

TOWN OF COTTESLOE



FULL COUNCIL MEETING MINUTES

ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 24 AUGUST, 2009

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Deputy Mayor announced the meeting opened at 7:02pm.

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

Cr Jack Walsh	Presiding Member
Cr Jay Birnbrauer	
Cr Bryan Miller	
Cr Greg Boland	
Cr Dan Cunningham	
Cr Jo Dawkins	
Cr Ian Woodhill	

Officers

Mr Carl Askew	Chief Executive Officer
Mr Geoff Trigg	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Krystal Shenton	Executive Assistant

Apologies

Mayor Kevin Morgan
Cr Victor Strzina
Cr John Utting

Officer Apologies

Mr Graham Patrick	Manager Corporate Services
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Leave of Absence (previously approved)

Cr Patricia Carmichael

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Andrew Stevens, 41 Hawkestone Street, Cottesloe, - Item 11.1.1 - Florence Street Adverse Possession Claims

Question: Mr Stevens inquired about the Planning Application to build the new fence at 40 Florence Street. He wanted to know if the application was approved by Council?

Answer: Mr Jackson advised that no specific application or approval was given by Council as the fence itself was built as a replacement for a previously existing fence.

5 PUBLIC STATEMENT TIMEGlen Brown, 40 Florence Street, Cottesloe - 11.1.1 - Florence Street Adverse Possession Claims

Mr Brown advised that he is the owner of 40 Florence Street. He responded to questions previously raised at the Special Council Meeting last Monday and confirmed that he had received appropriate planning approvals and building licenses for his property from Council. He added that there was no Council objection and that the fence and boundaries of his land had been there in the same location for 50 or 60 years.

Mr Brown outlined the various Council resolutions and correspondence that had come through over the past few years and re-iterated that neither fence nor the adverse possession claim was done illegally.

Eve Blair, 48 Florence Street, Cottesloe 11.1.1 - Florence Street Adverse Possession Claims

Ms Blair also responded to previous questions/issues raised at the Special meeting of Council last Monday and took the opportunity to explain in detail the process she has gone through in relation to her adverse possession claim. She advised that she had purchased her home with its current boundary fences and had constructed a garage in 1996 on what she considered was her land, which was approved by Council. Similar to Mr Brown, she indicated that her fences had been in their current locations for 50-60 years. She also referred to previous decisions of and communications with Council in 2005 which included an invitation to pursue adverse possession. She was also of the understanding that Council would not approve her application. Ms Blair indicated that she had done the required research for Landgate and that the boundary had been as it currently is for as long as living memory.

James Hewitt, 71 Hawkestone Street, Cottesloe 11.1.1 - Florence Street Adverse Possession Claims

Mr Hewitt stated that the adverse possession claim will negatively affect the value of homes on Hawkestone Street where the laneway is reduced below 4metres. He added that it would appear that Council have not considered the interests of the whole community by allowing these adverse possession claims to be made.

Helen Middleditch, 241 Broome Street, Cottesloe 10.2.3 - Northern dog beach

Ms Middleditch stated that she was in favour of the Officer recommendation to maintain the Dog beach facilities as they currently are. She said she visits the beach very regularly and had never seen an overflow on the parking caused by dogs, that international tourists like to take photos of her and her animals and she had never seen a Ranger at the beach before 9am. She said that the Dog Beach is good for the community and needs to be retained.

Kim Gamble, 2a Nailsworth Street, Cottesloe – 10.2.6 - Assignment of lease for Barchetta Restaurant

Mr Gamble addressed the Council and thanked them for their support over the years as he worked toward making the community better through his various projects which included the Barchetta Beach Café, the Blue Duck and Panini Bakery. He said that he believed these places were now assets for the

community. He stated that he would continue to live in Cottesloe and he hoped that the eventual redevelopment of the foreshore would include the option for smaller bars and cafes/restaurants which would take over the Larger Hotels within Cottesloe.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Miller, seconded Cr Birnbrauer

That Council approve Cr Strzina's and Cr Cunningham's request for leave of absence from the September round of meetings.

Carried 7/0

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Boland, seconded Cr Miller

[Minutes July 27 2009 Council.DOC](#)

The Minutes of the Ordinary meeting of Council held on Monday, 27 July, 2009 be confirmed.

[Minutes August 17 Council. DOC](#)

The Minutes of the Special meeting of Council held on Monday, 17 August, 2009 be confirmed.

Carried 7/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

For the benefit of the members of the public present the Deputy Mayor determined to consider the items in the following order:

Reports from Development Services Committee were dealt en bloc.

Reports from Works and Corporate Services Committee were dealt with in the following order:

10.2.3 Northern dog beach

10.2.5 New Footpath Policy

10.2.6 Assignment of lease for Barchetta Restaurant

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

The Confidential Item 11.1. was then addressed

10 REPORTS OF COMMITTEES**10.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 17 AUGUST 2009****10.1.1 TPS2 PREVIOUS AMENDMENT NO. 34 (MULTIPLE DWELLINGS) – ACTION REQUIRED FOR STATUTORY FINALISATION**

File No: D2.4 (34)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 17-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

The Department of Planning (DoP) is auditing unfinished Town Planning Scheme Amendments and has identified previous TPS2 Amendment No. 34 as one. The DoP has advised that because this earlier Amendment was advertised (in 2003), under the Town Planning Regulations procedurally it is still required to be finalised by the WAPC and Minister. Hence it is necessary for Council to complete the process and documentation for a recommendation on determination of the Amendment. It is recommended to formally discontinue the Amendment as no longer required.

BACKGROUND

Council initiated Amendment 34 in September 2002 and the proposal sought to regulate multiple dwellings (ie apartments) in areas density-coded R30 and R35. The rationale was that the former Residential Planning Codes provided for multiple dwellings and associated development standards from only R40 upwards, and at the time it was envisaged that the new Residential Design Codes (RDC) would do so from R35 upwards. However, as the current RDC now provide for multiple dwellings down to R10, with appropriate development standards, the proposal is clearly redundant. Furthermore, LPS3 as adopted by Council and lodged for final approval provides for multiple dwellings as a permissible use (at Council's discretion), which is in accordance with the RDC and with those development standards.

Council on 25 August 2003, following advertising of the Amendment and consideration of a sole submission, resolved to defer adoption of the Amendment pending consideration of guidelines for developing multiple dwellings in R30 areas, and to advise the WAPC accordingly. The WAPC was advised in writing on 2 September 2003 and on 25 November 2003 the WAPC granted until 25 May 2004 for Council to decide upon the submission and the future of the Amendment, then forward its recommendation within 28 days. Council's records indicate that subsequent progress of the Scheme Review and the R-Codes review superseded the need for the Amendment. While officers at the time did draft prospective policy controls and modification to the Amendment, the matter was not further reported on to Council or pursued any further.

A copy of the initial report, Amendment text and the submission received are attached for information.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STATUTORY ENVIRONMENT

TPS2 and Town Planning Regulations.

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONCLUSION

It is apparent that the original proposal has been overtaken by events, whereby the Amendment is now outmoded and redundant. Moreover, in recent years Council has supported numerous multiple dwelling developments and the new R-Codes and LPS3 have been purposefully formulated to provide for them in R30 and R20 density areas as found in Cottesloe. On this basis the Amendment is defunct and Council can resolve to recommend its discontinuance.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

- (1) Note and dismiss the single submission received on earlier proposed Amendment No. 34 as advertised in 2003, and resolves that it does not wish to proceed with the Amendment given that the subject matter has been superseded by the Residential Design Codes and Local Planning Scheme No. 3 as lodged for final approval, which provide for multiple dwellings in the normal manner.**
- (2) Advise the WAPC and the Minister for Planning and complete the relevant documentation accordingly.**

Carried 7/0

10.1.2 MINOR MODIFICATION TO PLANNING POLICY ON REFLECTIVE METAL ROOFING MATERIAL

File No: D09/2551
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 17-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

This report presents two minor yet necessary technical corrections to Council's Reflective Metal Roofing Material Policy (TPSP 009) which have become apparent and are recommended in order to avoid misguiding applicants.

PROPOSAL

The proposal is to amend the Policy to correctly advise that a building licence is definitely required for re-cladding a roof, even if there is no structural change to the roof frame; which is in addition to the requirement to obtain planning approval.

The Policy (copy attached) currently states:

... A Building Application is not required for re-cladding of existing buildings if there is no structural change to the roofing frame.

However, the Building Regulations 1989 (reprinted 2 March 2001) clearly state:

Every builder intending to construct a building or alter, add to, repair... an existing building shall before commencing: a) That construction, alteration, addition, repair... make written application to the local government for a license to commence that work.

Hence the Policy should be amended to read as follows (replacing the existing two paragraphs under the heading with one):

APPLICATION

An application for new building work or the re-cladding of the roof of an existing building shall be in the form of an Application to Commence Development and a Building Licence Application.

Again to be accurate, the Policy should also be amended to remove reference to a condition governing glare on a Building Licence, as that is not required under the BCA and is not actually enforceable under the Building legislation; whereby the planning approval condition will apply. Hence the Policy should be amended to read as follows:

PROCEDURES

... (c) *The following condition to be imposed on any planning application for development utilising reflective roofing material: ...*

A draft of the complete amended Policy is also attached.

CONSULTATION

Under TPS2 a Scheme Policy may only be amended by the policy-making procedure of advertising and consideration of any submissions, even if essentially administrative such as this.

STRATEGIC IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Desirable improvement.

STATUTORY ENVIRONMENT

TPS2.

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONCLUSION

These two corrections go together to clarify the situation regarding planning and building regulation of reflective roofing. They will be statutorily correct and avoid any confusion or dispute.

It is not proposed to review the Policy in any fundamental or other way at this time (ie for the remaining life of TPS2), although under LPS3 it may be further considered.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council amend Policy TPSP 009 Reflective Metal Roofing Material, in accordance with the procedure provided under TPS2, by:

1. Under the heading APPLICATION replacing the existing two paragraphs with: "An application for new building work or the re-cladding of the roof of an existing building shall be in the form of an Application to Commence Development and a Building Licence Application."; and
2. Under the heading PROCEDURES replacing point (c) with: "The following condition to be imposed on any planning application for development utilising reflective roofing material: ..."

COMMITTEE COMMENT

Committee agreed that to avoid any confusion in point 1 “re-cladding” should read “re-roofing.”

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council amend Policy TPSP 009 Reflective Metal Roofing Material, in accordance with the procedure provided under TPS2, by:

- (1) Under the heading APPLICATION replacing the existing two paragraphs with: “An application for new building work or the re-roofing of the roof of an existing building shall be in the form of an Application to Commence Development and a Building Licence Application.”; and**
- (2) Under the heading PROCEDURES replacing point (c) with: “The following condition to be imposed on any planning application for development utilising reflective roofing material: ...”**

Carried 7/0

10.2 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 18 AUGUST 2009**10.2.1 AUSTRALIAN NATIONAL PARKING STEERING COMMITTEE CONFERENCE**

File No: SUB/000
Attachments: [Australian National Parking Steering Group Conference 2009 workshop brochure.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Neil Ferridge
Senior Ranger
Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Report recommends Senior Ranger attends conference.

