

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING MINUTES**

**ORDINARY MEETING OF COUNCIL  
HELD IN THE  
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, MONDAY, 24 OCTOBER, 2005**

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**1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS**

The Mayor announced the meeting opened at 7.05 pm.

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

Mayor Kevin Morgan  
Cr Patricia Carmichael  
Cr Daniel Cunningham  
Cr Jo Dawkins  
Cr Arthur Furlong  
Cr Peter Jeanes  
Cr Victor Strzina  
Cr John Utting  
Cr Jack Walsh  
Cr Ian Woodhill

**Officers in Attendance**

Mr Stephen Tindale	Chief Executive Officer
Mr Alan Lamb	Manager Corporate Services
Mr Geoff Trigg	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Jodie Peers	Executive Assistant

**Apologies**

Cr Bryan Miller

**Leave of Absence (previously approved)**

Nil

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**4 PUBLIC QUESTION TIME**

Nil

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

Moved Cr Strzina, seconded Cr Utting

That Cr Furlong's application for a leave of absence for 1 – 25 November, 2005 be granted.

Carried 10/0

**6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr Strzina, seconded Cr Furlong

The Minutes of the Ordinary Meeting of Council held on Tuesday, 20 September, 2005 be confirmed.

Carried 10/0

**7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

- 7.1 Welcome to Mr Sam Neale, who is in attendance this evening. Mr Neale has taken on the position of Principal Building Surveyor.
- 7.2 Presentation made to Mr Rob Rowell; he accepted a plaque as a token of the Town's appreciation for the many years of effort that he has volunteered in looking after our civic affairs as a Councillor and Mayor.
- 7.3 Council will not be proceeding with the deliberative forum. An extension was requested from Minister McTiernan to enable adequate consultation to be held, however the extension was not approved. It appears that the government is not in a position to assist the Council. Council is generally agreed on the height limit for the beachfront, the main issue appears to be the height limit for the hotel sites.
- 7.4 Council is concerned that Multiplex is not pursuing, with any haste, the mediation process in relation to Council's objection to their proposal for the Cottesloe Beach Hotel. The matter has been adjourned until 16 November, 2005.
- 7.5 Council is undertaking a review of the history of the planning approvals for the Ocean Beach Hotel site. An application for sub-division approval for this site has been received from the Department of Planning and Infrastructure. Council has requested input from the hotel owners and lawyers by mid November, 2005.
- 7.6 Fourteen nominations have been received for the 2005 Cottesloe Great Garden Competition. The judging will take place this week, by Garry Heady and Sabrina Hahn. The two categories are 'Cottesloe Great Garden' and 'Sustainable Garden'. The award presentations will be made at the Cottesloe Great Gardens Workshop on Sunday, 20 November, 2005.

**8 PUBLIC STATEMENT TIME**

Nil

**9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

**10 REPORTS OF COMMITTEES AND OFFICERS****11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 17 OCTOBER 2005****11.1 PLANNING****11.1.1 NO 5 (LOT 13) NAILSWORTH STREET - NEW TWO STOREY RESIDENCE**

**File No:** No 5 (Lot 13) Nailsworth Street  
**Author:** Mr James Atkinson  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 October, 2005  
**Senior Officer:** Mr Andrew Jackson

**Property Owner:** Alwyn and Maribel Vear  
**Applicant:** Riverstone Construction  
**Date of Application:** 10 October, 2005

**Zoning:** Residential  
**Use:** P - A use that is permitted under this Scheme  
**Density:** R20  
**Lot Area:** 490m<sup>2</sup>  
**M.R.S. Reservation:** N/A

**SUMMARY**

Council is in receipt of an application for a new two storey single residence.

Given the assessment that has been done, it is recommended that the application be approved with conditions.

**STATUTORY ENVIRONMENT**

- Town of Cottesloe Town Planning Scheme No 2.
- Residential Design Codes of Western Australia.

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

- N/A

**APPLICATION ASSESSMENT****AREAS OF NON-COMPLIANCE****Town of Cottesloe Town Planning Scheme No 2 - Text**

Council Resolution	Required	Proposed
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Front Setback	6.0m	4.0m min to 8.5m
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### Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Streetscape Requirements	6.0m front setback	4.0m min	Clause 3.2.1 – P1

### STRATEGIC IMPLICATIONS

N/A.

