

TOWN OF COTTESLOE



ORDINARY COUNCIL MEETING

AGENDA

ORDINARY COUNCIL MEETING
TO BE HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
6 pm Tuesday, 23 May 2023

Town of Cottesloe

ORDINARY COUNCIL MEETING

Notice is hereby given that the next Ordinary Council Meeting will be held in the Council Chambers, Cottesloe Civic Centre

109 Broome Street, Cottesloe on **23 May 2023** commencing at **6 pm**.

The business to be transacted is shown on the Agenda hereunder.

Yours faithfully,



William Matthew Scott
Chief Executive Officer

19 May 2023

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Town for any act, omission, statement or intimation occurring during council meetings.

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Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a council meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or officer of the Town of Cottesloe during the course of any meeting is not intended to be and is not taken as notice of approval from the Town.

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Members of the public should note that no action should be taken on any application or item discussed at a council meeting prior to written advice on the resolution of Council being received.

Agenda and minutes are available on the Town's website www.cottesloe.wa.gov.au



DISCLOSURE OF INTERESTS

Agenda Forum

Ordinary Council Meeting

Special Council Meeting

Name of Person Declaring an interest

Position

Date of Meeting

This form is provided to enable members and officers to disclose an Interest in the matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 34C.

INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial

Proximity

Impartiality

INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial

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Impartiality

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Item No

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Nature of Interest

Type of Interest

Financial

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Impartiality

DECLARATION

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

Notes for Your Guidance

IMPACT OF A FINANCIAL INTEREST (s. 5.65. & s. 67. Local Government Act 1995)

A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- a. In a written notice given to the Chief Executive Officer before the Meeting or;
- b. At the Meeting immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- a. Preside at the part of the Meeting relating to the matter or;
- b. Participate in, or be present during, any discussion or decision making procedure relative to the matter, unless and to the extent that, the disclosing member is allowed to do so under *Section 5.68* or *Section 5.69* of the *Local Government Act 1995*.

INTERESTS AFFECTING FINANCIAL INTEREST

The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest in a matter**.

1. A Financial Interest, pursuant to s. 5.60A or 5.61 of the *Local Government Act 1995*, requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are expectations in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e sporting, social, religious etc, and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e, if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors and ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **must** be given when the matter arises in the Agenda, and immediately before the matter is discussed. Under s. 5.65 of the *Local Government Act 1995* failure to notify carries a penalty of \$10 000 or imprisonment for 2 years.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) of the *Local Government Act 1995*; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the *Local Government Act 1995*, with or without conditions.

INTERESTS AFFECTING PROXIMITY (s. 5.60b Local Government Act 1995)

1. For the purposes of this subdivision, a person has a proximity interest, pursuant to s.5.60B of the Local Government Act 1995, in a matter if the matter concerns;
 - a. a proposed change to a planning scheme affecting land that adjoins the person's land; or
 - b. a proposed change to the zoning or use of land that adjoins the person's land; or
 - c. a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
2. In this section, land (the proposal land) adjoins a person's land if;
 - a. The proposal land, not being a thoroughfare, has a common boundary with the person's land; or
 - b. The proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - c. The proposal land is that part of a thoroughfare that has a common boundary with the person's land.
3. In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

INTERESTS AFFECTING IMPARTIALITY

Definition: An interest, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.

A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- a. In a written notice given to the Chief Executive Officers before the Meeting or;
- b. At the Meeting, immediately before the matter is discussed.

IMPACT OF AN IMPARTIALITY DISCLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest exist.

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

I would like to begin by acknowledging the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet today, and pay my respects to their Elders past and present. I extend that respect to Aboriginal and Torres Strait Islander peoples here today.

2 DISCLAIMER**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Thomas Jowett, 31 Eric Street, Cottesloe

Q3: What is the expected annual license fee for the Datacom ERP software package?

R3: \$95,000 pa.

Q4: What accounting treatment has been applied to this liability?

R4: The annual licence fee will be expensed in the Operating Statement.

On 28 Mar 2023, the Town of Cottesloe minutes describe an "Increased expenditure on the Eric Street shared path of \$326,806 partially matched with some extra grant funding of \$68,000 and increased transfers from reserves of \$175,000"

Q5: Who provided the \$68,000 grant?