SUMMARY

Every two years, a major conference is arranged by the Australian National Parking Steering Group on a large range of Local Government issues regarding parking. It attracts local governments from around Australia. This year the conference will be held in Melbourne from 29th to 30th October 2009. This report recommends attendance by the Senior Ranger.

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

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

The program is attached.

STRATEGIC IMPLICATIONS**Objective 7: Organisation Development**

To effectively manage Council's resources and work processes.

- Ensure our workplace enables staff to be innovative and confident

POLICY IMPLICATIONS

Council's Conferences Policy applies:

CONFERENCES**OBJECTIVE**

Provide guidelines for the approval of attendance of Members and Officers at Conferences/Seminars/Training.

PRINCIPLES

Council supports the attendance of Members and Officers at conferences/seminars/training when the benefits to the organisation from attendance can be clearly identified.

ISSUES

The extent to which Council supports and funds attendance at conferences is a contentious issue. The benefits of attendance are not always readily identifiable and consequently there can be problems convincing a sceptical community that the expenditure is justified. For this reason, it is important that the benefits of attendance can be readily identified, especially when attendance involves interstate or overseas travel.

POLICY

Employees who wish to attend a conference/seminar/training shall complete a Request for Training application form and submit it to the Chief Executive Officer through their Supervisor.

The Chief Executive Officer is authorised to approve attendance by Officers at intrastate conferences, seminars and training that forms part of the normal training and professional development of those Officers.

The Chief Executive Officer is authorised to actively promote and approve the attendance of elected members at training courses provided under WALGA's Elected Members Development Program.

In determining attendance, the Chief Executive Officer shall take into account identified priorities and funding availability.

When funding for a conference/seminar/training is not provided in the budget, authorisation must be sought through the Corporate Services Committee.

Attendance at any interstate or international conference must be the subject of an application to be considered by the Chief Executive Officer and referred to the Works & Corporate Services Committee for recommendation to Council.

The following expenses for approved conferences/seminars/training will be met by Council:

- (a) Registration fees;
- (b) Return fares and other necessary transport expenses;
- (c) Reasonable accommodation and living expenses.

Where possible expenses are to be prepaid.

All expenditure is to be accounted for prior to reimbursement.

STATUTORY ENVIRONMENT

- None known

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation. The estimate of the conference attendance, accommodation, meals and travel for this

conference is \$1800. The 2009/2010 budget includes an allowance of this amount for training costs of the Ranger Services.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

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

New ideas are presented, discussed and explored (i.e. meter eyes), including the latest trends occurring throughout Australia and new products are demonstrated.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council:

- 1. Note that the application has been endorsed by the CEO.**
- 2. Approve the attendance of the Senior Ranger at the Australian National Parking Steering Group Conference, as per attachment, in Melbourne, from 29th to 30th October, 2009 and.**
- 3. Receive a report within two months on the conference detailing applicable items for improving Cottesloe.**

Carried 7/0

10.2.2 COTTESLOE SLSC 100TH ANNIVERSARY ADVENTURE CHALLENGE

File No: SUB/550-02
Attachments: [Event Application - Proposed Cottesloe SLSC 100th Anniversary Adventure Challenge.PDF](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Janna Lockyer
Community & Events Support Officer

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

This report recommends that Council:

1. Support the Cottesloe Surf Life Saving Club 100th Anniversary Adventure Challenge as per the Event Application attachment subject to the organisers of the event addressing the following matters, with appropriate collaboration and assistance of Council Staff, to the satisfaction of the Chief Executive Officer;
 - a. Provision of a Risk Management Plan
 - b. Road Closure Approval form signed by Main Roads and the Police, for approval by Manager Engineering Services.
 - c. Provision of a transport/parking plan and appropriate access/signage to and from the event.
 - d. Adequate arrangements for rubbish collection and removal, including the provision for recycling.
 - e. Compliance with noise regulations.
 - f. Compliance with relevant health and safety legislation with regard to food, hygiene and provision of toilet facilities.
 - g. Appropriate public liability insurance of not less than \$10 million.
 - h. Compliance with additional relevant sections of Council's Outdoor Concerts and Large Public Events Guidelines.
2. Class the Event as a Charity/Community classification and charge only the Ranger fee and Bond for the event.

An Event application has been received from Stephan Doyle of Sports Performance and Management and the Cottesloe Surf Life Saving Club, for the Cottesloe SLSC 100th Anniversary Adventure Challenge to be held on 13 February 2010.

The event is an individual and team challenge which involves an ocean swim, ocean paddle, bike ride and coast run. The closure of 2.5 kilometres of road is required for the event, for the hours between 5.30am and 8.30am along Marine Parade.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

The Beach and Outdoor Concerts & Large Public Events policies are of interest when considering the recommendation.

The Beach policy states (in part);

I. "Subject to:

- *the provisions of the Beaches and Beach Reserves Local Law,*
- *consideration of how timing, location and activities may affect other beach users and residents,*
- *using discretion to ensure that the prime usage of Cottesloe and North Cottesloe beaches remains passive recreation, and*
- *the payment of the fee as set out in Council's List of Fees and Charges,*

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

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

STATUTORY ENVIRONMENT

- Health Act 1958
- Traffic Act 1974

FINANCIAL IMPLICATIONS

No financial resource impact. This Event, based upon the Fees and Charges Schedule, would be classed as a category 3 under Corporate Events. The fee for this

is \$4,000 with a bond of \$2,000. Under a Concert classification as a Charity/Community Classification there would be no fee but a bond of \$1,000. There is also an additional fee for Ranger attendance of \$110/hour/Ranger. Council would need to determine the category to class this Event.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Cottesloe SLSC 100th Anniversary Adventure Challenge is designed to involve all aspects of the Cottesloe community. Primarily the event will be supporting the Cottesloe Surf Life Saving Club but aims to have a flow on effect to other businesses in the area.

The event will be held on Saturday 12 February, 2010 and involves a 1200m swim, 20km cycle, 5km run and 6km paddle. Setting up for the event needs to take place on Friday 12 February from 4.00pm and a security guard will be posted on site from 8.00pm till 4.00am, as crew members will be arriving before this time.

The event course starts on the Cottesloe Main Beach with a transition area at either the Main Car Park or the grassed area north of the car park. The start and presentation area requires some an electrical source for a public address system and the electronic timing system along with four free standing tents. The transition area will have bike racks and bunting and the finishing area will have a finishing stand and bike racks.

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

The bike leg starts in the transition area and riders are required to finish a 5km course loop four times. The course for the bike heads north along Marine Parade to a 'U' turn prior to Eileen Street. The cyclists are then head south on Marine Parade to a 'U' turn 20m prior to Curtin Avenue. This course requires the road closure of Marine Parade between Curtin Avenue and Eileen Street from 5.30am and 8.30am. All road closures will be sent to affected residents and advertised in local papers.

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

Paddlers will then paddle on surf skis around a series of buoys from Cottesloe Beach to Leighton Beach and return. Cottesloe SLSC will be patrolling the paddle course with IRB's and jet skis to help any paddlers having difficulty.

Cottesloe has held similar events in the past with some success. The event is being well organised by Stephen Doyle and the Cottesloe Surf Life Saving Club as is outlined in the application. The application also outlines the areas of Traffic Management, Security, Signs, Emergency Plans, Insurance, Health Issues and involving other bodies.

There is a crew of 60 officials who will be spread throughout the course as well as volunteers and It is expected that the event will attract approximately 600 competitors and 500 spectators.

VOTING

Simple Majority

COMMITTEE COMMENT

Cr Boland raised a number of concerns in regards to the event, one of these being whether the event will be an annual event or a one off and the potential impact of a recurrent event on the other local events such as the Rottenest Swim. The second relates to the naming or potential sponsorship of the event.

Upon advice of the CEO, the Committee agreed that these matters be taken up administratively with the organisers of the event and outcomes reported to elected members separately.

In addition, Committee were keen to ensure that the surf club provide sufficient toilets for the event, including regular cleaning and inspections throughout the event and that any temporary facilities be removed from the site as soon after the event as practical. Committee were also of the opinion that the facilities at the Surf Club be available to the public during the event and that the Club liaise with Indiana Tea House to ensure adequate and regular cleaning of the public toilets during the event.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council:

- 1. Support the Cottesloe Surf Life Saving Club 100th Anniversary Adventure Challenge as per the Event Application attachment subject to the organisers of the event addressing the following matters, with appropriate collaboration and assistance of Council Staff, to the satisfaction of the Chief Executive Officer;**
 - a. Provision of a Risk Management Plan.**
 - b. Road Closure Approval form signed by Main Roads and the Police, for Council's approval.**
 - c. Provision of a transport/parking plan and appropriate access/signage to and from the event.**
 - d. Adequate arrangements for rubbish collection and removal, including the provision for recycling.**
 - e. Compliance with noise regulations.**

- f. Compliance with relevant health and safety legislation with regard to food, hygiene and provision of toilet facilities.
 - g. Appropriate public liability insurance of not less than \$10 million.
 - h. Compliance with additional relevant sections of Council's Outdoor Concerts and Large Public Events Guidelines.
2. Class the Event as a Charity/Community classification and charge only the Ranger fee and Bond for the Event.

Carried 7/0

10.2.3 NORTHERN DOG BEACH

File No: SUB/193
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

An unsigned written request to all councillors has been received from local residents that want to cease the use of Vera View beach as a dog beach.

A recommendation is made to maintain the current arrangements at the northern dog beach and not to amend the local law.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

The Town of Cottesloe *Beach* policy makes no specific reference to the dog beaches.

STATUTORY ENVIRONMENT

Part 4 of Council's *Dog Local Laws* is reproduced in full below. The part which is of particular relevance has been shown in bold font.

PART 4 - DOGS IN PUBLIC PLACES

4.1 Places where dogs are prohibited absolutely Dogs are prohibited absolutely from entering or being in any of the following places –

- a. where so indicated by a sign, a public building;
- b. a theatre;
- c. all premises or vehicles classified as food premises or food vehicles under the Health (Food Hygiene) Regulations 1993;
- d. a public beach or Reserve not being a beach or Reserve prescribed in clause 4.2; and "children's playground" designated by sand/soft fall area or fence.

If a dog enters or is in a place specified in subclause (1), every person liable for the control of the dog at that time commits an offence.

Penalty: Where the dog is a dangerous dog, \$2,000; otherwise \$1,000.

4.2 Places which are dog exercise areas

1. Subject to clause 4.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, the following are dog exercise areas within the Town of Cottesloe:–

Public Beaches

Southern Dog Beach

The public beach situated to the south of the northern side of the access path to the beach groyne (located generally in a westerly direction across Marine Parade from the prolongation of Beach Street) then southerly to the southern boundary of the district.

Northern Dog Beach

The public beach situated to the north of the prolongation westerly of the southern boundary of Lot 67 of Cottesloe Suburban Lot 13 to the western boundary of the municipality and thence northerly to the northern boundary of the municipality except between the hours of 10.00 am and 4.00pm from 1st November to 31st March (both dates inclusive) during which time this public beach shall be a prohibited area.