### FINANCIAL IMPLICATIONS

N/A.

### CONSULTATION

REFERRAL

#### Internal

- Building
- Engineering

#### External

N/A.

### ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2. The advertising consisted of letter to adjoining property owners

### Submissions

There were 8 letters sent out. There were 4 submissions received, of which 4 were objections. Details of the submissions received are set out below:

#### 3 Nailsworth Street

- Concerns regarding parapet wall to their boundary.

#### 128a Broome Street

- Concern regarding workers using the R.O.W and congestion created.
- Concern over potential noise of pool and spa pump equipment.

#### 130a Broome Street

- Concern over building operations being carried out in the R.O.W and potential traffic conflict.
- Proposed works will overlook into their courtyard. The courtyard is raised approximately 600-700mm above R.O.W level and the view from proposed rear balcony would invade their privacy.



**STAFF COMMENT****Neighbour Comments**Parapet Wall

Neighbour comments were received from the adjoining neighbour to the south regarding the height and finish of the proposed parapet wall. A standard condition of approval will be used to ensure that the finish of the wall is to the satisfaction of the Manager, Development Services.

R.O.W Usage

R.O.W's are reserved for vehicle access to properties, and the parking of vehicles is prohibited. Any matters regarding workers using the R.O.W will need to be addressed at the building stage.

Noise of Pool and Spa Equipment

Will be addressed through standard conditions of approval.

Overlooking to 130a Broome Street Courtyard

A site inspection was conducted by Council's planning staff and it was concluded that the proposed rear balcony complies with the acceptable development standards of the R-Codes, where a minimum separation distance of 7.5m is required (9.5m actual separation distance). In this instance the neighbour's courtyard is raised approximately 600-700mm above the R.O.W and the proposed rear balcony would have a direct view to the area in question. Further, 130a is a rear strata lot and the courtyard in question is the only outdoor habitable area. Notwithstanding this, the R-Codes state that *'Development that complies with the following (Acceptable Development Standards) is deemed to meet the relevant Performance Criteria'*. In this regard the balcony setback is considered acceptable and is supported by Planning Staff.

Front Setback

In assessing the application it is important to note the unique site constraints that have resulted in the variation being sought. The subject lot runs east to west while Nailsworth Street runs south-east to north-west. This combination has meant that the lot and street are not at right angles and consequently a diagonal street frontage has been created. Because of this, a small portion of the dwelling (north-east corner) is forward of the prescribed 6.0m front setback line.

The proposed front setback to Nailsworth Street ranges from 4.0m to 8.5m. Council resolved at its full meeting on 28<sup>th</sup> October 2002:

*"(1) When assessing applications for Development Approval, Council will:*

*(a) Generally insist on:*

*(i) A 6.0m setback for residential developments in the District, which does not include averaging."*

The R-Codes also prescribe a minimum 6.0m front setback in an R20 coded area, however, Clause 3.2.1 A1 of the R-Codes states that:

*'Buildings other than carports and garages set back from the primary street in accordance with Table 1: or*

- I. .... in accordance with Figure 1, reduced by up to 50% provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of contiguous open space between the setback line and a line drawn parallel to it twice the setback distance.*
- II. ....'*

Due to the angled front boundary a portion of the building protrudes into the front setback by 2.0m (33%). The area of building forward of the setback line is only a small triangular section at the north-east corner. Further, an adequate compensating area of contiguous open space has been provided in front of the garage. Given this the application is deemed to comply under Acceptable Development Standards of the R-Codes.

From a streetscape point of view, the neighbouring property to the south will be forward of the proposed building and the neighbour to the north will be set back further. In unison, the three properties will be staggered quite evenly along the street. Further to this, while a portion of the building is forward of the prescribed setback line there is a greater portion of the property behind (up to 8.5m).

It is noted that there were no neighbour objections to the front setback variation.

Given the above assessment the proposed setback variation is supported by Planning Staff.

