Town of Cottesloe

I hereby certify that the minutes of the Council meeting held on

Tuesday, 24 November 2020

were confirmed as a true and accurate record by Council resolution.

Signed:

Presiding Member

Date: 21/12/2020

TOWN OF COTTESLOE

ORDINARY COUNCIL MEETING

MINUTES

ORDINARY COUNCIL MEETING
HELD IN THE
War Memorial Hall, Cottesloe Civic Centre, 109 Broome Street, Cottesloe
6:00pm Tuesday, 24 November 2020

MATTHEW SCOTT
Chief Executive Officer

30 November 2020

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

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6:03pm.

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

2 DISCLAIMER

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

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Presiding Member announced that the meeting is being recorded, solely for the purpose of confirming the correctness of the Minutes.

4 PUBLIC QUESTION TIME

4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Idris Matthews – 16 Grant Street, Cottesloe – Item 10.1.10

Please refer to:

a) my FOI request to the Town of Cottesloe (**Town**) dated 26 June 2020 (**attached**);

b) my email to the Town dated 19 October 2020 (**attached**); and

c) the Town's response to my email dated 23 October 2020 (**attached**).

Q1. Can you please explain why the Town did not provide me with Version A of the Enlocus Report, Version B of the Enlocus Report, Version C of the Enlocus Report and Version F of the Enlocus Report in response to my FOI request?

A1. This is being addressed as part of the current FOI request.

Q2. I refer to a question asked last week by a participant in the briefing forum meeting, which mentioned an invitation from the Town to 11 schools to participate in consultation regarding the skatepark. Can you please inform me:

Q2a) Who issued the invitation?

A2a) The Town of Cottesloe

Q2b) Was the invitation in writing?

A2b) Yes

Q2c) If in writing, why it was not included in the response to my previous FOI request?

A2c) This has not been specifically asked for.

Q2d) If in writing, whether it will be produced in response to my further FOI request made today?

A2d) This has not been specifically asked for.

Q2e) What were the 11 schools?

A2e) The 10 schools are as follows:

North Cottesloe Primary School

IONA Presentation College

St Hildas

Methodist Ladies College

Scotch College

Christchurch Grammar School

John xxiii College

Shenton College

John Curtin

Fremantle College

Q2f) How many of those schools are within the Town's boundaries?

A2f) 1

Please refer to my letter to the Town dated 22 October 2020. With respect to the following facts referred to in it, namely:

- The 2017 petition contained only 482 written signatures, and the remainder was an unverifiable online petition;
- There were numerous duplicate signatures;
- The person promoting the petition publicly stated that it had over 1,000 online supporters (which overstated the figure by 100%) and over 1,000 written signatures (which overstated the true figure by over 100%);
- Less than 200 of the expressions of support in the total 2017 petition were from Cottesloe residents; and
- The published Enlocus report contained the false claim that the 2017 petition had over 1,000 signatures with 440 from Cottesloe residents,

Q3. What steps did the Town or Council take to independently verify the claims made about the 2017 petition by its supporters and Enlocus? If none, does the Council accept that it should have independently verified those claims?

A3. Generally petitions received by Council are not independently verified. Likewise the Town has acknowledged (on numerous occasions) there have been identified errors with the Enlocus report.

Q4. Following on from question 3, now that the Council and Town have accepted that the published Enlocus Report used as the basis for its 2020 online survey also contained significant errors, what steps will the Council take to ensure that there are no further factual errors, and no further misleading claims, in its assessment of the skatepark proposal?

A4. The officer's recommendation seeks to have all previous reports on the skate facility reviewed by an expert consultant, this would include the report from Enlocus.

Jo Gibson – 13 Hawkstone Street, Cottesloe – item 10.1.10

Q1. Does Council accept that a beautiful well-utillized green space that caters to all ages (Grant Marine Park) will be sacrificed when there are other more suitable underdeveloped and less utilised locations for a skatepark?

A1. There has been no decision on a location of the proposed skate facility.

Sheryl Grimwood – 2 Margaret Street, Cottesloe – item 10.1.10

Q1. On the matter of Consultative Processes – Grant Marine Park, please explain how, if at all, are the respondents weighted such that the ratepayers are responsibly represented for example:

Q1a) By respondent #s/per residence (rate paying resident), i.e. more than 1 response per resident ratepayer

A1a) No weighting criteria was utilized in the analysis.

Q1b) As a ratepayer or not;

A1b) No weighting criteria was utilized in the analysis.

Q1c) Proximity of respondents "place of residence to proposed location and Town of Cottesloe" and going to likelihood of use and other if applicable.

A1c) No weighting criteria was utilized in the analysis.

Fulvio Prainito – 7/94 Marine Parade, Cottesloe – item 10.1.10

Q1. When will beach access ramp at Cottesloe Beach between Indiana and No. 1 car park be put back?

A1. The previous temporary ramp was destroyed earlier this year in a storm event. It has not been replaced as there are safer alternative beach access paths near to where the ramp used to be. Universal Beach Access path is a key element in the Town's Foreshore Masterplan.

Q2. When will the many bins blocking access to the beach from the crosswalk across Marine Parade from John Street be more uniformly redistributed?

A2. The bins will be relocated back to their original locations in November, if not before.

Stephen Mellor – 8 Graham Court, Cottesloe – item 10.1.9

The Dutch Inn images supplied do not represent a true elevation showing dimensioned heights nor does it include any trees that are shown on the plan.

Q1. With the now 4 Options being considered, will the Council please confirm it will provide fully revised true elevation, scaled, dimensioned drawings to be circulated for further discussion and community consultation for whichever Option may be progressed tonight?

A1. No.

Q2. Should the Officer recommendation be approved by Council tonight, without further community consultation, does the Council agree that the consultation process has been marred in not providing appropriate images in the original restricted community consultation?

A2. No.

Stephen Mellor – 8 Graham Court, Cottesloe – item 10.1.10

The Cottesloe Recreational Precinct will be discussed before the end of the year (see A1 in the written responses to my Questions taken on notice Page 1 of tonight's Agenda papers).

Q1. Will the Council instruct the Skate Park consultants to consider and review locating the Skate Park as part of the Cottesloe Recreational Precinct as part of the total review process?

A1. All possible locations will be considered in the proposed review.

4.2 PUBLIC QUESTIONS

Cr MacFarlane entered the meeting at 6:05pm.

Chris Doerr, representing Ben and Tennille Hammond – 56 Grant Street, Cottesloe – item 11.1

Q1. The owners of 58 Grant Street have asked is there a conflict of interest between Cr Masarei and the owners of 56 Grant Street, their neighbours. They have had no notice of this meeting until this afternoon and there has been a one-sided effort by Cr Masarei to protect the demoliton of the wall which has been improved and they are questioning why they have not been involved in this at all?

Q2. Why were they not given adequate notice? They were not involved and not informed of this meeting or that part of the agenda which was put out late and had no notice of that until about 4pm this afternoon.

The questions were taken on notice.

Stephen Mellor – 8 Graham Court, Cottesloe – items 10.1.1, 10.1.2 and 10.1.6

The following questions are the same questions asked by Mr Mellor at the Agenda Forum Meeting on 17 November 2020 which were responded to at the meeting and also in writing to Mr Mellor.

10.1.1 Permanent Registration – Cottesloe Beach Precinct

Q1. Can Council confirm that there are no conflicting or other issues concerning the permanent listing with the current Foreshore Precinct Development Plan?

A1. The Town's understanding is that the registration will not change the status of the foreshore from the temporary registration that already exists there. As long as any development is in line with the current vesting of the reserve that can go ahead with the permanent registration.

Q2. Has such Heritage Status and compliance standards been addressed by the consultants in the current development plans?

A2. Out of courtesy the Town will keep the Heritage Council of WA updated with any development, likewise with other state agencies but technically, as long as the Town meets the vesting of the reserve, which I understand is vested for recreational purposes, and the development meets that land use the Town does not technically need to get approval, but out of courtesy will keep various state agencies up to date. The CEO has spoken to the Heritage Council and they are aware of the Foreshore Redevelopment Plans and are interested in being kept up to date and the CEO has assured them that they will be.

Q3. So you're convinced the consultants have done the necessary work to meet those standards?

A3. The development is meeting the current vesting order of the reserve, which is recreational purposes

10.1.2 Local Government (Meeting Procedure) Local Law 2021

I was pleased to see in the draft Local Law –

6.7(9) Where a response to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes of that meeting.

Q1. In tonight's agenda at 4.2 Public Questions there are no summaries of questions and answers that were given at the meeting. I have not trawled back through past meeting minutes but is there any reason this has not occurred and that the Council will henceforward ensure such are included in the minutes?

Q2. I would like to ask if the CEO and Council would also include in the 2020/2021 Local Law the requirement for inclusion of summaries of public statements that the CEO has suggested to me in an email.

A1&2 Summaries of questions and responses are currently included in the formal minutes from the previous Council meeting. Section 4.2 Public Questions, in tonight's Agenda, is for asking questions at this meeting. Questions and responses given at the last Council meeting were included in the previous Council Meeting Minutes.

Q3. Will the questions that are answered tonight be in the minutes next week, because if they are answered tonight, they are not taken on notice?

A3. Tonight, (referring to last week's Agenda Forum Meeting) is not the formal meeting of Council but general practice is questions *taken on notice* are included in the Council meeting *Agenda* next Tuesday. Ideally, to ensure that questions are included in the minutes it is better to have them asked at the formal Council meeting, not necessarily at an agenda forum session.

10.1.6 Customer Service Charter

I note in the Customer Service Charter the commitment to make Council Meeting agendas available on the Friday prior to the meeting being held on the Town's website.

I strongly believe that the 72 hours prior publication of the agenda should be interpreted as three full business days and that excludes week-ends, public holidays, the publication day and the meeting day to allow for reasonable time and opportunity for review and consideration by the public.

I refer to section 61 of the *WA Interpretation Act*.

Publication, therefore of the agendas on the website should be I believe, be on Wednesday prior to the Tuesday meetings. Council itself specifies 'business days' in its commitment to its respond time frames.

Q1. Will the Council please include this notice period interpretation in the Customer Charter and in the revised Local Law Meetings Proposal 2021 being discussed tonight?

Q2. For clarify, can you confirm that mail enquiries as written in the Charter includes email correspondence? I assume it does as a reference number email response is promised.

Q3. If a hard copy mail enquiry is made, will a hard copy reference number reply be made by hard copy?

Q4. Can automated receipt of email response be set up to give assurances to the sender that the email has been logged prior to receipt of the associated reference number email three days later?

A1-4 The responses to the above questions are something Council needs to consider when considering the Customer Charter but reference to mail in the Customer Charter includes email.

5 PUBLIC STATEMENT TIME

Chris Doerr, representing Ben & Tennille Hammond – 56 Grant Street, Cottesloe – item 11.1

Mr Doerr spoke about his objections to Cr Masarei's motion and the fact that Cr Masarei had spoken to the neighbours at 58 Grant Street but not the neighbours on the other side and he considered that a BA20 Notice was not required.

Nicholas Ozich – 56 Grant Street, Cottesloe – item 11.1

Mr Ozich spoke about the Councillor Motion and advised he had only met Cr Masarei three weeks ago after he rang him stating that the Administration was not returning his calls. Mr Ozich stated that the owners of the two properties were in a compromised position and this should be a civil issue.

Murray Casselton – Element – Level 18, 191 St Georges Tce, Perth – item 10.1.9

Mr Casselton (representing the owners of 1 Geraldine Street) spoke against the officer's recommendation to restrict access to the PAW at the Geraldine Street cul-de-sac through the installation of a bollard and requested that Council resolve to instruct the Town's officers to consider and facilitate alternatives to maintain access to the existing western facing garage at 1 Geraldine Street.

6 ATTENDANCE

Elected Members

Mayor Philip Angers
Cr Lorraine Young
Cr Caroline Harben
Cr Helen Sadler
Cr Craig Masarei
Cr Melissa Harkins
Cr Michael Tucak
Cr Kirsty Barrett
Cr Paul MacFarlane (from 6:05pm)

Officers

Mr Matthew Scott	Chief Executive Officer
Mr Shane Collie	Executive Manager Corporate Services and Governance
Ms Freya Ayliffe	Executive Manager Compliance and Regulatory Services
Mr Shaun Kan	Executive Manager Engineering Services
Mr Wayne Zimmermann	Principal Planner
Ms Mary-Ann Winnett	Governance Coordinator

6.1 APOLOGIES

Nil

Officers Apologies

Nil

6.2 APPROVED LEAVE OF ABSENCE

Nil

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 DECLARATION OF INTERESTS

Mayor Angers declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “I know several of the people who are being nominated for citizen of the year."

Cr Harkins declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “a number of the nominees known to me."

Cr Tucak declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “I know some of the nominees."

Cr Tucak declared an IMPARTIALITY INTEREST in item 10.1.9 by virtue “I have previously disclosed that both of the neighbours are known to me."

Cr Tucak declared an IMPARTIALITY INTEREST in item 13.1.2 by virtue “I was a donor member of Sculptures By The Sea in the past."