Reserves

- a. Reserve A 1203 known as Grant Marine Park
- b. Reserve 29939 known as Andrews Place
- c. Reserve 24793 known as Jasper Green Reserve
- d. Cottesloe Oval, Reserve A6271 (Cottesloe Suburban Lot 63)
- e. Harvey Field, Part of Reserve A1664 (Cottesloe Suburban Lot 68)
- f. In Curtin Avenue
- g. In Railway Street:
 - i. An area bounded on the north by the prolongation westerly of the southern alignment of William Street; on the south by the prolongation westerly of the northern alignment of Eric Street; on the east by a line 3 metres to the west of and parallel to the western edge of the constructed road pavement; and on the west by the eastern boundary of the Railway Reserve.
 - ii. An area bounded on the north by the prolongation westerly of the southern alignment of Eric Street; on the south by the prolongation westerly of the northern alignment of Burt Street; on the east by a line 3 metres to the west of and parallel to the western edge of the constructed road pavement; and on the west by the eastern boundary of the Railway Reserve.
- h. John Black Dune Reserve A3235 (part of Napier Street Reserve):
 - i. An area bounded on the north by the prolongation easterly of the southern alignment of Eric Street; on the south by the prolongation easterly of northern alignment of Forrest Street; on the east by the western boundary of the Railway Reserve; and on the west by a line 3 metres to the east of, and parallel to the eastern edge of the constructed road pavement.
 - ii. An area bounded on the north by the prolongation easterly of the southern alignment of Grant Street; on the south by the prolongation easterly of the northern alignment of Florence Street; on the east by the western boundary of the Railway Reserve; and on the west by a line 3 metres to the east of and parallel to the eastern edge of the constructed road pavement.

- iii. John Black Dune Reserve A3235 (part of Napier St Reserve) between the constructed Car Park adjoining the western boundary and the Tennis Courts and appurtenances constructed on the eastern boundary.
2. Subclause (1) does not apply to –
 - a. land which has been set apart as a children's playground;
 - b. an area being used for sporting or other activities, as permitted by the local government, during the times of such use; or
 - c. a car park.

Any proposal to amend a local law must observe the following requirements:

Local Government (Functions and General) Regulations 1996

3. Notice of purpose and effect of proposed local law — s. 3.12(2)

For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

- a. the purpose and effect of the proposed local law is included in the MINUTES for that meeting; and
- b. the minutes of the meeting of the council include the purpose and effect of the proposed local law.

FINANCIAL IMPLICATIONS

No financial resource impact.

SUSTAINABILITY IMPLICATIONS

This issue was discussed with the sustainability officer. They stated that as long as people are using the plastic bag to remove faeces and there are adequate bins there is no sustainability issue. They added that there is a social benefit to encouraging people to exercise and take their dogs for a walk with interaction with other dog owners as well.

CONSULTATION

There was consultation carried out when this matter was last brought to Council in 2006. Thirty five submissions were received from the public regarding proposed changes to the hours for the northern beach in Cottesloe. Fourteen of the submissions were in favour of extending the hours and twenty-one were against.

The public submissions are summarised as follows:

For the extension of hours: Fourteen submissions (4 non-residents and 10 residents) generally enjoy being able to take dogs to the beach and don't want to be hindered by changing hours for different seasons.

Against the extension of hours: Twenty one submissions (19 residents and 2 organisations) generally dislike the dog faeces left by some dog owners and subsequent related odours. Some residents are scared of dogs, especially around their children. Complaints were raised regarding dogs running loose 'off-the-leash'. There were references to dog attacks and dog fights. The fact that there is already a

designated dog beach in the southern part of Cottesloe was frequently mentioned as being an adequate provision for dog owners.

Seventeen of these submissions preferred to see the beach closed completely to dogs.

STAFF COMMENT

This matter was last looked at in earnest by the Council in March 1998.

At the time, Council was informed of the following in relation to submissions that were received on proposed changes to the *Dogs Local Law*.

Council received 115 letters from the public and two petitions. All correspondence related to the Northern Dog Beach and whether it should remain a dog exercise area or not, and if so whether hours of access for dog owners should be changed.

Of these 115 letter writers, 20% would like to see dogs banned from the beach altogether, the remaining 80% would like to see the status quo maintained or the present restrictions removed.

The two petitions represented two opposing views: The "pro dog lobby" gathered 411 signatures of people who would like to see the beach remain open to dogs and supported the removal of current restrictions. The opposing lobby group collected 214 signatures of people who would like to see the beach closed to dogs.

(4) ARGUMENTS FOR AND AGAINST RETAINING NORTH BEACH AS A DOG EXERCISE AREA

Arguments: For/Against Change

Arguments for removing restrictions at the Northern Dog Beach:

- *Beach conditions can be dangerous*
- *Beach is not patrolled by lifesavers*
- *Beach is not favoured by swimmers*
- *Use as a fishing beach compatible with dogs*
- *Owners utilise 'poo bags'*
- *Rangers' time patrolling dog beach can be spent doing other duties*
- *Frequency of beach cleaning can be increased if necessary*
- *Dog Beach is very popular*
- *Seasonal restrictions are confusing.*

Arguments for not allowing dogs to access the beach at all:

- *Pollution from dog excreta*
- *Removal of dog access will encourage use by other beach users*
- *Cleaning costs*
- *There are other dog beaches*

- *Swimmers and other patrons have more usable beach, i.e. cleaner and safer.*

Arguments for retaining status quo:

- *Fair trade-off between dog owners and swimmers*
- *Restricted dog use reduces pollution*
- *Beach use is optimised.*

(5) CONCLUSION

After reviewing the submissions from the public and submissions from various council officers, it is recommended that the status quo regarding the use of the Northern Dog Beach be maintained. Therefore, the following draft Local law relating to Dogs has been drafted in such away as to maintain that status quo.

Council's decision then was to maintain the status quo which was to allow the beach to continue to be used as a dog beach except between the hours of 9.00am to 4.00pm from 1st November to 31st March.

The hours were subsequently amended in a minor way to 10.00am to 4.00pm to "accommodate users who can't get to the beach early".

In 2006 Council resolved to seek community submissions on what, if any, changes should be made in relation to dogs accessing the Northern Dog Beach during summer.

The matter has been reviewed by the Senior Ranger. He stated there has not been any reports of dog attacks at this beach or of dogs being struck by vehicles in this locale. He also has concerns with us potentially passing on an issue to our neighbouring council to the north if the beach was closed to dogs and raised the question of what happens if the City of Nedlands close their dog beach at Swanbourne as well?

The Senior Ranger also highlighted the fact that the beach is only available to dogs for a limited time per day through a limited number of months. The rangers do police this area and will attend if called out by a resident to investigate complaints.

VOTING

Simple Majority

COMMITTEE COMMENT

Cr Woodhill clarified as to why the letter received by the Council was unsigned. The letter was first delivered unsigned then when noticed by the author was rectified and a signed copy presented to the Council office.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Birnbrauer

That Council:

- 1. Maintain the current arrangements with regard to the Vera View beach**
- 2. Take no action to amend its Dog Local Law.**

Carried 6/1

Cr Woodhill requested that the names be recorded:

For the Motion: Cr's Walsh, Dawkins, Birnbrauer, Miller, Boland and Cunningham

Against the Motion: Cr Woodhill

10.2.4 EXPENDITURE VARIATIONS POLICY UPDATE

File No: SUB/000
Attachments: [Expenditure Variations Updated Policy.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 21-Jul-2009
Author Disclosure of Interest Nil

SUMMARY

The Town of Cottesloe policy for Expenditure Variations has been reviewed by Council staff. This report recommends that Council adopt the policy.

BACKGROUND

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

CONSULTATION

Nil

STAFF COMMENT

This policy has been reviewed to ensure it is relevant to the Town of Cottesloe's current working environment. Expenditure Variations are not a frequent occurrence within this Council however this policy covers the options should this occur. No changes were required to be made to this policy.

POLICY IMPLICATIONS

No change.

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council adopt the updated Expenditure Variations Policy as per attachment 10.1.4.

Carried 7/0

10.2.5 NEW FOOTPATH POLICY

File No: SUB/208
Responsible Officer: Carl Askew
Author: Chief Executive Officer
Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

A recommendation is made to adopt a new footpath construction policy.

STRATEGIC IMPLICATIONS**Objective 5: Infrastructure**

To maintain infrastructure and council buildings in a sustainable way.

POLICY IMPLICATIONS

This is a new policy.

STATUTORY ENVIRONMENT

- None known

FINANCIAL IMPLICATIONS

No financial resource impact.

SUSTAINABILITY IMPLICATIONS

Any new footpath will improve access within the suburb for pedestrians making it easier to travel by means other than motor vehicles.

CONSULTATION

This policy has been recommended by the Disability Services Advisory Committee as the appropriate manner for residents to request a new footpath.

STAFF COMMENT

There is no current formal method for residents to apply for a new footpath or to assess the viability of such an application. The matter was originally raised at the Disability Services Advisory Committee as an issue relating to universal access within the suburb.

The Manager Engineering Services did the research and presented the proposed policy to the Disability Services Advisory Committee.

VOTING

Absolute Majority

OFFICER RECOMMENDATION

That Council adopt the proposed New Footpath Construction policy, as per attachment 10.1.5.

COMMITTEE RECOMMENDATION

That Council adopt the proposed New Footpath Construction policy as amended, with the addition of the following in point two (Policy Application);

1. Preceding the words '*Various factors*' include the words '*In existing developed areas of the Town:*'
2. After the last bullet point, include the following '*That the Town consider the level of footpath provision in all new subdivisions (at the developers cost) with consideration to be given to two footpaths on each road, but with a minimum of one footpath.*'
3. That the words in bullet point four '*bus routes*' be replaced with '*public transport*'.

Carried 7/0

AMENDMENT

Moved Cr Miller, seconded Cr Cunningham

That the Committee Recommendation be the first point in the recommendation and add the word "*draft*" be after the words "*Adopt the proposed new*" and a point 2 be added to state "*Advertise the amended draft policy for community comment*"

Carried 7/0

COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council;

1. **Adopt the proposed new draft Footpath Construction policy as amended, with the addition of the following in point two (Policy Application);**
 - a. **Preceding the words '*Various factors*' include the words '*In existing developed areas of the Town:*'**
 - b. **After the last bullet point, include the following '*That the Town consider the level of footpath provision in all new subdivisions (at the developers cost) with consideration to be given to two footpaths on each road, but with a minimum of one footpath.*'**
 - c. **That the words in bullet point four '*bus routes*' be replaced with '*public transport*'.**
2. **Advertise the amended draft policy for community comment.**

The Substantive Motion was put

Carried 7/0

10.2.6 ASSIGNMENT OF LEASE FOR BARCHETTA RESTAURANT

File No: PRO/2493
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

A recommendation is made to accept the assignment of the lease for the Barchetta Restaurant from Beachfront Enterprises Pty Ltd to Simpco Investments Pty Ltd.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

No financial resource impact.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The assignment of lease document has been reviewed by the Town's lawyers McLeod's. They have recommended some minor alterations and have approved the document for Council endorsement.

STAFF COMMENT

The existing lease is for a period of 11 years that concludes on 24 July 2013.

The approval of the assignment of the lease is an administrative process. The proposed new operators have run a restaurant in Napoleon Street in the past – La Palm Dor as well as the Outram Café in West Perth.

The transfer is also supported by administration as we have experienced ongoing difficulties with Beachfront Enterprises Pty Ltd with slow payment of outstanding rental and other invoices.

