	✓	
Parking	✓	
Design of parking spaces	✓	
Outdoor living areas	✓	
Site works	✓	
Retaining walls	✓	
Visual privacy	✓	
Sightlines		✓
Street walls and fences	✓	
Vehicle access	✓	
General matters to be considered	✓	
Bushfire risk management	N/A	

Local Planning Scheme No. 3	Building height
Permitted	2 storeys (6m wall height and 8.5m ridge height, or 7m flat roof building height) although Council may apply its discretion in accordance with clause 5.7.5 of the Scheme for alterations, additions or extensions to existing dwellings.
Applicant's proposal	2 storeys (building height below 7m, except for the western portion of the proposed first-floor addition which is up to 7.95m above natural ground level.
Comment	
<p>“Building height” is defined in Local Planning Scheme No.3 as:</p> <p><i>Means the maximum vertical distance between any point of natural ground level and the uppermost part of the building directly above that point (roof ridge, parapet, or wall), excluding minor projections above that point.</i></p>	

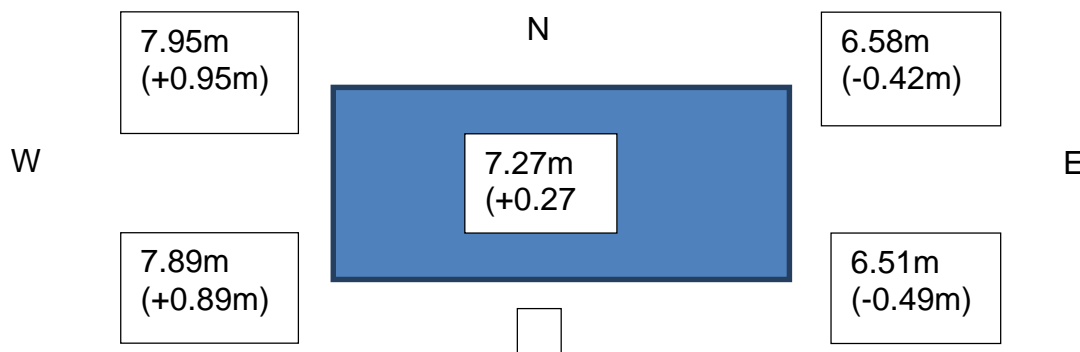
“Natural ground level” is defined in the Residential Design Codes as:

The levels on a site which precede the proposed development, excluding any site works, unless approved by the decision-maker or established as part of subdivision of the land preceding development.

The existing levels on the site do not appear to represent natural ground levels, as there is a depression within the site between the western side of the existing dwelling and the adjoining boundaries. Therefore, the Town requested the applicant to interpolate the natural ground levels based on historical plans and surrounding topography. This method of interpolating natural ground levels is often used by the Town where it appears that some modification to natural ground levels has occurred in the past.

On 17 March 2017 the Town received a survey plan from McMullen Nolan Group (surveyors) which shows interpolated deemed natural ground levels (refer plan 1006-1-DE-0050D). Based on this plan, the proposed development is compliant with the permitted building heights, with the exception of the western portion of the proposed first-floor on the southern side of the lot.

The building height above the deemed natural ground level of the proposed first floor is shown below:



Plan view of proposed first floor

The applicant has requested that the building height variation be considered under clause 5.7.5 of Local Planning Scheme No. 3, which provides:

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

- (a) *The existing heights of the dwelling;*
- (b) *Any relevant Local Planning Policy or Design Guidelines;*

- (c) Any heritage considerations relating to the dwelling;*
- (d) Relevant planning considerations identified in Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015;*
- (e) Adequate direct sun into buildings and appurtenant open spaces;*
- (f) Adequate daylight to major openings into habitable rooms;*
- (g) Access to views of significance;*
- (h) Building design to ameliorate the visual effects of height, including consideration of setting-back the side walls of added storeys from the side walls of existing buildings; and*
- (i) The amenity of adjoining properties, including road and public open space reserves, and the character of the streetscape;*

and subject to the development:

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

The applicant has addressed the above criteria as follows:

-) The proposed building height of the extension is in keeping with the building height of the heritage building, with the new addition being only to the eave-line of the heritage house. The design of the extension also allows for the building to reduce in height moving to the west of the site. In addition, the extension is in keeping with the heights of the southern neighbouring buildings.*
-) The proposed extension has paid due regard to the relevant planning framework and does not pose any significant variations.*
-) From advice of the Heritage Council and as outlined in the submitted heritage assessment, the proposed extension is considered to be an appropriate heritage outcome for the site.*
-) The design allows for adequate natural light and ventilation to both the internal and external spaces of the development.*
-) The development allows natural light to all the habitable areas and is considered appropriate.*
-) With the positioning of the extension, the significant view to and from the heritage building is retained and the surrounding properties' views to the*

ocean have not been detrimentally impacted beyond the reasonable expectation of a landowner to build on a vacant lot.

-) As mentioned above, the building height has been sensitive to the heritage building and is not indifferent to the surrounding properties. The impact of the proposed building bulk is also reduced by the lightweight design of the extension.*
-) The amenity of the surrounding developments is not detrimentally impacted by the proposal, with no visual privacy issues and also the overshadowing proposed is compliant with the requirements under the planning framework.*
-) It is considered that the proposed extension is not exceeding the existing height or number of storeys of the existing house.*

The proposed finished floor level of the first floor is RL:15.89, which is comparable to the height of the upper-floor front verandah on the existing dwelling; and the height of the first floor is 3.65m, which will be consistent with the height of the eaves on the existing dwelling. The proposed height would therefore compliment the height of the existing dwelling.

There are no specific local planning policies or design guidelines relevant to this site; although it is within Special Control Area 1, which is discussed separately in this report.

The height and scale of the proposed additions are generally supported by the Heritage Council of Western Australia and the Town's heritage consultant. This is discussed in more detail separately in this report.

The proposed additions are supported having regard to Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015.

The proposed additions will ensure that adequate direct sun and ventilation are provided to the buildings and appurtenant open spaces, so as to satisfy the deemed-to-comply provisions of the Residential Design Codes.

The height variation sought is only to the western end of the proposed first-floor addition and will not significantly affect ocean views from the eastern adjoining units. Any ocean views currently enjoyed by the lower storeys of the adjoining eastern units would most likely be obstructed by the proposed compliant building height of the eastern end of the addition, which is not seeking any height discretion. Furthermore, the proposed first floor would be setback between 5.8m and 9.1m from the southern boundary, which exceeds the minimum setback requirement under the Residential Design Codes and would assist in providing an east-west view corridor to some of the eastern adjoining units. The applicant has provided a diagram to show the height relationship to the eastern units (refer Diagram A attached).

The building design shows that the two-storey part of the development is on the western side of the existing dwelling, well-setback from the southern and eastern boundaries, so as to ameliorate the visual affects of height.

The design, scale and siting of the proposed additions, including the portion of the first floor addition seeking the height variation, have been carefully considered by the applicant and the Town in the context of the amenity of adjoining properties and the character of the streetscape.

The proposed additions do not exceed the permitted maximum number of storeys and will not exceed the height of the existing dwelling.

Conclusion

The proposed height variation to the western portion of the two-storey addition adjoining the southern boundary is relatively minor. It would be approximately 56m from the eastern boundary, which would assist in ameliorating visual impact on the adjoining units, including restricting views of significance. The height variation would also assist in compensating for the slope of the natural ground level, which falls approximately 8m from east to west. No objections were received from the southern adjoining properties, which are closer to the addition.

Residential Design Codes	Sightlines
Deemed-to-comply	Walls, fences and other structures truncated or reduced to no higher than 0.75m, within 1.5m of where walls, fences or other structures adjoin vehicle access points, where a driveway meets a public street, and where two streets intersect.
Applicant's proposal	The proposed fencing at the intersection of Rosendo Street and Marine Parade, the existing dividing fence along the southern boundary adjoining the proposed driveway via Marine Parade, and the proposed fencing adjoining the existing driveway to 11 Rosendo Street, do not satisfy the deemed-to-comply provisions of the Residential Design Codes.

Comment

The abovementioned proposed sightlines do not satisfy the deemed-to-comply provisions of the Residential Design Codes. As such, to be approved they must satisfy the design principles, which state:

Unobstructed sightlines provided at vehicle access points, to ensure safety and visibility along vehicle access ways, streets, rights-of-way, communal streets, crossovers, and footpaths.

The Town is not supportive of the proposed reduced visual truncations, as they would not allow for unobstructed sightlines at the relevant vehicles access points.

This may be particularly hazardous on busy Marine Parade, which has a narrow verge, a footpath and on-street parallel parking bays. By the same token, it would be beneficial if the proposed fencing adjoining the driveway of 11 Rosendo Street was reduced in height to 0.75m, or truncated 1.5m by 1.5m, to not reduce the visual permeability of the existing dividing fence.

A 1.5m by 1.5m truncation should be provided on the corner of Marine Parade and Rosendo Street, as Rosendo Street slopes steeply down to Marine Parade hence

traffic can pick-up speed. The Town recently recommended to the Western Australian Planning Commission that a 3m by 3m truncation be provided on that corner as a requirement of the amalgamation application for the site. This truncation is based on the Western Australian Planning Commission Policy for General Road Planning and is more stringent than the Residential Design Code requirements for sightlines, so would require the fencing truncation to be increased if approved by the Commission.

Therefore, truncations are highly desirable to facilitate sightlines and safety on both the roads and verges. The site has ample space to contribute sightlines without constraining the development, for the mutual safety benefit of the occupants of the dwelling and the passing public.

Conclusion

The proposed reduced sightlines do not satisfy the design principles of the Residential Design Codes and are not supported. A planning condition is recommended to address this matter.

Heritage considerations, including Special Control Area 1

Assessment framework

There is a well-defined planning and heritage framework for assessment of the proposal, which includes the Heritage Council of Western Australia. This framework guides consideration of the design approach to the heritage place.

The Burra Charter is a further guide to the heritage dimension, including consideration of the most appropriate design approach to combining the old with the new.

Together with the planning technical assessment involved (ie development requirements or standards), the heritage values and classification of a property have a significant bearing on the consideration of a proposal and the extent to which it is acceptable or may warrant some design modifications or conditions of approval.

In this instance, there is a strong collection of heritage instruments and classifications relating to the place and they provide guidance on how the assessment of proposals should be approached and the values of the place to take into account.

Western Australian Planning Commission Heritage Policy

State Planning Policy (SPP) 3.5 Historic Heritage Conservation was gazetted in 2007. Its objectives are:

-) to conserve places and areas of historic heritage significance;
-) to ensure that development does not adversely affect the significance of heritage places and areas;
-) to ensure that heritage significance at both the state and local levels is given

- due weight in planning decision-making; and
-) to provide improved certainty to landowners and the community about the planning process for heritage identification, conservation and protection.

The Policy describes the existing statutory framework for heritage conservation and the relationship and responsibilities of the Heritage Council of Western Australia, the Western Australian Planning Commission and Local Governments. It also specifies policy measures and the means for their implementation and requires Local Governments to have regard to specific matters relating to heritage in considering applications for planning approval.

Those matters relevant to the proposed development include:

-) the conservation and protection of any place or area that has been registered in the register of heritage places under the Heritage Act or is the subject of a conservation order under the Act, or which is included in the heritage list under a Scheme;
-) whether the proposed development will adversely affect the significance of any heritage place or area, including any adverse effect resulting from the location, bulk, form or appearance of the proposed development;
-) the level of heritage significance of the place, based on a relevant heritage assessment;
-) measures proposed to conserve the heritage significance of the place and its setting; and
-) the structural condition of the place, and whether the place is reasonably capable of conservation.

The Policy also requires that the following development control principles be applied for alterations or extensions affecting a heritage place:

-) development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure, and should involve the least possible change to the significant fabric;
-) alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to sit well with the original fabric rather than simply copying or mimicking it;
-) development should be in accordance with any local planning policies relating to heritage.

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

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

State Heritage Register

The property is listed in the State Heritage Council of Western Australia Register of Heritage Places, wherein the *Statement of Significance* for the place provides the following description:

Tukurua has cultural heritage significance for the following reasons:

-) the building is a prominent landmark in the Cottesloe area;*
-) the place contributes an important element to the streetscape and, as part of the wider Cottesloe precinct, an important element of the gracious old residential building stock for which the suburb is renowned;*
-) the building is important for its close association with Septimus Burt, a man who contributed significantly to the development of Western Australia in the late nineteenth century; and*
-) the place is distinctive in representing a type of large, limestone seaside residence in large grounds built by wealthy families in Western Australia at the turn-of-the-century, and which were once common in Cottesloe.*

Heritage Council's preliminary comments to Applicant

Findings:

-) The Statement of Significance for the place refers to Tukurua as a prominent landmark in the Cottesloe area. The aesthetic value refers to it being a large intact home in its original setting, which has a landmark quality because of its size. It comprises an important element in the streetscape as part of the gracious old residential building stock for which the suburb of Cottesloe is renowned.*
-) The landholding includes four separate lots with the registered curtilage only covering Lots 14 and 15 which are straddled by the heritage building.*
-) The proposed development will unify the four separate lots into one residential development which includes the original house as a key component of the design.*
-) Although the proposed additions to the west and southwest will have some impact on the landmark status and original setting, it has been well-considered in terms of its siting and relationship to the heritage building. Furthermore, the contemporary design of the additions do not seek to copy or mimic the original detailing, but are sympathetic to it, particularly with the use of stone as a reference material.*

-) *While the proposed alterations to Tukurua are considered to be relatively minor and not having an adverse impact on the cultural significance of the place, the proposed alterations to the attic and roof for the attic retreat are not detailed sufficiently to enable an assessment of its impact. Further information would be required to enable an informed decision on this element.*
-) *Conservation Policy 11 of the Conservation Plan (1997) states that relevant professional expertise from a heritage architect or landscape professional should be retained to advise on the landscape setting of the grounds. Management Guidelines on the Landscape Setting recommend that a Management Plan for the Grounds should be prepared that includes issues such as archaeological sites, fencing, previous plantings, location of lost buildings and so on.*
-) *The location of the garage in the northwest corner near the intersection of Rosendo Street and Marine Parade will potentially have an impact on the sightlines to the house, when viewed from this angle; however, the original house presents onto Rosendo Street and significant views from this road are still maintained.*

Advice:

The proposed alterations and additions are considered to have an acceptable impact on the cultural significance of the place, and could be supported provided that the following information is submitted with the formal development application for further consideration of the Executive Director, State Heritage Office:

- 1. "As existing" plans that shall form part of the archival record for the place.*
- 2. Minimum demolition in order to achieve the internal openings required for the proposed use of rooms.*
- 3. Plans detailing the proposed adaptation of the existing attic and roof for an attic retreat and viewing platform, including sections and details showing the proposed intervention to the existing roof structure and impact on the fabric. Perspectives should also be provided that clearly demonstrate the visual impact of the attic retreat and proposed operable windows when viewed from significant viewpoints.*
- 4. As per Conservation Policy 11 of the Conservation Plan, a management strategy for the grounds should be prepared to inform the development and provide recommendations in relation to landscaping and archaeology. Suitably qualified and experienced consultants should be involved in the preparation and implementation of the management strategy.*
- 5. A schedule of conservation works including details on the materials and methodology and also internal colour schedules and surface treatments.*
- 6. Schedule of materials and colours for the new additions.*

Applicant's response to Heritage Council's preliminary findings

On 27 January 2017 the applicant provided additional information to the State Heritage Office addressing items 1, 3 and 4 of the preliminary findings (see attached).

Town's heritage consultant's advice

The heritage consultant's advice is attached. The conclusion of the report is:

The overall form (including the massing, scale and detail) and the contemporary style of the proposed additions are well-considered. Suggestions for further consideration have been provided to ensure that adverse impacts on the heritage values of Tukurua are minimised.

Suggestions have also been provided to ensure a clear understanding of the future use and conservation of Tukurua as well as retention of assessed cultural heritage values.

Special Control Area 1 – Tukurua and Le Fanu House

The objectives of this Special Control Area under Local Planning Scheme No. 3 are listed below and include comments from the Town's heritage consultant:

(a) encourage conservation and restoration of the existing heritage buildings within Special Control Area 1.

Comment:

The proposal in the development application illustrates that Tukurua is being retained, adapted and conserved.

(b) ensure that any future development within Special Control Area 1 does not unduly adversely affect the significance of the existing heritage buildings and their setting.

Comment:

The proposed additions are well-considered and the significance of Tukurua is being respected. There are some aspects of the proposal that are suggested for further discussion and consideration. (Note: the Town has forwarded these to the Heritage Council for consideration and awaits its final response). The scale of the proposed additions to Tukurua do not visually impact on Le Fanu due to the connection between the two heritage buildings previously being reduced by the new development between both buildings, and the additions to Le Fanu.