Cr Barrett declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “A number of the parties are known to me."

Cr Sadler declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “a number of the nominees known to me."

Cr Harbin declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “a number of the nominees known to me.

Cr Young declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “Some of the nominees/nominators are known to me."

Cr Masarei declared an IMPARTIALITY INTEREST in item 10.1.9 by virtue “The owners of 1a Geraldine Street, Cottesloe are known to me."

Cr Masarei declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “many of the nominations are known to me."

Cr Masarei declared an IMPARTIALITY INTEREST in item 11.1 by virtue “I first met the owners of 56 Grant Street, Cottesloe on 6 November 20 at his home as a Councillor to the Town of Cottesloe and personally met his wife tonight for the first time."

Cr Tucak declared an IMPARTIALITY INTEREST in item 11.1 by virtue “I know the family of one of the residents at 56 Grant Street, Cottesloe."

8 CONFIRMATION OF MINUTES

Moved Cr Young **Seconded Cr Masarei**

That the Minutes of the Ordinary Meeting of Council held on Tuesday 27 October 2020 be confirmed as a true and accurate record.

Carried 9/0

9 PRESENTATIONS

9.1 PETITIONS

Section 9.4 - Procedure of Petitions

The only question which shall be considered by the council on the presentation of any petition shall be -

a) that the petition shall be accepted; or

b) that the petition not be accepted; or

c) that the petition be accepted and referred to a committee for consideration and report; or

d) that the petition be accepted and dealt with by the full council.

Nil

9.2 PRESENTATIONS

Nil

The Mayor advised that during the COVID-19 emergency period, item 9.2 (Presentations) will only be utilised for matters of significant importance.

9.3 DEPUTATIONS

Nil

10 REPORTS

10.1 REPORTS OF OFFICERS

COUNCIL RESOLUTION

Moved Cr Young **Seconded Cr Sadler**

That Council adopts en-bloc the following Officer Recommendations contained in the Agenda for the Ordinary Council Meeting 24 November 2020:

Item #	Report Title
10.1.1	Permanent Registration - Cottesloe Beach Precinct
10.1.6	Customer Service Charter
10.1.7	Council Meeting Dates 2021
10.1.11	Financial Statements For The Period 1 July 2020 to 31 October 2020

Carried by En Bloc Resolution 9/0

The Presiding Member advised that items 10.1.9 and 11.1 would be moved to the end of the meeting and discussed behind closed doors as legal advice had been presented and needed to be considered, as per Standing Order 7.1(1).

PLANNING

10.1.1 PERMANENT REGISTRATION - COTTESLOE BEACH PRECINCT

File Ref:	**SUB/2798**
Applicant(s) Proponents:	**Heritage Council of Western Australia**
Attachments:	**10.1.1(a) Heritage Council Referral to Town of Cottesloe - P16637 Cottesloe Beach Precinct - Interim Registered Draft Assessment for Comment [under separate cover]**
Responsible Officer:	**Wayne Zimmermann, Principal Planner**
Author:	**Gayle O'leary, Planning Officer**
Author Disclosure of Interest:	**Nil**

SUMMARY

The Heritage Council of Western Australia seeks the Town's comments on its proposal to finalise the registration of Cottesloe Beach Precinct on the State Register of Heritage Places.

This report requests that Council advise the Heritage Council that it supports the permanent inclusion of Cottesloe Beach Precinct on the State Register of Heritage Places.

BACKGROUND

Cottesloe Beach Precinct was included on the interim Register of Heritage Places on 23 November 2004 under the *Heritage of Western Australia Act 1990*. The *Heritage Act 2018*, which came into effect on 1 July 2019, now requires registration of Cottesloe Beach Precinct ("the Precinct") to be finalised. The draft Register Entry and documentation is attached to this report.

The Department of Planning, Lands and Heritage defines "Historic Precincts" as follows:

A historic precinct is where the combination of landscapes, buildings, streets and spaces of an area has State significance because of their grouping and relationship to each other.

To inform the proposed permanent inclusion of the Precinct on the State Register of Heritage Places, the Heritage Council recently considered an updated draft assessment for *Cottesloe Beach Precinct*, including a proposed statement of significance, and resolved that:

- *the place is of cultural heritage significance in terms of the Heritage Act 2018;*
- *the place makes an important contribution to understanding the heritage of Western Australia as detailed in the draft proposed statement of cultural heritage significance (draft statement) in the draft register entry; and,*
- *stakeholders should be consulted on the proposal to finalise registration.*

STRATEGIC IMPLICATIONS

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

This report is consistent with the Town's *Corporate Business Plan 2017 – 2021*.

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government Act 1995

Heritage Act 2018

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

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

STAFFING IMPLICATIONS

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

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

Zone Three of the Precinct includes the Indiana Tea House, constructed 1996. The Department of Planning, Lands and Heritage (Heritage Services) is currently liaising with the lease holder of the Indiana Tea House and has invited them to comment on the permanent registration.

OFFICER COMMENT

The site has been included on the State Register of Heritage Places since 2004. The Heritage Council of Western Australia now seeks to finalise the listing by making its entry permanent.

Should Cottesloe Beach Precinct be permanently included on the State Register, any proposed alteration to an individual place within the Precinct, including new and older structures, would subsequently be required to be referred to the Heritage Council of Western Australia for advice by the Western Australian Planning Commission prior to determination, excluding proposals that are deemed as exempt under *The Heritage Act 2018*.

The Precinct includes Cottesloe Beach Pylon and Moonderup Rocks. Cottesloe Beach Pylon was permanently listed on the State Register on 15 August 2003 and Moonderup Rocks is included on the Aboriginal Sites Register and the Town of Cottesloe Municipal Inventory as a Category 7 site.

Moonderup Rocks (also known as "Mudurup Rocks") is described in the Town of Cottesloe Municipal Inventory as follows:

Aboriginal fishing place for Wadjug until early 19th C. 1901 sp. - means place to catch whiting.

Aboriginal fishing place.

The permanent inclusion of the site on the State Register of Heritage Places is considered to be consistent with the cultural heritage significance of the site and is therefore appropriate.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Young **Seconded Cr Sadler**

THAT Council ADVISES the Heritage Council of Western Australia that it supports the permanent inclusion of Cottesloe Beach Precinct on the State Register of Heritage Places.

Carried by En Bloc Resolution 9/0

ADMINISTRATION

10.1.2 LOCAL GOVERNMENT (MEETINGS PROCEDURE) LOCAL LAW 2021

File Ref:	**SUB/2798**
Attachments:	**10.1.2(a) Draft Town of Cottesloe Local Government (Meeting Procedure) Local Law 2021 [under separate cover]**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**
Author:	**Shane Collie, Executive Manager Corporate Services and Governance**
Author Disclosure of Interest:	**Nil**

SUMMARY

It is recommended that the Town of Cottesloe Standing Orders Local Law 2012, as published in the Government Gazette on 12 July 2012, be repealed and replaced with a new Local Government (Meeting Procedure) Local Law based on the WA Local Government Association (WALGA) Model.

Section 3.5 of the *Local Government Act 1995* (LGA) provides the power for local governments to make Local Laws and prescribing all matters that are required or permitted to be prescribed by a Local Law, or are necessary or convenient for it to perform any of its functions.

The Town of Cottesloe Standing Orders Local Law is a key component of how the Council conducts its business at a political and officer level. Standing Orders regulate how business is carried out at Council and Committee meetings. The Standing Orders are subsidiary legislation to the LGA and are considered enforceable procedures.

BACKGROUND

The Town of Cottesloe currently has a Standing Orders Local Law as published in the Government Gazette on 12 July 2012. The Minister for Local Government has carriage of the powers conferred by the *Local Government Act 1995* for the Standing Orders Local Law.

It is recommended that the Town of Cottesloe Standing Orders Local Law be remade to account for amendments in legislation and better practice given that the current Local Law is 8 years old and is due for statutory review this year.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

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

This report is consistent with the Town's *Corporate Business Plan 2020 – 2024*.

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government Act 1995

3.5. Legislative power of local governments

(3) A local government may make Local Laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

3.12 Procedure for making a Local Law

(1) In making a Local Law a local government is to follow the procedure described in this section, in the sequence in which it is described.

(2) At a Council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed Local Law in the prescribed manner.

(3) The local government is to –

(a) give State wide public notice stating that –

(i) the local government proposes to make a Local Law the purpose and effect of which is summarised in the notice;

(ii) a copy of the proposed Local Law may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed Local Law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

(b) as soon as the notice is given, give a copy of the proposed Local Law and a copy of the notice to the Minister and, if another Minister administers the Act under which the Local Law is proposed to be made, to that other Minister; and

(c) provide a copy of the proposed Local Law, in accordance with the notice, to any person requesting it.

(3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation and consist predominantly of officer time and advertising costs. A budget allocation of $25,000 was

included in the 2019/20 budget for reviewing the Town's Local Laws however this was not utilised in that year. There are sufficient funds in the Strategic Planning area of Council's budget to meet the costs of updating this Local Law given that the review is being undertaken in house. The principal cost is advertising.

STAFFING IMPLICATIONS

There are no perceived staffing implications arising from the officer's recommendation aside from time allocation as required to undertake the review of the Local Law.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

The formal consultation process is embedded in the legislation associated with the review of a Local Law. Consultation consists of two 6 week advertising periods notwithstanding that informal consultation on this particular Local Law was undertaken late in 2019.

OFFICER COMMENT

The purpose of this report is to consider a proposal to make a new Local Law relating to meeting procedures for the Town of Cottesloe. Up to date and relevant Local Laws are an important cornerstone of good governance and the Town has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner. The repeal and replacement of this Local Law will result in more efficient and effective local government by removing an outdated Local Law from the public record.

To comply with the provisions of Section 3.12 of the Act, when proposing to make a Local Law, the Presiding Person is required to give notice of the purpose and effect of the proposed Local Law at the Council meeting where the Local Law is being considered.

The purpose and effect of the proposed Town of Cottesloe Local Government (Meeting Procedure) Local Law 2021 is as follows:

Purpose: To provide for the orderly conduct of the proceedings and business of the Council, and for the safe custody and use of the Council's Common Seal.

Effect: To ensure that all Council meetings, committee meetings, and other meetings as described in the *Local Government Act 1995*, and the use of Council's Common Seal, are governed by this Local Law unless otherwise provided in the Act, regulations or other written law.

The draft Local Law has been through the following scrutiny in terms of its drafting:

- In 2019 the existing Local Law was scrutinised by elected members and a number of changes recommended, including the abandonment of certain sections as noted on pages 33 and 34.
- The intention to create a new Local Law was advertised for comment in late 2019, though this was not part of the formal advertising process. No submissions were received.
- A new draft of the Local Law based on the WALGA industry standard was submitted to the March 2020 Council Briefing Forum. Council wished to consider further changes to the draft Local Law and feedback was sought.
- The updated document was then submitted to the September 2020 Council Briefing Forum. Council determined that it wanted an informal group of Councillors (Crs Young, Masarei and Tucak) to provide feedback. The draft Local Law was circulated to those Councillors on 30 September 2020. A further round of changes have been incorporated into the Local Law, in the main from feedback received from Cr Young. Note this feedback was in the main on phrasing and not so much intent. Not all feedback was included such as a recommendation to amend the order of some sections which conflicted with the WALGA model and was considered unnecessary.

In debating this item, Cr Tucak stated he did not agree with the above statement and advised that though initially expressing an interest in being included in this informal group of Councillors, did not participate in this process.

- A page turning exercise involving Crs Young, Masarei and the Chief Executive Officer was held on 23 October where further changes were added, again being of a relatively minor nature. These changes are noted in yellow in the attached draft Local Law. Cr Tucak was an apology for that meeting.
- The WALGA template in the meantime was updated and these changes were included which consisted primarily of cosmetic changes to format (capitalisation standard) and again did not alter the intent of the Local Law.

The following matters are also relevant to the draft Local Law:

- Table of Contents and page numbers of the Local Law will be removed when the Local Law is at the gazettal stage. All Local Laws are treated this way now to avoid confusion with the Government Gazette Table of Contents and page numbering systems.
- Clause **18.1**, Penalties under the Local Law are recommended to be reduced from $5,000 and a daily penalty of $500, to $1,000 and a daily penalty of $100. The WALGA advice on this matter is as follows – *"Offences under Standing Orders are relatively minor when compared to local laws that involve matters of public safety or local government property. Penalties of $1,000 have previously gone through the Committee (Delegated Legislation) without objection."* The WALGA advice is effectively saying there is a risk that the Local Law would be disallowed if the higher penalties are included. Given that offences under this Local Law are rare, and generally of a minor nature, this advice is concurred with.
- Cr Young has put forward the following for consideration by Council:

"THAT THE OFFICER'S RECOMMENDATION be amended by inclusion of the following provision in the bullet points list of amendments:

1. *Amend the heading of Part 9 – to "Debate of Motions"; and*
2. *the insertion of a new paragraph at the end of Part 9 as follows:*

9. 17 Questions during debate

(1) At any time during the debate on a motion before the motion is put, but not when another member is speaking, a member may ask a question.