There is an outstanding issue that was raised at the Council meeting held in March 2006 regarding the bin enclosure. The following recommendation was made at that meeting:

That Council confirms that:

- I. Weather permitting, the minimum opening hours of the kiosk are to be 10.00am to 3.00pm on every opening day of the Barchetta from December to January inclusive and on every weekend during November and March. A sign shall be displayed stating that when the kiosk is closed, service can be obtained from within the building.*
- II. Support the construction of the proposed bin enclosure subject to the approval of all relevant authorities.*
- III. Support the reticulation of the area subject to advice and guidance from the North Metro Coastcare officer on suitable reticulation and appropriate plantings.*
- IV. Subject to the above points, agree to the execution of the proposed deed of variation to the lease agreement between the Town of Cottesloe and Beachfront Enterprises Pty Ltd relating to minimum kiosk opening hours and the sale of alcohol.*

The construction of the new bin enclosure has commenced and the new proprietors have reached an agreement, as part of the assignment of the lease, to reimburse the current owner for the new works and to complete the enclosure to Council's requirements.

VOTING

Simple Majority

COMMITTEE COMMENT

Cr Strzina expressed his support for the new lessee as they have done a good job at previous establishments. Cr Cunningham requested confirmation of the 2006 Deed of Agreement conditions have been included as part of the assignment of the lease. The CEO agreed to confirm this prior to the Council meeting Monday 24 August 2009.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council endorse the assignment of the lease from Beachfront Enterprises Pty Ltd to Simpco Pty Ltd and authorise the Mayor and CEO to sign and seal the relevant documents.

Carried 7/0

10.2.7 LOCAL GOVERNMENT STRUCTURAL REFORM - UPDATE

File No:	SUB/793
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Carl Askew Chief Executive Officer
Proposed Meeting Date:	18 August 2009
Author Disclosure of Interest	The author has an interest in the matter as any potential amalgamation would directly relate to his employment

SUMMARY

The final stage of the Minister's Reform process involves the completion of a Reform Submission to be returned to the Minister and Local Government Reform Steering Committee by 31 August 2009.

This report advises Council of the process to date and the current situation with regard to community consultation. It recommends that council receive the WESROC consultant reports commissioned for the structural reform process. It also recommends that Council note that local community consultation is currently underway and that a final submission will be forwarded to the Minister by the end of September when Council has had the opportunity to fully consider the views of its community.

BACKGROUND

The Minister for Local Government, the Hon John Castrilli MLA, launched a wide-ranging local government structural reform agenda in February 2009. The three principal strategies in the reform agenda are that each local government:

1. take steps to 'voluntarily' amalgamate and form larger local governments
2. reduce the total number of elected members to between six and nine; and
3. Form appropriate regional groupings of councils to assist with the efficient delivery of services.

In relation to the above three strategies the Minister for Local Government has requested that each local government advise him of their intention by way of a reform submission by the 31 August 2009.

The Department of Local Government and Regional Development and the Local Government Reform Steering Committee distributed Structural Reform Guidelines to assist local governments in responding to the Minister's request for voluntary structural reform. The guidelines provide principles without parameters and a timeframe for reform submissions to the Minister. The guidelines set out a recommended decision making process along with key criteria to be considered by each local government in developing their reform submission.

The Town of Cottesloe completed and returned its Local Government Reform Checklist by the requested date of 30 April 2009. The checklist, based on the key

principles for local government reform, targets the capacity gaps of each and every existing local government. Advice from the Department was received on 23rd July advising that the Town of Cottesloe has been assessed as Category Two “structural reform including amalgamation/boundary adjustments and formalisation of regional groupings should be considered to enhance organisational and financial capacity to meet current and future community needs”. Based upon the feedback received a number of concerns with the initial assessment have been raised with the Department and additional supplementary information is now being collated in support of the Town’s checklist assessment. This has included information in relation to evidence of long term financial planning, elected member ratios, delays in building and development approvals and optimal community of interest.

The assessment of all local government reform submissions will be undertaken by the Local Government Reform Steering Committee in the first instance. Based on the assessments, the committee will provide advice to the Minister on preferred options for reform. Finalised proposals will then be referred to the Local Government Advisory Board for consideration and recommendation. It is anticipated that the Minister will report his findings and recommendations to Cabinet early in 2010 any structural reform proposals could be in place by July 2011. This timeframe would allow for new councillors to be elected at the October 2011 elections. However, this will be dependent on specific arrangements and examined on a case by case basis.

The Town’s Project Team has commenced meetings and discussions with neighbouring Council’s as part of the information gathering process and this is ongoing. As a consequence of one such meeting with representatives of Peppermint Grove and Mosman Park there was agreement that all three would formally write to the Minister to request additional time to consider the issues and consult with the community. To date no formal response has been received from the Minister however verbal advice from the Department is that an extension until the 30 September 2009 has been approved as our community consultation process is not yet complete.

Prior to the Minister’s announcement WESROC was working towards a model of increased regional cooperation and had commissioned a detailed report (the Dollery Report) in 2008 to provide a thorough analysis of WESROC against the background of structural reform in Australian local government, including an assessment of the effectiveness of forced amalgamation programs, alternative models of local government to compulsory council mergers and shared service arrangements. The Report also considered the problem of, and differentiated between, financial sustainability and the broader concepts of community sustainability in Australian local government. It also provided an independent assessment of the WESROC organisation and its member councils (as well as the Town of Cambridge) and made recommendations for enhancing the role of WESROC.

At a Special meeting on 9 March 2009, Council resolved to;

Endorse, in principle, the Dollery Report “Rising to the Challenge: Reform Options for the Western Suburbs” as a foundation planning document for WESROC member council’s and use it to support a submission to the Minister, in response to his proposed reform strategies for restructuring of Local Government.

Advise WESROC of its position.

Note that the WESROC Board has resolved to engage, through its executive committee, suitably qualified consultant(s) to assess for comparison purposes, the likely costs and benefits (including social costs and benefits) of;

3.1 an amalgamation of the WESROC councils,

3.2 an amalgamation of Cottesloe, Mosman Park and Peppermint Grove Councils, together with an amalgamation of Claremont and Nedlands Councils, with Subiaco remaining independent, and

3.3 a fast tracked (2 – 3 year) maximization of regional cooperation and resource sharing amongst the WESROC Councils.

This assessment is to include consideration of matters the subject of the Structural Reform Guidelines assuming that district boundary changes are a possibility irrespective of which if any of the above options were to prevail.

Request a report by April 2009 on two possible options to reduce elected member numbers in the Town of Cottesloe; (i) eight members over four wards and (ii) six members with no wards, both options exclusive of a directly elected Mayor, for either the 2009 or 2011 October elections”.

Local governments in the Western Suburbs have previously been singled out for potential amalgamation and all councils will be forming their own views on amalgamation proposals in the next few months. At the mayoral level within WESROC, whilst there is less enthusiasm for a creating a large single Western Suburbs Council, there may be some willingness to consider a mergers between Nedlands and Claremont, and Cottesloe, Mosman Park and Peppermint Grove. Concern has been expressed at any alternative which would involve creating another level of government at a formal regional level without knowing the net benefits that are to be gained in terms of improved governance, cost savings and service improvements. It has also been acknowledged that elected member representation could be reduced at the local Council level and that local government boundaries could be redrawn to better align with existing, rather than historic, communities of interest. Although both of these matters might quite properly be addressed at local council and community level any realignment of boundaries might be best addressed at the WESROC level in the first instance, before any proposed changes are then considered at local council and community level.

STRATEGIC IMPLICATIONS

The potential strategic implications for Council are significant. Whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2009-10 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform. The announcement by the Minister for Local Government in relation to reform strategies has brought into sharp focus the need for the Town to consider its position. Any significant change to existing boundaries or an amalgamation will require a complete review of strategic and financial plans and priorities.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Local Government Act 1995 - Local Government Act 1995 - particularly Section 2.1, Schedule 2.1 and Section 3.1 (2).

*Division 1 — Districts and wards**2.1. State divided into districts*

1. *The Governor, on the recommendation of the Minister, may make an order*
 - a. *declaring an area of the State to be a district;*
 - b. *changing the boundaries of a district;*
 - c. *abolishing a district; or*
 - d. *as to a combination of any of those matters.*
2. *Schedule 2.1 (which deals with creating, changing the boundaries of, and abolishing districts) has effect.*
3. *The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.1 that the order in question should be made.*

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

[Section 2.1(2)]

1. Interpretation

In this Schedule, unless the contrary intention appears —

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

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

“affected local government” means a local government directly affected by a

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

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

2. Making a proposal

1. *A proposal may be made to the Advisory Board by —*
 - a. *the Minister;*
 - b. *an affected local government;*
 - c. *2 or more affected local governments, jointly; or*
 - d. *affected electors who —*
 - i. *are at least 250 in number; or*
 - ii. *are at least 10% of the total number of affected electors.*
2. *A proposal is to —*
 - a. *set out clearly the nature of the proposal and the effects of the proposal on local governments;*

- b. *be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and*
- c. *comply with any regulations about proposals.*

3. Dealing with proposals

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

** Absolute majority required.*

3. *If, in the Advisory Board's opinion, the proposal is —*
 - a. *one of a minor nature; and*
 - b. *not one about which public submissions need be invited,**the Board may, in a written report to the Minister, recommend* that the Minister reject the proposal or that an order be made in accordance with the proposal.*

** Absolute majority required.*

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

4. Notice of inquiry

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

** Absolute majority required.*

5. Conduct of inquiry

1. A formal inquiry is to be carried out, and any hearing for the purposes of the inquiry is to be conducted, in a way that makes it as easy as possible for interested parties to participate fully.
2. In carrying out a formal inquiry the Advisory Board is to consider submissions made to it under clause 4(2)(c) and (4)(b) and have regard, where applicable, to —
 - a. community of interests;
 - b. physical and topographic features;
 - c. demographic trends;
 - d. economic factors;
 - e. the history of the area;
 - f. transport and communication;
 - g. matters affecting the viability of local governments; and
 - h. the effective delivery of local government services, but this does not limit the matters that it may take into consideration.

6. Recommendation by Advisory Board

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

* Absolute majority required.

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

* Absolute majority required.

7. Minister may require a poll of electors

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

8. Electors may demand a poll on a recommended amalgamation

1. Where the Advisory Board recommends to the Minister the making of an order to abolish 2 or more districts ("the districts") and amalgamate them into one or more districts, the Board is to give notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation about the recommendation.