(c) ensure that any future development within Special Control Area 1, including alterations and additions to the existing heritage buildings, will enhance the setting and protect the visual prominence of the existing heritage buildings.

Comment:

The proposed future development has illustrated an understanding of the setting

and the visual prominence of Tukurua. Suggestions have been provided for further consideration to address this objective. (Note: also forwarded to the Heritage Council).

Conclusion

This proposal has been assessed against the heritage framework, with the following comments and conclusion.

Tukurua is a prominent heritage place in Cottesloe. Together with Pine Lodge, Barsden, Kulahea, Belvedere and Le Fanu, it is one of a handful of period dwellings around the district that stand out from others, each being of unique historical design with distinctive features and in most cases set in prime positions and/or on larger sites.

All of these distinctive places have been saved, as well as undergone substantial conservation works and various additions in more recent times. The earlier tendency has been for additions copying the style of the original dwellings, while lately the trend has been for additions of contemporary design.

From analysis of the application, the conclusion is that the siting and design of the proposed additions are essentially appropriate for the site from a heritage perspective and would ensure that the existing dwelling is restored largely to its original appearance, whilst providing additional living space to the occupants. Therefore the proposal can be supported in terms of heritage.

CONCLUSION

Council is the responsible authority to determine this planning application under its Local Planning Scheme No. 3 and in doing so is required to have regard to the advice of the Heritage Council of Western Australia, which has indicated support for the proposal.

The heritage documentation, including a Landscape Management Strategy and Heritage Impact Statement, prepared by the applicant and submitted with the application, provides the necessary detail required to assist in comprehensively assessing the heritage aspects of the proposal.

In this regard the proposed alterations and additions are considered to be compatible with the siting, scale, architectural style and form, materials and external finishes of the heritage place and would sit well with the original heritage building and fabric, rather than simply copying or mimicking it.

The amalgamation of the lots underway to create one title and the siting of the proposed additions predominantly to the west of the existing dwelling would remove the possibility of the existing lots being redeveloped separately, which could result in a detrimental outcome for the heritage dwelling and the character of the area.

OFFICER RECOMMENDATION

Moved Cr Downes, seconded Cr Rodda

That, subject to confirmation of support from the Heritage Council of Western Australia, Council GRANT its Approval to Commence Development for additions, alterations and conservation works on Lots 13, 14, 15 and 16 (Nos 1, 5, 7 and 9) Rosendo Street, Cottesloe, in accordance with the heritage documentation submitted on 21 December 2016 and 27 January 2017 and the following plans:

Plans received on 21 December 2016:

DA800, DA801, DA103, DA104, DA105, DA106, DA007, DA010, DA011, DA012;

Plans received on 17 March 2017:

DA001-Rev1, DA002-Rev1, DA003-Rev1, DA004-Rev1, DA005-Rev1, DA006-Rev1, DA100-Rev1, DA101-1, DA102-Rev1, 100601-DE-005-D;

all subject to the following conditions:

1. The application for a Building Permit shall be to the satisfaction of the Heritage Council of Western Australia and the Town, with all relevant conditions being fully addressed at that stage.
2. Prior to any demolition, whether to parts of the original building or to later additions or alterations, a full photographic and documented record, both internally and externally, of the portions thereof and features or fabric to be demolished, shall be compiled and submitted to the Town as a heritage record, to its satisfaction.
3. The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town and any approvals as required under the relevant heritage classifications.
4. All water drainage from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site, where climatic and soil conditions allow for the effective retention of stormwater on-site.
5. Wastewater or backwash water from the swimming pool filtration system(s) shall be contained within the property and disposed of into adequate soakwells. A soakwell system shall be installed to the satisfaction of the Town, with a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
6. The pool pump(s) and filter(s) shall be located closer to the dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels under the Environmental Protection (Noise) Regulations 1997.
7. Any air-conditioning plant and equipment shall be located closer to the dwelling than the adjoining dwellings, and suitably housed or treated as may be

necessary, to ensure that sound levels emitted do not exceed those permitted under the Environmental Protection (Noise) Regulations 1997.

8. The Building Permit plans shall include details of all external plant, equipment or infrastructure, including all proposed installations to the roof, and shall demonstrate how those fixtures are to be located, housed, screened or treated to achieve visual and acoustic amenity and to respect heritage.
9. A comprehensive Demolition and Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of a Demolition Licence or Building Permit, and shall address (amongst other things): maintaining access for residents; traffic management and safety for the streets and site; worker parking, including off-site parking in consultation with and approval by the Town; and verge protection.
10. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.
11. Any damage within the road reserve occasioned by the construction activities shall be rehabilitated to the specification and satisfaction of the Town, at the cost of the owner.
12. The lots shall be amalgamated into one lot prior to occupation of the completed development and conservation works to the property.
13. A separate application for construction of the new crossovers, meeting Australian Standards, shall be submitted for approval by the Town.
14. All vehicle sightlines shall satisfy the relevant deemed-to-comply provisions of the Residential Design Codes, full details of which shall be submitted with the Building Permit application.
15. To provide adequate vehicle sightlines the fencing at the intersection of Marine Parade and Rosendo Street shall have a minimum 4.24m truncation, full details of which shall be submitted with the Building Permit application.
16. The application for a Building Permit shall contain a detailed schedule and specification of all proposed external building materials, finishes and colours, including glazing, screening, fencing and roof cladding, all selected to be compatible with the existing dwelling, to the satisfaction of the Heritage Council of Western Australia and the Town.
17. The application for a Building Permit shall contain a detailed landscaping plan for the development site, to the satisfaction of the Heritage Council of Western Australia and the Town.

ADVICE NOTES

1. The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

2. The owner/applicant is responsible to apply to the Town for a Building Permit and to obtain approval prior to undertaking the development.
3. The owner/applicant is advised that the lots may be required to be amalgamated on a new Certificate of Title prior to the granting of a Building Permit.
4. In relation to this planning approval, the owner/applicant is advised that the Town requests that, prior to any demolition works associated with the development, the builder delivers letters to nearby properties and places sign(s) on the street frontages of the site advising of the intended timing of the demolition works and the contact details of the contractor.

VOTING

Simple Majority.

PROCEDURAL MOTION

Moved Cr Pyvis, Cr Boulter

That Council suspend standing orders to ask a question of the applicant.

LOST 3/4

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Downes, seconded Cr Rodda

That, subject to confirmation of support from the Heritage Council of Western Australia, Council **GRANT** its Approval to Commence Development for additions, alterations and conservation works on Lots 13, 14, 15 and 16 (Nos 1, 5, 7 and 9) Rosendo Street, Cottesloe, in accordance with the heritage documentation submitted on 21 December 2016 and 27 January 2017 and the following plans:

Plans received on 21 December 2016:

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Plans received on 17 March 2017:

DA001-Rev1, DA002-Rev1, DA003-Rev1, DA004-Rev1, DA005-Rev1, DA006-Rev1, DA100-Rev1, DA101-1, DA102-Rev1, 100601-DE-005-D;

all subject to the following conditions:

18.The application for a Building Permit shall be to the satisfaction of the Heritage Council of Western Australia and the Town, with all relevant conditions being fully addressed at that stage.

19.Prior to any demolition, whether to parts of the original building or to later additions or alterations, a full photographic and documented record, both internally and externally, of the portions thereof and features or fabric to be

demolished, shall be compiled and submitted to the Town as a heritage record, to its satisfaction.

20. The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town and any approvals as required under the relevant heritage classifications.
21. All water drainage from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site, where climatic and soil conditions allow for the effective retention of stormwater on-site.
22. Wastewater or backwash water from the swimming pool filtration system(s) shall be contained within the property and disposed of into adequate soakwells. A soakwell system shall be installed to the satisfaction of the Town, with a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
23. The pool pump(s) and filter(s) shall be located closer to the dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels under the Environmental Protection (Noise) Regulations 1997.
24. Any air-conditioning plant and equipment shall be located closer to the dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, to ensure that sound levels emitted do not exceed those permitted under the Environmental Protection (Noise) Regulations 1997.
25. The Building Permit plans shall include details of all external plant, equipment or infrastructure, including all proposed installations to the roof, and shall demonstrate how those fixtures are to be located, housed, screened or treated to achieve visual and acoustic amenity and to respect heritage.
26. A comprehensive Demolition and Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of a Demolition Licence or Building Permit, and shall address (amongst other things): maintaining access for residents; traffic management and safety for the streets and site; worker parking, including off-site parking in consultation with and approval by the Town; and verge protection.
27. All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.

28. Any damage within the road reserve occasioned by the construction activities shall be rehabilitated to the specification and satisfaction of the Town, at the cost of the owner.
29. The lots shall be amalgamated into one lot prior to occupation of the completed development and conservation works to the property.
30. A separate application for construction of the new crossovers, meeting Australian Standards, shall be submitted for approval by the Town.
31. All vehicle sightlines shall satisfy the relevant deemed-to-comply provisions of the Residential Design Codes, full details of which shall be submitted with the Building Permit application.
32. To provide adequate vehicle sightlines the fencing at the intersection of Marine Parade and Rosendo Street shall have a minimum 4.24m truncation, full details of which shall be submitted with the Building Permit application.
33. The application for a Building Permit shall contain a detailed schedule and specification of all proposed external building materials, finishes and colours, including glazing, screening, fencing and roof cladding, all selected to be compatible with the existing dwelling, to the satisfaction of the Heritage Council of Western Australia and the Town.
34. The application for a Building Permit shall contain a detailed landscaping plan for the development site, to the satisfaction of the Heritage Council of Western Australia and the Town.

ADVICE NOTES

1. The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.
2. The owner/applicant is responsible to apply to the Town for a Building Permit and to obtain approval prior to undertaking the development.
3. The owner/applicant is advised that the lots may be required to be amalgamated on a new Certificate of Title prior to the granting of a Building Permit.
4. In relation to this planning approval, the owner/applicant is advised that the Town requests that, prior to any demolition works associated with the development, the builder delivers letters to nearby properties and places sign(s) on the street frontages of the site advising of the intended timing of the demolition works and the contact details of the contractor.

CARRIED 6/1

For: Mayor Dawkins, Crs Rodda, Pyvis, Thomas, Angers, Downes
Against: Cr Boulter

10.1.4 NO. 117A (LOT 27) CURTIN AVENUE – SINGLE-STOREY ALTERATIONS AND ADDITIONS INCLUDING RETAINING AND FRONT GARAGE

File Ref:	3500
Attachments:	117A Curtin Avenue aerial pdf 117A Curtin Avenue site photos pdf 117 A Curtin Avenue justification letters 21 Lillian Street neighbour submission 117A Curtin Avenue revised plans
Responsible Officer:	Andrew Jackson Manager Development Services
Author:	Andrew Jackson Manager Development Services Ronald Boswell Planning Officer
Proposed Meeting Date:	23 May 2017
Author Disclosure of Interest:	Nil
Property Owner:	H and B Howe
Applicant:	R White (White Noise Designs)
Date of Application:	11 January 2017 (Amended 3 May 2017)
Zoning:	Residential R30
Use:	P – A use that is permitted under LPS 3
Lot Area:	490m²
M.R.S Reservation:	Not applicable

SUMMARY

On 13 April 2017 this application was initially identified to be processed under delegation, being only single-storey with typical and reasonable design parameters. However, as provided for it was called-up by Elected Members for determination by Council.

This proposal is for single-storey alterations and additions, retaining and a front garage to an existing dwelling, and seeks discretion under the Design Principles of the Residential Design Codes. These aspects are discussed in this report, which refers to revised plans received on 3 May 2017.

BACKGROUND

The application was received on 11 January 2017 with a series of revised plans submitted to address design details before being advertised to neighbours and assessed. The Proposal complies with Local Planning Scheme No. 3 and seeks discretion under the Design Principles of the Residential Design Codes. An assessment has been undertaken on the latest revised plans, with the outcome being a recommendation to conditionally approve the development.

PROPOSAL

The application comprises the following:

Alterations	<ul style="list-style-type: none">) Retaining wall at rear being replaced to form regular shaped garden beds in lieu of curved wall.) Internal wall reconfiguration.) Opening of kitchen into dining room.
Ground-floor additions	<ul style="list-style-type: none">) Garage with wall on boundary and visually permeable tilt-up door.) Raised lawn area adjacent to garage.) Front living room.) Two bedrooms at rear including ensuite.) Planter box on front boundary.) Fencing within front setback area.

Note that the front garage is defined as such due to having a degree of enclosure on more than one side; however, it is physically and visually akin to a carport as it is substantially open-aspect in relation to the dwelling and street.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

-) Local Planning Scheme No. 3
-) Residential Design Codes
-) *Planning and Development (Local Planning Schemes) Regulations 2015*
-) *Planning and Development Act 2005*

FINANCIAL IMPLICATIONS

Nil.

STAFFING IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

The application was advertised for 14 days to three adjoining owners who were invited to view the amended plans submitted on 15 March 2017. One submission was received, as discussed below.

Officers have liaised with the owners, designer and neighbour to examine the development proposal as well as the particular concern raised.

The applicant has provided two justification letters and advised that the owners now wish to proceed with latest plans.

There were no submissions at all regarding the planning parameters of the proposed development. The subsequent revised plans improved some technical aspects of the design to the satisfaction of the Town and further advertising was not required.

STAFF COMMENT

Amended plans were initially received on 15 March 2017, 7 April 2017 and 13 April 2017, and then modified on 3 May 2017, all to address design details.

The table below is a summary of the planning assessment of the revised proposal against the provisions of Local Planning Scheme No.3, the Planning and Development (Local Planning Scheme) Regulations and the Residential Design Codes.

Planning assessment	Complies	Requires exercise of judgment
Use – single dwelling	✓	
Building height	✓	
Number of storeys	✓	
Street setback		✓
Lot boundary Setback		✓
Open space	✓	
Parking	✓	
Outdoor living areas	✓	
Street surveillance		
Sightlines		✓
Street walls and fences		✓
Vehicle access	✓	
Visual privacy		✓
Solar access	✓	
Site works/Retaining walls		✓
External fixtures	✓	
Matters to be considered by Local Government	✓	

Summary of submission

Sonja Madden (21 Lillian Street)

Registers concern given the proposed pedestrian gate on the rear boundary that would provide access to and from the section of right-of-way in relation to which there is current ownership and access rights dispute.

Comment

The submission refers to the Right-of-Way 64 matter with which Council is familiar.

The development application per se is for the subject lot and does not directly relate to the right-of-way matter, whereby it should be considered separately in itself and determined on relevant planning grounds. The proposal is assessed as in order for approval, there being no overriding basis for deferral or refusal due to the submission or the right-of-way dispute.

The proposed gate is to be added to the existing good condition timber-lap fence of approximately 1.8m high being kept. It would be of the same height and approximately 1m wide.

The gate when considered as part of the proposed development is logical, practical and appropriately designed. Numerous such residential back yard gates abound, both old and new, throughout Perth’s suburbs for convenient access.

However, if the gate is seen as problematic to the application the approval could simply be conditioned to exclude it from the development – the applicant might decide to delete it in any case.

Ordinarily a pedestrian/vehicle gate alone to an accessible lane could be installed as part of a boundary fence at any time without the need for planning or building approval; and that is a future option in this case.

It is noted that in this instance the gate would be consistent with the Town’s grant of the gate licence over part of Right-of-way 64 that preserves access rights for abutting properties including the subject lot.

The table below is the detailed planning assessment of the proposal against the provisions of the Residential Design Codes.

Street setback	Deemed-to-comply provision	Design principles
Requirement	<u>South-east primary street setback</u> 4m (ground-floor total length).	<p>Buildings set back from street boundaries an appropriate distance to ensure they:</p> <ul style="list-style-type: none">) contribute to, and are consistent with, an established streetscape;) provide adequate privacy and open space for dwellings;) accommodate site planning requirements such as parking, landscape and utilities; and) allow safety clearances for easements for essential service corridors. <p>Buildings mass and form that:</p> <ul style="list-style-type: none">) uses design features to affect the size and scale of the building;) uses appropriate minor projections that do not detract from the character of the streetscape;) minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply,

		blank walls, servicing infrastructure access and meters and the like; and) positively contributes to the prevailing development context and streetscape.
Applicant's proposal	<u>South-east primary street setback</u>) 1m (to planter);) 1.5m (to garage);) 9m (to dwelling). The proposed front setback to the garage and retaining wall does not satisfy the deemed-to-comply requirements of the Residential Design Codes.	

Comment

-) The proposed street setback is less than the standard 4m setback of the deemed-to-comply requirements, hence the Design Principles are to be addressed.
-) The setback variation sought is assessed as minor and to not affect the neighbours due to the wide verge and slip road from Curtin Avenue.
-) The garage is setback 1.5m to achieve sightlines.