(2) Questions asked by a member and responses are to be brief and concise; and are not to be accompanied by –

(i) expression of opinion, statement of fact or other comment, except where necessary to explain the question or response; or

(ii) any discussion or further question, except with the consent of the presiding member.

Rationale:

1. *It is important that elected members are able to ask questions where necessary in order to make informed decisions on matters before Council.*
2. *Opportunities are provided for elected members to inform themselves at Briefing Forums, Agenda Forums and by direct contact with the Administration prior to meetings and there is an expectation that elected members will use these avenues to inform themselves.*
3. *There may however be occasions on which Elected Members may need to ask a question to inform decision making, for example where the question arises out of information put forward for the first time at the meeting.*
4. *The proposed provision allows the Presiding Member to retain control of the process to ensure that questions are asked only for the purpose of informing decision making.*
5. *An Elected Member who had been prevented by the Presiding Member from asking follow-up questions can appeal to Council for the ruling to be overturned.*
6. *This provision is common in other Local Government standing orders and strikes a balance between allowing access to information and running effective and efficient meetings by appropriate use of procedures.*
7. *The amendment to the heading for Part 9 is included as the Part deals with debate on amendments as well as substantive motions.''*

The recommendation from Cr Young to permit questions during debate is not supported by the Administration as it is considered that questions on reports can be dealt with prior to a Council meeting directly to the Chief Executive Officer or Reporting Officer, at the Agenda Forum held the week before the Council meeting, or by the Presiding Member's directive when the item is dealt with, but before formal debate occurs. This position is based solely on meeting efficiency.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council PROVIDES State wide public notice that it proposes to make the Town of Cottesloe Local Government (Meetings Procedure) Local Law 2021, as contained within *Attachment 1* to this report, including the following amendment:

- *Amend the heading of Part 9 – to "Debate of Motions"*

and invites public submissions on the proposal in accordance with Section 3.12 (3) (iii) of the *Local Government Act 1995.*

COUNCILLOR MOTION AND COUNCILLOR RESOLUTION

Moved Cr Young **Seconded Cr Sadler**

THAT Council PROVIDES State wide public notice that it proposes to make the Town of Cottesloe Local Government (Meetings Procedure) Local Law 2021, as contained within *Attachment 1* to this report, including the following amendments:

- ***Amend the heading of Part 9 – to "Debate of Motions"***
- ***The insertion of a new paragraph at the end of Part 9 as follows:***

9. 17 Questions during debate

(1) A member may ask a question only with the consent of the Presiding Member during the debate on a motion before the motion is put, but not when another member is speaking.

(2) Questions asked by a member and responses are to be brief and concise and are not to be accompanied by –

(i) expression of opinion, statement of fact or other comment, except where necessary to explain the question or response; or

(ii) any discussion or further question, except with the consent of the presiding member.

and invites public submissions on the proposal in accordance with Section 3.12 (3) (iii) of the *Local Government Act 1995.*

Carried 9/0

COUNCILLOR RATIONALE:

1. It is important that elected members are able to ask questions where necessary in order to make informed decisions on matters before Council.
2. Opportunities are provided for elected members to inform themselves at Briefing Forums, Agenda Forums and by direct contact with the Administration prior to meetings and there is an expectation that elected members will use these avenues to inform themselves.

3. There may however be occasions on which Elected Members may need to ask a question to inform decision making, for example where an elected member has been unable due to ill health or other special circumstances to have his or her questions answered ahead of the meeting or where the question arises out of information put forward for the first time at the meeting.
4. The proposed provision allows the Presiding Member to retain control of the process to ensure that questions are asked only for the purpose of informing decision making.
5. It would be expected that the Presiding member would exercise the discretion to allow further questions in a fair and equitable way while ensuring that meetings are conducted effectively and efficiently;
6. If an Elected Member is of the view that the Presiding member has acted unfairly in disallowing further questions he or she can appeal to Council for the Presiding member's ruling to be overturned.
7. This provision is common in other Local Government standing orders and strikes a balance between allowing access to information and running effective and efficient meetings by appropriate use of procedures.

10.1.3 TOWN OF COTTESLOE DRAFT WASTE PLAN 2020-2025

File Ref: SUB/2798
Attachments: 10.1.3(a) Town of Cottesloe Waste Plan [under separate cover]
Responsible Officer: Matthew Scott, Chief Executive Officer
Author: Freya Ayliffe, Executive Manager Compliance and Regulatory Services
Author Disclosure of Interest: Nil

SUMMARY

The Department of Water and Environmental Regulation (DWER), has given notice that the Town of Cottesloe is required to prepare a waste plan under *section 40(4)* of the *Waste Avoidance and Resource Recovery Act 2007 (WARR)*. The Town's final waste plan, when adopted and endorsed by Council, must be submitted to DWER by 31 March 2021.

The purpose of this Waste Plan is to guide the Town in sustainable waste and recycling practices to establish and maintain consistent, cost effective and functional waste management practices to reduce waste to landfill.

This report is requesting Council consider approving the attached draft waste plan.

BACKGROUND

Waste Plans have been introduced by DWER as a way of monitoring Local Government progress towards the targets in the WARR Strategy 2030. The headline strategies relevant to Local Governments and Regional Councils are:

Avoid	
2025	Reduction in MSW generation per capita by 5% (from 2014/15 rate)
2030	Reduction in MSW generation per capita by 10% (from 2014/15 rate)
Recover	
2020	increase MSW material recovery to 65% (Perth and Peel)
2025	increase MSW material recovery to 67% (Perth and Peel)
2030	increase MSW material recovery to 70% (Perth and Peel)
2025	All Local Governments (Perth and Peel) provide consistent three bin kerbside collection systems that include separation of FOGO from other waste categories
From 2020	Recover energy only from residual waste
Protect	
2030	No more than 15% of Perth and Peel regions' waste is disposed to landfill
2030	Move towards zero illegal dumping
2030	Move towards zero littering

Waste Plans form part of the integrated planning and reporting process for Local Government, and once in place will require annual reporting. CEOs of all applicable Local Governments and Regional Councils received a 'Notice to Prepare a Waste Plan under *Section 40(4) of the Waste Avoidance and Resource Recovery Act 2007*' from the CEO of DWER in November 2019. The process of putting waste plans in place consists of the following:

- Local Government officers creating Draft Waste Plans which are submitted for assessment by DWER (completed);
- DWER approving the Draft Waste Plan subject to Council endorsement; and
- The Draft Waste Plan being submitted to Council for endorsement.

Once Council endorsement has been achieved, the Waste Plan is again submitted to DWER for final acceptance. This must be achieved by no later than 31 March 2021. Should the Local Government not submit a Waste Plan by the due date or the submitted Waste Plan is not acceptable to DWER, DWER have the ability to create Waste Plans on a Local Government's behalf and the costs involved in creating the plan are recoverable from the Local Government.

The Town's Waste Plan (2020 – 2025) consolidates the actions within the Waste Avoidance and Resource Recovery (WARR) Strategy 2030. The plan further streamlines relevant actions identified in the Town's Corporate Business Plan 2020 – 2024.

The Town's Draft Waste Plan was submitted to DWER on 29 April 2020 and following two revisions the Town received notification that it was approved. The Town's Draft Waste Plan provides an important link between the State Government WARR Strategy and Local Government waste management activities. This will ensure that the Town meets its obligations to our current community and future generations, to extract more from our valuable resources and to better manage the disposal of our waste.

Town of Cottesloe Current Waste Management Initiatives

The Town provides a variety of waste services and information to residents, either directly or through the Western Metropolitan Regional Council (WMRC). A brief summary of these activities is listed below:

(a) <u>Kerbside collection</u>

- Weekly collection of 240 litre general waste bins;
- Fortnightly collection of 240 litre recycling collection; and
- Fortnightly collection of 240 litre garden organics collection.

(b) <u>Verge side collection</u>

- Pre-booked bulk and green waste collection through Verge Valet

(c) <u>Waste drop off services</u>

- Convenient locations to drop off household batteries, fluorescent light globes, tubes and printer cartridges for recycling at the Cottesloe Civic Centre offices or Grove Library;

- Waste and recycling drop off at West Metro Recycling Centre, seven days a week, including;
- Free recycling for cardboard, clothing, electronic waste, batteries, gas cylinders, mobile phones, motor oil, fluorescent globes, printer cartridges, scrap metal, polystyrene, X-rays and household hazardous waste (paints, pesticides, aerosols and flammables);
- Disposal of appropriately wrapped asbestos-containing material;
- Tyre and mattress recycling; and
- Disposal of both bulk and green waste.

(d) <u>Community education, behaviour change and waste avoidance</u>

- WMRC Recycling Hotline **9384 6711** where recycling questions are answered authoritatively;
- Through the WMRC the Town provides educational initiatives through the WMRC including the Waste Watchers program (workshops, tours, talks and events) to encourage residents to live with less waste;
- The Town works with the WMRC to provide information to residents about home waste management and the recycling system;
- The Town and WMRC works with event managers to encourage low waste generation at community events; and
- The Town, through the WMRC is an active member of WALGA's consistent communications collective which aims to achieve consistent communication on waste management across local government areas.

(e) <u>Littering and illegal dumping</u>

- Littering and illegal dumping of waste can have serious environmental and economic effects, including reduced visual amenity, harm to wildlife and even bushfires. Littering and illegal dumping issues are addressed by promptly transporting waste to the West Metro Recycling Centre. The Town of Cottesloe and the WMRC provide ongoing education, support and compliance activities, to encourage positive waste behaviours and reduce littering and illegal dumping.

In addition to the above, by 2025 all Local Governments (Perth and Peel) must provide a consistent three bin kerbside collection system that includes separation of Food Organics and Garden Organics (FOGO) from other waste categories.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

Major Strategy 1.10: Develop and implement policies and strategies to reduce litter on public reserves.

This report is consistent with the Town's *Corporate Business Plan 2017 – 2021*.

Priority Area 6: Providing open and accountable local governance.

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

POLICY IMPLICATIONS

There are no perceived policy implications arising from the officer's recommendation however, the waste plan will ensure the development of a draft waste local law by 2021.

STATUTORY ENVIRONMENT

Local Government Act 1995

Waste Avoidance and Resource Recovery Act 2007

FINANCIAL IMPLICATIONS

Resource requirements are unknown however, will be budgeted for accordingly each financial year, this includes the move to FOGO.

STAFFING IMPLICATIONS

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

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

Environmental and sustainable implications of this plan provide a consistent framework to ensure the Town and its community are working together to create a circular economy (avoid, recycle, reuse), with a greater focus on avoidance as well as moving to targets for material recovery and environmental protection in addition to landfill diversion.

CONSULTATION

WMRC

DWER

CEO

OFFICER COMMENT

The purpose of this Waste Plan is to guide the Town in sustainable waste and recycling practices to establish and maintain consistent, cost effective and functional waste management practices to reduce waste to landfill. This is driven by the targets set in the State Government's, Waste Avoidance and Resource Recovery (WARR) Strategy 2030.

The plan aims to provide:

- Reduction in municipal solid waste (MSW) of 5% per capita;
- Increase in MSW material recovery to 67%;
- Introduction of food organics garden organics (FOGO) systems;

- Improving public place waste infrastructure, including the installation of recycling bins;
- Development of a waste local law;
- Reducing illegal dumping/littering;
- Introduction of waste guidelines for events;
- Implementation of waste behaviour change programs; and
- Reducing contamination in recycling streams.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council APPROVES the attached draft Waste Plan (2020-2025).

COUNCILLOR MOTION AND COUNCIL RESOLUTION

Moved Cr Tucak **Seconded Cr Sadler**

1. THAT Council APPROVES the attached draft Waste Plan (2020-2025).

2. THAT the Town informs the Regional Council (WMRC), neighbouring local councils (ie Town of Claremont, Town of Mosman Park, Shire of Peppermint Grove, City of Subiaco and Town of Cambridge, as well as City of Nedlands due to its proximity) and State Government via the Waste Authority of that approval, and in particular:

   a. the Town's goal to implement the FoGo (Food Organics, Garden Organics) green bin system as early as possible under the Plan;

   b. the Town's interest in a suitable FoGo processing facility being developed for use by the Town (and its neighbouring councils, or other councils); and

   c. the shared benefit of other councils also moving to FoGo and collaborating on its implementation, including through combined FoGo waste volumes.

Carried 9/0

COUNCILLOR RATIONALE:

As the Town is reliant on neighbouring Councils to implement FoGo, including to create market demand for an appropriate processing facility, collaboration on it will be vital. Whilst WMRC, as a separate government authority (not a committee of the Town) is able to facilitate co-ordination between member councils, the Town is responsible to its residents & ratepayers directly, and can play a leadership role on FoGo directly to neighbouring LGAs.