R5: The Department of Transport

Q6: Where is it recognized in the financial accounts?

R6: It will be recognised as Grant Income in the 22/23 Accounts.

Q7: Where in the 2021/22 accounts was the "prepayment" of \$155,651 from the federal government recorded for the LRCI grant?

R7: The "prepayment" has been recognised as "Income in Advance", which is included within Note 12 Trade and Other Payables within the Annual Financial Statements.

In the Ernst and Young 2022 audit for the town of Cottesloe, they stated the following: "As part of our audit procedures, we noted a new grant received in the current year for the construction of a non-financial asset was incorrectly recognized as income prior to completion of the project".

- Q8: What was the grant and what was the asset?
R8: \$2500 for Activation initiatives on the Principal Shared Path, which was not completed in 21/22. The Auditors did not require a correction given that the amount involved was not material.

On 27/03/2023 there is a charge for \$117,687.90 from "Database Consultants Australia"

- Q9: What is this charge for?
R9: Removal, installation, and annual support and maintenance of Parking Sensors.

Q10: What competitive process was pursued to choose "Database consultants Australia" as a provider?
R10: Tender T15/2019 approved by the Council.

On 6th April the office of the auditor general wrote to the elected members of the Town of Cottesloe and stated that "other information" needed for their audit had not been provided, and therefore their auditor's report had the potential to be retracted.

- Q11: Why wasn't this information provided?
Q12: Has the information since been provided to the auditor?
R11 & 12: The paraphrasing of the communication from the Office of the Auditor General (OAG), dated 6 April, at start of the question(s) is inaccurate. The "Other information" section of OAG Independent Auditor's Report, 6 April 2023, relates to the non-financial information contained within the Annual Report, which is not the subject of the Audit process (as per in paras 1&2 of the "Other Information" section of the report). The Annual Report (inclusive of both audited financial and unaudited non-financial information) is not generally available until after the completion of Audit. The Town has been advised by the OAG that the wording within the "Other information" section of the Auditor's report is standard wording in all Local Government Audit Reports.

Once the Annual Report is adopted and published, the OAG will review the published document and communicate to the Town if there are any material misstatements identified. If any material misstatements are not corrected, the OAG could retract the Audit Report (as per paras 3&4 of the "Other information" section). It is not expected that there are any material misstatements in the Annual Report and there has been no communication from the OAG since the Annual Report was published.

The entire OAG Independent Audit Report, 6 April 2023, (including the “Other information” section) can be found on pages 37-39, of the attachments of the Audit Committee Minutes 12 April 2023 available at:

<https://www.cottesloe.wa.gov.au/council/committees/committees-and-working-groups/audit-committee.aspx>.

On 6th April the office of the auditor general separately wrote to the mayor and pointed out that there were a number of “Management control issues” identified during the Town of Cottesloe’s audit. These issues were attached to their letter but are not in the minutes.

Q13: Where are the issues?

R13: These issues were included in the “Findings Identified – Ernst and Young Auditors” attachment to the Minutes of the Audit Committee Meeting 12 April 2023, pages 21-26, and formed part of the attachments for the April OCM.

Q14: Can you please provide them on your website?

R14: The Audit Committee Minutes (including attachments) are available at:

<https://www.cottesloe.wa.gov.au/council/committees/committees-and-working-groups/audit-committee.aspx>

4.2 PUBLIC QUESTIONS

5 PUBLIC STATEMENT TIME

6 ATTENDANCE

Elected Members

Mayor Lorraine Young
Cr Helen Sadler
Cr Melissa Harkins
Cr Kirsty Barrett
Cr Paul MacFarlane
Cr Chilla Bulbeck
Cr Brad Wylynko
Cr Richard Atkins

Officers

Mr William Matthew Scott	Chief Executive Officer
Ms Freya Ayliffe	Director Development and Regulatory Services
Mr Shaun Kan	Director Engineering Services
Mr Wayne Zimmermann	Manager of Planning
Mr Ed Drewett	Coordinator Statutory Planning
Ms Jacquelyne Pilkington	Governance & Executive Office Coordinator

6.1 APOLOGIES**6.2 APPROVED LEAVE OF ABSENCE**

Cr Craig Masarei

6.3 APPLICATIONS FOR LEAVE OF ABSENCE**7 DECLARATION OF INTERESTS****8 CONFIRMATION OF MINUTES**

That the Minutes of the Ordinary Meeting of Council held on Wednesday 26 April 2023 be confirmed as a true and accurate record.