Conclusion

The front setbacks can be supported as the forward structures are open-aspect and will provide views from the adjoining properties. The lot is well setback from Curtin Avenue and the reduced setback will not affect the streetscape.

Lot boundary setback	Deemed-to-comply provision	Design principles
Requirement	<u>South-west setback</u> 1.5m (ground-floor side section of dwelling)	Buildings set back from lot boundaries so as to:) reduce impacts of building bulk on adjoining properties;) provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and) minimise the extent of overlooking and resultant loss of privacy on adjoining properties.
Applicant's proposal	<u>South-west setback</u> The 1m setback (ground-floor side section) does not satisfy the deemed-to-comply requirements of the Residential Design Codes.	
<u>Comment</u>) The south-western side of the proposed ground floor would abut the neighbouring property, which is lower than the proposed dwelling and has few major openings.) The forward half of the subject dwelling is open and consists of a veranda/patio, with major openings being setback further from the lot boundary.		

Conclusion

The marginally reduced ground-floor setback to the south-western boundary satisfies the Design Principles of the Residential Design Codes.

Sight lines	Deemed-to-comply provision	Design principles
Requirement	Walls, fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street and where two streets intersect.	Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of-way, communal streets, crossovers, and footpaths.
Applicant's proposal	The garage is setback 1.5m from the front boundary and 1.5m truncations are provided; however, one truncation is over the neighbour's verge so does not satisfy the deemed-to-comply requirements of the Residential Design Codes.	

Comment

-) The garage is setback to provide the necessary 1.5m truncation for sight lines onto the verge.
-) The neighbour's wall on the boundary is below 0.75m in height from natural ground level and will not interfere with sight lines.
-) No solid wall higher than 0.75m measured from natural ground level should be erected on the south-west boundary.

Conclusion

The 1.5m truncation from the garage satisfies the Design Principles of the Residential Design Codes and can be supported.

Street walls and fences	Deemed-to-comply provision	Design principles
Requirement	Front fences within the primary street setback area that are visually permeable above 1.2m of natural ground level, measured from the primary street side of the front fence.	Front fences are low or restricted in height to permit surveillance (as per Clause 5.2.3) and enhance streetscape (as per clause 5.1.2), with appropriate consideration to the need: <ul style="list-style-type: none">) for attenuation of traffic impacts where the street is designated as a primary or district distributor or integrator arterial; and) for necessary privacy or noise screening for outdoor living areas where the street is designated as a primary or district distributor or integrator arterial.

Applicant's proposal	The wall within the front setback area is solid up to 1.36m height with open-aspect infill above to a maximum height of 2.21m hence does not satisfy the deemed-to-comply requirements of the Residential Design Codes.
<p><u>Comment</u></p> <ul style="list-style-type: none">) The solid infill varies from 1.17m to 1.36m in height from natural ground level. The wall is marginally over the ideal wall height of 1.2m.) The boundary wall is visually preamble above 1.36m from natural ground level and satisfies the Residential Design Codes.) The wall reached a maximum height of 2.21m at the lowest point. <p><u>Conclusion</u></p> <p>The solid wall within the front setback area satisfies the Design Principles of the Residential Design Codes and can be supported.</p>	

Site works/retaining	Deemed-to-comply provision	Design principles
Requirement	<p>All excavation or filling behind a street setback line and within 1m of a lot boundary, not more than 0.5m above the natural ground level at the lot boundary except where otherwise stated in the scheme, local planning policy, local structure plan or local development plan.</p> <p>Where a retaining wall less than 0.5m high is required on a lot boundary, it may be located up to the lot boundary or within 1m of the lot boundary to allow for an area assigned to landscaping, subject to the provisions of the Residential Design Codes.</p>	<p>Development that considers and responds to the natural features of the site and requires minimal excavation/fill.</p> <p>Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.</p> <p>Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.</p>
Applicant's proposal	Retaining walls/fill vary in height above 0.5m up to 1.31m at the front of the dwelling and do not satisfy the deemed-to-comply requirements of the Residential Design Codes.	
<p><u>Comment</u></p> <p>The raised lawn/veranda area at the front of the dwelling ranges from 1.17m to 1.31m viewed from the street. Retaining to 1.31m is located towards the front boundary away from the neighbour's dwelling. Similar retained levels in excess of 0.5m above natural ground level exist adjacent to the neighbour's property where there is an existing raised alfresco. The extension of the lawn area in front of the alfresco maintains a similar relative level.</p> <p><u>Conclusion</u></p> <p>The site works satisfy the Design Principles of the Residential Design Codes and can be supported.</p>		

Visual privacy	Deemed-to-comply provision	Design principles
Requirement	<p>0.5m above natural ground level and overlook any part of any other residential property behind its street setback line are:</p> <p>i. set back, in direct line of sight within the cone of vision, from the lot boundary, a minimum distance as prescribed in the Residential Design Codes.</p> <p>ii. are provided with permanent screening to restrict views within the cone of vision from any major opening or an unenclosed outdoor active habitable space.</p> <p>iii. Screening devices such as obscure glazing, timber screens, external blinds, window hoods and shutters are to be at least 1.6m in height, at least 75 per cent obscure, permanently fixed, made of durable material and restrict view in the direction of overlooking into any adjoining property.</p>	<p>Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</p> <ul style="list-style-type: none">) building layout and location;) design of major openings;) landscape screening of outdoor active habitable spaces; and/or) location of screening devices. <p>Maximum visual privacy to side and rear boundaries through measures such as:</p> <ul style="list-style-type: none">) offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;) building to the boundary where appropriate;) setting back the first floor from the side boundary;) providing higher or opaque and fixed windows; and/or) screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).
Applicant's proposal	The proposed front lawn area is filled and retained greater than 0.5m above Natural Ground Level and does not satisfy the deemed-to-comply requirements of the Residential Design Codes.	
<p>Comment</p> <ul style="list-style-type: none">) The raised lawn area in front of the alfresco largely looks over the northern neighbour's front setback area, which is permitted under the Residential Design Codes.) One front-facing window of the northern neighbour's dwelling will be overlooked when looking backwards.) The alfresco currently overlooks the northern neighbour, with no objection.) The dividing fence is less than 1.8m high from the applicant's property.) The finished floor level of neighbour's dwelling is lower than the applicant's finished floor level. 		

Conclusion

The raised lawn area at the front is supported by the neighbour and satisfies the Design Principles of the Residential Design Codes and can be supported.

Planning and Development (Local Planning Schemes) Regulations 2015**Matters to be considered by local government**

In considering an application for development approval the local government is to have due regard to the following relevant matters:

-) The aims and provisions of the Scheme;
-) The compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
-) The amenity of the locality including the following:
 - (i) the character of the locality;
-) whether adequate provision has been made for the landscaping of the land to which the applicant relates and whether any trees or other vegetation on the land should be preserved;
-) any submissions received on the application; and
-) any other planning consideration the local government considers appropriate.

Comment

-) The proposal satisfies the aims of Local Planning Scheme No. 3 and would sustain the amenity, character and streetscape quality of the locality.
-) The proposal complies with the Local Planning Scheme No. 3 permitted building heights and storeys.
-) The applicant has satisfactorily addressed the Design Principles of the Residential Design Codes, which allows Council to exercise its judgment.
-) A neighbour submission has been received as outlined.

Conclusion

The proposed alterations and additions have been integrated with the existing dwelling, whilst also having regard to the setting and the amenity of the surrounds. The applicant has provided sufficient justification in conjunction with the owner meeting with Officers for Council to approve this application.

CONCLUSION

The application is for relatively modest single-storey alterations and additions. This sort of low-key development is common throughout the Town and the minor variations sought are considered acceptable.

The proposal can be understood in relation to the owners' objective for additional living space and upgrading the dwelling. The design can also be appreciated in terms of presenting to the street and being in sympathy with the character of the locality.

The additions would sit comfortably behind an open-aspect front fence and garage and not create direct overlooking or overshadowing. The reduced setbacks to the side boundaries are assessed as minor. The sole boundary wall is below the maximum and average height standards of the Residential Design Codes and is

separated into two sections. This reduces bulk to the adjoining property and is the preferable outcome rather than one continuous wall.

The raised lawn area in front of the dwelling behind the fence leads out from the alfresco at a similar level creating more usable space.

Therefore, it is concluded that the proposal is reasonable and can be approved with standard conditions.

As explained, the Right-of-Way 64 matter is separate from the development application. Nonetheless, if Council feels that the proposed rear gate would be better left out at this juncture, then the following condition could be added:

- (11) *The proposed pedestrian gate to the existing rear boundary fence is excluded from this planning approval. The deletion of the gate shall be shown in the Building Permit plans, to the satisfaction of the Town.*

VOTING

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Thomas, seconded Cr Downes

THAT Council GRANT planning approval for single-storey alterations and additions including retaining and front garage at No. 117A (LOT: 27) Curtin Avenue, Cottesloe, as shown on the plans received on 11 January 2017 and 3 May 2017, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.**
- (2) The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town.**
- (3) All water draining from roofs and other impermeable surfaces shall be directed to garden areas, sumps or rainwater tanks within the development site where climatic and soil conditions allow for the effective retention of stormwater on-site.**
- (4) The roof surface being treated to reduce glare if the Town considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (5) Air-conditioning plant and equipment shall be located closer to the dwelling than adjoining dwellings, and suitably housed or treated as may be necessary to ensure that sound levels do not exceed those specified in the Environment Protection (Noise) Regulations 1997.**

- (6) The finish and colour of the boundary wall facing the south-western neighbour and all exposed retaining walls shall be to the satisfaction of the Town.
- (7) A separate application for a new crossover meeting Council's specifications shall be submitted for approval by the Manager Engineering Services or an authorised officer. The precise location and width of the crossover shall protect the street tree, to the satisfaction of the Town.
- (8) The existing street tree shall be retained and protected during building works by a barrier around the base of the tree, to the satisfaction of the Town's Works Supervisor.
- (9) The materials, finishes and colours of the front and rear additions shall be in harmony with the style and treatments of the existing development, to the satisfaction of the Town. The details are required to be provided to the Town as part of the application for a Building Permit.
- (10) The Building Permit plans shall show full details of the storeroom in the western corner of the lot.
- (11) The garage door shall be a visually-permeable design of at least 50 percent open-aspect, which shall be shown on the Building Permit plans, to the satisfaction of the Town.

Advice Notes:

1. The owner/applicant is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development is constructed entirely within the owner's property.
2. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.
3. The owner/applicant may require the consent of adjoining neighbours prior to any alterations or additions to an existing boundary fence.
4. In relation to this planning approval, the owner/applicant is advised that the Town requests that, prior to any demolition works associated with the development, the builder delivers letters to nearby properties and places sign(s) on the street frontage of the site advising of the intended timing of the demolition works and the contact details of the contractor.

CARRIED 7/0

ENGINEERING**10.1.12 LOCAL GOVERNMENT PROPERTY LOCAL LAW 2001 AMENDMENTS
– BAN ON RELEASE OF BALLOONS AND SMOKING AT BEACH
RESERVES**

File Ref: SUB/2015
Attachments: Draft Town of Cottesloe Local Government
Property Local Law 2017
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager, Corporate & Community Services

Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

To consider amendments to the Town of Cottesloe *Local Government Property Local Law 2001* to ban smoking on beaches within the local government area and to restrict the use of balloons as per previous Council Resolutions.

BACKGROUND

Council has previously considered two amendments to the *Local Government Property Local Law 2001* as follows;

Release of Balloons

At the April 2016 Meeting of Council, the following Resolution was adopted:

COUNCILLOR MOTION & COUNCIL RESOLUTION

- 1. Use of balloons and balloons inflated with a gas that causes them to rise in the air is prohibited for use by the Town of Cottesloe for its own events.***
- 2. All events approved by the Town of Cottesloe will be conditioned to prohibit the use of balloons and balloons inflated with a gas that causes them to rise in the air.***
- 3. That the Town of Cottesloe administration produce a report to Council about making a by-law to prohibit balloons and the intentional release of balloons inflated with a gas that causes them to rise in the air in the Town of Cottesloe, having regard to NSW Schedule 1 Amendment of Protection of the Environment Operations Act 1997 (Section 3) and Local Law No. 3 (Community Health and Environment Management) 2011 by October 2016 Council meeting.***

Smoking on Beaches

At the April 2016 Meeting of Council, the following resolution was adopted:

THAT Council, following the advertising of the review of the Local Government Property Local Law 2001:

1. ***Advertise the proposed Amendment Local Law (as attached) for a period of not less than 42 days and invite public submissions in regards to the proposed Local Law.***
2. ***Consider all submissions received at a Meeting of Council after the nominated closing date.***

A number of submissions were received in regards to the above proposal. At the October 2016 Meeting of Council, the following Resolution was adopted.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

THAT Council:

1. ***Accept the advice from the Department of Local Government and Communities in regards to the current drafting of the proposed Local Government Property Local Law Amendment 2016 and not proceed further with the amendment in it's current form, and***
2. ***Engage a suitably experienced consultant to draft an omnibus amendment to the Local Government Property Local Law that will consolidate any past and proposed amendments into one new Local Law for further consideration by Council no later than 28 February 2017.***

This Resolution was adopted in response to concerns raised by the proposed amendments by the Department of Local Government and Communities.

In response to these two Resolutions, McLeods Barristers and Solicitors were engaged to prepare the necessary amendments which are now attached for the consideration of Elected Members.

The attachments show a consolidated version of the proposed amendments incorporated into the existing local law. In order to meet statutory requirements, these amendments will be separated and the changes effectively adopted as an Amendment Local Law that will reference the principal local law.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2013-2023

Priority Area Three: Enhancing Beach Access and Foreshore

The proposed amendments would be in keeping with this strategic objective.

POLICY IMPLICATIONS

Release of Balloons

The Town of Cottesloe Beach Policy contains numerous provisions relevant to maintaining and improving the beach environment. The proposal to prohibit the release of balloons would be in keeping with this Policy.

Smoking on Beaches

The Town of Cottesloe Beach Policy states that a secondary objective of the policy is to *'...provide a level of essential amenity on the beach reserves which meets the expectations of residents of Cottesloe, the people of Western Australia and visitors to the metropolitan region'*.

The banning of smoking on all beaches would be in keeping with this Policy objective by ensuring that they were kept relatively free of cigarette butts and beach users are able to enjoy these facilities free of cigarette smoke.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Town of Cottesloe Local Government Property Local Law 2001

The *Local Government Act 1995* specifies the process to amend a local law is the same as for which a new local law is introduced. This process is as follows:

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
 - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - and*
 - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*

FINANCIAL IMPLICATIONS

The cost to advertise, adopt and submit the proposed amendments is estimated to be approximately \$10,000.

STAFFING IMPLICATIONS

Rangers will ensure compliance with the amendments if adopted by Council. This will be done as part of their regular patrols and as such there will be no major staffing implications. Any additional staff required to implement the banning of smoking on beaches and beach reserves would require additional funding from the Budget.

SUSTAINABILITY IMPLICATIONS

By banning smoking on beaches and beach reserves, litter generated from discarded cigarette butts will be minimised.

The prohibition of the release of balloons will provide several environmental benefits including less litter in the marine environment and protecting marine and bird life from the damage the balloons can cause.

CONSULTATION

Town of Cottesloe Staff
Department of Local Government and Communities
Western Australian Local Government Association
McLeods Barristers and Solicitors

STAFF COMMENT

As per the provisions of the *Local Government Act 1995*, the presiding person is required to read aloud the following statement of purpose and effect of the proposed amendments:

Purpose:

The purpose of the Amendment Local Law is to specify additional activities which may be prohibited on specified local government property by way of a determination under cl. 2.8(1), such activities being:

- (a) smoking within a 5 metre radius of any entrance, exit or aperture of premises (cl. 2.8(1)(a));
- (b) releasing an unsecured balloon inflated with a gas that causes it to rise in the air (cl. 2.8(1)(i));
- (c) smoking in contravention of a sign which prohibits the act of smoking (cl. 2.8(1)(j)).

Effect:

The effect of the Amendment Local Law will be that Council may make a determination under cl. 2.8(1) that a person is prohibited from undertaking the following activities on specified local government property:

- (a) smoking within a 5 metre radius of any entrance, exit or aperture of premises (cl. 2.8(1)(a));
- (b) releasing an unsecured balloon inflated with a gas that causes it to rise in the air (cl. 2.8(1)(i));
- (c) smoking in contravention of a sign which prohibits the act of smoking (cl. 2.8(1)(j)).