10.1.4 REQUEST TO WAIVE FEES (WASTE) - COTTESLOE SURF LIFE SAVING CLUB

File Ref:	**SUB/2798**
Attachments:	**Nil**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**
Author:	**Freya Ayliffe, Executive Manager Compliance and Regulatory Services**
Author Disclosure of Interest:	**Nil**

SUMMARY

The Cottesloe Surf Life Saving Club has requested the Town waive fees associated with additional bin hire needed for the summer period. A total of six additional bins have been requested; four general waste bins and two recycling bins.

The total cost for this period (16 weeks) is $3,735.00. In accordance with the delegation register the Chief Executive Officer has delegated authority to waive fees to a maximum of $1,000 only. Therefore the request is being brought to Council for consideration.

BACKGROUND

The Cottesloe Surf Life Saving Club has a current commercial waste contract with the Town which includes two general waste bins and two recycling bins both collected weekly by the Town's waste contractor Solo Resource Recovery. The Surf Club requests additional bins over the summer/peak period to service club members, which the Club has always paid for. This year, the Surf Club has requested the cost for these additional bins, which will be in place until the end of March, be waived.

The additional bins are required to service the needs of club members only. There are approximately 1,200 members, with a large portion being nippers and juniors that use the facilities over the weekend.

The Club is a volunteer organisation that provides free lifesaving services to the community of Cottesloe on weekends and public holidays.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

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

This report is consistent with the Town's *Corporate Business Plan 2017 – 2021*.

Priority Area 6: Providing open and accountable local governance.

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

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

Should the Town support the request; the Town will need to pay the waste collection costs being $3,735.00.

STAFFING IMPLICATIONS

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

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

Cottesloe Surf Life Saving Club

Solo Resource Recovery

OFFICER COMMENT

There are several sporting clubs located within the Town, the majority of these clubs have current waste contracts with the Town, paid for in full by the individual clubs. The estimated total cost for the waste services is $14,084 (excluding Rugby and Football Club as they use a private waste contractor).

Should Council agree to Cottesloe Surf Life Saving's request, this may set a precedent and it may be hard to refuse any further requests, resulting in a loss of revenue.

Accordingly, the Officer's recommendation is that Council does not approve the waiving of fees however, should Council wish, the Officer's recommendation can be amended.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Sadler **Seconded Cr Masarei**

THAT Council does NOT approve Cottesloe Surf Life Saving Club's request to waive fees associated with additional bin hire needed for the summer period. The total cost being $3,735.00.

Carried 9/0

10.1.5 GROUP FITNESS AND PERSONAL TRAINING POLICY

File Ref:	**SUB/2798**	
Attachments:	**10.1.5(a)**	**Group Fitness and Personal Training Policy - Adopted 25 July 2017 [under separate cover]**
	10.1.5(b)	**DRAFT Group Fitness and Personal Training Policy 2020 [under separate cover]**
	10.1.5(c)	**DRAFT Group Fitness and Personal Training Guidelines [under separate cover]**
Responsible Officer:	**Shane Collie, Executive Manager Corporate Services and Governance**	
Author:	**Gabrielle Hall, Events Coordinator**	
Author Disclosure of Interest:	**Nil**	

SUMMARY

The Group Fitness and Personal Training Policy was adopted in 2017. As part of the Town's Policy review the Group Fitness and Personal Training Policy has been updated and is attached. The updated Policy is recommended for adoption.

BACKGROUND

The current Group Fitness and Personal Training Policy in its current practice is used to manage group fitness and personal training bookings effectively. It is often used as a point of reference for the Officer managing the bookings.

The new Group Fitness and Personal Training Policy should be read in conjunction with the Town's Group Fitness and Personal Training Guideline.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

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

This report is consistent with the Town's *Corporate Business Plan 2017 – 2021*.

Priority Area 6: Providing open and accountable local governance.

Major Strategy 6.3: Continue to deliver high quality governance, administration, resource management and professional development.

POLICY IMPLICATIONS

The report recommends that Council adopts an updated Group Fitness and Personal Training Policy. There are no perceived adverse Policy implications arising from the officer's recommendation.

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

As per the 2020/21 Schedule of Fees and Charges the hire fee for a Group Fitness and Personal Training bookings are as follows. The following Council fees include venue hire, excluding Cottesloe Civic Centre permits;

- $20.00 per Group Fitness or Personal Training class - must be same day/time with a maximum of 10 consecutive weeks per application.
- $2,000 Group Fitness or Personal Training class - annual permit (capped at $2,000 per financial year, to be paid in advance quarterly, bi-annually or annually).

STAFFING IMPLICATIONS

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

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

Elected Members

OFFICER COMMENT

There are no major amendments to the Policy. An additional approved group fitness location has been included in the revised Policy. The location being the North Cottesloe Surf Life Saving Club ski shed rooftop, adjacent to Barchetta. When considering an application for this location surrounding businesses will require notification.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council:

1. REVOKES the Group Fitness and Personal Training Policy 2017.
2. ADOPTS the Group Fitness and Personal Training Policy 2020

COUNCILLOR MOTION AND COUNCIL RESOLUTION

Moved Cr Young **Seconded Cr Tucak**

That Council:

1. **SUPPORTS inclusion of the North Cottesloe Surf Lifesaving Club Ski shed roof as a Town facility from which Group Training and Personal Fitness sessions may take place under the Group Fitness and Personal Training Policy;**
2. **SUPPORTS the issuing of a permit for yoga classes to be conducted at that site pending finalisation of the revised Policy; and**
3. **DEFERS this matter in order for the Administration to more fully consider the input from the delegation established to review Council Policies.**

Carried 9/0

COUNCILLOR RATIONALE:

1. The revised draft GF&PT Policy allows this site to be used for Group Fitness and Personal Training;
2. A number of community members have been pressing for this site to be included in the Policy so that low key yoga classes can be held there as a community event;
3. The revision of the draft Policy has been delayed as the Policy has been reviewed by the Council appointed delegation process;
4. The proposed yoga sessions are a low key, valuable community event and an excellent start to the summer at North Cottesloe;
5. It is therefore appropriate to support this use as an interim measure so that it can proceed prior to finalisation of the revised Policy, bearing in mind that the current policy and guidelines are still applicable to this use and regulate it adequately;
6. There have been some communication issues with the delegation process and further consideration of the matter should be deferred until the issues are dealt with, with the expectation that the revised Policy can be brought back to Council for the December meeting.

10.1.6 CUSTOMER SERVICE CHARTER

File Ref:	**SUB/2798**
Attachments:	**10.1.6(a) Customer Service Charter [under separate cover]**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**
Author:	**Shane Collie, Executive Manager Corporate Services and Governance**
Author Disclosure of Interest:	**Nil**

SUMMARY

As part of the Council set Key Performance Indicators for the Chief Executive Officer a Customer Service Charter has been developed. The document is to apply to all Town staff in their dealings with members of the community and is submitted to Council for noting.

The document does not require Council endorsement being an operational matter under the direction of the Chief Executive Officer.

BACKGROUND

A Customer Service Charter is a key tool in ensuring that Town Staff uphold high standards when dealing with members of the community. The document sets out performance standards and provides guidance to staff on behaviour, attitude and expectations when in the public eye.

A Customer Service Charter has been developed and utilises generally accepted industry standard targets and has had input from members of staff internally.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

This report is consistent with the Town's *Corporate Business Plan 2020 – 2024*.

Priority Area 6: Providing open and accountable local governance.

Major Strategy 6.3: Continue to deliver high quality governance, administration, resource management and professional development.

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Nil.

FINANCIAL IMPLICATIONS

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

STAFFING IMPLICATIONS

Staff are required to adhere to the standards wet out in the Customer Service Charter.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

All staff.

OFFICER COMMENT

The Charter developed was based on a WALGA produced industry standard template and has been adapted to the specific circumstances present at the Town of Cottesloe. Feedback from staff in the development of the Charter was very positive and seen as a proactive step in building and maintaining sound relations with the Cottesloe community.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Young Seconded Cr Sadler

THAT Council NOTES the development and implementation of the Town of Cottesloe Customer Service Charter as attached.

Carried by En Bloc Resolution 9/0

10.1.7 COUNCIL MEETING DATES 2021

File Ref:	**SUB/2798**
Attachments:	**Nil**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**
Author:	**Mary-Ann Winnett, Governance Coordinator**
Author Disclosure of Interest:	**Nil**

SUMMARY

Every local government must advertise is Council Meeting schedule at least once each calendar year. This generally occurs on a calendar year basis, with dates set late in the calendar year, and advertisements occurring early in the year the meetings are to occur.

A proposed Council Meeting schedule for the 2021 calendar year has been prepared and a resolution of Council is required to formalise the dates, times and locations for the next 12 months of Ordinary Council Meetings.

BACKGROUND

The *Local Government Act 1995* requires local governments to give local public notice of the dates, times and location of the Ordinary Council Meetings for the following twelve months.

Council normally sets these dates, times and locations late in the calendar year, for the following calendar year.

In addition to the Ordinary Council Meetings, the Town has also advertised the Agenda Forum dates which are open to members of the public and are held on the week prior to the Ordinary Council Meeting. Adverts for the 2020 Council/Forum meeting dates occurred in both local papers in January 2020.

Generally the Ordinary Meeting is scheduled for the fourth Tuesday of the month and the Agenda Forum on the third Tuesday. The exception to this in past years has been the December meetings.

Anzac Day can be a direct conflict on occasion, and Easter can also have operational impacts. Neither will cause any issues in 2021.

Taking the above into account, a proposed Council Meeting schedule for the 2021 calendar year has been prepared and included in the recommendation.

STRATEGIC IMPLICATIONS

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

Priority Area 6: Provide open and accountable local governance

Major Strategy 6.1: Implement technologies to enhance collaborative decision making, communication and service delivery.

This report is consistent with the Town's *Corporate Business Plan 2020 – 2024*.

Advertising the meeting times is a means of informing electors of the scheduled meetings with the aim of increasing public awareness of issues under consideration, and inviting attendance, which is in keeping with this strategy.

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government (Administration) Regulations 1996 at Regulation 12 (Meetings, public notice of) outlines that at least once each year a local government is to give local public notice of the dates, times and places at which its ordinary council meetings occur.

FINANCIAL IMPLICATIONS

Local public notice of the dates, times and locations will be placed in January, the cost of which is in accordance with the existing budgetary allocation for advertising.

STAFFING IMPLICATIONS

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

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

Whilst no consultation has occurred prior to the report's preparation, in addition to the formal local public notice, the date, times and locations of the meetings will also be placed on the Town's website for electors' information.

OFFICER COMMENT

The December meeting is recommended to be brought forward one week from the normal cycle, to avoid clashing with the festive season.

It is proposed that Forum dates again be included in the local public notice and placed on the Town's website for electors' information.

Any Special Council Meetings will be advertised individually (if/when they are set).

The 2020 Council/Forum Meeting dates were advertised in both local papers in January 2020 and it is proposed that the approved dates will be advertised similarly, in January 2021.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Young Seconded Cr Sadler

That Council:

1. **OBSERVE a recess for January 2021, with no Ordinary Meeting of Council;**
2. **ADOPT the following Ordinary Council Meeting dates for 2021, which are to commence at 6.00pm in the War Memorial Hall, Town of Cottesloe, 109 Broome Street, Cottesloe (noting that once Covid-19 social distancing guidelines have been removed, Council Meetings will revert to Council Chambers and Agenda Forum Meetings to the Mayor's Parlour and any changes to meeting times, dates, venues will be adjusted on the Website as required);**

   Tuesday 23 February

   Tuesday 23 March

   Tuesday 27 April

   Tuesday 25 May

   Tuesday 22 June

   Tuesday 27 July

   Tuesday 24 August

   Tuesday 28 September

   Tuesday 26 October

   Tuesday 23 November, and

   Tuesday 14 December

3. **ADOPT the following Agenda Forum dates for 2020 which are to commence at 6.00pm in the War Memorial Hall, Town of Cottesloe, 109 Broome Street, Cottesloe;**

   Tuesday 16 February

   Tuesday 16 March

   Tuesday 20 April

   Tuesday 18 May

   Tuesday 15 June

   Tuesday 20 July

   Tuesday 17 August

   Tuesday 21 September

   Tuesday 19 October

   Tuesday 16 November, and

   Tuesday 7 December

4. **ADVERTISE, in January 2021, the Ordinary Council meeting and Agenda Forum meeting dates for 2021, and also publish this information on the Town's website.**

Carried by En Bloc Resolution 9/0

ENGINEERING

10.1.8 BEACH ACCESS PATH RATIONALIZATION

File Ref:	**SUB/2798**
Attachments:	**Nil**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**
Author:	**Shaun Kan, Executive Manager Engineering Services**
Author Disclosure of Interest:	**Nil**

SUMMARY

Council is asked to consider putting out the proposed beach access path layout attached for public consultation. The rationalized access arrangements will involve the closure of several existing paths and has the potential to deliver cost savings in the order of $3 million in the long term.

It is also intended that an application be made to the State Government for a grant to implement the Beach Emergency Numbering (BEN) signs at paths on the new layout.