That the Minutes of the Special Meeting of Council held on Tuesday 16 May 2023 be confirmed as a true and accurate record.

9 PRESENTATIONS**9.1 PETITIONS**

Procedure of Petitions – Local Government (Meetings Procedure) Local Law 2021, Clause 6.11

(3) *The only question which shall be considered by the council on the presentation of any petition shall be:*

- a) that the petition shall be accepted;*
- b) that the petition shall not be accepted;*
- c) that the petition be accepted and referred to the CEO for consideration and report; or*
- d) that the petition be accepted and dealt with by the full council.*

9.2 PRESENTATIONS**9.3 DEPUTATIONS**

10 REPORTS

10.1 REPORTS OF OFFICERS

COUNCIL RESOLUTION

That Council adopts the following en-bloc Officer Recommendations contained in the Agenda for the Ordinary Meeting of Council 23 May 2023:
____' ____' ____' ____' ____' ____' ____'

CORPORATE AND COMMUNITY SERVICES**10.1.1 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2022 TO 31 MARCH 2023**

Directorate: Corporate and Community Services
Author(s): Wayne Richards, Acting Finance Manager
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D23/19962
Applicant(s): Nil
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 to ensure that income and expenditure are compared to budget forecasts.

OFFICER RECOMMENDATION IN BRIEF

That Council receives the Monthly Financial Statements for the period 1 July 2022 to 31 March 2023.

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.
- Allocation of costs from administration, public works overheads and plant operations.
- Reconciliation of loans and investments.

OFFICER 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 31 March 2023 was \$5,995,362 as compared to \$6,026,672 this time last year.

- Operating revenue is more than the year to date budget by \$32,387 with a more detailed explanation of material variances provided on page 19 of the attached financial statements. Operating expenditure is \$2,302,543 less than year to date budget, with a more detailed analysis of material variances provided on page 19.
- The Capital Works Program is shown in detail on pages 33 to 34 of the attached financial statements.
- The balance of cash backed reserves was \$8,356,226 as at 31 March 2023 as shown in note 7 on page 26 of the attached financial statements.

List of Accounts Paid for February 2023

The list of accounts paid during February 2023 is shown on pages 35 to 41 of the attached financial statements, please note the list of payments for March 2023 was presented to Council on 26 April 2023.

The following material payments are brought to Council's attention:

- \$59,249.28 to the Australian Taxation Office for the monthly business activity statement
- \$26,270.33 to Charles Service Cleaning for cleaning services
- \$90,035.14 & \$115,746.77 to Rico Enterprises P/L for waste collection services
- \$46,643.30 to Shine Community Services being the Town's contribution towards the Shine service
- \$38,994.37 to the Department of Mines, Industry, Regulation and Safety for building services levies collected on their behalf by the Town
- \$33,224.83 & \$32,166.81 for employee Superannuation Contributions
- \$141,443.02 and \$133,325.76 to Town of Cottesloe staff for fortnightly payroll

Investments and Loans

Cash and investments are shown in note 4 on page 21 of the attached financial statements. The Town has approximately 42% of funds invested with the National Australia Bank, 36% with the Commonwealth Bank of Australia and 22% with Westpac Banking Corporation.

Information on borrowings is shown in note 10 on page 30 of the attached financial statements. The Town had total principal outstanding of \$2,477,284 as at 31 March 2023.

Rates, Sundry Debtors and Other Receivables

Rates outstanding are shown on note 6 on page 23 and show a balance of \$644,806 outstanding as compared to \$443,412 this time last year.

Sundry debtors are shown on note 6 on page 23 of the attached financial statements. The sundry debtors report shows that 40% or \$60,460 is older than 90 days. Please note that a part of this \$44,000.00 was received in April which had inadvertently been paid to the Town of Claremont in error. Infringement debtors are shown on note 6 on page 25 and were \$493,133 as at 31 March 2023.