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council, in regards to the proposed amendments to the *Local Government Property Local Law 2001*:

1. Advertise the proposed Amendment Local Law (as attached) for a period of not less than 42 days and invite public submissions in regards to the proposed Local Law.
2. Consider all submissions received at a Meeting of Council after the nominated closing date.

CARRIED 7/0

**10.1.3 PROPOSED METROPOLITAN REGION SCHEME AMENDMENT
1320/57 – WESTERN POWER OMNIBUS 2 – FOR COMMENT**

File Ref: SUB/1823
Attachments: WAPC Amendment letter, report and plan
Responsible Officer: Mat Humfrey, Chief Executive Officer
Author: Andrew Jackson, Manager Development Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

The Western Australian Planning Commission has initiated a Metropolitan Region Scheme Amendment in relation to various Western Power properties, including one in Cottesloe.

The proposed Amendment is on public advertising for submissions from 28 April to 30 June 2017. This report presents the matter to Council for any comment.

BACKGROUND

On behalf of Western Power, the Commission has prepared a region-wide omnibus Amendment for appropriate and consistent classification in the Metropolitan Region Scheme of land held for (and in one instance surplus to) electricity infrastructure.

The Amendment report explains the need to rationalise 29 sites across 14 Local Governments. The basic change is to transfer the sites from their existing classification – such as the Urban, Industrial or Central City Area zones – to the Public Purpose: SEC reservation under the Metropolitan Region Scheme.

The Cottesloe Western Power substation is established regional infrastructure in proximity to the Curtin Avenue Primary Regional Road reservation and the Fremantle line Railways reservation under the Metropolitan Region Scheme.

Land reserved in the Metropolitan Region Scheme is automatically created as such in the Local Planning Scheme; ie there is no need for a corresponding Local Planning Scheme Amendment and the Scheme Map is simply updated to show the regional reservation.

The Metropolitan Region Scheme Amendment has been determined as of a minor type and not requiring any environmental assessment by the Environmental Protection Authority.

STRATEGIC IMPLICATIONS

The substation site has regional planning strategic significance.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

-) *Planning and Development Act 2005*
-) Metropolitan Region Scheme

FINANCIAL IMPLICATIONS

Nil.

STAFFING IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

In June 2016 the Department of Planning undertook preliminary consultation with Local Governments on the contemplated amendment – refer below.

The formal Amendment is currently undergoing the statutory two months advertising by the Western Australian Planning Commission, including at all Local Governments involved.

STAFF COMMENT**Cottesloe proposal**

For Cottesloe, proposal 7 in the Amendment is to transfer Lot 352 Curtin Avenue on the north-east corner with Jarrad Street from the Urban zone to the Public Purposes: SEC reservation in the Metropolitan Region Scheme.

Practically, this entails changing on the Scheme Map the colour of the site from brown for Urban to yellow for Public Purposes.

The effect of the reservation is to:

-) Correctly classify and protect the land for the purpose for which it is held and used.
-) Restrict the development of the land to electricity infrastructure or related uses/works.
-) Require another Metropolitan Scheme Amendment to enable alternative development of the land in future; eg revert to the Urban zone.

Planning context

The Cottesloe site has been a Western Power substation for many years, which approximately 10 years ago was upgraded in terms of capacity, security and landscaping. The substation serves a wide area of the western suburbs and its location is vital in the regional distribution network, with an estimated relocation cost (if feasible to electricity supply) of \$30-50 million.

As such it is an established utility infrastructure site located between Curtin Avenue and the railway line in a strip of State Government landholdings, and is seen as a

fixture in structure planning for the area. The 2009 Cottesloe Enquiry by Design report examined the site in relation to options for Curtin Avenue, the railway line and railway lands. Further to this Council intends to undertake an Activity Centre Plan project for the area, following on from the recently completed Station Street Place Making Strategy.

Against this background the Town's initial comment to the mooted amendment read:

In response to your correspondence of 2 June 2016 in this respect the Town at this stage advises as follows:

-) No objection is raised to the principle of classifying the substation site as a Public Purposes reservation.*
-) The substation could, however, continue under its existing Urban zoning.*
-) Previous preliminary structure planning for the Cottesloe Town Centre and environs examined the feasibilities of relocation of the substation as an option. Ongoing planning for the future of Curtin Avenue, east-west connectivity via Jarrad Street and the surplus railway lands may review that prospect in more detail, as well as give consideration to integration of the substation within an overall activity centre plan.*

Assuming the substation in all likelihood remains, structure planning for the locality would need to integrate the facility into the transport route and land use vision addressing regional and local imperatives. This could include developing up to and possibly even over the substation, whereby it becomes integrated into the precinct.

In the much longer term, advances in technology and changes in energy sources/supply might alter the nature of or demand for the substation, whereby it could be downscaled or decommissioned; but as that cannot be accurately predicted the status quo is acknowledged.

CONCLUSION

The Metropolitan Region Scheme Amendment is essentially a suite of technical changes to correct anomalous classifications and does not give rise to development other than Western Power infrastructure.

The proposed Public Purposes: SEC reservation of the Cottesloe substation site is the appropriate classification under the Metropolitan Region Scheme as the normal expectation for such utilities for the time being.

VOTING

Simple majority.

OFFICER RECOMMENDATION

Moved Cr Rodda, seconded Mayor Dawkins

THAT Council NOTES the proposed Metropolitan Region Scheme Amendment and submits comments to the Western Australian Planning Commission as follows:

1. Supports the principle of classifying the Cottesloe Western Power substation site as a Public Purposes: SEC reservation.

2. It is noted, however, that the substation could continue under the current Urban zoning as established infrastructure forming part of the built environment.
3. Previous preliminary structure planning for the Cottesloe Town Centre and environs examined the feasibilities of relocation of the substation as an option. Ongoing regional and local planning for the future of Curtin Avenue, east-west connectivity via Jarrad Street and the surplus railway lands may review that prospect in more detail, as well as give consideration to integration of the substation within an overall Activity Centre Plan which Council intends to prepare.

AMENDMENT

Moved Cr Boulter, seconded Cr Pyvis

1. That Council supports the rezoning of the Cottesloe Western Power substation site from "Urban" to "Public Purposes: SEC reservation" in the Metropolitan Region Scheme, as proposed by the Western Australian Planning Commission.
2. Delete
3. Delete

LOST 2/5

For: Crs Pyvis and Boulter

Against: Mayor Dawkins, Crs Rodda, Angers, Downes and Thomas

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Rodda, seconded Mayor Dawkins

THAT Council NOTES the proposed Metropolitan Region Scheme Amendment and submits comments to the Western Australian Planning Commission as follows:

1. **Supports the principle of classifying the Cottesloe Western Power substation site as a Public Purposes: SEC reservation.**
2. **It is noted, however, that the substation could continue under the current Urban zoning as established infrastructure forming part of the built environment.**
3. **Previous preliminary structure planning for the Cottesloe Town Centre and environs examined the feasibilities of relocation of the substation as an option. Ongoing regional and local planning for the future of Curtin Avenue, east-west connectivity via Jarrad Street and the surplus railway lands may review that prospect in more detail, as well as give consideration to integration of the substation within an overall Activity Centre Plan which Council intends to prepare.**

CARRIED 7/0

10.1.8 2017 WHALEBONE CLASSIC

File Ref: SUB/2407
Attachments: Event Application
Site Map
Responsible Officer: Garry Bird
Manager, Corporate & Community Services
Author: Sherilee Macready
Community Development Officer
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil.

SUMMARY

On Friday 7 July, Saturday 8 July and Sunday 9 July 2017, Surfing Western Australia would like to hold their annual Whalebone Classic at Isolators Reef Cottesloe. The event will be organised by Surfing Western Australia, with support from Funs Back Surf and the Cottesloe Longboard Club.

BACKGROUND

The Whalebone Classic is a local event, consisting primarily of a three day professional longboard surfing competition. It has been running for the past 19 years without incident.

A marquee tent will be set up for local sponsors to advertise their surf wares. Profits over the weekend are then distributed to Surf Aid International and other not-for-profit organisations.

With 130 competitors expected, together with attending spectators, extra toilets will be provided by the organisers. Rubbish bins are required, which have been supplied by the Council in previous years in support of this community event.

There will also be a designated licensed area for wine and beer tasting by gold coin donation from 11.30am – 4.30pm each day as per previous years. The licensed area will be fully fenced off and security staff will be in place. A licensing permit is to be finalised from the Department of Racing, Gaming and Liquor before the event date.

Surfing Western Australia will provide their own water safety for the event. St. John's Ambulance will provide first aid services for the event.

Event commentators will make brief announcements from 7.00am – 5.00pm on each day of the competition.

STRATEGIC IMPLICATIONS

There are no strategic implications arising from the Officer Recommendation.

POLICY IMPLICATIONS

Beach Policy – This event is in compliance with the Town of Cottesloe's *Beach Policy*.

*Event Classification Policy***STATUTORY ENVIRONMENT**

Local Government Act 1995.

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

FINANCIAL IMPLICATIONS

There is a small cost in the provision of additional bins for the event, but this can be met within existing budget allocations.

If Council charges beach hire for this event, under community classification, it would total \$550 per day. The Town has not charged in the past for the use of Isolators Reef and adjoining land based activities, classifying the event as charitable as per the definitions prescribed in the Event Classification Policy.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

The Sustainability Officer and the Coast Care Officer were asked for comment regarding the sustainability implications of this event. It was advised that event organisers are encouraged to manage access to Isolators Reef by competitors and members of the public attending the event, by encouraging people to use designated pathways.

Adequate arrangements are made for rubbish collection and removal of recyclable materials.

CONSULTATION

Consultation was not required for this event.

STAFF COMMENT

As this is an annual event that has been successfully run in the past, officers support the 2017 application.

VOTING

Simple Majority

OFFICER RECOMMENDATION**Moved Cr Thomas, seconded Cr Angers**

THAT Council approve the application to hold the 2017 Whalebone Classic at Isolators Reef on Friday 7 July, Saturday 8 July and Sunday 9 July 2017, subject to the following conditions:

1. That the event organisers are able to provide proof of adequate public liability insurance for all aspects of the event, for no less than \$10 million;

2. Additional toilets are provided to the satisfaction of the Chief Executive Officer;
3. That the \$550 per day fee be waived subject to this support being appropriately acknowledged;
4. Compliance with the *Environmental Protection (Noise) Regulations 1997*;
5. Compliance with requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
6. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event;
7. No balloons to be used during the event;
8. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*;
9. Compliance with relevant sections of the Town's *Beach Policy*.
10. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event; and
11. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.

AMENDMENT

Moved Cr Boulter, seconded Cr Pyvis

That an amendment is made to the OFFICER RECOMMENDATION to include the following Advice Note:

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to *preserve valuable fish and marine environments for the future use and enjoyment of all people*. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

CARRIED 7/0

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Thomas, seconded Cr Angers

THAT Council approve the application to hold the 2017 Whalebone Classic at Isolators Reef on Friday 7 July, Saturday 8 July and Sunday 9 July 2017, subject to the following conditions:

1. **That the event organisers are able to provide proof of adequate public liability insurance for all aspects of the event, for no less than \$10 million;**

2. Additional toilets are provided to the satisfaction of the Chief Executive Officer;
3. That the \$550 per day fee be waived subject to this support being appropriately acknowledged;
4. Compliance with the *Environmental Protection (Noise) Regulations 1997*;
5. Compliance with requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
6. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event;
7. No balloons to be used during the event;
8. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*;
9. Compliance with relevant sections of the Town's *Beach Policy*.
10. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event; and
11. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.

ADVICE NOTE

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to *preserve valuable fish and marine environments for the future use and enjoyment of all people*. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

CARRIED 7/0

10.1.11 ICEA CLASSIC 2017

File Ref: SUB/2409
Attachments: Event Application
Responsible Officer: Garry Bird
Manager, Corporate & Community Services
Author: Elizabeth Nicholls
Senior Administration Officer
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

The Indigenous Communities Education and Awareness ('ICEA') Foundation is seeking approval for the annual ICEA Classic Event, to be held at The Cove, Cottesloe, and its adjacent car park, on Sunday 10 September 2017, between 6.00am and 8.00pm.

BACKGROUND

The ICEA Classic is an annual festival style event that celebrates Western Australia's rich Indigenous history and culture, pristine beaches, surfing and skating cultures and great food and music.

ICEA Foundation's philosophy is to:

-) Facilitate positive experiences;
-) Build strong, genuine relationships; and
-) Foster greater cross-cultural understanding.

The ICEA Classic engages young Aboriginal and Non-Aboriginal Australians, giving them an opportunity to share experiences with each other at an event which promotes mutual respect. The Classic, organised and led by and for young people, embodies the capacity and passion of our Aboriginal and Non-Aboriginal youth to build genuine partnership and reconciliation in Australia.

It has become the flagship event for the ICEA Foundation with an anticipated attendance of 6,500 people, and creates a positive influence on the wider community

STRATEGIC IMPLICATIONS

Strategic Community Plan 2013 – 2023

Priority Area One: Protecting and enhancing the wellbeing of residents and visitors.

1.4 Continue to improve community engagement.

POLICY IMPLICATIONS

Beach Policy – This event is in compliance with the Town of Cottesloe's Beach Policy.

Event Classification Policy – The event meets the assessment criteria of a Community Event as outlined in the policy as it satisfies two of the criteria. 'The event

is supported or organised by a local community group' and 'spectating at the event is free'.

STATUTORY ENVIRONMENT

Local Government Act 1995

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

FINANCIAL IMPLICATIONS

There is a small cost in providing additional bins for the event, but this can be met within existing budget allocations.

If Council charges fees for this event to comply with the Event Classification Policy, organisers would be charged \$550 for hire and a \$1000 bond. The Town has not charged the ICEA Foundation in the past for the use of The Cove and adjoining land based activities. It is therefore recommended that fees be waived.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

ICEA Foundation Staff
North Cottesloe Surf Life Saving Club
Cottesloe Surf Life Saving Club
Town of Cottesloe Staff

STAFF COMMENT

The event has to date been held successfully at The Cove, 100m north of Isolators Reef. Organisers will again engage North Cottesloe Surf Life Saving Club to provide water safety and first aid assistance for this year's event. A letter of in principle support has been provided by the Club.

Event commentators will make brief announcements from 8.00am to 5.00pm on the day of the competition. Noise limitations will be put into place and there will be minimal use of audio equipment, however, it is recommended that neighbouring properties be advised of the event taking place (if approved) and implement a mechanism for them to provide feedback if required.

The Sustainability Officer has indicated that she will again assist organisers to employ the Cott Cat bus for peak times of the event to assist with transportation of spectators to and from the train station.

To comply with the *Health (Public Buildings) Regulations 1992*, extra toilets will be provided by the organisers. Due to the anticipated crowd, organisers will also provide additional rubbish bins.

An Event and Risk Management Plan has been provided together with an Executive Summary. A map of the event site has been provided. A current Public Insurance Certificate to cover the event will be provided prior to the event.

The event will result in the car park closure at The Cove for at least 24 hours, however, as the location is south of Cottesloe Main Beach, it should provide little disruption to other patrons using the beachfront.

Organisers are investigating the merits and process to close a section of Marine Parade from Pearse Street to Forrest Street. It is thought that this will facilitate safe pedestrian access to the event. Such a measure would require the ICEA Foundation to engage a Traffic Management company.

Organisers of the 2017 event have indicated that they will be again install fencing at key points at the road's edge to contain event spillage, employ noise control measures, manage the number of event signs displayed; and review the contents of their 'Program of Events'. Officers will again work with the organisers to encourage them to employ these and other safety and noise measures.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council approve the application to hold the ICEA Classic at The Cove and its adjacent car park on Sunday 10 September 2017, from 6.00am to 8.00pm, subject to the following conditions:

1. Class the event as a 'Charitable Event' and charge no fee for the event;
2. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.
3. All signage to be approved by the Chief Executive Officer one month prior to the event;
4. Adequate arrangements for rubbish collection and removal, including the provision for recycling;
5. The event complies with the *Environmental Protection (Noise) Regulations 1997*;
6. Neighbouring properties be notified of the event and a method for residents to give feedback provided;
7. The event complies with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
8. Additional toilets are provided to the satisfaction of the Chief Executive Officer;
9. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*;

10. Compliance with relevant sections of the Town's *Beach Policy*;
11. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, provided prior to the event.
12. Permission is granted to close the car park adjacent to The Cove, from 6.00am on Saturday 9 September 2017 to 12.00pm on Monday 11 September 2017;
13. No balloons to be used during the event; and
14. Earth Carers 'H2O to Go' Water Station facilities are investigated for use at the event.
15. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.