2. *The notice to affected electors has to notify them of their right to request a poll about the recommendation under subclause (3).*
3. *If, within one month after the notice is given, the Minister receives a request made in accordance with regulations and signed by at least 250, or at least 10%, of the electors of one of the districts asking for the recommendation to be put to a poll of electors of that district, the Minister is to require that the Board's recommendation be put to a poll accordingly.*
4. *This clause does not limit the Minister's power under clause 7 to require a recommendation to be put to a poll in any case.*

9. Procedure for holding poll

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

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

10. Minister may accept or reject recommendation

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

10A. Recommendations regarding names, wards and representation

1. *The Advisory Board may —*
 - a. *when it makes its recommendations under clause 3 or 6; or*
 - b. *after the Minister has accepted its recommendations under clause 10, in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.*
2. *In making its recommendations under subclause (1) the Advisory Board —*
 - a. *may consult with the public and interested parties to such extent as it considers appropriate; and*
 - b. *is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.*

11. Transitional arrangements for orders about districts

1. *Regulations may provide for matters to give effect to orders made under section 2.1 including —*
 - a. *the vesting, transfer, assumption or adjustment of property, rights and liabilities of a local government;*
 - b. *the extinguishment of rights of a local government;*
 - c. *the winding up of the affairs of a local government;*
 - d. *the continuation of actions and other proceedings brought by or against a local government before the taking effect of an order under section 2.1;*
 - e. *the bringing of actions and other proceedings that could have been brought by or against a local government before the taking effect of an order under section 2.1;*
 - f. *if the effect of an order under section 2.1 is to unite 2 or more districts, the determination of the persons who are to be the first mayor or president, and deputy mayor or deputy president, of the new local government;*
 - g. *the continuation of any act, matter or thing being done under another written law by, or involving, a local government.*
2. *Subject to regulations referred to in subclause (1), where an order is made under section 2.1 any local governments affected by the order (including any new local government created as a result of the order) are to negotiate as to any adjustment or transfer between them of property, rights and liabilities.*
3. *Where an order is made under section 2.1 the Governor may, by order under section 9.62(1), give directions as to any of the matters set out in subclause (1) if, and to the extent that, those matters are not resolved by regulations referred to in that subclause or by negotiation under subclause (2).*
4. *A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless —*
 - a. *compensation acceptable to the person is made; or*
 - b. *a period of at least 2 years has elapsed since the order had effect.*
5. *The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.*
6. *If land ceases to be in a particular district as a result of an order under section 2.1, any written law that would have applied in respect of it if the order had not been made continues to apply in respect of the land to the extent that its continued application would be consistent with —*
 - a. *any written law made after the order was made; and*
 - b. *any order made by the Governor under subclause (8).*
7. *Regulations may make provision as to whether or not, or the modifications subject to which, a written law continues to apply in respect of land under subclause (6).*
8. *The Governor may, in a particular case, by order, vary the effect of subclause (6) and regulations made in accordance with subclause (7).*

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

*Division 1 — General***3.1. General function**

1. *The general function of a local government is to provide for the good government of persons in its district.*
2. *The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.*
3. *A liberal approach is to be taken to the construction of the scope of the general function of a local government.*

FINANCIAL IMPLICATIONS

Council currently contributes, as part of its annual budget, to a number of WESROC initiatives and the budgeted allocation for 2009/10 is \$95,000. However the current proposal from WESROC, including the appointment of an Executive Manager and/or secretariat support, may involve a modest increase in that allocation. In addition, the resources required to address the issues contained within the Dollery and Anne Banks-McAllister reports may have a significant impact upon Council's future budgets. The potential cost of any future amalgamation, boundary change or shared services arrangement has been considered in a general sense within the PriceWaterhouseCoopers report but will require more detailed analysis and will be dependent upon specific decisions of Council.

Overall, the financial implications of change associated with local government reform have the potential to be significant. In the immediate term there will be continue to be significant ongoing human resource costs (officer time) to Council in responding to the Minister's reform agenda.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Town of Cambridge
Town of Claremont
Town of Cottesloe
Town of Mosman Park
City of Nedlands
Shire of Peppermint Grove
City of Subiaco
City of Fremantle
WALGA

STAFF COMMENT

Speaking at the Western Australian Local Government Convention on 6 August the Minister for Local Government made it clear to delegates that he expects *meaningful and significant reform* of the local government sector and he reaffirmed his previous statements that each local government should consider voluntarily amalgamations,

reducing the total number of elected members to between six and nine and forming appropriate regional groupings of councils to assist with the efficient delivery of services.

Other key strategies of the reform agenda include:

- Adoption by local governments of a longer term strategic planning framework, including asset and financial management and workforce planning.
- Development of measures to enhance the skills and competency of elected members and staff.
- Examination of options to maintain local community identity and greater community representation including consideration of community-based committees.
- Identification of proposals to amend the local government legislation to facilitate local government sustainability.
- Examination of the ability for local governments to form corporate entities to undertake urban regeneration projects and other business activities.
- Identification and implementation of approaches to reduce town planning and building licence approvals time.
- Development of measures to encourage a diverse range of citizens to stand for council.

The Minister stated that he wants to see a reduction in the overall number of local governments *including metropolitan councils*. The reform checklist analysis has indicated to the Minister that there is significant scope for reform within the sector and that there is currently an opportunity for councils to self determine their futures with meaningful change, including the capacity to plan and act regionally and with elected members who are prepared to act strategically.

A local community questionnaire has been distributed to all residents inviting them to respond to the key issues of amalgamations, possible boundary changes and elected member numbers for Cottesloe. The questionnaire has been placed on Council's website and residents can also complete it on-line. To support the questionnaire a discussion paper has been prepared and placed on the website together with various other supporting documents. The closing date for responses is 31 August 2009 after which replies will be analysed and reported to council for consideration in September.

In relation to the first principal strategy in the reform agenda outlined by the Minister to **"take steps to 'voluntarily' amalgamate and form larger local governments"** the following information is provided:

PRICE WATERHOUSE COOPERS (PwC) REPORT

In response to the Ministers announcement on structural reform the WESROC Board engaged PriceWaterhouseCoopers (PwC) to assess, for comparison purposes, the likely costs and benefits (including social costs and benefits) of;

- *an amalgamation of the WESROC councils,*

- *an amalgamation of Cottesloe, Mosman Park and Peppermint Grove Councils, together with an amalgamation of Claremont and Nedlands Councils, with Subiaco remaining independent, and*

This assessment was to include consideration of matters the subject of the Structural Reform Guidelines assuming that district boundary changes are a possibility irrespective of which if any of the above options were to prevail.

The PwC report *Western Suburbs Structural Reform Options* has been referred to each member council by the WESROC Board and forwarded to all Councillors separately. It details the impacts that each amalgamation option will have on the new amalgamated entity's ability to;

- maintain a community of interest
- remain financially viable
- effectively deliver local government services
- have the capacity to increase financial resources, and
- derive long-time cost efficiencies

PwC was not asked to recommend an option for WESROC to pursue, nor any solutions to issues that were raised during the process. The report's scope was strictly limited to developing a 'fact base' of the financial and social impacts of the two defined amalgamation options. This 'fact base' is structured around the first four criteria put forward by the Local Government Advisory Board:

1. Community of Interest,
2. Local government viability,
3. Effective delivery of local government services and
4. Financial assessment.

In summary, the report makes the following comments;

WESROC councils have many similarities, including mean incomes and post-school education levels which are considerably higher than the WA average. There are only minor differences in the demographics of the WESROC councils, and as a result, they demand similar services. Despite these similarities, local council interviews identified a considerable amount of opposition towards the amalgamation process. These concerns included:

- *amalgamation increasing the number of electors per councillor,*
- *loss of community identity and*
- *the belief that amalgamation will result in the degradation of services.*

The report indicates that the amalgamated councils could remain financially viable, although the actual outcome will depend on the various decisions councils will be required to make. The modelled organisational structure for each amalgamated body illustrates the potential to provide comparable services, with fewer full-time employees ("FTE"), particularly if Option 1 [an amalgamation of all six WESROC Councils] is adopted. The diversity of the new amalgamated entity's rate base will vary little from the current councils and could support the same array of services.

The amalgamations have the potential to add to the quality of the council workforce, as larger councils may have the ability to offer greater remuneration

to senior management. There is also the potential for improved governance following amalgamation, as greater competition for council board vacancies could improve the quality of elected candidates.

As previously mentioned, and further discussed in the report, it seems likely that the amalgamated councils will generate sufficient revenue to fund capital projects and deliver services which meet community expectations. If the cost savings identified are realised, the amalgamated bodies may be better positioned to deal with the impacts of cost shifting.

The report bases its financial analysis on two key scenarios developed by PwC:

- 1. “Blue Sky”: the best potential outcomes for all benefits and costs from the amalgamation are achieved - also seen as the maximum achievable financial position; and*
- 2. “Grey Sky”: the minimum indicative outcomes for all benefits and costs from the amalgamation - also seen as the minimum achievable position.*

The report identifies potential recurrent net annual amalgamation savings after three years, after allowing for transition costs in the first few years, however the report also notes that there are many external factors which may prevent the realisation of the predicted amalgamation benefits. These include;

- actual amalgamation costs exceeding forecast costs,*
- cost synergies not being realised,*
- residents resisting amalgamation,*
- staff integration issues,*
- other employee issues (such as staff being unfamiliar with new and expanded roles), and*
- regulatory issues deriving from State government amalgamation legislation*

Four key issues arose during discussions which were outside the scope of this report but warrant further consideration.

- 1. **Firstly**, there is a consensus amongst the councils that the boundaries between the WESROC member councils require adjustment to align with the region’s natural boundaries.*
- 2. **Secondly**, the merits of other methods of structural reform should be further investigated.*
- 3. **Thirdly**, if the amalgamation process is to occur, a balkanised planning scheme may need to be developed, as loss of planning control was a key issue raised by many councils.*
- 4. **Finally**, if amalgamation is to occur, a suitable ward system may need to be established, to ensure representation from each existing council area.*

The Local Government Advisory Board in its report to the Minister in April 2006 made the following recommendation:

“6.12 RECOMMENDATION

That the Minister legislate for the amalgamation of the local governments of Cambridge (part), Claremont, Cottesloe, Mosman Park, Nedlands, Peppermint Grove and Subiaco, to form a new western suburbs local government (in conjunction with the transfer of a part of Cambridge to Stirling and part of Stirling to the new western suburbs local government) as soon as possible.”

The Minister of the time did not act on this recommendation.

ELECTED MEMBER NUMBERS

In relation to the second strategy in the reform agenda outlined by the Minister to **“reduce the total number of elected members to between six and nine”** the following information is provided:

As reported to Council in May 2009, the ideal number of elected members for a local government is for the local government to determine. There is a diverse range of councillor/elector ratios across Western Australia reflecting the sparsely populated remote areas and the highly populated urban areas. The structure of the Council’s operations will provide some input into the number of elected members needed to service the local government.

At present the Town of Cottesloe has eleven (11) elected members, including a Mayor who is directly elected. It operates a ward based system of four (4) wards one of which (North Ward) has four elected members and three of which (East, Central and South) have two elected members each, with five Councillors in the Town retiring every two years. The May 2009 report outlined two possible options to reduce elected member numbers being;

- i. eight members over four wards + directly elected mayor; and
- ii. six members with no wards + directly elected mayor.

(Note: both options create an odd number of elected members for decision making purposes and reduce the need for a casting vote).

Information related to elected member numbers and ward systems was listed in the staff comment section of the previous report to Council in May 2009 and is therefore not repeated here but remains relevant to council’s consideration of the issues.

According to the Local Government Advisory Board, the **advantages** of a reduction in the number of elected members may include the following:

- The decision making process may be more effective and efficient if the number of elected members is reduced. It is more timely to ascertain the views of a fewer number of people and decision making may be easier. There is also more scope for team spirit and cooperation amongst a smaller number of people.
- The cost of maintaining elected members is likely to be reduced (an estimate of the cost of reduction would be helpful).