BACKGROUND

Council at the August 2020 Ordinary Meeting requested for all the existing beach access paths to be rationalized to reduce the quantity of such infrastructure that needs to be maintained. This would in turn reduce the preservation cost.

THAT Council:

1. *REJECTS all tenders submitted given the major changes to scope in the preferred revised concept;*
2. *APPROVES the revised S15 concept, shown in the background section of the report, with the exception of section one shown on the diagram (Node) that would be built to the original design presented to Council at the June 2020 Ordinary Meeting;*
3. *REQUESTS the Administration to undertake the rationalisation of all the beach access paths along the Cottesloe Foreshore and for an item to be brought to an Ordinary Council Meeting recommending the future beach access arrangements; and*
4. *NOTES that the remaining sections two to five in the concept referred to in Point Two will not be in accordance with the Beach Access Style Guide.*
5. *Request that the Administration programs the works to occur over summer and concluded before winter.*

Carried 8/0

The Administration has since undertaken a condition assessment of all the beach access paths along the Foreshore to rationalize the closure of a number of these entry points.

STRATEGIC IMPLICATIONS

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

Priority Area 5: Providing sustainable infrastructure and community amenities

Major Strategy 5.5: Develop a long term asset management plan.

This report is consistent with the Town's *Corporate Business Plan 2017 – 2021*.

Priority Area 3: Enhancing beach access and the foreshore.

Major Strategy 3.2: Continue to improve access to beach facilities.

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government Act 1995

The Administration is satisfying a Council Resolution.

FINANCIAL IMPLICATIONS

A budget item will be put up for consideration to undertake the closure of the paths once this has been accepted by Council. It is anticipated that the reduction of beach access paths will reduce the cost of upgrade and maintenance in the long term financial plan.

The closure of the access points will deliver cost savings in the order of $3 million.

STAFFING IMPLICATIONS

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

The closure would most likely be undertaken by the Town's staff.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation. The closure will allow for the installation of planting for dune stabilisation.

CONSULTATION

Town of Cottesloe Staff

Elected Members

Cottesloe Residents and Wider Community

Emergency Responders (Local and State Government)

The Wearne Hostel have been consulted on the proposed arrangements for the paths S4 and S5 adjacent to the aged care facility and are generally supportive of a universal access path being provided at this location. They are open to further discussions once the matter has been determined by Council.

OFFICER COMMENT

There are currently 33 beach access paths of varying conditions along the four kilometre Cottesloe Foreshore. A recent condition assessment of these infrastructures has made the following findings:

- Very closely spaced paths (N10 to N12), (C3 to N2) and (S5 to S9) that could be rationalized;
- A number of the above paths have reached their end of life and can be closed to increase spacing;
- High maintenance of sand ladder type paths due to movement of sand during storm events (ongoing public complaints and cut/fill earthworks by operations team);
- This will reduce ongoing maintenance expenditure and save on asset replacement cost;
- Inconsistent and poor condition of path identification signs; and
- There is the opportunity to introduce the State Government's Beach Emergency Number (BEN) Signs Program as part of the rationalization;

Based on the assessment outcome above, the Administration recommends the following path arrangements below. It would be important to note that what is being proposed is preliminary, based on alternative access within reasonable proximity.

The intent is then to put this out for consultation with public comments being considered before a final layout is brought back to Council for acceptance.

Council will be informed of the beach access path layout mapping format prior to the commencement of the consultation.

Recommendation One: Amalgamation of N10, N11 and N12 Paths (closure of N10 and N12)

This arrangement involves the closure of N12 and N10 sand ladder paths with N11 being kept open. Consideration should be given to upgrading the surface of N11 to a boardwalk type platform to reduce maintenance costs associated with eroding sand ladder paths.

The arrangement above:

- Increase spacing from N11 to the next path N9 (condition good, concrete steps) from 70 to 155 metres.
- With the closure of N10, current users can access the beach either through N11 (85 metres to the north) or N9 (70 metres to the south).
- With the closure of N12, current users of this path can use N11 (70 metres to the south) or alternatively NE35, the access point approximately 10 metres to the north within the City of Nedlands.

Recommendation Two: Closure of Path N2

- N2 to be closed to improve separation to adjacent path N3 (to the north) and C4 (to the south).

- N2 (condition poor/no longer fit for purpose, sand/ladder) is due for replacement in coming years.
- N1 (condition average, sand ramp/ladder) can remain open to provide more direct access from Car Park two. However, given continuous maintenance issues, some form of board walk may need to be installed to address the problem of eroding sand.
- With the closure of N2, current users have access to N3 (35 metres to the north) and N1 (85 metres to the south).

Recommendation Three: Permanent closure of C3 with C0, C1, C2 and C4 to remain open

- C0, C1, C2 and C4 to remain open
- C3 path was recently destroyed with the destruction of Rotunda during a storm caused landslide. This path not be replaced as there is alternative access to C4 (35 metres to the north and C0 (100 metres to the south).
- This storm destroyed footpath section will be built to the approved Foreshore Redevelopment detail design, after the drawings have been accepted by Council.
- The Administration is currently discussing the damage claims with the Town's insurers to determine the scope of works the scope of works covered by the policy.

Recommendation Four: Closure of path S11 and keep paths S9 to S15 open

- S11 (condition poor, sand / ladder path) is due for replacement in the coming years and should be closed.
- With the closure of S11, current users will still be able to access the beach through S12 (100metres to the north) and S10 (85metres to the south).
- Other paths (S9, S10, S12 and S15) can remain open as they are well spaced (100 to 300metres apart) and generally in very good condition.
- S9 (condition average, sand ladder steps) could be upgraded to a boardwalk type surface step to reduce cut and fill earth works with eroding sand after each storm event.
- S10 and S12 (condition of both very good, replas steps) were upgraded 2 years ago – no further works required.
- S15 (condition poor, concrete surfers access steps) will be upgraded this year, design is being revised (August 2020 OCM resolution).

Recommendation Five: Closure of Path S6

- Closure of S6 (dog beach, poor condition, limestone / asphalt path).
- S7 and S8 (surfers access) remains open (condition good, asphalt path).
- Existing users of S6 have to walk 35metres north to access S7 and 70metres south to access S5.

Recommendation Six: Future of S4 and S5 would depend on public consultation feedback including engineering and cost feasibility analysis on possible options (listed below) before a decision is made on both these paths

- Both paths lead to the dog beach.
- S5 (condition good, timber stairs)
- S4 (condition good, timbers steps) but requires a boardwalk at the beach landing to provide a safe walking surface over rocks.
- The following options will be put out for consultation:
  - (a) Option one: Close S4 and relocate this path south closer to Gibney Street with universal access
  - (b) Option two: Close S5 and relocate this path south closer to Gibney Street with universal access, noting that users of S6 (with its proposed closure) will now have to walk 100metres to S5 instead of 70metres
  - (c) Option three: Close both S4 and S5. Construct a new universal beach access path at the Gibney Street crossing
  - (d) Option four: Both paths remain open and upgrade S7 to provide universal access

The proposed path closures above have been summarized in the table below:

Path Number	Rating	Comments	Landmark
N12	2	needs sand at the bottom and consider closing	North Street Roundabout
70m			
N11	2	needs sand at the bottom	
85m			
N10	3	Should be closed as this path continually requires sand nourishment	
70m			
N9	2	Needs concrete repairs but structurally sound	Vera View Slow Point
130m			
N8	2		
150m			
N7	1	Recently upgraded	Grant Street
110m			
N6	3	Needs sand at the bottom	
180m			
N4	2	Bottom treads need replacing	
210m			
N3	2	Needs sand at the bottom	
35m			
N2	5	Poor condition requiring replacement	
85m			
N1	3		
70m			

C4	2		
35m			
C3	5	storm damaged	
100m			
Unknown Path			Edge of northern terraces
40m			
C2	1		northern side of Indianas
85m			
C1	1		southern side of Indianas
280m			
S15	5	Will be upgraded 2020/2021	
200m			
S14	1		
130m			
S13	1		
200m			
S12	1		
100m			
S11	5	should be removed	
85m			
S10	1		
100m			
S9	3		
70m			
S8	5		
35m			
S7	2		
35m			
S6	5	Should be removed joins into s7	
70			
S5	2	close existing path and relocate closer to Gibney Street crossing.	
150m			
S4	2	needs platform at bottom 2020/21 capital works	
280m			
S3	4		
220m			
S2	2		
85m			
S1	1		

Proposed Closure

Pending consultation and engineering investigations

In addition to the above, it is also recommended that the beach access path signage be upgraded accordingly to optimize emergency response. Consideration should be given to the Beach Emergency Numbering (BEN) Signs system currently being rolled out by the State Government. A grant application will be progressed after Council accepts a final beach access path access layout.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council:

1. ACCEPTS the following beach access path rationalization as per the officer's comment section for the purpose of public consultation:
    a. Amalgamation of N10, N11 and N12 Paths through the permanent closure of N10 and N12 with N11 to remain open;
    b. Permanent closure of N2;
    c. Permanent closure of C3;
    d. Permanent closure of path S11;
    e. Permanent closure of S6;
    f. The final arrangement for path S4 and S5 will be subjected to consultation feedback on the options listed under recommendation seven within the officer's comments and further engineering investigations;
2. NOTES that the matter will be brought back to an Ordinary Council Meeting after the public consultation;
3. NOTES that elected members will be provided with information that will be sent out to the public before the start of the consultation; and
4. NOTES that the beach access path signage will be upgraded accordingly with the final approved layout.

COUNCILLOR MOTION AND COUNCIL RESOLUTION

Moved Cr Tucak **Seconded Cr Young**

THAT Council:

1. **ACCEPTS the following beach access path rationalization as per the officer's comment section for the purpose of public consultation:**
    a. **Amalgamation of N10, N11 and N12 Paths through the permanent closure of N10 ("Dog Beach") and N12 ("North Street") with N11 ("Osprey") to remain open;**
    b. **Permanent closure of N2 ("Van Eileen");**
    c. **Permanent closure of C3 (yet un-named);**
    d. **Permanent closure of path S11 ("Walbirriny" (healing));**
    e. **Permanent closure of S6 ("Deep Six");**
    f. **The final arrangement for path S4 ("Wearne") and S5 ("Gibney Street") will be subjected to consultation feedback on the options listed under recommendation seven within the officer's comments and further engineering investigations;**
2. **NOTES that the matter will be brought back to an Ordinary Council Meeting after the public consultation;**
3. **NOTES that elected members will be provided with information that will be sent out to the public before the start of the consultation; and**
4. **NOTES that the beach access path signage will be upgraded accordingly with the final approved layout, including the beach path names approved by Council in November 2018 (subject to any reallocation of names from closed paths if approved by Council), BEN signs, and taking into account Council's 2019 Publik signage strategy, if so approved by Council.**

Carried 9/0

COUNCILLOR RATIONALE:

The Town approved its Beach Path names in November 2018, which along with the BEN signage and the Town's beach path "Signage Strategy" (by consultants Publik), will be a consideration in the beach path signage upgrade occurring after rationalisation in point 1 & 2.

10.1.10 NORFOLK ISLAND PINE DECLINE - ARBOR CARBON REPORT AND RECOMMENDATIONS

File Ref:	**SUB/2798**
Attachments:	**10.1.10(a) Arbor Carbon - Investigation into the cause(s) of premature decline of Norfolk Island Pine [under separate cover]**
Responsible Officer:	**Shaun Kan, Executive Manager Engineering Services**
Author:	**Adeline Morrissey, Environmental Projects Officer**
Author Disclosure of Interest:	**Nil**

SUMMARY

The iconic Norfolk Island Pine trees have been showing declining health in a number of trees in Cottesloe.

Arbor Carbon tested samples from the 20 affected trees and has found that the decline is likely attributed to a combination of low rainfall, strains of Phytophthora affecting the root systems and the latent infection with the *Neofusicoccum parvum* fungus.

Based on recommendations the Town will undertake trialling of the below treatments:

- Treatment with phosphite implants/injections which treats the phytophthora fungus in trees;
- Water stressed trees during long dry periods with soil wetter added to ensure moisture penetration.

Council is asked to consider accepting the attached Arborcarbon report and to note that this will be made public through the Town's website.

BACKGROUND

The Town engaged Arbor Carbon in June 2020 to diagnose the potential causes of decline in mature Norfolk Island Pines and to provide recommendations for future management of affected trees.

The report outlines the main points below:

- The preliminary investigation suggests a prolonged period of very low rainfall from January to May has triggered the onset of disease caused by the latent fungal pathogens *Neofusicoccum* and possibly others.
- Phytophthora strains have been identified in the Norfolk Island Pine trees and are very likely to be playing a role in the decline observed. These pathogens affect the roots of the trees; therefore reduce their effectiveness to absorb moisture which exacerbates water stress during low rainfall periods. The tree then becomes more prone to other diseases.
- *Neofusicoccum parvum* is responsible for the top down decline resulting in tree death. However, this is a secondary infection once the tree is already stressed.