COUNCILLOR MOTION AND COUNCIL RESOLUTION

Moved Cr Boulter, seconded Cr Downes

That Council approve the Officer Recommendation with the addition of the previous Advice Note as follows:

That Council approve the application to hold the ICEA Classic at The Cove and its adjacent car park on Sunday 10 September 2017, from 6.00am to 8.00pm, subject to the following conditions:

16. **Class the event as a 'Charitable Event' and charge no fee for the event;**
17. **Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.**
18. **All signage to be approved by the Chief Executive Officer one month prior to the event;**
19. **Adequate arrangements for rubbish collection and removal, including the provision for recycling;**
20. **The event complies with the *Environmental Protection (Noise) Regulations 1997*;**
21. **Neighbouring properties be notified of the event and a method for residents to give feedback provided;**
22. **The event complies with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;**
23. **Additional toilets are provided to the satisfaction of the Chief Executive Officer;**

24. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*;
25. Compliance with relevant sections of the Town's *Beach Policy*;
26. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, provided prior to the event.
27. Permission is granted to close the car park adjacent to The Cove, from 6.00am on Saturday 9 September 2017 to 12.00pm on Monday 11 September 2017;
28. No balloons to be used during the event; and
29. Earth Carers 'H2O to Go' Water Station facilities are investigated for use at the event.
30. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.

ADVICE NOTE

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to *preserve valuable fish and marine environments for the future use and enjoyment of all people*. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

CARRIED 7/0

10.1.13 THE BLOODY LONG WALK 2017

File Ref: SUB/2091
Attachments: Event Application
Responsible Officer: Garry Bird
Manager, Corporate & Community Services
Author: Elizabeth Nicholls
Senior Administration Officer
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

The Australian Mitochondrial Disease Foundation is seeking approval to hold their second 'The Bloody Long Walk – Perth' event at Cottesloe Beachfront, on Sunday, 17 September 2017, from 7.00am to 5.00pm. The event raises awareness and funds to support the Australian Mitochondrial Disease Foundation's journey in finding a cure for Mitochondrial Disease.

BACKGROUND

The event, consists of a 35km walking challenge, commencing at Sir James Mitchell Park, South Perth, and finishing at Cottesloe Beach. The walking challenge presents as an extreme endurance activity, representing the physical challenge faced daily by sufferers of this relatively unknown Mitochondrial Disease which affects the energy capabilities of the body.

In 2015 Australian Mitochondrial Disease Foundation launched a National Series, extending the event to Adelaide and Perth. The Perth event has been very successful in 2015 and 2016 and organisers hope to attract more participants in this year's event. The purpose of the event is to raise funds for, and awareness of Mitochondrial Disease, as well as to encourage West Australians to challenge themselves to compete in the walking challenge.

Entry fees to the event for competitors range from \$80 to \$100.

Competitors will be sent off in waves of 150 at a time every five minutes so as to avoid any interference with the general public's use of shared pathways and reduce congestion at the finish line. Organisers expect that there would not be more than 100 to 200 people at the finish at any one time. It is expected that the busiest time for competitors to walk through Cottesloe will be between 12.00pm and 3.00pm.

Competitors will received detailed information packs will provide clear instruction for competitors to walk mostly single file or two abreast, and to maintain awareness of other users, particularly runners and cyclists using the shared pathways. Marshalls will be allocated at crossing points to advise the competitors of safety.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2013 – 2023

Priority Area One: Protecting and enhancing the wellbeing of residents and visitors.

1.4 Continue to improve community engagement.

POLICY IMPLICATIONS

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

Event Classification Policy – The event meets the assessment criteria of a Community Event as outlined in the policy as it satisfies two of the criteria. '*The primary purpose of the event is to raise funds for a charitable purpose(s)*' and '*the primary aim of the event is to promote awareness of a significant community or health issue*'.

STATUTORY ENVIRONMENT

Local Government Act 1995

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

FINANCIAL IMPLICATIONS

As this event complies with the criteria of the Event Classification Policy it is recommended to class this event as a 'Charitable Event' and charge no fee.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

Australian Mitochondrial Disease Foundation Staff
SORTED. Projects, Events and Sponsorship Pty Ltd
Cottesloe Surf Life Saving Club
Town of Cottesloe Staff

STAFF COMMENT

As part of their Event Plan, organisers have provided a site plan. A signage plan is yet to be provided but organisers expect it will be very similar to the plan used in 2016.

A Risk Assessment Plan and Public Liability Insurance Certificate has been provided. Relevant authorities, such as the local police will be notified of the event taking place. Organisers will address traffic management in Cottesloe by providing shuttle buses for the spectators to be transported to and from the Cottesloe train station from 12.00pm until 5.00pm.

Event commentators will make brief announcements at Cottesloe Beach during the competition from 10.00am until 5.00pm. Noise limitations will be put into place and there will be minimal use of audio equipment, however, it is recommended that neighbouring properties be advised of the event taking place (if approved) and implement a mechanism for them to provide feedback if required.

Due to the anticipated crowd, organisers will provide additional rubbish bins. Event volunteers will remind participants that they are walking through reserves, beaches and places of cultural and historical significance. 'Clean Event', who specialise in event waste management, will be engaged to collect waste from all check points as well as the start and finish lines.

The Cottesloe Surf Life Saving Club has been contacted to gauge whether the event would affect any planned Club activities.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council approve the application to hold The Bloody Long Walk – Perth at Cottesloe Beachfront on Sunday 17 September 2017 from 7.00am to 5.00pm, subject to the following conditions:

1. Class this event as a 'Charitable Event' and charge no fee;
2. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event;
3. All signage to be approved by the Chief Executive Officer one month prior to the event;
4. Adequate arrangements for rubbish removal and collection, including the provision for recycling;
5. The event complies with the *Environmental Protection (Noise) Regulations 1997*;
6. Neighbouring properties be notified of the event and a method for residents to give feedback provided;
7. The event complies with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
8. Additional toilets are provided to the satisfaction of the Chief Executive Officer;
9. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*;
10. Compliance with relevant sections of the Town's *Beach Policy*;
11. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, provided prior to the event;
12. No balloons to be used during the event; and
13. The Earth Carers 'H2O to Go' Water Stations are investigated by the event organiser as to their suitability and availability for use at the event.
14. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.

COUNCILLOR MOTION AND COUNCIL RESOLUTION**Moved Cr Boulter, seconded Cr Downes**

That Council approve the Officer Recommendation with the addition of the previous Advice Note as follows:

That Council approve the application to hold The Bloody Long Walk – Perth at Cottesloe Beachfront on Sunday 17 September 2017 from 7.00am to 5.00pm, subject to the following conditions:

15. Class this event as a 'Charitable Event' and charge no fee;
16. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event;
17. All signage to be approved by the Chief Executive Officer one month prior to the event;
18. Adequate arrangements for rubbish removal and collection, including the provision for recycling;
19. The event complies with the *Environmental Protection (Noise) Regulations 1997*;
20. Neighbouring properties be notified of the event and a method for residents to give feedback provided;
21. The event complies with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
22. Additional toilets are provided to the satisfaction of the Chief Executive Officer;
23. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*;
24. Compliance with relevant sections of the Town's *Beach Policy*;
25. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, provided prior to the event;
26. No balloons to be used during the event; and
27. The Earth Carers 'H2O to Go' Water Stations are investigated by the event organiser as to their suitability and availability for use at the event.
28. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.

ADVICE NOTE

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to *preserve valuable fish and marine environments for the future use and enjoyment of all people*. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

CARRIED 7/0

ENGINEERING

Cr Boulter declared an impartiality interest against Item 10.1.14 Preliminary Report - Proposed Depot Location at SeaView Golf Club Inc. as an acquaintance of Mr Bill Cox, President of SeaView Golf Club.

Cr Downes declared a proximity interest against Item 10.1.14 Preliminary Report – Proposed Depot Location at SeaView Golf Club Inc. and left the room at 9:13 PM.

10.1.14 PRELIMINARY REPORT - PROPOSED DEPOT LOCATION AT SEA VIEW GOLF CLUB INC.

File Ref: SUB/990
Attachments: Nil
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Nick Woodhouse
Manager Engineering Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

At the April 2017 Ordinary Meeting of Council the Town of Cottesloe administration were requested to complete a preliminary report into the feasibility and sustainability implications of constructing the Town of Cottesloe Works Depot at the Sea View Golf Club.

Landgate has advised that the land within the Sea View Golf Club is classified as a Class A reserve, for the purpose of parklands. The A classification is used solely to protect areas of high conservation or high community value. As the intended purpose to construct a works depot is significantly different to the current parklands purpose it is not likely that the Minister for Lands will approve the change of purpose.

On this basis it is recommended to not continue to investigate the construction of a permanent depot at the Sea View Golf Club. Council is requested to note this report.

BACKGROUND

The location is one of the first golf courses of any description in the metropolitan area, first used by Cottesloe Golf Club from 1909 to 1931. Since 1931 it has been known as Sea View Golf Club Inc. The course contributes to the community's sense of place, as a landmark in Cottesloe, by the Indian Ocean, and as one of the oldest established golf courses in the metropolitan area. It is highly valued by the community of Cottesloe and Western Australia for its role in the history of golf in the State and for aesthetic reasons as part of a recognised open landscape vista by the ocean at Cottesloe Beach.

In 2010 the Town investigated the construction of a permanent works depot directly behind Seaview Kindergarten on Broome Street.

At the July 2010 Ordinary Meeting of Council it was resolved:

THAT COUNCIL:

1. *Note this progress report and request staff to discontinue considering this proposal in light of community reaction and recognition of the necessity to retain the golf course area as community recreational and open space.*
2. *Request staff investigate alternative sites for further evaluation and reporting, including from those previously examined.*
3. *Reaffirm its position that the existing depot services should be relocated and the site realised for residential redevelopment.*
4. *Note that, depending upon the length of time before a relocation can take place, some remedial works at the existing depot may be required and request that the Manager Engineering Services advise accordingly.*

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 7/2

Against the motion: Cr Walsh, Cr Goldthorpe

At the May 2011 Ordinary Meeting of Council it was resolved:

THAT COUNCIL:

1. *Rescind its motion being Item 11.2.2 dated 26 July 2010 (item 1) that no further work be permitted by Administration on assessing a depot use at the Seaview Golf Course.*
2. *Prepare a report on the financial pros and cons of providing a shed for depot use on the Golf Course including a proposal to consult the Cottesloe Community as soon as practicable.*

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 7/4

Against: Crs Walsh, Cr Carmichael, Boland and Rowell

At the April 2017 Ordinary Meeting of Council it was resolved:

THAT the Town of Cottesloe Administration make a preliminary report to the May 2017 Council meeting about the feasibility of and sustainability implications of having the whole Town of Cottesloe Works Depot on the SeaView Golf Club Inc site defer consideration of the request from the Sea View Golf Club Inc.

Carried 8/0

STRATEGIC IMPLICATIONS

Strategic Community Plan 2013-2023

Priority Area Four: Managing Development

The *Strategic Community Plan 2013 to 2023* states that the Council is committed to using a policy driven approach to manage development pressures that will ensure that the planning framework is in place to protect the characteristics that the community wants preserved and protected and that form part of the 'vision statement' for this Plan.

POLICY IMPLICATIONS

There are no policy implications arising from the Officer Recommendation.

STATUTORY ENVIRONMENT

All works within the Sea View Golf Club Inc. will require a planning approval from the West Australian Planning Commission as the land sits under the Metropolitan Region Scheme. The land is classified as Class A reserve, for the purpose of parklands. The construction of a dedicated works depot will significantly alter the purpose for which the land is to be used and it is not likely that the Minister for Lands would support the change of use.

The land contained within the Sea View Golf Club Inc. is also listed as a permanent entry on the State Heritage Register. The Place Type is listed as Urban Open Space with Social/Recreational uses.

FINANCIAL IMPLICATIONS

Funds exist in the 2017/18 Capital Works Program to construct a new depot at the Town of Mosman Park. The cost to lease the current depot site at Stack Street, Fremantle is \$15,637.47 a month.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from the Officer Recommendation.

CONSULTATION

Town of Cottesloe Staff
Sea View Golf Club Inc.

STAFF COMMENT

It has not previously been Councils position to locate the works depot at the Sea View Golf Club. Investigation into the 2010 proposal revealed that the community did not support the proposal at the time. It is noted that the current proposal is still relatively close to homes of nearby residents.

Landgate has advised that the land within the Sea View Golf Club Inc. is classified as a Class A reserve, for the purpose of parklands. The A classification is used solely to protect areas of high conservation or high community value. As the intended purpose to construct a works depot is significantly different to the current parklands purpose it is not likely that the Minister for Lands will approve such a significant change of purpose.

It is noted that the existing depot is associated with the golf course activities as some facilities are shared whereas a purpose built commercial depot would be a significant change in land use. The current depot area at Sea View Golf Club Inc. is 470 square meters whereas the required area for the new depot is at least an additional 1000 square meters.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Rodda, seconded Cr Angers

THAT Council note that the Sea View Golf Club is a Class A reserve, for the purpose of parklands, and is therefore not suitable for a dedicated works depot.

PROCEDURAL MOTION

Cr Boulter, seconded Cr Pyvis

That Council defer consideration of the officer recommendations until Councillors have had a workshop to discuss the previous reports and resolutions of Council concerning this siting of the Town of Cottesloe (TOC) depot, or mini depot at the Sea View Golf Club (SVGC).

LOST 2/4

For: Crs Pyvis, Boulter

Against: Mayor Dawkins, Crs Rodda, Angers and Thomas

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Rodda, seconded Cr Angers

THAT Council note that the Sea View Golf Club is a Class A reserve, for the purpose of parklands, and is therefore not suitable for a dedicated works depot.

CARRIED 4/2

For: Mayor Dawkins, Crs Anger, Rodda and Thomas

Against: Crs Boulter and Pyvis

Cr Downes returned to the room at 9:22 PM

10.1.17 STREET TREE MASTERPLAN

File Ref: SUB/1487
Attachments: Draft Street Tree Masterplan
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Nick Woodhouse
Manager Engineering Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

To guide the street tree planting program the Town has developed a Street Tree Masterplan. Council is requested to approve the advertising of the Street Tree Masterplan so that feedback can be sought from the community prior to final adoption by Council.

BACKGROUND

The Strategic Community Plan Priority Area One (Protecting and enhancing the wellbeing of residents and visitors) states that the Town will '*implement policies that protect existing trees and that actively seek to increase the tree canopy in Cottesloe*'.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2013-2023

Priority Area One: Protecting and enhancing the wellbeing of residents and visitors

POLICY IMPLICATIONS

There are no policy implications arising from the Officer Recommendation.

The Street Tree Masterplan is a tool designed to help implement the Town of Cottesloe's Street Tree Policy by prescribing a suitable tree species for planting within each street. The Street Trees Policy is scheduled for review in July 2017.

STATUTORY ENVIRONMENT

No street trees within the Town of Cottesloe are Statutory Heritage listed with the State Heritage Office. The following trees and locations are listed on the Town of Cottesloe Municipal Inventory. The Street Tree Masterplan does not recommend replacement of street tree species at these locations.

Norfolk Island Pines

John Street , Broome Street, Forrest Street, Pearse Street, Curtin Avenue, Railway Street, Loma Street, Marmion Street, Jarrad Street, Marine Parade and the Cottesloe Beach foreshore.

Melaleuca trees

Avonmore Terrace, Mann Street, Beach Street and Rosendo Street.

Peppermint trees

William Street, Reginald Street, Henry Road and Barsden Street.

Pine trees

Burt Street (north side).

Tuart tree

191 Curtin Street

Street trees (variety)

Curtin Avenue

FINANCIAL IMPLICATIONS

There are no financial implications arising from the Officer Recommendation. Funds exist in the 2017/18 Capital Works Program for the planting of trees.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

The urban forest is recognised as a vital component of the urban landscape which provides a range of important benefits for residents and visitors to the City. The urban forest is defined as the totality of all trees and shrubs on public and private land in and around urban areas (including bushland, open space, gardens and street trees) measured by its canopy cover.

Trees are potentially the largest and most significant element in the urban landscape. As such, they provide the greatest opportunity for the development of city identity and neighbourhood character. Given the importance of trees and other vegetation in people's daily experience, the role of trees in improving this can be broadly categorised into cultural, environmental, psychological and economic benefits.