- The increase in the ratio of councillors to electors is unlikely to be significant.
- Consultation with the community can be achieved through a variety of means in addition to individuals and groups contacting their local elected member.
- A reduction in the number of elected members may result in an increased commitment from those elected reflected in greater interest and participation in Council's affairs.
- Fewer elected members are more readily identifiable to the community.
- Fewer positions on Council may lead to greater interest in elections with contested elections and those elected obtaining a greater level of support from the community.
- There is a State wide trend for reductions in the number of elected members and many local governments have found that fewer elected members works well.

The **disadvantages** of a reduction in the number of elected members may include the following:

- A smaller number of elected members may result in an increased workload and may lessen effectiveness. A demanding role may discourage others from nominating for Council.
- There is the potential for dominance in the Council by a particular interest group.
- A reduction in the number of elected members may limit the diversity of interests around the Council table.
- Opportunities for community participation in Council's affairs may be reduced if there are fewer elected members for the community to contact.
- An increase in the ratio of councillors to electors may place too many demands on elected members.

REGIONAL GROUPINGS OF COUNCILS

In relation to the third strategy in the reform agenda outlined by the Minister to “**form appropriate regional groupings of councils to assist with the efficient delivery of services**” the following information is provided:

The Town of Cottesloe is currently a member of three regional groupings of Councils; WESROC, WMRC and the WALGA Central Metropolitan Zone.

1. WESTERN SUBURBS REGIONAL ORGANISATION OF COUNCILS (WESROC)

The following Local Government Authorities are members of the WESROC;

- Town of Cambridge (observer and casual participant)
- Town of Claremont
- Town of Cottesloe
- Town of Mosman Park
- City of Nedlands
- Shire of Peppermint Grove
- City of Subiaco

The municipal authorities of the western suburbs of Perth have established a variety of initiatives to enhance regional cooperation and improve service delivery to their respective communities over a number of years. WESROC is a voluntary collaborative partnership of Councils which aims to facilitate and coordinate activities designed to promote community and economic development within the region and to enhance that capacity of member local governments.

2. WESTERN METROPOLITAN REGIONAL COUNCIL (WMRC)

The following Local Government Authorities are members of the WMRC;

- Town of Claremont
- Town of Cottesloe
- Town of Mosman Park
- Shire of Peppermint Grove
- City of Subiaco

The WMRC is a statutory local government authority established in 1989 by five western suburbs local government's to undertake waste management functions. Like all local governments the WMRC is administered by a "Council" of members, one member from each of the participating local governments. The Regional Council meets regularly to administer the functions and duties of the organisation.

The principal activity is the operation of the Brockway Waste Transfer Station situated on the corner of Brockway Road and Lemnos Street, Shenton Park. Here municipal solid waste (MSW) from member councils and others is received and aggregated into larger loads for transport in sealed containers to landfill sites located on the outer fringes of the Perth metropolitan area. In addition to this the Regional Council operates a green waste recycling operation where readily separated green waste is diverted from the waste stream, ground up into mulch and sold to the horticultural industry. Further information is available at the WMRC website <http://www.wmrc.wa.gov.au>.

3. WALGA CENTRAL METROPOLITAN ZONE

The following Local Government Authorities are members of the WALGA Central Metropolitan Zone;

- Town of Cambridge
- Town of Claremont
- Town of Cottesloe
- Town of Mosman Park
- City of Nedlands
- Shire of Peppermint Grove
- City of Perth

- City of Subiaco
- Town of Vincent

The WA Local Government Association (WALGA) is the voice of Local Government in Western Australia. As the peak industry body WALGA advocates on behalf of the State's 139 Local Governments and negotiates service agreements for the sector. WALGA is not a government department or agency and its mission is to *provide strong representation, strong leadership, enhance the capacity of and build a positive public profile for, Local Government.*

WALGA lobbies and negotiates on behalf of Local Governments in WA. As the peak advocacy organisation, it has a strong influence on how policy decisions are made that affect the sector. Senior WALGA officers regularly consult with Ministers, politicians and senior bureaucrats and negotiate supplier agreements with senior executives of organisations with the capacity to deliver state-wide services. It is a private and independent entity which operates as a membership-based organisation. Its funding comes from membership subscriptions, business and grants. It works for and on behalf of Local Government in WA. The State Council is chaired by a President and includes 24 Members; 12 from country constituencies and 12 from metropolitan constituencies. All members must be a serving Mayor, President or Councillor in WA Local Government. The State Council is supported by a number of Zones - groups of geographically aligned members, who are responsible for the direct elections of State Councillors, input into policy formulation and advice to officers and State Council.

ANNE BANKS-MCALLISTER CONSULTING REPORT

WESROC acted on the Dollery Report by engaging Anne Banks-McAllister Consulting to prepare a further report on a *“fast tracked (2-3 years) maximisation of Regional Cooperation and Resource Sharing amongst WESROC Councils.”*

The report entitled *A Model for Regional Cooperation and Resource Sharing in the Western Suburbs* was referred to each member council by the WESROC Board and forwarded to all Councillors separately. Its chief recommendation is that WESROC develop a more effective model for regional cooperation and resource sharing by implementing the recommendations of the Dollery Report and more specifically, adopting actions that address governance, structural, process and strategy issues for WESROC.

According to Anne Banks-McAllister Consulting, WESROC has yet to reach its full potential in terms of maximising the efficient delivery of services at a regional level for reasons that are identified within the report of Anne Banks-McAllister Consulting. Quite aside from any future consideration of the likelihood and timing of any amalgamation proposal for existing Western Suburbs local governments, there is no denying that there is room for improvement in regional cooperation and resource sharing. The report is comprehensive and offers a careful and considered way forward.

In light of previous recommendations by Council and the ongoing investment in regional partnerships and cooperation it is recommended that Council receive and endorse the Anne Banks-McAllister Consulting report entitled *A Model for Regional Cooperation and Resource Sharing in the Western Suburbs* and, in line with all

WESROC members, support the implementation of the recommendations contained therein.

STRUCTURAL REFORM SUMMARY

The desired outcome of structural reform is a strong sustainable local government. It is claimed by the Department of Local Government that there are a *range of benefits* that will be achieved through the reform process:

- Increased capacity for local government to better plan, manage and deliver services to their communities with a focus on social, environmental and economic sustainability;
- Increased capacity for local government to have adequate financial and asset management plans in place;
- Enhanced efficiency in the processing of planning, building and other licence applications made by business and the community;
- Greater ability to attract and retain staff including the provision of further career development opportunities;
- Greater competition for positions on council and, in conjunction with other reforms, potential for enhanced governance capacity; and
- Larger local governments with greater capacity to partner with the State and Federal Government, and the private sector, to further improve services to communities.

However the *potential disadvantages* with structural reform which have been identified within the various consultant reports and discussions between Councils can include:

- Potential loss of local identity;
- If amalgamation occurs communities of interest may be significantly different;
- Loss of representation;
- Loss of level of services;
- The cost of reform when amalgamations occur. Costs can be significant and would include the following -
 - Locating suitable sites and accommodating a larger workforce in new or upgraded facilities such as a new “Civic & Administration Centre” and/or works depot;
 - Rationalisation of major systems such as, Information Technology systems, Town Planning Schemes and Human Resource Management Practices i.e. workplace agreements etc; and
 - Current partnerships may need to be disassembled and new Regional Council relationships formed which would require a significant amount of human and financial resources.

Council’s reform submission will need to outline its position with respect to the three primary issues of voluntarily amalgamation, reduced number of elected members and appropriate regional groupings of councils.

COMMUNITY CONSULTATION

A critical part of the reform process is to consult with the community in relation to these issues. The position of Council’s Project Team and some WESROC members was that before any consultation could commence there was a need to provide the

community with information in order for them to make an informed decision. Hence WESROC commissioned the above two reports which were completed and received by WESROC in late July 2009. Council is now in a position to seek feedback from its community. An open letter from the Chief Executive Officer and a brief questionnaire (approved by Council's project Team) has been distributed to every residence in Cottesloe. In addition the questionnaire and supporting information was placed on Council's website and residents and community groups are encouraged to provide comment. Once Council has received its feedback it will be in a position to fully consider its position on the reform issues and advise the Minister accordingly. It is expected that this information will be available so that Council can finalise its submission by 30 September 2009. The community questionnaire is one way that local residents can now have their say and inform council of their views on this important topic. In addition local residents are also invited to write to the CEO or e-mail their views to ceo@cottesloe.wa.gov.au.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Receive and endorse the Anne Banks McAllister report *A Model for Regional Cooperation and Resource Sharing in the Western Suburbs*.
2. Receive and note the Price Waterhouse Coopers (PwC) report *Western Suburbs Structural Reform Options*.
3. Note the progress to date and advise the Minister that local community consultation has commenced and is ongoing at this time and that Council will be in a position to make its final reform submission after it has had the opportunity to fully consider the views of its community.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council:

1. **Receive and note the Anne Banks McAllister report *A Model for Regional Cooperation and Resource Sharing in the Western Suburbs*.**
2. **Receive and note the Price Waterhouse Coopers (PwC) report *Western Suburbs Structural Reform Options*.**
3. **Note the progress to date and advise the Minister that local community consultation has commenced and is ongoing at this time and that Council will be in a position to make its final reform submission after it has had the opportunity to fully consider the views of its community.**

Carried 7/0

10.2.8 TOWN OF COTTESLOE OPERATIONS CENTRE - EXISTING SITE

File No: SUB/220
Attachment: Existing Operations Centre
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

This item reports on the current condition of the existing operations centre/depot site and the need to either upgrade facilities at this site or relocate functions to an alternative site. It recommends that Council:

1. Proceed with detailed planning for the relocation of its existing services and facilities and;
2. Receive a report, in the near future, on all matters required to be decided by Council to progress the depot relocation, including the community consultation process, an appropriate Business Plan, options for the level of Council involvement in any redevelopment and designs and quotations for a replacement facility.

BACKGROUND

Council has discussed this matter and considered a variety of alternative sites for its depot facilities for the last ten years. In that time, there have been few changes to the existing infrastructure of the depot other than a continuing decline in conditions and an increase in maintenance costs. Given the high value of the land area encompassed by the depot, Council has consistently resolved to continue investigating alternative sites, with the intention of redevelopment of the current site for some form of residential subdivision. However, this can only take place when a new location is found, the site developed and Councils' operations staff, machine fleet and supporting infrastructure successfully relocated.

Staff have collated the most applicable documents relating to this matter from the past ten years, commencing with a consultant engineering report from November 1998 and ending with a letter to the State Premier in October 2008 requesting his Governments help to locate to a new site.

All efforts over this period, with a wide range of sites and development partners considered, have not eventuated.

Council's options remain unchanged:

1. Do nothing – depot to remain in existing site, long term. This will require substantial upgrading of existing facilities including addressing any environmental issues at the current site as well as installing new security fencing, buildings etc.

2. Relocate to another site, to share with one or more other WESROC Councils. This has already been attempted over several years, with no success, so far.
3. Relocate to another site, on a commercial basis on private property zoned for the purpose of light industry/depot, by purchase or rental, outside the Town of Cottesloe.
4. Relocate to alternative land such as a Crown Reserve, within or very close to the Town of Cottesloe, with the current vested purpose of that site being capable of receiving a depot.