STRATEGIC IMPLICATIONS

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

Priority Area 1: Protecting and enhancing the wellbeing of residents and visitors

Major Strategy 1.6: Implement policies that protect existing trees and that actively seek to increase the tree canopy in Cottesloe.

This report is consistent with the Town's *Corporate Business Plan 2020 – 2024*.

Priority Area 3: Enhancing beach access and the foreshore.

Major Strategy 3.1: Implement policies that protect existing trees and that actively seek to increase the tree canopy in Cottesloe.

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government Act 1995

Street Tree Masterplan

Street Tree Policy

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation under the approved operating accounts.

STAFFING IMPLICATIONS

Staff time will be required to administer the phosphite treatments and supplementary watering during summer.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

The officer's recommendation is to provide trail treatments to save the iconic Norfolk Island Pine trees and retain canopy cover in the Town.

CONSULTATION

No public consultation was required.

OFFICER COMMENT

The Officers' recommendations are to initially trial the phosphite treatments on 20 affected trees and 20 healthy trees to assess the success of this against the Phytophthora fungus and to compare results to a baseline treatment. Water stressed trees will be watered during long dry periods with soil wetter added to ensure moisture penetration.

The experiment will comprise of the following:

- six affected trees with phosphite treatment only
- six affected trees with phosphite and watering
- seven affected trees with watering treatment only
- 10 healthy trees with phosphite treatment only
- 10 healthy trees with phosphite and watering
- 10 healthy trees with watering treatment only

The results will be known in the next few months.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Young **Seconded Cr Masarei**

THAT Council:

1. ACCEPTS the attached Arborcarbon report;
2. NOTES that the Arborcarbon report will be made public; and
3. NOTES the treatment trial within the officer's comment.

COUNCILLOR AMENDMENT 1

Moved Cr Sadler **Seconded Cr Tucak**

Add a point 4 as follows:

4. REQUIRES a seventh control group with 10 healthy trees with standard maintenance only.

Following discussion the Mover and Seconder agreed to incorporate the amendment into the substantive motion.

COUNCILLOR AMENDMENT 2

Moved Cr Tucak

Add the following words after 'public' in point 2 of the motion:

> *and has been communicated to the Town's neighbouring local councils, and REQUESTS the Town continues to progress a desire to collaborate and mutually share knowledge (or costs where appropriate)*

Following Cr Tucak's moving of the amendment the Mover and Seconder agreed to incorporate the amendment into the substantive motion.

SUBSTANTIVE MOTION AND COUNCIL RESOLUTION

THAT Council:

1. **ACCEPTS the attached Arborcarbon report;**
2. **NOTES that the Arborcarbon report has been made public and has been communicated to the Town's neighbouring local councils, and REQUESTS the Town continues to progress a desire to collaborate and mutually share knowledge (or costs where appropriate); and**
3. **NOTES the treatment trial within the officer's comment.**
4. **REQUIRES a seventh control group with 10 healthy trees with standard maintenance only.**

Carried 9/0

COUNCILLOR RATIONALE (Amendment 1):

The purpose of an additional group of ten healthy Norfolk Island Pines that receive standard maintenance treatment only, is to have a control group of trees. These trees can be identified as healthy at the beginning of the trial and reassessed at the end to ensure that we have a valid comparison with proposed treatments.

COUNCILLOR RATIONALE (Amendment 2):

The Norfolk Island Pine problem is facing many neighbouring LGAs as well as the Town, and both the path toward a solution, and the potential for innovations and efficiencies, can be accelerated through collaboration, rather than "silo activity". A simple communication to neighbouring councils will actively encourage this and the Town can play a leadership role, particularly given the Town is often considered synonymous with the Norfolk Island Pines.

FINANCE

10.1.11 FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2020 TO 31 OCTOBER 2020

File Ref:	**SUB/2798**
Attachments:	**10.1.11(a) Monthly Financial Statements for the Period 1 July 2020 to 31 October 2020 [under separate cover]**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**
Author:	**Wayne Richards, Finance Manager**
Author Disclosure of Interest:	**Nil**

SUMMARY

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

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

BACKGROUND

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

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

STRATEGIC IMPLICATIONS

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

Priority Area 6: Providing open and accountable local governance

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

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

FINANCIAL IMPLICATIONS

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

STAFFING IMPLICATIONS

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

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

CONSULTATION

Senior staff

OFFICER COMMENT

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

- The net current funding position as at 31 October 2020 was $7,715,834 as compared to $8,421,156 this time last year.
- Rates receivables at 31 October 2020 stood at $3,050,058 compared to $2,279,253 this time last year as shown on page 25 of the attached Financial Statements.
- Operating revenue is more than year to date budget by $91,307 with a more detailed explanation of material variances provided on page 21 of the attached Financial Statements. Operating expenditure is $993,855 less than revised year to date budget due in main part to depreciation charges not having been posted, this will occur once the 2019/20 Annual Report has been audited and finalised in the coming months.
- The Capital Works Program is shown in detail on pages 33 to 37.
- The balance of cash backed reserves was $9,107,977 as at 31 October 2020 as shown in note 7 on page 27 of the monthly financial statements.

List of Accounts for October 2020

The List of Accounts paid during October 2020 is shown on pages 38 to 44 of the attached Financial Statements. The following significant payments are brought to Council's attention:

- $74,031.89 to Solo Resource Recovery for waste collection and disposal services.
- $91,191.09 to Local Government Insurance Services for insurance premiums.
- $26,374.18, $25,668.93 & $25,910.81 to Superchoice Services Pty Ltd for superannuation contributions.

- $105,875.00 to Database Consultants Australia being a part payment for the new parking system.
- $88,700.70 & $91,360.50 to Aspect Studios for detailed design works at the foreshore.
- $61,145.46 & $202,015.96 to Menchetti Consolidated Pty Ltd for stage two construction works at the foreshore.
- $115,213.56 to the Town of Mosman Park for the lease of the depot site.
- $50,779.95 to the Australian Taxation Office for the monthly business activity statement.
- $68,225.73 to Roads 2000 Pty Ltd for road resurfacing works.
- $120,137.30 & $120,694.27 to Town of Cottesloe staff for fortnightly payroll.

Investments and Loans

Cash and investments are shown in note 4 on page 23 of the attached Financial Statements. The Town has approximately 40% of funds invested with National Australia Bank, 38% with Commonwealth Bank of Australia and 22% with Westpac Banking Corporation. A balance of $9,107,977 was held in reserve funds as at 31 October 2020.

Information on borrowings is shown in note 10 on page 30 of the attached Financial Statements and shows Council had total principal outstanding of $3,314,080 as at 31 October 2020.

Rates, Sundry Debtors and Other Receivables

Rates revenue information is shown in note 9 on page 29 of the attached Financial Statements. Rates outstanding are shown on note 6 on page 25 and show a balance of $3,050,058 as compared to $2,279,253 this time last year. This is mainly due to the fact that rates were issued a week later this financial year compared to last year which then flows on to the timing that instalments are due.

Sundry debtors are shown on note 6, page 25 of the attached Financial Statements. The sundry debtors show that 29% or $19,291 is older than 90 days. Infringement debtors are shown on note 6 page 26 and stood at $395,013 as at 31 October 2020.

Budget Amendments

Budget amendments are shown on note 5, page 24 of the financial statements.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Young **Seconded Cr Sadler**

THAT Council RECEIVES the Financial Statements for the period 1 July 2020 to 31 October 2020 as submitted to the 24 November 2020 meeting of Council.

Carried by En Bloc Resolution 9/0

10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES

Nil

11 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:

11.1 ELECTED MEMBERS

11.2 OFFICERS

12 MEETING CLOSED TO PUBLIC

12.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

MOTION FOR BEHIND CLOSED DOORS

Moved Mayor Angers Seconded Cr Masarei

That, in accordance with Standing Orders 15.10, Council discuss the confidential reports and items 10.1.9 and 11.1 behind closed doors to consider legal advice received (Section 5.23(2)(d).

Carried 9/0

The public and members of the media were requested to leave the meeting at 7:16pm.

10.1.9 GERALDINE STREET PEDESTRIAN ACCESS WAY

Item 10.1.9 was considered behind closed doors so that Council could consider legal advice presented prior to the meeting.

File Ref:	**SUB/2798**	
Attachments:	**10.1.9(a)**	**1 and 1a Geraldine Cottesloe Letter 190320_with attachments [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	10.1.9(b)	**Combined Geraldine St Ownership Details [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	10.1.9(c)	**Letter - 14 May 1997 - Owners F & R Lewis - Notifying Council of their intention to relinquish PAW access [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	10.1.9(d)	**Combined background correspondence - 1 Geraldine Street [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	10.1.9(e)	**LETTER - GERALDINE STREET RESIDENT - 8 FEB 2007 [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	10.1.9(f)	**FEBRUARY 2006 OCM - GERALDINE STREET REPORT - RESOLUTION [under separate cover]**
	10.1.9(g)	**LGIS Report - Unauthorised Structures on Verges [CONFIDENTIAL] [UNDER SEPARATE COVER]**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**	
Author:	**Shaun Kan, Executive Manager Engineering Services**	
Author Disclosure of Interest:	**Nil**	

Cr Tucak declared an IMPARTIALITY INTEREST in item 10.1.9 by virtue “I have previously disclosed that both of the neighbours are known to me."

Cr Masarei declared an IMPARTIALITY INTEREST in item 10.1.9 by virtue “The owners of 1a Geraldine Street, Cottesloe are known to me."

SUMMARY

Council is asked to consider the background on the matter in conjunction with current local laws and pedestrian safety and restrict all vehicle access through the pedestrian access way (PAW) on the western end of Geraldine Street between property 1 and 1A.

The residents of 1 Geraldine Street have a carport on the frontage of their property from Geraldine Street but at the same time also have access to a garage through this PAW.

BACKGROUND

In 2019, whilst assessing a driveway application for a sub-division, it was noticed that the resident of 1 Geraldine Street had access to a garage through an existing PAW. Further investigation was undertaken with the history and progress on the matter detailed below.

In 1983, the now PAW was gazetted as a legal street, allowing vehicle access.

On 14 May 1997, the previous owners of 1 Geraldine Street gave written notice to Council that they were prepared to lose vehicular rights to this access way to prevent Gadsdon Street unit residents using Geraldine Street as a thoroughfare onto Broome Street. This was then reverted to the now PAW (access restricted to pedestrians and utilities only) as a Crown Reserve under the management of Town of Cottesloe. A copy of this letter has been included as a confidential attachment.

The property also currently has a porch that can accommodate up the two cars and verge parking.

On or around August 2005, the owners that had relinquished their access then wrote to the Town requesting for Council to give consideration to reinstate access through the PAW to their garage. The Administration denied the request and informed the owner that a bollard was going to be installed. Documentation indicates that the owners did not reside at this property during that time and the same letter was sent to the tenants in September 2005 (letter attached).

On 29 September 2005, the owners then engaged a Town Planning Consultant to liaise with the Town on their behalf for this access reinstatement (letter attached).

On 5 October 2005, the Town responded to the Town Planning Consultant's letter of 29 September 2005, advising them of that the reinstatement is not supported and surrounding property owners must agree for the position of the bollard to change (letter attached).

On 18 October 2005, the Town Planning Consultants asked for the matter to be brought urgently to the Works and Services Committee then so that the matter can be referred to a full Council (letter attached).

On 24 October 2005, the matter was discussed at the October 2005 Ordinary Council Meeting where Council resolved for the bollard not to be installed and a separate report be brought back to another meeting. The Town on the same day was provided a letter from a legal firm engaged by the Town Planning Consultant. This indicated that access through the PAW could be done through a license agreement (letter attached).

On 25 October 2005, the Town wrote to the Department of Lands seeking their advice on the reinstatement of access through a PAW (letter attached).

On or around 9 December 2005, the Town received a petition from residents asking Council to allow the same owner access to their garage through the PAW and for the bollard position to be modified.

On 12 December 2005, the matter was brought back to the December Ordinary Council Meeting where Council deferred and referred the matter back to the Administration (report attached).

On or around 19 December 2005, the Town obtained advice from the Department of Lands.

On 5 January 2006, written advice from the Department of Lands indicated that allowing vehicle access on the PAW would compromise the purpose of the reserve (letter attached).

On 18 January 2006, the Town Planning Consultant informed the Town that they have been instructed by their clients to write to the Lands Minister for the management order to be revised to allow access through the PAW (letter attached).

On 17 February 2006, the owner, through their Town Planning Consultant asked Council to consider amending the management order to reinstate access through the PAW (letter attached).

On 27 February 2006, at the Ordinary Meeting, Council resolved as follows:

"That Council informed the owner of 1 Geraldine Street, Cottesloe, that a bollard will be installed at the end of March, 2006 to prevent vehicle use of this access, but that the bollard be positioned or of a type to allow access to 1 Geraldine Street only, subject to the necessary insurance being arranged by the owner."

The February 2006 Council Report has been attached.

On 3 March 2006, the Town wrote to the owner informing them of the Council resolution and for insurance to be organized (letter attached).

In July 2006, the property was sold to a new owner.