CONSULTATION

Town of Cottesloe Staff

STAFF COMMENT

The Street Tree Masterplan is a tool designed to help implement the Town of Cottesloe's Street Tree Policy by prescribing a suitable tree species for planting within each street. The plan identifies a cohesive palate of trees to plant on residential verges within the town fulfilling the Town's objectives to:

-) Select and maintain street trees, which enhance both existing and future streetscapes;
-) Create a setting in sympathy with the function and appearance of the adjacent land uses, a safe and comfortable pedestrian environment, and cater for vehicular traffic;
-) Promote the use of indigenous trees, to extend the habitat of native birds and animals in urban areas.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Thomas, seconded Cr Angers

THAT Council:

Approve the advertising of the Street Tree Masterplan so that feedback can be sought from the community prior to final consideration by Council

CARRIED 7/0

10.1.1 PLANNING APPLICATIONS DETERMINED UNDER DELEGATION

File Ref: SUB/2040
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 23 May 2017

Author Disclosure of Interest: Nil

SUMMARY

This report provides details of the planning applications determined by officers acting under delegation, for the month of April 2017.

BACKGROUND

Pursuant to Local Planning Scheme No.3, Council has delegated its power to determine certain planning applications to the Chief Executive Officer and the Manager Development Services (or the Senior Planning Officer acting in his stead). This provides efficiency in processing applications, which occurs on a continual basis.

Following interest expressed from within Council, this report serves as a running record of those applications determined during each month.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

-) *Planning & Development Act 2005*
-) *Local Planning Scheme No. 3*
-) *Metropolitan Region Scheme*

FINANCIAL IMPLICATIONS

Nil.

STAFFING IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

Nil.

STAFF COMMENT

During April 2017 the following planning applications were determined under delegation:

Address	Description	Date Determined
15 Margaret Street	Alterations and additions	06 April 2017
1-6/76 Marine Parade	Re-roofing garages	10 April 2017
116 Broome Street	Front fence	11 April 2017
1-7 Napoleon Street	Parklet renewed approval	12 April 2017
9 Burt Street	Alterations and additions	12 April 2017
41 Brighton Street	Two-storey dwelling	13 April 2017
1 Haining Avenue	Alterations and additions	18 April 2017
8 Sydney Street	Alterations and additions	19 April 2017
325 Marmion Street	Patio and pergola	20 April 2017

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council receive this report on the planning applications determined under delegation for the month of April 2017.

CARRIED 7/0

ADMINISTRATION**10.1.7 2017 MUSIC FOR PLEASURE CONCERT SERIES SCHEDULE**

File Ref: SUB/2385
Attachments: Proposed Concert Schedule
Responsible Officer: Garry Bird
Manager, Corporate & Community Services
Author: Sherilee Macready
Community Development Officer
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil.

SUMMARY

The Town's 2017 Music for Pleasure Concert Series is planned for Sunday afternoons in July and August 2017. Officers are requesting endorsement of the proposed nine musical acts selected for the 2017 concert series.

BACKGROUND

The Town's Music for Pleasure Concert Series, located at the War Memorial Town Hall, is traditionally held on Sunday afternoons in the winter months. The Series has been running since at least 1992.

The Town is planning nine concerts as part of the 2017 Music for Pleasure Concert Series, to take place during the months of July and August.

Musicians are invited to submit an application form to be considered for the schedule of concerts. The 2017 submission period closed on Monday 24 April 2017, and the Town received 11 submissions from interested musical performers.

From the 11 submissions, nine musical performers (acts) were selected for inclusion, and form the attached proposed schedule. The remaining two acts would have been worthwhile additions, but for the reasons stated in the attachment, have not been included.

STRATEGIC IMPLICATIONS

There are no strategic implications arising from the Officer Recommendation.

POLICY IMPLICATIONS

Music Recitals or Concerts at the Cottesloe Civic Centre Policy

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

The 2016/2017 Budget contains an allocation of \$6,750 for the Music for Pleasure Concert Series.

STAFFING IMPLICATIONS

Staff are required to stage the event which is funded from the \$6,750 budget allocation for the event.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from the Officer Recommendation.

CONSULTATION

No external consultation was undertaken.

STAFF COMMENT

Officers are satisfied with the proposed schedule and recommend it for endorsement by Council.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council endorse the nine musical acts selected for the 2017 Music for Pleasure concert series, as per the attached schedule.

CARRIED 7/0

10.1.9 NOTICE OF INTENTION TO LEVY DIFFERENTIAL RATES

File Ref: POL/5
Attachments: Statement of Differential Rates and Objectives
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager, Corporate & Community Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

Council is being asked to consider adopting a differential rating structure to allow for Local Public Notice to be given of its intention to raise a differential rate.

BACKGROUND

Council has historically funded the group known as ProCott, through the imposition of a differential rate on commercial properties in the Cottesloe Town Centre. ProCott, through an agreement with the Town are required to submit plans on how these funds will be used in the development and promotion of commercial activity within the Town Centre. To date, no other differential rate has been charged.

STRATEGIC IMPLICATIONS

There are no strategic implications arising from the Officer Recommendation.

POLICY IMPLICATIONS

There are no policy implications arising from the Officer Recommendation.

STATUTORY ENVIRONMENT

Local Government Act 1995

Part Six - Financial management

Division Six - Rates and service charges

6.33. Differential general rates

- (1) *A local government may impose differential general rates according to any, or a combination, of the following characteristics -*
 - (a) *the purpose for which the land is zoned, whether or not under a local planning scheme or improvement scheme in force under the Planning and Development Act 2005; or*
 - (b) *a purpose for which the land is held or used as determined by the local government; or*
 - (c) *whether or not the land is vacant land; or*
 - (d) *any other characteristic or combination of characteristics prescribed.*
- (2) *Regulations may -*
 - (a) *specify the characteristics under subsection (1) which a local government is to use; or*

- (b) *limit the characteristics under subsection (1) which a local government is permitted to use.*
- (3) *In imposing a differential general rate a local government is not to, without the approval of the Minister, impose a differential general rate which is more than twice the lowest differential general rate imposed by it.*
- (4) *If during a financial year, the characteristics of any land which form the basis for the imposition of a differential general rate have changed, the local government is not to, on account of that change, amend the assessment of rates payable on that land in respect of that financial year but this subsection does not apply in any case where section 6.40(1) (a) applies.*
- (5) *A differential general rate that a local government purported to impose under this Act before the Local Government Amendment Act 2009 section 39(1) (a) came into operation 1 is to be taken to have been as valid as if the amendment made by that paragraph had been made before the purported imposition of that rate.*

[Section 6.33 amended by No. 38 of 2005 s. 15; No. 17 of 2009 s. 39; No. 28 of 2010 s. 34.]

Section 6.36 of the *Local Government Act 1995* provides for the requirement to advertise the intention to raise a differential rate.

Part Six - Financial management

Division Six - Rates and service charges

6.36. Local government to give notice of certain rates

- (1) *Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6) (c) a local government is to give local public notice of its intention to do so.*
- (2) *A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).*
- (3) *A notice referred to in subsection (1) -*
- (a) *may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and*
- (b) *is to contain -*
- (i) *details of each rate or minimum payment the local government intends to impose; and*
- (ii) *an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and*
- (iii) *any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;*
- and*
- (c) *is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.*

- (4) *The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.*
- (5) *Where a local government -*
 - (a) *in an emergency, proposes to impose a supplementary general rate or specified area rate under section 6.32(3)(a); or*
 - (b) *proposes to modify the proposed rates or minimum payments after considering any submissions under subsection (4),*
it is not required to give local public notice of that proposed supplementary general rate, specified area rate, modified rate or minimum payment.

6.35. Minimum payment

- (1) *Subject to this section, a local government may impose on any rateable land in its district a minimum payment which is greater than the general rate which would otherwise be payable on that land.*
- (2) *A minimum payment is to be a general minimum but, subject to subsection (3), a lesser minimum may be imposed in respect of any portion of the district.*
- (3) *In applying subsection (2) the local government is to ensure the general minimum is imposed on not less than -*
 - (a) *50% of the total number of separately rated properties in the district; or*
 - (b) *50% of the number of properties in each category referred to in subsection (6),*
on which a minimum payment is imposed.
- (4) *A minimum payment is not to be imposed on more than the prescribed percentage of —*
 - (a) *the number of separately rated properties in the district; or*
 - (b) *the number of properties in each category referred to in subsection (6),*
unless the general minimum does not exceed the prescribed amount.
- (5) *If a local government imposes a differential general rate on any land on the basis that the land is vacant land it may, with the approval of the Minister, impose a minimum payment in a manner that does not comply with subsections (2), (3) and (4) for that land.*
- (6) *For the purposes of this section a minimum payment is to be applied separately, in accordance with the principles set forth in subsections (2), (3) and (4) in respect of each of the following categories -*
 - (a) *to land rated on gross rental value; and*
 - (b) *to land rated on unimproved value; and*
 - (c) *to each differential rating category where a differential general rate is imposed.*

[Section 6.35 amended by No. 49 of 2004 s. 61.]

The Local Government (Financial Management Regulations) at Regulation 52A state;
52A. Characteristics prescribed for differential general rates (Act s. 6.33)

- (1) *In this regulation -*
commencement day *means the day on which the Local Government (Financial Management) Amendment Regulations (No. 2) 2012 regulation 5 comes into operation 1;*

relevant district means a district that —

- (a) is declared to be a district by an order made under section 2.1(1)(a) on or after commencement day; or
 - (b) has its boundaries changed by an order made under section 2.1(1)(b) on or after commencement day.
- (2) For the purposes of section 6.33(1)(d), the following characteristics are prescribed in relation to land in a relevant district, where not more than 5 years has elapsed since the district last became a relevant district —
- (a) whether or not the land is situated in a townsite as defined in the Land Administration Act 1997 section 3(1);
 - (b) whether or not the land is situated in a particular part of the district of the local government.

[Regulation 52A inserted in Gazette 29 Jun 2012 p. 2953.]

FINANCIAL IMPLICATIONS

The adoption of the indicative differential rate for advertising is a part of adopting the 2017/2018 budget, which has significant financial implications for the Town.

The rate in the dollar recommended for advertising represents a 2% increase for all classes of properties. Factoring in growth to the rating database in 2016/17, a total increase to gross rates revenue of 3% is estimated. Total income to be raised from the proposed differential rate for the Cottesloe Town Centre is \$104,292.00

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from the Officer Recommendation.

CONSULTATION

Elected Members Budget Workshop One was held on 11 April 2017.

STAFF COMMENT

A revaluation of the Gross Rental Value Roll has been received for implementation in the 2017/18 financial year.

General Differential Rate

This is in effect the rate that applies to most of the rateable properties in the Town of Cottesloe. The advertised rate in the dollar represents a 2.0% increase from the 2016/2017 financial year and continues the recent trend of modest, rate increases working towards .long term financial sustainability of Council's operations.

Commercial Properties – Town Centre

This category comprises all rateable land in the Cottesloe Town Centre, that is zoned Commercial in the Town of Cottesloe Town Planning Scheme. This rate in the dollar represents the general rate, plus the rate that is levied on behalf of ProCott – who use the funds in agreement with the Town – to promote and improve commercial activity within the Town Centre.

It should be noted that the above would only represent an average rates increase of 2% for most property owners, although with the revaluation there will be fluctuations around this percentage for individual households.

The differential rate is levied under the provisions of 6.33(1) (a) of the *Local Government Act 1995*.

While Council is able to adopt the differential rate with modifications, it is generally accepted practice that the differential rate imposed should not be materially different from that which was advertised.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council advertise its intention to raise the following differential general rates and minimum rates for the 2017/2018 financial year:

Differential Rate Category	Rate in the \$	Min Rate
Differential General Rate (GRV)	0.06139	\$1,090
Differential Rate – Town Centre Commercial (GRV)	0.07169	\$1,090

CARRIED 7/0

10.1.10 EVENT/FACILITY BOOKING CLASSIFICATION POLICY

File Ref: POL/84
Attachments: Draft Event/Facility Booking Classification Policy
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager, Corporate & Community Services
Elizabeth Nicholls
Senior Administration Officer
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

A recommendation is made to adopt, for the purposes of advertising, a draft reviewed Event/Facility Classification Policy.

BACKGROUND

Council adopted the current Event Classification Policy in December 2012 to ensure event organisers were charged an appropriate fee according to the scale and nature of their event and to reflect the cost and benefit of the event to the Cottesloe community. The current Policy is due for review at the end of this year.

The reviewed draft Policy has required a number of changes to provide greater clarity to applicants. The changes are summarised below.

(3) Objectives

Additional information has been added regarding the desired outcomes of the Policy. This includes acknowledging that a number of applicants request fees to be waived to support a charitable activity but they do not meet the criteria of a charitable event. The objectives also state that events booked through the Town's contracted catering company are exempt from the Policy.

(4) Policy

The original Policy separated events into the following four classifications:

1. Charitable;
2. Community;
3. Standard/Private; and
4. Commercial.

The classification for Standard/Private events has been removed as these events are charged a standard commercial rate according to the Schedule of Fees and Charges. Catered private events in the Cottesloe Civic Centre are booked through the Town's contracted catering company and are exempt from this Policy.

The draft Policy separates events into the following five classifications:

5. Charitable Events
6. Educational Events
7. Community Events
8. Tourism Events
9. Commercial Events

Each of the classifications is expanded upon under the appropriate Assessment Criteria.

Further information added to this section includes:

- J) *'The classification of the event will affect the fees charged for the hire of the facilities which are determined annually by Council when adopting the annual budget. All events will be classified as a commercial event unless the applicant otherwise specifies in writing how the event satisfies criteria of an alternate classification;'*
- J) That these *'...classifications apply to all bookings unless otherwise determined by Council'*; and
- J) *'Cottesloe Surf Life Saving Club and North Cottesloe Surf Life Saving Club functions normally associated with the operations of a surf life saving club on any beach area within the Town are exempt from fees'. A note has been added that *'...applications made by the surf life saving clubs will be given priority'*.*

(5) Assessment Criteria

Each of the assessment criteria has been updated to provide transparency to applicants, this also places part responsibility on the applicant to provide the necessary information. The changes are outlined below:

5.1. Charitable Events

The criteria and additional information has been updated to ensure the event is held for charitable purposes. For events that are of a commercial or not for profit nature that are raising funds for a charity and wish to have the fees waived, they will be required to submit an application to Council after the date of hire to have the fees reimbursed.

A note has been added stating that *'a not for profit organisation seeking to stage an event for which the organisation is formed is not considered a charitable event...'* These events will be required to pay the Community fee.

5.2. Educational Events

This classification applies to all events facilitated by Cottesloe Primary School and North Cottesloe Primary School and their affiliated Parents and Citizens Associations. This classification has been added to provide means to assist educational institutions and students by charging lesser fees.

5.3. Community Events

Minor amendments have been made to this classification to better define what events meet this criteria.

5.4. Tourism Events

This classification has been added due to the numerous applications received from applicants whose events are promoting tourism or in conjunction with Governmental tourism bodies.

5.5. Commercial Events

Minor changes have been made to this classification to include private events that are not open to the general public. This is to replace the classification of Standard/Private events from the original Policy.

(6) Related Documents

The Town has numerous documents that relate to events and restrictions on use. These have been listed for the applicant's perusal.

STRATEGIC IMPLICATIONS

There are no strategic implications arising from the Officer's Recommendation.

POLICY IMPLICATIONS

The Officer's Recommendation is to replace the current Event Classification Policy with the attached, reviewed draft Event/Facility Classification Policy.

STATUTORY ENVIRONMENT

Local Government Act 1995

Town of Cottesloe Local Government Property Local Law 1999

Beaches and Beach Reserves Local Law 2012

FINANCIAL IMPLICATIONS

The costs stated in the 2017/2018 Schedule of Fees and Charges will be updated to reflect the five event and facility classification types. This will ensure reasonable costs to users and will assist with costs of maintaining the locations from fair wear and tear.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer's Recommendation. Authorised Officers/Rangers are responsible for monitoring the use of reserves under the *Town of Cottesloe Local Government Property Local Law 1999*.

Administration staff will be responsible for liaising with event organisers and applicants to ensure they are aware of the changes to the Policy and to take payment.

SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the Officer's Recommendation.

CONSULTATION

Town of Cottesloe Staff
Elected Members

STAFF COMMENT

Staff have considered the recommended changes to the Policy carefully. Significant changes have been made to the criteria to reduce confusion of the event classification type whilst being mindful of how regular events may be impacted.

Advertising the Policy for comment will provide regular users opportunity to suggest further changes.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council adopt, for the purposes of advertising, the draft reviewed Event/Facility Classification Policy.

CARRIED 7/0

FINANCE**10.1.15 FINANCIAL STATEMENTS FOR THE MONTH ENDING 30 APRIL 2017**

File Ref: SUB/1878
Attachments: Monthly Financial Statements
Responsible Officer: Garry Bird
Manager of Corporate and Community Services
Author: Wayne Richards
Finance Manager
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

It is a requirement of the *Local Government Act 1995* that monthly and quarterly financial statements are presented to Council, in order to allow for proper control of the Town's finances and ensure that income and expenditure are compared to budget forecasts.