ATTACHMENTS

10.1.1(a) Monthly Financial report 1 July 2022 to 31 March 2023 [under separate cover]

CONSULTATION

Nil

STATUTORY IMPLICATIONS

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

There are no perceived policy implications arising from the officer's recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2022 to 31 March 2023 as submitted to the 23 May 2023 meeting of Council.

ENGINEERING SERVICES**10.1.2 PUBLIC TRANSPORT AUTHORITY (PTA) SPONSORSHIP AGREEMENT FOR THE COTT CAT BUS SERVICE**

Directorate: Engineering Services
Author(s): Emma Saikovski, Coordinator Environmental Projects
Authoriser(s): Shaun Kan, Director Engineering Services
File Reference: D23/16053
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

For Council to review the draft sponsorship agreement and authorise the CEO to sign on behalf of the Town.

OFFICER RECOMMENDATION IN BRIEF

To approve the sponsorship agreement between the Public Transport Authority and the Town of Cottesloe, enabling a 50% co-contribution for the Cott Cat bus service.

BACKGROUND

The Town has operated a Cott Cat service since 2010/2011, with joint funding from the WA Public Transport Authority (PTA). The Cott Cat provides a free and convenient way to travel between Cottesloe Beach and the Cottesloe train station. This supports low emissions transport by reducing car use and congestion on the roads during peak times.

Initially this service ran during public holidays, weekends and public holidays however since 2018, it has operated during the busy two week period of Sculpture by the Sea only.

The preceding sponsorship agreement with the PTA commenced on 1 September and is due to expire on 31 August 2023. The funding arrangements are as follows:

Transperth agrees to provide the Town of Cottesloe sponsorship funding of 50% of the estimated Total Operating Cost of providing the Cottesloe Shuttle Service, which will be determined on an annual basis.

The Town has been offered another sponsorship agreement with PTA for a term of five years. The funding arrangements remain the same however; minor updates have been made to reflect service scope and procurement time frames.

OFFICER COMMENT

The Cott Cat service provides an environmentally friendly and accessible means to access the Sculpture by the Sea event as well as the Cottesloe beachfront precinct. Re-signing the sponsorship agreement with PTA ensures this remains financially viable for the Town.

Sculpture by the Sea is a major drawcard to the area, attracting thousands of visitors each year. Continuing the Cott CAT service not only ensures a viable transport link between the

beach and the train station during this busy season, but also promotes sustainable travel, reduces car dependence and traffic congestion.

The Draft agreement is attached for Council's review, with changes from the previous agreement marked in red.

Council is to note that a contribution for any additional services can be negotiated and introduced as an addendum to the agreement. It does not need to be done as part of this initial approval request.

Matters such as route choice and type of bus is not a factor within the agreement. The Town's current service providers are required to continue using buses that have a 5 star fuel efficiency and minimal carbon emission rating. Route and stops are determine based on customer and service provider feedback.

Below is a summary of historic patronage statistics:

2019 – 2242, 2020- 2442, 2021- 3569. 2023 is currently being finalised by the service providers.

More time is required to source for data prior to 2018 should this be required by Council.

ATTACHMENTS

10.1.2(a) DRAFT PTA Sponsorship Agreement - Cott Cat Shuttle Bus 2023- 2028
[under separate cover]

CONSULTATION

Town of Cottesloe Elected Members

STATUTORY IMPLICATIONS

Local Government Act 1995

POLICY IMPLICATIONS

There are no perceived policy implications arising from the officer's recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 5: Providing sustainable infrastructure and community amenities

Major Strategy 3.4: Increase public transport services and solutions for moving people to and from the beach area.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

Each year \$30,000 is allocated in 57.9000.993

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation. The sponsorship agreement with the PTA aims to ensure that a sustainable transport option is available during the busy 'Sculptures by the Sea' season.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council AUTHORISES the CEO to sign the attached Public Transport Authority Sponsorship Agreement.