In February 2007, the Town wrote to current owner explaining the process so far in relation to the restricted access, stating it was yet to be resolved (letter attached).

In May 2007, the previous owner lodged an application for a new garage on the western side of the property that was approved by the Town. This did not proceed to building approval stage (letter attached).

In June 2007, the previous owner submitted details of public liability insurance for PAW, as per Council's resolution of February 2006. This most likely triggered the continuation of the access through the path. No further insurance renewals have been found on record. Notwithstanding the Town's records in this regard, recent correspondence dated 5 November 2020 with the Town Planner acting on behalf of the resident indicates that insurance was never provided (letter attached).

In January 2008, the property was then sold to the current owner. A confidential attachment reflecting ownership details has been included in the report.

In March 2020, the residents of 1 Geraldine Street engaged a Town Planning Consultant to act on their behalf and raised the following points in a letter dated 19 March 2020 with the Town of Cottesloe:

- Unauthorised tree planted along the PAW; and
- Obstruction of the PAW by vehicles visiting 1A Geraldine Street.

Elected Members have been copied into this email correspondence of 19 March 2020 (Confidential Attachment).

Council is asked to note that the matters raised in the above correspondence have since been addressed through the removal of the unauthorised tree and educating parties responsible for the PAW obstruction.

The matter was then tabled at the July 2020 Ordinary Meeting where Council resolved to defer the matter to allow further consultation with the resident before a final decision is made.

In August 2020, a meeting was held with the current owner and a request has been made for the conversion of the PAW to a ROW.

STRATEGIC IMPLICATIONS

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

Priority Area 5: Providing sustainable infrastructure and community amenities

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

This report is consistent with the Town's *Corporate Business Plan 2017 – 2021*.

Priority Area 5: Providing sustainable infrastructure and community amenities.

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

POLICY IMPLICATIONS

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

STATUTORY ENVIRONMENT

Local Government Act 1995;

Local Government (Functions and General) Regulations 1996; and

Land Administration Act 1997

FINANCIAL IMPLICATIONS

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

STAFFING IMPLICATIONS

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

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no expected environmental sustainability implications.

CONSULTATION

Town of Cottesloe Staff

Elected Members

Resident of 1 Geraldine Street (on behalf of and authorised by the owner)

McLeods Barristers and Solicitors

OFFICER COMMENT

The PAW access arrangements by 1 Geraldine Street are unsafe and non-compliant for the following reasons:

- The path is narrow (less than 3 metres that is further reduced to 2.2 metres when the shrub is taken into consideration) and cannot safely accommodate both pedestrians and vehicles (see photograph below);
- There is a collision point at the start of the PAW between vehicles accessing the 1A Geraldine Street crossover and cars exiting the current 1 Geraldine Street garage off the pedestrian path due to the lack of sight distance (see photograph below);

- Vehicles are crossing the spite strip on the western edge of the path when entering the garage (evident from tyre tracks as shown on the photo below); and
- In addition to local laws not permitting vehicles to drive on pedestrian facilities, the width of the PAW does not conform to the minimum crossover width requirements of 2.7 metres for a single and 5.4 metres for a double garage.

The Administration has been informed by the resident's planning consultant that the current access is based on historical precedence, continuing from the previous owners that provided the public liability insurance to the Town, required by the 2006 Council Resolution (report attached).

Our review has found fatal flaws in such documentation submitted at the time as the insurance policy had incorrectly assumed that the PAW was part of private property. The Town would have been liable for any damages given this fact.

Evidence of insurance provided then has been attached as a confidential document.

The Administration has been informed that the current owner (since 2008) was not aware of and has never provided the insurance required for the continued access. Professional advice indicates that any insurance provided by the resident would be voided as current standards limit covers to only private properties.

Public access ways are normally insured by the Local Government providers. Given the non-conforming use, it would be highly unlikely that the Town is protected under our insurance policy. Attached as a confidential document is advice from our insurers on a related matter.

Regardless of past arrangements together with the risk and associated consequences above, this access must cease immediately.

The alternative, should Council wish to continue providing the garage access would be for an appropriate section of the PAW to be converted to a ROW to allow the vehicular thoroughfare. The remaining section will remain as a PAW.

The owner has been consulted on the above solution and has asked for Council to consider this possibility.

It would be important for Council to note that this entire arrangement proposed would need to be approved by the Department of Lands. Under the State Government's Procedure for the Closure of PAW Guidelines (attached), in summary are as follows:

- PAWs provide access to essential services; and provide pedestrian and cycle access both in neighborhoods and to local and district facilities including public transport, schools, shops, parks and community facilities.
- In considering closure requests a balance needs to be found between resident access to facilities and public transport, and concerns regarding security and amenity.
- The closure process requires that the local government prepare a closure report that addresses a range of matters set out in the guidelines and that this report is referred to all relevant infrastructure providers and any other agencies that may have an interest in the PAW and requests their comments and advice.
- If closure of the PAW is supported it is required that the portion closed be offered to adjoining land owners for purchase. The Town would therefore be responsible for liaising with the abutting landowners regarding the likely costs, reaching an agreement on the proposed disposition of the PAW after it is closed.

Given the above, the closure of the PAW does not automatically revert that portion back to a ROW.

Should an application be supported by Council and approved by the Department of Lands, the owner of 1 Geraldine Street would need to be responsible for replacing the existing surface and installing bollards. This is to ensure some form of differentiation between the ROW and PAW for safety reasons.

In the owner's view, the cost of the works associated with such a conversion (should this be submitted and approved through the Land Administration Act process) is the responsibility of the Town. The Administration disagrees as current egress is unauthorised and should access be required, it must be based on a user pays principle.

Notwithstanding the above and the residents' petition (supporting this continued access) previously submitted by the owner at the July 2020 OCM, the Administration advises Council against reverting the PAW back to a ROW and re-iterates the reasons for this recommendation:

- This arrangement is against local laws and given advice provided by our insurers, the Town is currently liable and could be deemed negligent considering such risk have been previously brought to Council's attention;
- A car porch was approved as part of the ROW closure in 1997 to provide alternative on property parking. This has been agreed to in the attached letter, noting that this is linked to the property titles not the owner. As such, alternative arrangements are available;
- The existing PAW is less than three metres wide (reduced further by at least 0.75m – 1.0m due to planting, infrastructure and the spite strip). This does not meet the

minimum crossover requirements and it is evident that vehicles are using the spite strip in order to safely access the garage;

- The narrowness of the PAW also conflicts with pedestrians and/or cyclists given that the pathway can also be used by cyclists under the recent changes to the laws for pedestrian pathways;
- The fact that the landowner has an existing garage facing the PAW isn't grounds for supporting a request to change a portion of the PAW to a ROW, particularly when the existing width is insufficient to allow safe and acceptable access; and
- There are public utilities services in the PAW that need to be protected and costs for any relocation/upgrade need to be considered.

Should Council accept the officer's recommendation, the vehicle access must cease within 24 hours of this resolution. During this time, pedestrian access through this PAW will be restricted and re-opened again when the specified time period has lapsed.

This is to immediately eliminate any risk exposure to the Town and should at the same time allow the owner sufficient time to relocate any vehicles within the garage onto the Geraldine Street car porch.

However, should this not be possible for an unknown reason, the PAW must be administered as a work zone (at the cost of the owner) with appropriate warning signage being installed by an accredited person in accordance with a certified pedestrian management plan. Evidence of public liability insurance (or equivalent) would also be required. The owner will be required to make an application for a workzone permit to

ensure all risk management measures are appropriately assessed and in place. The PAW will be closed to pedestrians until such time. This alternative should be limited to five calendar days from the resolution.

In either scenarios above, the Administration will then install temporary infrastructure in place to restrict vehicle egress once the garage access is no longer required, till the bollard is permanently reinstated. Geraldine Street residents will be notified accordingly.

VOTING REQUIREMENT

Simple Majority

OFFICER RECOMMENDATION

THAT Council:

1. RESTRICTS vehicle access to the Pedestrian Access Way at the Geraldine Street cul-de-sac through the installation of a bollard; and
2. NOTES the proposed transition within the officer's comment section of the report to allow to be reasonable towards the owner in allowing them sufficient time to make the required arrangements before access is permanently restricted.

Cr MacFarlane left the meeting at 7:23pm.

Cr MacFarlane returned to the meeting at 7:25pm.

COUNCILLOR MOTION

Moved Cr Young **Seconded Mayor Angers**

That Council REQUESTS the Administration to:

1. In the light of Council's inability to lawfully authorise vehicular access across the PAW (Reserve 45117) take appropriate action to prevent vehicle access on the PAW on an interim basis pending Council's further resolution following advice from the Department (DPLH) regarding options for vehicular access across the Reserve.
2. Seek written advice from the Department at its earliest convenience as to whether it would:
    - i(a) SUPPORT an amendment to the Purpose of the Reserve to allow vehicle access to the western garaging at 1 Geraldine St (the Property);
    - i(b) GRANT to the Town a power to licence, or alternatively, a power to grant an easement in respect of the Reserve, to permit the owner of the Property to drive on the Reserve for the purpose of accessing the garaging; and
    - i(c) RECOMMEND to the Minister that approval be given to the Town to exercise the power to licence in favour of the owner of 1 Geraldine St or alternatively to grant an easement over the Reserve for the benefit of the Property.
    - i(d) Propose an alternative solution that might lawfully permit vehicular access across the Reserve.

    OR

    - ii. GRANTS APPROVAL to the Town to excise that part of the Reserve that is

required for access to the garaging on the western side of the Property, and for the excised part to be dedicated a right of way so as to permit vehicle access to that portion only.

3. A report on the progress of the matter be brought back to Council within three months and in any event bring the matter back to Council for further consideration on receipt of the Department's advice.

PROCEDURAL MOTION

Moved Mayor Angers **Seconded Cr Barrett**

That Standing Orders be suspended for 10 minutes.

Carried 7/2

PROCEDURAL MOTION

Moved Cr Young **Seconded Mayor Angers**

That Standing Orders be resumed.

Carried 9/0

SUBSTANTIVE MOTION AND COUNCIL RESOLUTION

That Council REQUESTS the Administration to:

1. In the light of Council's inability to lawfully authorise vehicular access across the PAW (Reserve 45117) take appropriate action to prevent vehicle access on the PAW on an interim basis pending Council's further resolution following advice from the Department (DPLH) regarding options for vehicular access across the Reserve.

2. Seek written advice from the Department at its earliest convenience as to whether it would:

i(a) SUPPORT an amendment to the Purpose of the Reserve to allow vehicle access to the western garaging at 1 Geraldine St (the Property);

i(b) GRANT to the Town a power to licence, or alternatively, a power to grant an easement in respect of the Reserve, to permit the owner of the Property to drive on the Reserve for the purpose of accessing the garaging; and

i(c) RECOMMEND to the Minister that approval be given to the Town to exercise the power to licence in favour of the owner of 1 Geraldine St or alternatively to grant an easement over the Reserve for the benefit of the Property.

i(d) Propose an alternative solution that might lawfully permit vehicular access across the Reserve.

OR

ii. GRANTS APPROVAL to the Town to excise that part of the Reserve that is required for access to the garaging on the western side of the Property, and for the excised part to be dedicated a right of way so as to permit vehicle access to that portion only.

3. A report on the progress of the matter be brought back to Council within three months and in any event bring the matter back to Council for further consideration

on receipt of the Department's advice.

Carried 6/3
For: Mayor Angers, Crs Young, Harben, Harkins, Tucak and MacFarlane
Against: Crs Sadler, Masarei and Barrett

COUNCILLOR RATIONALE:

1. Council cannot lawfully permit vehicle access across a PAW;
2. The current access is unlawful and the risk associated with it is not insurable. This exposes the Town to uninsured risk if access is allowed to continue;
3. It is not acceptable for Council to expose the Town to uninsured risk, particularly in respect of an arrangement which primarily benefits a single property. Access across the PAW should therefore be prevented unless and until a solution can be found which will allow lawful access to the garaging;
4. In the meantime, the Property has alternative parking accessed off Geraldine St which can be used.
5. Council cannot lawfully permit access without the support of the Department. If the Department is supportive of allowing vehicle access across the (current) PAW Council can then resolve to initiate the formal process.
6. At that time, Council can also consider what arrangements would be required with the owner of the Property regarding costs associated with the process, as well as issues such as public liability insurance, indemnification of the Town and the Minister and suitable security arrangements to support such indemnification.
7. The Department has previously provided information regarding the matter, but its information – particularly relating to closure of the PAW – appears to be confined to cases which are not relevant to this particular case. It is not the intention of Council to close the PAW, rather Council wishes to understand its options (if any) in excising part of the PAW to dedicate as a ROW.
8. Given the significant impact that access will have on the owners of the Property it is reasonable for Council to assist in finding a solution, if one is possible, provided that this is not an excessive drain on administration's resources and involves no cost to the Town. A further approach to the Department for advice is therefore appropriate.