The attached financial statements and supporting information are presented for the consideration of Elected Members. Council staff welcomes enquiries in regard to the information contained within these reports.

BACKGROUND

In order to prepare the attached financial statements, the following reconciliations and financial procedures have been completed and verified;

-) Reconciliation of all bank accounts.
-) Reconciliation of rates and source valuations.
-) Reconciliation of assets and liabilities.
-) Reconciliation of payroll and taxation.
-) Reconciliation of accounts payable and accounts receivable ledgers.
-) Allocations of costs from administration, public works overheads and plant operations.
-) Reconciliation of loans and investments.

STRATEGIC IMPLICATIONS

There are no strategic implications arising from the Officer's Recommendation.

POLICY IMPLICATIONS

Investments Policy.
Investment of Surplus Funds Policy.

STATUTORY ENVIRONMENT

Local Government Act 1995
Local Government (Financial Management) Regulations 1996

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officers Recommendation.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from the Officers Recommendation.

CONSULTATION

There has been consultation with senior staff in the preparation of this report.

STAFF COMMENT

The following comments and/or statements provide a brief summary of major financial/budget indicators and are included to assist in the interpretation and understanding of the attached Financial Statements.

-) The net current funding position as at 30 April 2017 is \$3,298,395 and is in line with previous financial years as shown on pages 2 and 22 of the attached Financial Statements.
-) Rates receivable as at 30 April 2017 stood at \$578,995 and again is in line with previous financial years as shown on pages 2 and 25 of the attached Financial Statements.
-) Operating revenue is more than year to date budget by \$460,159 with a more detailed explanation of material variances provided on page 21 of the attached Financial Statements. Operating expenditure is \$1,091,822 less than year to date budget with a more detailed analysis of material variances provided on page 21.
-) The Capital Works Program is approximately 40% complete as at 30 April 2017 and a full capital works program listing is shown on pages 33 to 36.
-) Whilst Salaries and Wages are not reported specifically, they do represent the majority proportion of Employee Costs which are listed on the Statement of Financial Activity (By Nature and Type) on page 7 of the attached Statements. As at 30 April 2017 Employee Costs were \$6,128 more than year to date forecasts.
-) Various transfers to and from Reserve Funds have not been made for 2016/2017 and are generally undertaken in the latter half of the financial year, depending on the progress of specific projects to which these transfers relate.

List of Accounts for February 2017

The List of Accounts paid during April 2017 is shown on pages 37 to 43 of the attached Financial Statements. The following significant payments are brought to Council's attention;-

-) \$28,793.43 to the Australian Taxation Office for the monthly Business Activity Statement.
-) \$51,180.07 to Solo Resource Recovery for waste collection services.
-) \$30,743.76 to Magic Nissan for a new passenger vehicle.

- J \$32,779.45 and \$32,779.45 to Surf Life Saving Western Australia for contract life guard services for March and April 2017.
- J \$48,302.43 to Western Metropolitan Regional Council for waste disposal costs.
- J \$450,000.00 to Town of Cottesloe business investment account being an internal transfer of funds.
- J \$100,332.37 and \$92,884.35 to Town of Cottesloe staff for fortnightly payroll.

Investments and Loans

Cash and investments are shown in Note 4 on page 23 of the attached Financial Statements. Council has approximately 39% of funds invested with National Australia Bank, 23% with Bankwest, 23% with Commonwealth Bank of Australia and 15% with Westpac Banking Corporation.

Information on borrowings is shown in Note 10 on page 30 of the attached Financial Statements and shows Council had total principal outstanding of \$4,682,967 as at 30 April 2017.

Rates, Sundry Debtors and Other Receivables

Rating information is shown in Note 9 on page 29 of the attached Financial Statements. As displayed on page 2, rates receivable is trending in line with the previous year.

Sundry debtors are shown on Note 6, pages 25 and 26 of the attached Financial Statements. The sundry debtors show that 21% or \$24,256 is older than 90 days. Infringement debtors are shown on note 6(a) and stood at \$482,344 as at 30 April 2017.

Budget Amendments

Budget amendments are summarised on pages 12 and 13 of the attached Financial Statements.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Thomas

THAT Council receive the Financial Statements for the period ending 30 April 2017 as submitted to the 30 April 2017 meeting of Council.

CARRIED 7/0

10.1.16 2016/17 BUDGET AMENDMENT – PURCHASE OF SPEED ADVISORY TRAILER

File Ref: SUB/2262
Attachments: Speed Trailer Specification
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager, Corporate & Community Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

To consider an amendment to the 2016/17 Budget to purchase a new Speed Advisory Trailer utilising grant funding received from the Government of Western Australia's Road Safety Community Grants Program.

BACKGROUND

Following ongoing discussion at the Community Safety and Crime Prevention Committee, staff prepared and submitted a grant application to purchase a new Speed Advisory Trailer.

Advice has been received that the grant has been successful and Council will receive \$24,590 towards the purchase. The total cost of the new Speed Advisory Trailer is \$35,300 in addition to approximately \$2,000 in annual operating cost which is to be the responsibility of Council.

Unfortunately since the grant application was submitted, the preferred model has been superseded and is no longer available. The new model is more expensive and will now require additional Council funding of \$12,710 to purchase.

STRATEGIC IMPLICATIONS

There are no strategic implications arising from the Officer Recommendation.

POLICY IMPLICATIONS

There are no strategic implications arising from the Officer Recommendation.

STATUTORY ENVIRONMENT

Local Government Act 1995

As the purchase of the new Speed Advisory Trailer is not currently included in the adopted 2016/17 Budget, a budget amendment is required which requires an absolute majority of Council.

FINANCIAL IMPLICATIONS

The additional Council funding of \$12,710 to purchase the Speed Advisory Trailer can be accommodated from current savings in plant purchases and have no significant impact on the current Budget.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from the Officer Recommendation.

CONSULTATION

Town of Cottesloe Community Safety and Crime Prevention Committee
Cottesloe Police
WALGA Roadwise Officer

STAFF COMMENT

Council currently has a Speed Advisory Trailer which is well used to promote road and community safety messages to the general public. It is also used for major events etc. to provide messages to the public.

The existing trailer is old and nearing the end of its useful life. The purchase of a new trailer using grant funding will reduce the cost to Council in replacing the existing unit in the near future.

VOTING

Absolute Majority is required to amend the current Budget.

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Thomas

That Council amend the 2016/17 Budget to reflect the grant received for \$24,590 to purchase a new Speed Advisory Trailer for a total purchase cost of \$33,590.

CARRIED 7/0

10.2 REPORT OF COMMITTEES**RECOMMENDATION****Moved Cr Thomas, seconded Cr Rodda**

That Council note the Minutes of the following Committee Meetings with consideration given to the Committees' recommendations as highlighted below.

-) Bike Plan Review Working Group (28 April 2017 Minutes Attached)

COMMITTEE RESOLUTION**Moved Cr Pyvis, seconded Cr Thomas**

THAT the Working Group resolve to meet again in the presence of Cardno engineers to discuss the points raised in the minutes of the 28 April Bike Plan Review Working Group.

COMMITTEE RESOLUTION**Moved Cr Pyvis, seconded Cr Thomas**

THAT the Working Group recommend to Council the formal appointment of Dr Helen Sadler to the Bike Plan Review Working Group.

-) Community Safety and Crime Prevention Committee (2 May 2017 Minutes Attached)

OFFICER AND COMMITTEE RECOMMENDATION**Moved Cr Thomas, seconded Ms White**

That the Community Safety and Crime Prevention Committee recommend to Council the adoption of the Community Safety and Crime Prevention Committee Charter.

-) Disability Services Advisory Committee (2 May 2017 Minutes to be distributed ASAP)

) **CARRIED 7/0**

11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**11.1 COUNCILLOR MOTION – WILDFIRE PLANNING FOR TOWN OF COTTESLOE**

The following motion has been proposed by Cr Boulter:

1. That Council thanks the Town of Cottesloe (TOC) administration for organising Cr Boulter's attendance at the WALGA "Bushfire Planning and Biodiversity Management" 22 February 2017.
2. That the Chief Executive Officer (CEO) report back to Council before 2017/2018 budget deliberations are finalised as to whether or not the Town of Cottesloe should seek quotes from a Bushfire Practitioners Accreditation Level 3 qualified consultant for a BAL (Bushfire Attack Level) contour map of the Town of Cottesloe that would identify all and any bushfire and/or wildfire risk areas, to establish whether or not the TOC should prepare a Bushfire Management Plan and budget accordingly.
3. Invite the Councils on Western Central Local Emergency Management Arrangements (WCLEMA) to be part of a site specific BAL mapping project to share the costs and benefits.

COUNCILLOR RATIONALE

1. I noted the Bushfire Hazard report in the ROWE Group scheme amendment report for reserves Lot 225 [No1] Curtin Ave Mosman Park and Lot 346 [No21] Curtin Ave Cottesloe, dated 16 April 2016, Rowe Group reference 8539 presented to Council in August 2016. Lush Fire and Planning were engaged by Rowe Group to prepare a Bushfire Hazard Level Assessment for the subject land and attached the report at Attachment Two to the Rowe Group Report. The Report concluded that the northern portion of the subject site is classified as Extreme Hazard rating with the remainder of the subject site being classified as Moderate Hazard rating.
2. While Rowe Group acknowledge that total clearing of the site, the subject of their report, will reduce the Hazard rating the reserves around the site may also be of similar hazard and pose a risk to any development of the subject site but to other Town of Cottesloe infrastructure, not to say the development may yet be a long way to fruition if at all and so remains an extreme hazard in the meantime.
3. I attended the WALGA "Bushfire Planning and Biodiversity Management" 22 February 2017 (the Forum).
4. The reason for me wanting to attend the Forum was to ascertain how the TOC would know whether or not there are any significant bushfire/wildfire risk areas in the Town of Cottesloe.

5. This one day forum included sessions on local government bushfire planning and biodiversity management.
6. I understand that there is a “Western Central Local Emergency Management Arrangements” adopted in March 2013 adopted by the City of Vincent, Town of Cottesloe, Shire of Peppermint Grove, Town of Mosman Park, Town of Cambridge, City of Subiaco, Town of Claremont and City of Nedlands (WCLEMA).
7. It is a function of local government to ensure that effective local emergency arrangements are in place: page 17 WCLEMA
8. The WCLEMA identifies the bushfires risks from the significant tracts of local urban bushland areas: page 21 WCLEMA
9. The WCLEMA identifies that Urban Fire response is the Dept Fire and Emergency Services under Westplan Urban Fire (2000): page 22 WCLEMA, which a Forum speaker, Anthony Rowe stated was a very good model for Guidelines for preparing a Bushfire Risk Management Plan.
10. Under the WCLEMA the Local Emergency Coordinator is the Officer in Charge of the Police Station that is responding to the emergency event: page 17 WCLEMA
11. Under the State Emergency Management Plan for Fire (Westplan Fire), local governments with significant bushfire risk are required to develop an integrated Bushfire Risk Management Plan (BRMP) outlining a strategy to target bushfire related risk across all land tenures. So as I understand it, the first step is to identify if there are significant bushfire risks in the Town of Cottesloe by having a BAL map prepared by a suitably qualified expert.
12. The aim and objectives of developing a BRMP, the process and requirements (framework) for identifying and assessing bushfire related risk and preparing the BRMP - are described in the *Guidelines for preparing a bushfire risk management plan* (OBRM and DFES 2015).
13. I understand that a BPAD Level 3 practitioner is best qualified:
 - a. to assess Bushfire Attack Levels using the detailed Method 2 (AS 3959-2009) and as I understand it best qualified to derive accurate site specific result as and when required.
 - b. develop design solutions to any risks identified by the BAL map.
 - c. consider situations such as being able to determine any reduction in the bushfire threat that is presented by the existence of a radiant heat barrier (e.g. a masonry wall, including a noise attenuating wall associated with road networks).
14. I understand such mapping might be in the region of \$3-10,000 for the Town of Cottesloe.
15. I understand that the mapping that has been done for the wider metropolitan area is not to the level of detail that would identify each local government area’s specific risks if any, at the local area level.

-
16. The Kelty Inquiry, to which I made a submission, led to SPP 3.7 Planning in Bushfire Prone Areas which was completed in 2015 and has had 4 updates. However, a WALGA forum speaker, Anthony Rowe confirmed that there is not a direct connection between SPP3.7 and Westplan. However, SPP 3.7 does adopt a precautionary approach confirming the Supreme Court decision that the Precautionary approach applies to planning and development decision in WA: See *Wattleup road Development Co Pty Ltd v State Administrative Tribunal* [No.2] [2016] WASC 279. *The precautionary approach is a factor to be considered when balancing different planning considerations and the wider circumstances of a development application*: Maynard, A. Castledine Gregory Law and Mediation Legal Update published by WALGA.
17. Accordingly in my opinion, the TOC in applying the precautionary principle should at least have a BAL Assessment Report prepared specifically for the Town of Cottesloe.
18. There is also SPP 2.8 Bushland Policy for Perth Metropolitan Region, which provides for three objectives, which include protection, as follows:
- a. *to establish a conservation system at the regional level (through Bush Forever areas and to operate with the clearing controls under the Environmental Protection Act 1986) that is, as far as is achievable, comprehensive, adequate and representative of the ecological communities of the Swan Coastal Plain portion of the Perth Metropolitan Region;*
 - b. *to seek to protect and manage significant bushland recommended for protection and management for conservation purposes through a range of implementation mechanisms and as a collective and shared responsibility and general duty of care on the part of government, landowners and the community; and*
 - c. *to provide a policy and implementation framework for significant bushland areas recommended for protection and management to assist conservation planning, planning assessment and decision-making processes.*
19. Preparing a BAL report for the Town of Cottesloe is consistent with the SPP 2.8 objectives.

The climate is drying. TOC has small tracts of bushland, a revegetated coastal strip and is keen to increase the tree canopy in Cottesloe. Accordingly, it is my understanding that the Town of Cottesloe needs a site specific BAL map to ensure that every bushfire or wildfire risk to the Town if any, is identified, as a matter of prudent risk management practice. Furthermore, the TOC building and development rules and regulations should take account of any bushfire high risk areas. The TOC coastal revegetation and tree planting programs should have regard to a BAL report, according to prudent strategic planning principles. For example: the Town of Cottesloe may wish to apply the Australian Standard AS3959 (2009) for Construction of Building in Bush Fire Prone areas depending on the BAL category of land.

STAFF COMMENT

Officers are very aware of the risks that bushfires present in fire prone areas. At this stage, officers have not considered the mapping and studies outlined as necessary as the vegetation present in the Town of Cottesloe, at this point in time, presents a very low risk across the Town.

COUNCILLOR MOTION**Moved Cr Pyvis, seconded Cr Boulter**

1. That Council thanks the Town of Cottesloe (TOC) administration for organising Cr Boulter's attendance at the WALGA "Bushfire Planning and Biodiversity Management" 22 February 2017.
2. That the Chief Executive Officer (CEO) report back to Council before 2017/2018 budget deliberations are finalised as to whether or not the Town of Cottesloe should seek quotes from a Bushfire Practitioners Accreditation Level 3 qualified consultant for a BAL (Bushfire Attack Level) contour map of the Town of Cottesloe that would identify all and any bushfire and/or wildfire risk areas, to establish whether or not the TOC should prepare a Bushfire Management Plan and budget accordingly.
3. Invite the Councils on Western Central Local Emergency Management Arrangements (WCLEMA) to be part of a site specific BAL mapping project to share the costs and benefits.

LOST 2/5**For: Crs Boulter and Pyvis****Against: Mayor Dawkins, Crs Rodda, Thomas, Angers and Downes**

11.2 COUNCILLOR MOTION – DOG WALKING IN THE TOWN OF COTTESLOE

The following motion has been proposed by Cr Boulter:

That the Town of Cottesloe (TOC) Administration report back to Council by July 2017 about:

1. Where are the formal dog off lead exercise areas in the Town of Cottesloe with a map to show these sites?
2. Where are the informal dog off lead exercise areas in the Town of Cottesloe with a map to show these sites?
3. Which of the informal dog off lead exercise areas could/should be converted to formal dog off lead exercise areas and what would it require for this to be achieved?
4. If fencing is needed for any dogs off lead areas, how much needs to be set aside in the budget for this?
5. What are the current maximum fines for not picking up after a dog and whether or not this could/should be increased?
6. What is on all the signs relating to dogs in the TOC and if these need reviewing, amending and modernising?
7. What would be the cost of putting messages on the dog collection bags with environment friendly ink?
8. Whether or not each dog off lead exercise area that is proposed to be formalised is consistent with the objectives of the relevant reserve, and in respect of the SVGC does the Lease permit/prohibit dogs off leads on the SVGC? IF this is an issue, how can it be resolved?
9. How to ask most effectively the community about areas that they believe should be/should not be dog off lead exercise areas?
10. Whether or not the Town of Cottesloe Dogs Local Law Consolidated and the Town of Cottesloe Local Law Designated Areas for Dogs require amendment?
11. Whether or not allowing dogs to be exercised at the same time as allowing people to play golf could create a potential liability for the SVGC or the TOC in the event that an injury occurs, and obtain legal advice about this potential liability?
12. Staff recommendation about way forward at the SVGC for dog walking and for any other areas that could be newly formalised as dog walking areas?
13. Statistics on infringements issued by rangers for dogs off lead;
14. Statistics on dog attacks in public places; and
15. Statistics on complaints received about dogs.