STRATEGIC IMPLICATIONS

In May 2009, Council set, as one of the Key Performance Objectives of the CEO – “Progress and Report possible solutions for Councils’ depot.”

Councils Future Plan 2006-2010:

Under Objective 4 – “To Manage development pressures” Councils Major Strategy 4.5 states “Consider undeveloped Government Owned land for higher density development provided there is both public support and benefit for the Cottesloe Community”. This could also apply to Council owned land.

Under Objective 5 – “Maintain Infrastructure and Council Buildings in a sustainable way”, Major Strategy number 5.1 states “Adopt a policy position on assets that have a realisable value such as the Depot and Sumps”. Major Strategy 5.4 states “Maximise income from non-rates sources”. Major Strategy 5.6 states “Develop a long term asset management plan and accompanying financial plan”.

POLICY IMPLICATIONS

The following Council policies apply to this item:

Community Consultation
Investment of Surplus Funds
Investments
Occupational Safety & Health
Sale of Council Property
Assets with Realisable Value
Regional Cooperation

STATUTORY ENVIRONMENT

There are a range of statutory requirements to be met regarding the subdivision and sale of the existing depot site. This would include a Business Plan to be developed and advertised. If Council resolves to proceed with development/sale, then a full list of requirements will be compiled by staff,

FINANCIAL IMPLICATIONS

No budget allocation has been included in the 2009/2010 budget for any costs associated with this matter. Staff time and resources to develop the concepts involved, seek a variety of information and undertake negotiations are not an extra cost to Council. Any use of consultants etc, would require reallocation of existing funds, if required in 2009/2010.

SUSTAINABILITY IMPLICATIONS

There is potential to achieve a number of sustainability improvements with this proposal. Any environmental problems with the existing site could be addressed and any new dwellings built on a redeveloped site would have to meet modern sustainability standards.

A new depot construction would also feature the highest level of environmental and sustainability provision, regarding infrastructure and operation.

CONSULTATION

Nil, apart from previous discussions with various WESROC municipalities, the Premier and property owners adjacent to the existing depot during the development of the new Town Planning Scheme. An information briefing was presented to Council on 11 August, 2009.

STAFF COMMENT

If Council resolved to retain its operations centre facilities at the existing site, there are a number of ongoing issues which will require addressing in the area of Occupational Safety and Health, environmental and infrastructure as well as the associated financial and redevelopment issues.

Separate from these issues is the potential financial benefit to Council if depot functions are relocated to an alternative site which does not have to be purchased for an equivalent value.

Probable financial benefits would be:

1. Profit made on land sale would be substantial, with the profit level dependent on a number of factors.
2. Council would not need to fund existing site improvements as covered under the previous points. However site redevelopment costs would be removed from the final sale value.
3. Long term increase in rates income from 12+ newly rateable properties would lift annual rate income.
4. Funds from this property sale could provide relief to existing Council loans.
5. Staff and plant operational efficiencies would be generated from the operation of new depot infrastructure incorporating modern storage, communication, training and administration systems. This will reduce ongoing operational and maintenance costs for the depot capacity.
6. Long term investment of funds generated could grant future Councils the freedom to develop infrastructure assets and public services to a higher quality without the reliance on future rate increases.
7. Early sale of the existing depot would ensure early availability of funds generated for expenditure to the benefit of Cottesloe ratepayers and residents.

Other benefits expected include:

8. The removal of a light industrial/depot site from a developed residential area and its replacement with a high quality residential development.

9. The removal of any potential environmental and safety risks existing from the depot operation on this site, to the benefit of the environment, adjacent landowners and the Town of Cottesloe.
10. The removal of a poor quality, outdated, low aesthetic depot site, to the benefit of local land values and civic pride.
11. Any new development of the site would include deep sewer connections. This will remove one of the few unsewered properties listed for Cottesloe.

Council development involvement alternatives:

If Council was to proceed with the redevelopment/sale of the existing depot site, Councils involvement could be at several alternative levels, i.e.:

- a. After all infrastructure is removed and any potential environmental issues solved, Council could then sell the property without further works.
- b. Remove all infrastructure and any potential environmental issues, then fill the site to a level ready for subdivision, with Council to sell the property prior to an approved development/subdivision.
- c. Undertake b) but complete a standard subdivision process for a conventional development, then sell all created lots.
- d. Employ a quality planning consultant to determine the best development potential and range of dwelling types then employ a specialist consultant manager to work with Council to complete the entire development process ready for sale.
- e. Remove all depot capacity to a new site without any improvements to existing site, with sale on an 'as is' basis.

A decision on this matter would be taken when a new site is found and agreement reached on the steps to create that new depot.

Other issues with Depot sale/redevelopment:

Matters requiring Council consideration as part of any redevelopment process for the existing depot site would include:

- Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, to guide subdivision and development.
- A widely advertised Business Plan must be created and presented to residents and ratepayers of Cottesloe, with land proposed for sale by Council. This occurred on the three previous sales of drainage sump properties.
- A full community consultation program would be required, particularly for local and affected property owners.
- A plan showing a safe, well designed access off Nailsworth Street will be required, to minimise vehicle impact to that street.
- Continuing access to all existing rear sheds and garages on the abutting Council owned laneways should be guaranteed.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Proceed with detailed planning for the relocation of its existing depot facilities and;
2. Receive a report, in the near future, on all matters required to be decided by Council to progress the depot relocation, including the community consultation process, an appropriate Business Plan, options for the level of Council involvement in the redevelopment and designs and quotations for a replacement facility.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council:

1. **Proceed with detailed planning for the relocation of its existing depot facilities and;**
2. **Receive a report, in the near future, on all matters required to be decided by Council to progress the depot relocation, including the community consultation process, an appropriate Business Plan, options for the level of Council involvement in the redevelopment and designs and quotations for a replacement facility.**
3. **Request that the report include options which consider the potential implications of local government reform.**

Carried 7/0

10.2.9 TOWN OF COTTESLOE OPERATIONS CENTRE - ALTERNATIVE SITES

File No: SUB/220
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

This item reports on alternative sites, including these previously investigated, for the relocation of the existing Town of Cottesloe Works Depot/Operations Centre, and recommends that Council:

1. Request the CEO liaise with potential partners and stakeholders who may have an interest in a new operations site within or close to the Town of Cottesloe, including Government Authorities.
2. Request a detailed public consultation process for any such proposal.
3. Receive a further report, which includes the results of (1) and (2) and will include a financial plan to resource the establishment of a new operations centre site prior to the sale of the existing site.

BACKGROUND

The history of the existing depot site is included in the previous report in this agenda – “Town of Cottesloe Operations Centre – Existing Site”.

With regard to previous sites considered and investigated, and the reasons for not progressing them to the following date, comments are made;

1. Shared depot site with Nedlands and Claremont – John XXIII Avenue. Site removed from consideration due to State Government land required for Perry Lakes Complex redevelopment.
 2. Shared depot site with Nedlands and Claremont – Existing City of Nedlands depot site, Carrington Street, Nedlands. Initially supported by Nedlands but eventually formally rejected by a Council (Nedlands) resolution.
 3. Shared depot site with Town of Mosman Park – existing McCabe Street depot. Future plans for \$4.5m redevelopment.
 4. Civic Centre, Broome Street – below the ‘Western Lawn’ – rejected by Council resolution (26 June 2000).
 5. Marmion Street, Toy Library property – too small in area.
 6. Portion of John Black Dune Park – conflicts with Council’s adopted Natural Areas Management Plan.
 7. Portion of contractor yard, West Coast Highway, adjacent to SAS Barracks, Swanbourne. – ‘Spotless’ contractor contacted twice. No interest shown. Site appears fully occupied and would be too small for Council use.
 8. McCall Centre – This site may, be vacated in the next two years. The site has major buildings of little use for an operations centre and was found to be too small in area.
-

9. Wearne Hostel – There is a section of undeveloped land on this site, accessible from Warton Street. This was inspected and the file consulted. Plans exist for the Wearne Hostel's future expansion over the site. Zoning and heritage-listing for the area not inclined towards a depot use, although structure planning of this and/or the Deaf Institute Site could contemplate such our integrated component, in the future.
10. Existing Town of Cambridge depot – Staff from Cambridge believe there is not sufficient land available beyond their future expansion needs however this could be further investigated.
11. Purchase or long term lease of industrial land in North Fremantle. Enquiries have not revealed any currently available however in the future, land may become available. Rental would be the order of \$25 to \$40/m²/annum, and the Town currently requires approximately 2000m².
12. Retain small portion of existing depot site and redevelop the balance. This would first need the depot functions to be temporarily relocated while the site was redeveloped and new depot sheds etc built, at considerable cost. The value of the remaining developed lots would be substantially reduced.
13. Police Station, Curtin Avenue – this site may be vacated when a new Police 'Hub' is established. The site is a Crown Land reserve. It is unknown when it may be available. The proposed new width of an extended West Coast Highway would remove most of the site.
14. West side of Broome Street, immediately north of the Rugby Club building. This option was rejected due to the exposed nature of site and probable outcry from local residents.
15. Reserve on south east side of the Hamersley Street/Hawkstone Street intersection – across the road from Grant/Marine Parade – rejected due to access problems, probable outcry from local residents.
16. Seaview Golf Club – Potential exists for a small, rationalised operations vehicle facility to be installed plus a materials storage yard, within the current lease area.
17. Public Transport Authority Land immediately north of Western Power Sub Station – this area is proposed for high value development as part of a new West Coast Highway extension. Also, access and exit for this site would be of concern.

STRATEGIC IMPLICATIONS

In May 2009, Council set, as one of the Key Performance Objectives of the CEO – "Progress and Report possible solutions for Council's depot."

Council's Future Plan 2006-2010:

Under Objective 4 – "To Manage development pressures" Council's Major Strategy 4.5 states "Consider undeveloped Government-Owned land for higher density development provided there is both public support and benefit for the Cottesloe Community". This could also apply to Council-owned land.

Under Objective 5 – "Maintain Infrastructure and Council Buildings in a sustainable way", Major Strategy number 5.1 states "Adopt a policy position on assets that have a realisable value such as the Depot and Sumps". Major Strategy 5.4 states "Maximise income from non-rates sources". Major Strategy 5.6 states "Develop a long term asset management plan and accompanying financial plan".

POLICY IMPLICATIONS

The following Council policies apply to this item:

Community Consultation
Investment of Surplus Funds
Investments
Occupational Safety & Health
Regional Cooperation
Sale of Council Property
Assets with Realisable Value

STATUTORY ENVIRONMENT

A Development Application would be required for Western Australian Planning Commission approval to establish an operations centre on any area of land reserved under the Metropolitan Region Scheme.

FINANCIAL IMPLICATIONS

There are no current resources allocated and this will need to be considered as part of any future budgetary process. It is proposed that an initial financial plan will be available in September 2009 to demonstrate Councils capacity to undertake works in 2010/2011.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil – However, substantial Community consultation will be required particularly locally based stakeholders and Government Departments.

STAFF COMMENT

As part of the future development of any viable proposal, a series of liaison meetings will be required with all potential stakeholders including government departments. It is proposed that these meetings commence immediately, with a further report to be made to Council in September, 2009, on progress.