13 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11.1 COUNCILLOR MOTION - DEMOLITION PERMIT - 58 GRANT STREET, COTTESLOE

Item 11.1 was considered behind closed doors so that Council could consider legal advice presented prior to the meeting.

Cr Masarei declared an IMPARTIALITY INTEREST in item 11.1 by virtue "I first met the owners of 56 Grant Street, Cottesloe on 6 November 20 at his home as a Councillor to the Town of Cottesloe and personally met his wife tonight for the first time."

Cr Tucak declared an IMPARTIALITY INTEREST in item 11.1 by virtue "I know the family of one of the residents at 56 Grant Street, Cottesloe."

The following motion has been proposed by Cr Masarei.

COUNCILLOR MOTION

1. The granting of a Demolition Permit to the owners of 58 Grant Street Cottesloe be revoked and/or cancelled.
2. Any future application for a Demolition Permit by the owners of 58 Grant Street, Cottesloe be submitted with a completed BA20 – Notice and Request for Consent to Encroach or Adversely Affect under the Building Act 2011.

Due to legal advice received by the Town there was no mover or seconder to the motion.

COUNCILLOR RATIONALE

1. The owners of 58 Grant Street, Cottesloe applied to the Town of Cottesloe and were granted a Demolition Permit for their property.
2. The permit involves the demolition of a parapet wall at 58 Grant Street Cottesloe.
3. The owners of the adjoining property (56 Grant Street, Cottesloe) to 58 Grant Street, Cottesloe made representations to the Town of Cottesloe administration that the proposed demolition works would adversely affect their land and buildings beyond the boundaries of the demolition site at 58 Grant Street Cottesloe. Notwithstanding the representations a Demolition Permit was granted to the owners of 58 Grant Street, Cottesloe.
4. The owners of 56 Grant Street have received professional engineering advice that the demolition of a parapet wall at 58 Grant Street, Cottesloe will reduce the stability, bearing capacity of the garden bed, landscaping, built in BBQ, Pizza oven and pool equipment and will destroy the structures.
5. Furthermore the section of parapet wall has been acting as a dividing fence for circa 40 years and more recently has been classified as a pool barrier.
6. Sections 76, 77 & 85 of the Building Act has a process to deal with demolition works that will adversely affect land and buildings beyond the boundaries of the demolition site. The process is a BA20 – Notice and Request for Consent to Encroach or Adversely Affect under the Building Act 20 WA. This information is published on the Town of Cottesloe Web Site

(https://www.cottesloe.wa.gov.au/Profiles/cottesloe/Assets/ClientData/Documents/PageContent/Building_application/Demolition_Pamphlet.pdf)

7. The BA20 process should be undertaken before a Demolition Permit is issued to the owners of 58 Grant Street, Cottesloe.
8. The issue of the parapet wall and boundary fence acting as dividing fence between the two properties is a separate civil issue to the Cottesloe administration granting a Demolition Permit without the BA20 process having been applied.

OFFICER COMMENT

A verbal report will be provided to Council at the meeting.

On review of legal advice obtained, this motion was abandoned as per Standing Order 10.12.

13.1.1 COMMUNITY CITIZEN OF THE YEAR AWARDS

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (b) as it contains information relating to the personal affairs of any person.

File Ref:	**SUB/2792**	
Attachments:	**13.1.1(a)**	**Register of Awardees - Citizen of the Year 2021 [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	13.1.1(b)	**Citizen of the Year Award - Nominations [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	13.1.1(c)	**Senior Citizen of the Year Award - Nominations [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	13.1.1(d)	**Youth Citizen of the Year Award - Nomination [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	13.1.1(e)	**Active Citizenship (Group or Event) Award - Nomination [CONFIDENTIAL] [UNDER SEPARATE COVER]**
Responsible Officer:	**Shane Collie, Executive Manager Corporate Services and Governance**	
Author:	**Gabrielle Hall, Events Coordinator**	
Author Disclosure of Interest:	**Nil**	

Mayor Angers declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “I know several of the people who are being nominated for citizen of the year."

Cr Harkins declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “a number of the nominees known to me."

Cr Tucak declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “I know some of the nominees."

Cr Barrett declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “A number of the parties are known to me."

Cr Sadler declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “a number of the nominees known to me."

Cr Harbin declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “a number of the nominees known to me.

Cr Young declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “Some of the nominees/nominators are known to me."

Cr Masarei declared an IMPARTIALITY INTEREST in item 13.1.1 by virtue “many of the nominations are known to me."

OFFICER RECOMMENDATION

THAT Council AWARDS the 2020 Community Citizen of the Year Award to the nominees selected by Council by virtue of this report and that the selection information be embargoed until the official awarding of the honours.

Cr Tucak left the meeting at 8:27pm.

Cr Tucak returned to the meeting at 8:28pm.

COUNCILLOR MOTION AND COUNCIL RESOLUTION

Moved Cr Harkins **Seconded Cr Young**

THAT Council AWARDS the 2021 Community Citizen of the Year as follows:

1. **Citizen of the Year Award to Candidate 1.4;**
2. **Senior Citizen of the Year to Candidate 2.1;**
3. **Youth Citizen of the Year to Candidate 3.1;**
4. **Active Citizenship to Candidate 4.1; and**
5. **That the selection information be embargoed until the official awarding of the honours.**

Carried 9/0

COUNCILLOR RATIONALE:

The officer's recommendation was changed as Council chose candidates for each category.

13.1.2 SCULPTURE BY THE SEA AGREEMENT

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (d) and (e(ii)) as it contains information relating to legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting and a matter that if disclosed, would reveal information that has a commercial value to a person.

File Ref:	**SUB/2792**	
Attachments:	**13.1.2(a)**	**Sculpture by the Sea Licence Agreement 2021 to 2025 [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	13.1.2(b)	**Sculpture by the Sea - Elected Member's Comments [CONFIDENTIAL] [UNDER SEPARATE COVER]**
Responsible Officer:	**Matthew Scott, Chief Executive Officer**	
Author:	**Shane Collie, Executive Manager Corporate Services and Governance**	
Author Disclosure of Interest:	**Nil**	

Cr Tucak declared an IMPARTIALITY INTEREST in item 13.1.2 by virtue "I was a donor member of Sculptures by the Sea in the past."

OFFICER RECOMMENDATION

Moved Cr Young **Seconded Cr Tucak**

1. THAT Council ENDORSES the proposed Sculpture by the Sea Agreement for a five year period (2021 to 2025), inclusive of a further 3 year extension option as attached to this report.
2. THAT the Chief Executive Officer be authorised to make any additional minor changes to the Agreement without further reference to Council provided that there is no alteration to intent or the fundamental meaning of any clause.
3. THAT the Mayor and Chief Executive Office be AUTHORISED to sign and arrange for the Town's Common Seal to be placed on the Agreement.

COUNCILLOR AMENDMENT

Moved Cr Tucak **No Seconder, Lapsed**

Add the following words to the end of point 1:

"subject to Schedule Item 8.8(3) reverting to "less commission" as per the Officer's Report and previous wording, to enable the Town to potentially acquire a higher value work(s)."

SUBSTANTIVE MOTION AND COUNCIL RESOLUTION

1. THAT Council ENDORSES the proposed Sculpture by the Sea Agreement for a five year period (2021 to 2025), plus a further 3 year extension option (2026 to 2028) as attached to this report.

2. THAT the Chief Executive Officer be authorised to make any additional minor changes to the Agreement without further reference to Council provided that there is no alteration to intent or the fundamental meaning of any clause.

3. THAT the Mayor and Chief Executive Office be AUTHORISED to sign and arrange for the Town's Common Seal to be placed on the Agreement.

Carried 8/1

13.1.3 S15 BEACH ACCESS PATH UPGRADE - TENDER RECOMMENDATION

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

File Ref:	**SUB/2792**	
Attachments:	**13.1.3(a)**	**Signed Combined Assessment Sheet - T08/2020 - Beach Access Path Upgrade S15 [CONFIDENTIAL] [UNDER SEPARATE COVER]**
Responsible Officer:	**Shaun Kan, Executive Manager Engineering Services**	
Author:	**David Lappan, Engineering Technical Officer**	
Author Disclosure of Interest:	**Nil**	

OFFICER RECOMMENDATION

Moved Cr Barrett **Seconded Cr MacFarlane**

THAT Council:

1. APPROVES awarding the S15 Beach Access Path Upgrade to Environmental Industries for a Contract Value of $340,825.47 (excluding GST);
2. AUTHORISES the Mayor and/or Chief Executive Officer to sign the Contract and affix the Town's Common Seal (if required); and
3. AUTHORISES the Chief Executive Officer to manage the S15 Beach Access Path Upgrade construction contract, including provision of possible variations (provided the variation is necessary in order for the goods or services to be supplied, does not change the general scope of the contract and is managed within the allotted budget allocation).

PROCEDURAL MOTION

Moved Cr Sadler **Seconded Cr Young**

That the item be put to the vote.

Carried 8/1

SUBSTANTIVE MOTION AND COUNCIL RESOLUTION

THAT Council:

1. **APPROVES awarding the S15 Beach Access Path Upgrade to Environmental Industries for a Contract Value of $340,825.47 (excluding GST);**
2. **AUTHORISES the Mayor and/or Chief Executive Officer to sign the Contract and affix the Town's Common Seal (if required); and**
3. **AUTHORISES the Chief Executive Officer to manage the S15 Beach Access Path Upgrade construction contract, including provision of possible variations (provided the variation is necessary in order for the goods or services to be supplied, does not change the general scope of the contract and is managed within the allotted budget allocation).**

Carried 9/0

13.1.4 E-BIKE SHARE PROGRAM TRIAL

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

File Ref:	**SUB/2792**	
Attachments:	**13.1.4(a)**	**E-Bike Proposal Town of Cottesloe Nov 2020 [CONFIDENTIAL] [UNDER SEPARATE COVER]**
	13.1.4(b)	**E-Bike Terms and Conditions Draft - November 2020 [CONFIDENTIAL] [UNDER SEPARATE COVER]**

13.1.4(c) E-Bike Proposal 2020-2021 Certificate of Currency [CONFIDENTIAL] [UNDER SEPARATE COVER]

13.1.4(d) Cost Breakdown and E-Bike locations in Australia [CONFIDENTIAL] [UNDER SEPARATE COVER]

Responsible Officer: **Shaun Kan, Executive Manager Engineering Services**
Author: **Adeline Morrissey, Environmental Projects Officer**
Author Disclosure of Interest: **Nil**

OFFICER RECOMMENDATION

Moved Cr Barrett **Seconded Cr Young**

THAT Council APPROVES:

1. A 24 months trial for BYKKO to operate in Cottesloe and for stations to be installed in the three location mentioned in the officer's comment section of the report subject to the following conditions:
   a. Appropriate termination clauses within the license agreement that allows the Town to conclude the trial before the expiration of the 24 months;
   b. BYKKO is responsible for all cost associated with the trial including the preparation of the licence agreement, management and operations of the program;
   c. BYKKO's public liability insurance includes the Town as a listed proponent; and
   d. A final copy of the licence agreement to be provided to Council prior to the execution of the document; and
2. AUTHORISES the Mayor and/or Chief Executive Officer to sign the final license agreement and affix the Town's Common Seal (if required).

Carried 9/0

PROCEDURAL MOTION

Moved Cr Young **Seconded Mayor Angers**

That the speaker be no longer heard.

Carried 6/3

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

THAT Council APPROVES:

1. A 24 months trial for BYKKO to operate in Cottesloe and for stations to be installed in the three location mentioned in the officer's comment section of the report subject to the following conditions:
   a. Appropriate termination clauses within the license agreement that allows the Town to conclude the trial before the expiration of the 24 months;
   b. BYKKO is responsible for all cost associated with the trial including the preparation of the licence agreement, management and operations of the program;

c. BYKKO's public liability insurance includes the Town as a listed proponent; and

d. A final copy of the licence agreement to be provided to Council prior to the execution of the document; and

2. AUTHORISES the Mayor and/or Chief Executive Officer to sign the final license agreement and affix the Town's Common Seal (if required).

Carried 9/0

MOTION FOR RETURN FROM BEHIND CLOSED DOORS

Moved Mayor Angers Seconded Cr Young

In accordance with Standing Orders 15.10 that the meeting be re-opened to members of the public and media, and motions passed behind closed doors be read out if there are any public present.

Carried 9/0

The meeting was re-opened to the public at 9:06pm, however no members of the public or media were in attendance.

13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

As no members of the public returned to the meeting the resolutions for the following items considered behind closed doors were not read out.

10.1.9 GERALDINE STREET PEDESTRIAN ACCESS WAY

11.1 COUNCILLOR MOTION - DEMOLITION PERMIT - 58 GRANT STREET, COTTESLOE

13.1.1 COMMUNITY CITIZEN OF THE YEAR AWARDS

13.1.2 SCULPTURE BY THE SEA AGREEMENT

13.1.3 S15 BEACH ACCESS PATH UPGRADE - TENDER RECOMMENDATION

13.1.4 E-BIKE SHARE PROGRAM TRIAL

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 9:06pm.