COUNCILLOR RATIONALE

1. The Sea View Golf Course (SVGC) is an informal dog off lead exercise area, which can lead to issues for the TOC administration when a complaint is

made: see debate last Christmas eve which generated a lot of complaints from the community.

2. The SVGC board have provided written support to the TOC for dogs to be walked off leads on the golf course subject to clear indication of the conditions for dogs off leads including picking up dog faeces and raking bunkers disturbed by dogs.
3. The land along the east side of the railway line between Eric and Jarrad Streets is an informal dog off lead exercise area and is interspersed with playgrounds, which can lead to issues for the TOC administration when a complaint is made.
4. Owning a dog is important to many people and this has many known health benefits.
5. Dogs need exercise to promote a healthy well behaved pet.
6. Dog walking is healthy pursuit for the owners.
7. There are many articles to be found about human health and psychological benefits from dog walking including:
 - Boosting exercise motivation
 - Managing stress
 - Guarding your brain
 - Connecting with nature
 - Decreasing loneliness
 - Building community spirit
8. Dog walking fosters community connections.
9. Clear signage and clearly and publicly signed rules are important to foster good community relations between the community and the TOC administration.
10. Dog excreta can be a health hazard and a nuisance, and dog owners must be encouraged to take notice of their dog droppings when the dog is ranging a long way off lead.

STAFF COMMENT

Nil.

COUNCILLOR MOTION

Moved Cr Boulter, seconded Cr Downes

That the Town of Cottesloe (TOC) Administration report back to Council by July 2017 about:

1. **Where are the formal dog off lead exercise areas in the Town of Cottesloe with a map to show these sites?**
2. **Where are the informal dog off lead exercise areas in the Town of Cottesloe with a map to show these sites?**
3. **Which of the informal dog off lead exercise areas could/should be converted to formal dog off lead exercise areas and what would it require for this to be achieved?**

4. If fencing is needed for any dogs off lead areas, how much needs to be set aside in the budget for this?
5. What are the current maximum fines for not picking up after a dog and whether or not this could/should be increased?
6. What is on the all the signs relating to dogs in the TOC and if these need reviewing, amending and modernising?
7. What would be the cost of putting messages on the dog collection bags with environment friendly ink?
8. Whether or not each dog off lead exercise area that is proposed to be formalised is consistent with the objectives of the relevant reserve, and in respect of the SVGC does the Lease permit/prohibit dogs off leads on the SVGC? IF this is an issue, how can it be resolved?
9. How to ask most effectively the community about areas that they believe should be/should not be dog off lead exercise areas?
10. Whether or not the Town of Cottesloe Dogs Local Law Consolidated and the Town of Cottesloe Local Law Designated Areas for Dogs require amendment?
11. Whether or not allowing dogs to be exercised at the same time as allowing people to play golf could create a potential liability for the SVGC or the TOC in the event that an injury occurs, and obtain legal advice about this potential liability?
12. Staff recommendation about way forward at the SVGC for dog walking and for any other areas that could be newly formalised as dog walking areas?
13. Statistics on infringements issued by rangers for dogs off lead;
14. Statistics on dog attacks in public places; and
15. Statistics on complaints received about dogs.

CARRIED 7/0

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**12.1 ELECTED MEMBERS****COUNCILLOR MOTION****Moved Cr Downes, seconded Cr Pyvis**

That Council agree to accept two late Councillor Motions from Cr Downes and Cr Pyvis

CARRIED 7/0**12.1.1 COUNCILLOR MOTION – PLASTICS IN THE TOWN OF COTTESLOE**

The following motion has been proposed by Cr Downes:

That the Town of Cottesloe write to the WA Environment Minister Stephen Dawson in support of his initiative to

- 1. explore the ban of single use plastic bags in WA and;**
- 2. lobby for a container deposit scheme in West Australian**

COUNCILLOR RATIONALE

The Town of Cottesloe is committed to preserving and improving its natural and built environment. We aim to provide leadership in environmental management, sustainability initiatives and in preparing for and mitigating climate change. By supporting this initiative we continue to show commitment to the environment & sustainability.

- J The Town of Cottesloe is privy to WA's iconic Cottesloe Beach and the marine life that inhabit it. Single use plastic bags cause many deaths of our sea animals and land animals alike. I think it is important that we show Mr Dawson our full support of this initiative that he is taking.
- J Many states have implemented the ban of single use plastic bags including South Australia, the ACT, Northern Territory and Tasmania. It is about time WA did the same.
- J Some retailers no longer offer plastic bags to customers, for example Bunnings and IKEA.
- J As much as I would like to one day see the banning of single use plastic bags as a Local Law, I think the first step is supporting the Minister for Environment in his initiative to explore alternatives to the single use plastic bags.

Below are some facts about plastics in the world, we have the opportunity to start making a change for the better, we should support this change. We need to end plastic pollution.

- J An estimated eight million metric tons of plastic waste enter the oceans each year. The problem is found in every known ecosystem and at every level of the food chain;
- J More than 350 million tons of plastics are manufactured each year and that number continues to rise;
- J Only 1% of what you see on the beach and on the surface is the plastic that exists in the world;
- J If current marine pollution trends continue, the oceans will contain more plastic than fish by the year 2050;
- J Leading environmentalists see the end of most sea life happening within the next 6—16 years;
- J By 2025 all the coral reef ecosystems in the world will be gone;
- J When wildlife ingest plastic, the brew of toxic chemicals can be transferred to the animal's tissues. Fragments of plastics and textile fibres have been found in the guts of a huge variety of fish and shellfish that we eat..

COUNCILLOR MOTION

Moved Cr Downes, seconded Mayor Dawkins

That Cottesloe Council write to the WA Environment Minister Stephen Dawson in support of his initiative to

- 1. explore the ban of single use plastic bags in WA and;**
- 2. lobby for a container deposit scheme in West Australian**

CARRIED 7/0

12.1.2 COUNCILLOR MOTION – AUDIO RECORDINGS OF TOWN OF COTTESLOE MEETINGS

The following motion has been proposed by Cr Pyvis:

THAT Council

- 1. Allow members of the public to listen to the audio recordings of meetings that are open to the public, under the supervision of a person as designated by the CEO.**
- 2. Each time a vote is taken, on any matter before Council, the names of Elected Members are recorded under headings FOR and AGAINST.**

COUNCILLOR RATIONALE

1. Allow members of the public to listen to the audio recordings of meetings, under the supervision of a person as designated by the CEO. On 29 March 2016, I presented a Motion to Council to introduce the electronic recording of Council Meetings.

This Motion was amended by Cr Rodda (seconded Cr Birnbrauer) to add the words "and that such recordings be used for the sole purpose of confirming the correctness of the Minutes of the Briefing Sessions and Meetings, but should not otherwise be published".

The intent of my original Motion was to promote greater accountability to residents and ratepayers, in accordance with section 1.3(2)(c) of the Local Government Act 1995, being

GOVERNMENT ACT 1995 - SECT 1.3**1.3 . Content and intent**

- (2) This Act is intended to result in —
 - (c) greater accountability of local governments to their communities; and

In particular, I believe the public should have access to audio recordings to improve the transparency of local government and governance in Cottesloe.

I now, therefore, request that members of the public be allowed to listen to the audio recordings of meetings under the supervision of a person as designated by the CEO.

2. Each time a vote is taken, on any matter before Council, the names of Elected Members are recorded under headings FOR and AGAINST

On 28 June 2016, Cr Thomas **(seconded Cr Pyvis) presented the Motion (below) to Council**

That each time a vote is taken, on any matter before Council, the names of the Elected Members for and against the motion is recorded, in separate columns under headings - FOR/AGAINST

Lost 4/5 For: Crs Boulter, Thomas, Birnbrauer and Pyvis Against: Mayor Dawkins, Crs Angers, Burke, Rodda and Downes

Many councils, as a matter of practice, record voting during meetings in this way. Such councils include Subiaco, Claremont, Nedlands, Mosman Park.

The aim of my Motion is to promote greater accountability to residents and ratepayers, in accordance with section 1.3(2)(c) of the Local Government Act 1995, being

GOVERNMENT ACT 1995 - SECT 1.3

1.3 . Content and intent

(2) This Act is intended to result in —

(c) greater accountability of local governments to their communities; and

In particular, I believe the way Elected Members vote on every matter before Council (either FOR or AGAINST) should be recorded in the Minutes, thus improving the governance, transparency and accountability of local government in Cottesloe.

Since Cr Thomas's Motion 28 June 2016 was defeated, the minutes of meetings show that an Elected Member has requested that names and voting be recorded on almost every matter before Council.

It would therefore be more efficient use of Elected Members' and the minute taker's time to establish this as a matter of practice, thus eliminating the need to request it following every vote (as now occurs).

COUNCILLOR MOTION

Moved Cr Pyvis, seconded Cr Boulter

THAT Council

- 1. Allow members of the public to listen to the audio recordings of meetings that are open to the public, under the supervision of a person as designated by the CEO.**

CARRIED 4/3

For: Crs Boulter, Pyvis, Downes and Thomas

Against: Mayor Dawkins, Crs Anger and Rodda

- 2. Each time a vote is taken, on any matter before Council, the names of Elected Members are recorded under headings FOR and AGAINST.**

CARRIED 6/0

COUNCILLOR MOTION**Moved Mayor Dawkins, seconded Cr Rodda****That Council agree to accept a late Memorandum from Mr Nick Woodhouse
CARRIED 7/0**

Cr Downes declared a proximity interest against SeaView Golf Club Inc. and left the room at 10:01 PM

12.1.3 2016/17 BUDGET AMENDMENT – ASPHALT WORKS AT SEA VIEW GOLF CLUB INC. DEPOT FACILITY

File Ref: SUB/990
Attachments: Nil
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Nick Woodhouse
Manager Engineering Services
Proposed Meeting Date: 23 May 2017
Author Disclosure of Interest: Nil

SUMMARY

To consider an amendment to the 2016/17 Budget for asphalt works at the Sea View Golf Club depot facility.

BACKGROUND

The existing hard stand area adjacent to the Town of Cottesloe depot facility requires asphalt surfacing as it becomes boggy for vehicles in the winter.



Figure 1: Area to be asphalted

\$27,000 exists in the 2016/17 Budget to carry out these works however the lowest quote for the works is \$38,904.

STRATEGIC IMPLICATIONS

There are no strategic implications arising from the Officer Recommendation.

POLICY IMPLICATIONS

There are no policy implications arising from the Officer Recommendation.

STATUTORY ENVIRONMENT

Local Government Act 1995

As the total purchase cost of the asphalt is not currently included in the adopted 2016/17 Budget, a budget amendment is required which requires an absolute majority of Council. All works within the Sea View Golf Club will require a planning approval from the West Australian Planning Commission as the land sits under the Metropolitan Region Scheme. The West Australian Planning Commission has approved the works.

FINANCIAL IMPLICATIONS

The additional Council funding of \$11,904 to purchase the asphalt can be accommodated from current savings in footpath projects and has no significant impact on the current Budget.

STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer Recommendation.

SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from the Officer Recommendation.

CONSULTATION

Town of Cottesloe Staff
Sea View Golf Club

STAFF COMMENT

The existing compacted rock hardstand becomes boggy for vehicles when entering and exiting the Town of Cottesloe shed and also when utilising the storage bins.

This area is currently used by the Sea View Golf Club and the Town of Cottesloe.

VOTING

Absolute Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Rodda

That Council amend the 2016/17 Budget to reflect the quote received to supply and lay asphalt to a total purchase cost of \$38,904

AMENDMENT

Moved Cr Boulter, seconded Cr Pyvis

That the words 'subject to advice from the Heritage Council and the WAPC that this does not require approval' be added after \$38,904 as follows:

That Council amend the 2016/17 Budget to reflect the quote received to supply and lay asphalt to a total purchase cost of \$38,904 subject to advice from the Heritage Council and the WAPC that this does not require approval.

CARRIED 6/0

Cr Downes returned to the room at 10:09 PM

12.2 OFFICERS

Nil.

13 MEETING CLOSED TO PUBLIC**13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED****PROCEDURAL MOTION**

Moved Mayor Dawkins, seconded Cr Rodda

That the meeting be closed to the public to address the remaining two confidential items.

CARRIED 7/0

The meeting was closed to the public at 10:09 PM and all members of the public and media representatives left the room.

Mayor Dawkins adjourned the meeting for a five minute recess at 10:09 PM

The meeting reconvened at 10:14 PM

13.1.7 INDIANA TEA HOUSE (CONFIDENTIAL)

File Ref: SUB/2215
Attachments: NIL
Responsible Officer: MAT HUMFREY
CHIEF EXECUTIVE OFFICER
Author: MAT HUMFREY
CHIEF EXECUTIVE OFFICER
Proposed Meeting Date: 23 MAY 2017
Author Disclosure of Interest: NIL

SUMMARY

This report recommends that Council note the information contained in the confidential officer report in relation to a legal briefing regarding Indiana Tea House.

BACKGROUND

Refer to the confidential report.

STRATEGIC IMPLICATIONS

Refer to the confidential report.

POLICY IMPLICATIONS

Refer to the confidential report.

STATUTORY ENVIRONMENT

Local Government Act 1995

5.23 Meeting Generally Open to the Public

(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 —

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

FINANCIAL IMPLICATIONS

Refer to the confidential report.

STAFFING IMPLICATIONS

Refer to the confidential report.

SUSTAINABILITY IMPLICATIONS

Refer to the confidential report.

CONSULTATION

Refer to the confidential report.

STAFF COMMENT

As the content of the report contains information that meets the conditions set in the Local Government Act 1995 s5.23(2)(d), it is recommend that the meeting be closed to the general public while considering this item.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Rodda, seconded Cr Downes

THAT Council:

- 1. Adopt the amended Officer's Recommendation contained within the confidential report and;**
- 2. That the report remain confidential until the matter is resolved.**

CARRIED 7/0

Cr Pyvis declared an impartiality interest against Item 13.1.2 Right of Way 64 (Confidential) as an acquaintance of the resident of 119 Curtin Avenue, Cottesloe, and declared that she could consider the matter on its merits and vote accordingly.

13.1.2 RIGHT OF WAY 64 (CONFIDENTIAL)

File Ref: SUB/304
Attachments: NIL
Responsible Officer: MAT HUMFREY
CHIEF EXECUTIVE OFFICER
Author: MAT HUMFREY
CHIEF EXECUTIVE OFFICER
Proposed Meeting Date: 23 MAY 2017
Author Disclosure of Interest: NIL

SUMMARY

This report recommends that Council note the information contained in the confidential officer report in relation to a legal briefing regarding Right of Way 64.

BACKGROUND

Refer to the confidential report.

STRATEGIC IMPLICATIONS

Refer to the confidential report.

POLICY IMPLICATIONS

Refer to the confidential report.

STATUTORY ENVIRONMENT

Local Government Act 1995

5.23 Meeting Generally Open to the Public

(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 —

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

FINANCIAL IMPLICATIONS

Refer to the confidential report.

STAFFING IMPLICATIONS

Refer to the confidential report.

SUSTAINABILITY IMPLICATIONS

Refer to the confidential report.

CONSULTATION

Refer to the confidential report.

STAFF COMMENT

As the content of the report contains information that meets the conditions set in the Local Government Act 1995 s5.23(2)(d), it is recommend that the meeting be closed to the general public while considering this item.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Boulter, seconded Cr Rodda

That Council:

1. That Council defer consideration of this Item pending receipt of legal advice.

CARRIED 7/0

PROCEDURAL MOTION

Moved Mayor Dawkins, seconded Cr Pyvis

That the meeting be reopened to the public.

CARRIED 7/0

The Mayor read aloud the resolutions made while the meeting was closed to the public.


14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 10:56 PM

CONFIRMED MINUTES OF 23 May 2017 PAGES 1 – 121 INCLUSIVE.

PRESIDING MEMBER:

POSITION:


.....

DATE: 27 / 6 / 2017.