In regards to what is required for a new Operations Centre (Works Depot), the following provisions are seen as minimum requirements:

1. Undercover and secure storage of all machines, vehicles and equipment.
2. Staff facilities to include offices, toilets, showers, a change room and a lunchroom easily used for staff training.
3. Connection of all services i.e. power, water, communications and deep sewer connection.
4. A storage yard for maintenance materials i.e. bricks, slabs, kerbs, woodchips, sand, limestone, drainage segments.
5. Bins to take green waste etc prior to removal to a controlled waste disposal site.
6. Security fencing, lighting, signage, access roads, staff car parking, wash-down area.
7. Full provision for the environmental control of run-off for the wash down bay and handstand drainage via a Gross Pollution Trap (GPT).

8. Storage within approved facility of fertilisers, sprays and control agents.

In order to move all depot operations and facilities to another location the new site must first be built if not existing. Once built, and relocation completed, the existing depot site can be redeveloped and an eventual profit gained. A financial plan is therefore essential to detail the steps required to fund a new operations centre prior to the sale of the existing site.

Council is now well aware of the advantages of the sale of the depot site and relocation of depot facilities. Apart from the major financial benefit, the issues at the existing depot relating to work efficiency, access, possible environmental concerns, infrastructure maintenance and replacement would all be addressed.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council:

1. **Request the CEO liaise with potential partners and stakeholders who may have an interest in a new operations centre site within or close to the Town of Cottesloe, including Government Authorities.**
2. **Request a detailed public consultation process for any such proposal.**
3. **Receive a further report, which includes the results of (1) and (2) and will include a financial plan to resource the establishment of a new operations centre site prior to the sale of the existing site.**

Carried 7/0

**10.2.10 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING
31 JULY, 2009**

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

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities together with supporting financial information for the period ending 31 July 2009 to Council, as per the Attachment entitled Financial Statements.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$229,705 as at 31 July 2009. Operating Revenue is ahead of budget by \$6,750 (.1%). Operating Expenditure is \$193,017 (2%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 July 2009 is shown on pages 7-8.

The Capital Works Program is listed on pages 24 - 26 and shows total expenditure of \$69,858 compared to the YTD budget of \$619,590. The reason for the significant difference is the delayed capital expenditure due to cash flow restrictions at the start of the year.

It is important to note that these accounts are an interim representation of our position as we are at the start of our financial year. There have been minimal transactions and all managers have been holding back on non-critical expenditure until rates revenue comes in August.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 July, 2009, as per the financial statement attachment submitted to the 18 August, 2009 meeting of the Works and Corporate Services Committee.

Carried 7/0

**10.2.11 SCHEDULE OF INVESTMENTS AND LOANS FOR THE PERIOD
ENDING 31 JULY, 2009**

File No: SUB/150 & SUB/151
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 July 2009 to Council, as per the Attachment entitled Financial Statements.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 18 of the Financial Statements shows that \$900,287.94 was invested as at 31 June, 2009.

Reserve Funds make up \$891,787.24 of the total invested and are restricted funds. Approximately 65% of the funds are invested with the National Australia Bank, 35% with BankWest.

The Schedule of Loans on page 19 shows a balance of \$2,122,683.66 as at 31 July, 2009. There is \$495,960.94 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 July, 2009, as per the financial statements attachment submitted to the 18 August 2009 meeting of the Works and Corporate Services Committee.

Carried 7/0

10.2.12 ACCOUNTS FOR THE PERIOD ENDING 31 JULY, 2009

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

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 July 2009 to Council, as per the Attachment entitled Financial Statements.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 10 of the Financial Statements:

- \$10,549.00 to Perth Patterned Concrete for work on Marmion/Eric Street roundabout
 - \$14,344.55 to Synergy for street lighting for May 2009
 - \$15,193.40 to WA Local Govt Super Fund for staff deductions
 - \$26,400.00 to Main Roads WA to refund unused blackspot funding
 - \$14,917.07 to WA Local Govt Super Fund for staff deductions
 - \$13,784.00 to Water Corporation for annual service charge
 - \$34,032.21 to Australian Taxation Office for payroll deductions
 - \$42,932.73 to Kulin Group for refurbishment of beach pylon
 - \$17,066.50 to Digital Mapping Solutions for DMS and Mapinfo programs
-

- \$36,821.12 to Claremont Asphalt Services for installation of soakpits
- \$14,927.53 to Kulin Group for refurbishment of beach pylon
- \$17,609.83 to Cemex for soakwell covers and related hardware
- \$27,513.97 to LGIS for property insurance for 2009/10
- \$27,967.26 To LGIS for motor vehicle and plant insurance
- \$12,945.33 to WMRC for disposal and tipping fees
- \$31,378.88 to LGIS for various insurances for 2009/10
- \$31,458.90 to Civica for annual licence renewal
- \$13,838.00 to Lightsense Australia for solar powered street lighting system
- \$11,462.00 to Cemex for soakwell covers and related hardware
- \$11,320.60 to the Shire of Peppermint Grove for share of BCITF levies for new library
- \$43,743.95 to Transpacific Cleanaway for domestic & commercial waste disposal in June 2009
- \$65,969.80 and \$71,077.40 for staff payroll

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council receive the List of Accounts for the period ending 31 July 2009, as per the financial statement attached submitted to the 18 August 2009 meeting of the Works and Corporate Services Committee.

Carried 7/0

**10.2.13 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 JULY, 2009**

File No: SUB/145
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 18-Aug-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 July 2009 to Council, as per the Attachment entitled Financial Statements.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 20-22 of the Financial Statements shows a balance of \$205,334.21 of which \$57,592.34 relates to the current month. The balance of aged debt greater than 30 days stood at \$147,741.87.

Property Debtors are shown in the Rates and Charges analysis on page 23 of the Financial Statements and show a balance of \$6,518,957.00. Of this amount \$227,446.71 and \$755,653.66 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$7,067,180 in 2009 compared to \$6,631,635 last year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council receive the Property Debtors and the Sundry Debtors Report for the period ending 31 July, 2009, as per the financial statements attachment submitted to the 18 August, 2009 meeting of the Works and Corporate Services Committee.

Carried 7/0

11 REPORTS OF OFFICERS**11.1 CONFIDENTIAL REPORT****11.1.1 FLORENCE STREET ADVERSE POSSESSION CLAIMS**

File No: SUB/260
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 24-Aug-2009

SUMMARY

Council held a Special Meeting on Monday 17th August 2009 on this matter where a large amount of background information was provided and the following resolution was adopted:

That Council:

1. Resolve to lodge caveats against both Adverse Possession claims relating to 40 and 48 Florence Street and have these caveats prepared and lodged by Council's legal representation.
2. Notify affected Hawkstone Street and Florence Street residents of Council's decision.
3. Investigate the length of time and location of the encroachments of the two involved properties, being No: 40 and 48 Florence Street, Cottesloe
4. Obtain legal advice for consideration at the Council Meeting of the 24 August 2009
5. Request the CEO to prepare a report on all known sites of potential adverse possession claims on all laneways

As a result, on Wednesday 19th August, Woodhouse Legal, on behalf of Council, lodged caveats against the adverse possession of portions of Right of Way 20, between Hawkstone Street and Florence Street, to become permanent parts of No's 40 and 48 Florence Street.

This report recommends that Council consider the confidential report and recommendation as per attachments.

BACKGROUND

A range of background information has been sent to all Councillors over the past two weeks. That information still applies.

STRATEGIC IMPLICATIONS

Management of lanes from all points of view – ownership, access/use, upgrading, abutting owners, adjoining development, planning, amenity, assets, etc.

POLICY IMPLICATIONS

Rights of Way/Laneways

STATUTORY ENVIRONMENT

Transfer of Land Act 1893, Section 222 and 223 apply (Attachments).
Local Government Act 1995, Section 5.23.

5.23 Meetings generally open to the public

1. Subject to subsection (2), the following are to be open to members of the public —
 - a. all council meetings; and
 - b. all meetings of any committee to which a local government power or duty has been delegated.
2. If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
 - a. a matter affecting an employee or employees;
 - b. the personal affairs of any person;
 - c. a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
 - 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;
 - e. a matter that if disclosed, would reveal —
 - i. a trade secret;
 - ii. information that has a commercial value to a person; or
 - iii. information about the business, professional, commercial or financial affairs of a person,where the trade secret or information is held by, or is about, a person other than the local government;
 - f. a matter that if disclosed, could be reasonably expected to —
 - i. impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
 - ii. endanger the security of the local government's property; or
 - iii. prejudice the maintenance or enforcement of a lawful measure for protecting public safety;

- g. information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971 ; and
- h. such other matters as may be prescribed.

A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

FINANCIAL IMPLICATIONS

Nil if no caveat is submitted, although this does represent a loss of fee simple land held by the Town, albeit as a part of a right of way/laneway.

Substantial unbudgeted costs, probably in excess of \$20,000 if caveats are lodged and court action is involved. Other costs may be significant, depending upon outcome of any court decision.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Council communicated with property owners fronting the north side of Florence Street in 2005, in regards to land included within their properties which were part of Right of Way 20, as well as legal firms Watts & Woodhouse, Woodhouse Legal and McLeods to obtain legal advice.

Council also received a petition from residents of Hawkstone Street against the adverse possession claims. Several of these residents addressed Council.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council consider the confidential report and recommendation as per attachments.

Moved Miller, seconded Cr Walsh

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

Carried 7/0

Cr Woodhill and Boland left the meeting at 7:45pm

Cr Woodhill and Boland returned to the meeting at 7:47pm

Moved Cr Miller, seconded Cr Cunningham

In Accordance with Standing Orders 15.6 "*That the Council move into a Committee of the Whole – Effect of motion*" to discuss the Confidential Report

Carried 7/0

General discussion took place on the matter before Council, including advice from John Woodhouse (Woodhouse Legal) who was present at the meeting.

Moved Cr Miller, seconded Cr Cunningham

In Accordance with Standing Orders 15.6 “*That the Council move into a Committee of the Whole – Effect of motion*”, that the Council move out of the *Committee of the Whole*.

Carried 7/0

COUNCIL RESOLUTION

Moved Cr Birnbrauer, seconded Cr Boland

That Council;

- 1. Withdraw caveats against the adverse possession claims of No’s 40 and 48 Florence Street against areas within Right of Way 20.**
- 2. Notify affected Hawkstone Street and Florence Street residents of the decision.**

Carried 7/0

Cr Dawkins declared a Financial interest in Item 11.1.1 due to ownership of a private laneway and left the meeting at 8:24pm.

COUNCIL RESOLUTION

That Council;

- 3. Request the CEO to prepare a report on all known sites of potential adverse possession claims on all laneways within the Town of Cottesloe.**

Carried 6/0

Cr Dawkins returned to the meeting at 8:27pm

Moved Cr Miller, seconded Cr Woodhill

In accordance with Standing Orders 15.10 “*That the Council meets behind closed doors – Effect of Motion*” (LG Act s5.23) that Council re-open the meeting to the Public.

Carried 7/0

The public were invited back into the Council Chamber and the Deputy Mayor, Cr Jack Walsh, then read aloud the Council’s resolution to the public.

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

Nil

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

Nil

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 8:33pm

CONFIRMED: DEPUTY MAYOR DATE: / /