10.1.3 RIGHT OF WAY POLICY

Directorate: Engineering Services
Author(s): Shaun Kan, Director Engineering Services
Authoriser(s): Matthew Scott, Chief Executive Officer
File Reference: D23/18857
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider the attached updated Right of Way (ROW) Policy that adopts a position on the management of any unauthorised encroachments.

OFFICER RECOMMENDATION IN BRIEF

For Council to adopt the attached revised Right of Way Policy.

BACKGROUND

The policy was last reviewed and adopted by Council in June 2020. The revisions were predominantly the abolishment of the ROW contribution scheme and amending laneways that were exempted from this policy. At the same meeting, Council also considered the ROW 20 encroachments and authorised the Chief Executive Officer (CEO) to negotiate with landowners to address the matter either through a land sale or adverse possession.

The tightening of Covid-19 restrictions by the State Government prevented the resolution from progressing.

At the February Special Council Meeting (SCM) and March Ordinary Council Meeting (OCM) 2023, Council, considered legal advice and resolved not to further action 36 and 38 Florence Street adverse possession application. The CEO was also instructed to:

- Seek further legal and technical advice to manage and potentially prevent any further claims for adverse possession for any remaining portions of ROW 20 (20A, 20B or 20D);
- To continue to progress the transfer of any and all remaining ROWs currently in the name to the Town of Cottesloe to the Crown;
- Undertake physical surveys and inspections as part of preventative and transfer; and
- Review Policy Pol/59 Right of Way and present the reviewed policy to a future Council Meeting for consideration, by the May 2023 OCM.

Accordingly, the current ROW Policy has been updated to provide a Council position on the recent matters.

OFFICER COMMENT

It would not be unreasonable to conclude based on the recent SCMs that Council does not have any appetite for any encroachments onto its laneways. This is further reinforced within the Doscas Lane item where Council did not support State owned land containing unauthorised structures to be amalgamated with private property.

Council is also to note that the State Government's legislation does not permit adverse possession on Crown land (Limitations Act, 2005). Council's adoption of an initial position to ask for all encroachments to be removed is consistent with this law and is required before any municipal owned laneways can be transferred to the Crown. Adverse possession within Council owned ROWs is dealt with separately under the Lands Administration Act (1997) which also needs to be completed prior to any transfer to the Crown.

The attached revised ROW Policy contains amendments listed below to allow a process that ensures the preservation of laneways owned and vested in Council so as to allow residents an unobstructed thoroughfare. Previous legal advice relating to Council's obligations towards protecting resident's easement rights has been taken into consideration when drafting these changes.

- Policy purpose, Paragraph 1.2 has been updated to reflect providing an unobstructed public thoroughfare;
- Policy requirements, Paragraph 3.2, a new section, has been introduced to address encroachments and unauthorised use. Such information is no longer in Paragraph 3.1, Ownership that has been amended to only focus on removing all encroachments and transferring Council owned ROWs to the Crown.

Attached is the revised ROW Policy with the above mentioned changes demarcated.

Should Council accept the policy, the Town will, at the completion of the ROW surveys mentioned in the 21 February 2023 Special Council Meeting (<https://www.cottesloe.wa.gov.au/council-meetings/special-council-meeting/21-february-2023-special-council-meeting/325/documents/confirmed-minutes.pdf>) give encroaching property owners an initial 30 days to remove such encroachments.

Depending on the response from owners following this initial period, the Town will then determine on a case by case basis what further action is required to achieve compliance with the policy.

ATTACHMENTS

- 10.1.3(a) Draft - Right of Way Policy - May 2023 - with track changes v3 [under separate cover]**

CONSULTATION

Hawkstone Street residents

Mcleods solicitors

Department of Lands

STATUTORY IMPLICATIONS

Local Government Act 1995 Section 2.7 – Role of Council

Land Administration Act (1997) Section 58 - Activities on Thoroughfares and Trading in Thoroughfares and Public Places

Limitations Act (2005) Section 76 – No Action by Adverse Possession Against the Crown

POLICY IMPLICATIONS

The current policy Pol/59 has been updated to include Council's position in the management of all forms of encroachments.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 5: Providing sustainable infrastructure and community amenities

Major Strategy 5.2: Manage assets that have a realisable value.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council:

- 1. ADOPTS the proposed changes to the Policy Pol/59 (as attached).**

10.1.4 BUDGET AMENDMENT - BALFOUR STREET ROADS TO RECOVERY

Directorate: Engineering Services
Author(s): Shaun Kan, Director Engineering Services
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D23/19767
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider the reallocation of the \$70,000 2022/2023 Roads to Recovery Funding between Balfour Street (Salisbury Street to West Coast Highway) and Melville Street (Congdon Street to Railway Street).

OFFICER RECOMMENDATION IN BRIEF

For Council to consider allocating \$24,000 of the 2022/2023 Roads to Recovery Funding to Balfour Street and the remaining \$46,000 to Melville Street for the purpose of road resurfacing works.

BACKGROUND

At the April 2023 Ordinary Council Meeting, Council resolved as follows for the return of the Metropolitan Roads Regional Group Contribution and reallocation of the 2022/2023 Roads to Recovery Funding :

OCM065/2023

THAT Council by absolute majority APPROVES:

- 1. Return of the \$342,501 Metropolitan Region Roads Group Grant;**
- 2. Reallocation of the remaining Municipal Funds of \$149,982 to the Infrastructure Reserve; and**
- 3. Reassign the \$70,000 Roads to Recovery Funding to Melville Street between Congdon Street and Railway Street.**

Further pavement investigations have since been undertaken and quotes obtained for Melville Street has identified savings that can be used to resurface another section of Local Road.

OFFICER COMMENT

The section of Balfour Street mentioned in the Summary of this report was identified as an additional Local Road for resurfacing from the condition survey results that was used to inform the Asset Management (March 2023) and Long Term Financial Plan (December 2022) recently adopted by Council.

A quote obtained for Balfour Street from the Town's Asphalt Contractors confirms that the resurfacing works can be completed within the \$25,000 budget amendment requested.

Accordingly, Council is asked to approve a budget amendment as follows:

- Melville Street – Reduction from \$70,000 to \$45,000
- New Project – Balfour Street from \$0 to \$25,000

Council is to note that our Asphalt Contractors have confirmed the ability to complete both projects before 30 June 2023, subject to Council approving the budget amendment.

ATTACHMENTS

Nil

CONSULTATION

No consultation is required.

STATUTORY IMPLICATIONS

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

There are no perceived policy implications arising from the officer's recommendation.

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.2: Continue to deliver high quality governance, administration, resource management and professional development.

RESOURCE IMPLICATIONS

All resurfacing works will be delivered by contractors and managed by the Town's Engineering Directorate.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no known environmental implications

VOTING REQUIREMENT

Absolute Majority

OFFICER RECOMMENDATION

THAT Council by absolute majority:

- 1. APPROVES the budget amendment for Melville Street from \$70,000 to \$45,000;**
-

2. Subject to point one, APPROVES Balfour Street as a new resurfacing project and a budget amendment of \$25,000 from the remaining funds as a result of point one; and
3. NOTES that the Town's Asphalt Contractors can complete the projects mentioned in points one and two before 30 June 2023.

10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES

Nil

11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**12.1 ELECTED MEMBERS****12.2 OFFICERS****13 MEETING CLOSED TO PUBLIC****13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED****MOTION FOR BEHIND CLOSED DOORS**

That, in accordance with Section 5.23(2) (a), (c) and (e(ii)), Council discuss the confidential reports behind closed doors.

13.1.1 CONSULTANT SELECTION - CHIEF EXECUTIVE OFFICER APPRAISAL AND KPI

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (a) and (c) as it contains information relating to a matter affecting an employee or employees and a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

13.1.2 T03/2023 - EAST COTTESLOE PLAYGROUND UPGRADE CONSTRUCTION - TENDER RECOMMENDATION

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (c) as it contains information relating to a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

13.1.3 CAR PARK NO.2 REDEVELOPMENT STRATEGY

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (e(ii)) as it contains information relating to a matter that if disclosed, would reveal information that has a commercial value to a person.

MOTION FOR RETURN FROM BEHIND CLOSED DOORS

In accordance with Section 5.23 that the meeting be re-opened to members of the public and media, and motions passed behind closed doors be read out if there are any public present.

13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

14 MEETING CLOSURE