## **CONCLUSION**

It is recommended that the setbacks be approved as per the attached plans.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Committee resolved to amend condition (1) (h) by adding the words 'in consultation with the neighbour' to the end of the sentence.

## **OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the New Two Storey Residence at No 5 (Lot 13) Nailsworth Street, Cottesloe in accordance with the plans submitted on 10 October, 2005, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the

disposal of the stormwater runoff from roofed areas being included within the working drawings.

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
  - (f) Any front boundary fencing to the site being of an "Open Aspect" design in accordance with Council's Fencing Local Law and the subject of a separate application to Council.
  - (g) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
  - (h) The finish and colour of the boundary wall facing the southern neighbour shall be to the satisfaction of the Manager Development Services.
  - (i) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
  - (j) The proposed swimming pool and spa shall comply with the following:
    - (i) The spa pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
    - (ii) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
    - (iii) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
    - (iv) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
- (2) Advise the submitters of this decision.
-

**11.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Woodhill

**That Council:**

- (1) **GRANT its Approval to Commence Development for the New Two Storey Residence at No 5 (Lot 13) Nailsworth Street, Cottesloe in accordance with the plans submitted on 10 October, 2005, subject to the following conditions:**
- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**  
  
**The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
  - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
  - (e) **The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.**
  - (f) **Any front boundary fencing to the site being of an “Open Aspect” design in accordance with Council’s Fencing Local Law and the subject of a separate application to Council.**
  - (g) **Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
  - (h) **The finish and colour of the boundary wall facing the southern neighbour shall be to the satisfaction of the Manager Development Services, in consultation with the neighbour.**
  - (i) **The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.**
  - (j) **The proposed swimming pool and spa shall comply with the following:**

- (i) The spa pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
  - (ii) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soak wells.
  - (iii) A soak well system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
  - (iv) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
- (2) Advise the submitters of this decision.

Carried 10/0

**11.1.2 NO 142-144 (LOT 3) RAILWAY STREET - CHANGE OF USE APPLICATION  
– ADDITION OF HEALTH STUDIO/YOGA**

**File No:** No 142-144 (Lot 3) Railway Street  
**Author:** Mr James Atkinson  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 October, 2005  
**Senior Officer:** Mr Andrew Jackson

**Property Owner:** Aurora Balanced Living  
**Applicant:** Aurora Balanced Living  
**Date of Application:** 19th August 2005

**Zoning:** Business  
**Use:** Health Centre/Consulting Rooms  
**Density:** R50  
**Lot Area:** 516m<sup>2</sup>  
**M.R.S. Reservation:** N/A

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**SUMMARY**

Council is in receipt of a Change of Use application for the abovementioned property. The application seeks to add an additional use to the existing *Health Centre/Consulting Rooms* (approved by Council 29<sup>th</sup> March 2005). The rationale for this change is for the addition of Yoga classes to the premises.

The application is only for an additional use and no building alterations or additions are proposed. Additionally it is proposed that the existing uses remain, with the Yoga being a further use.

Given the assessment that has been undertaken, the recommendation is to Approve the application with conditions.

**STATUTORY ENVIRONMENT**

- Town of Cottesloe Town Planning Scheme No 2

**POLICY IMPLICATIONS**

- N/A.

**HERITAGE LISTING**

- N/A

**APPLICATION ASSESSMENT**

AREAS OF NON-COMPLIANCE

- N/A

**STRATEGIC IMPLICATIONS**

- N/A.

**FINANCIAL IMPLICATIONS**

- N/A.

**CONSULTATION**

## REFERRAL

**Internal**

N/A.

**External**

N/A.

## ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2. The advertising consisted of letters to adjoining property owners.

**Submissions**

There were 15 letters sent out with 1 submission received, which was an objection. Details of the submission are set out below:

148 Railway Street

Concern that Yoga classes would have a negative impact on parking and traffic in the area (please refer to Car Parking section of this report for staff comments).

**BACKGROUND**

The subject site was approved by Council for a Change of Use from *Residential* to *Health Care/Consulting Rooms* at Council's March 2005 meetings. The approved use was for a Natural Therapist and Alignment, with one employee and 4 clients per hour (maximum of 32 clients per day). This use attracted a requirement of 6 car parking bays, which was reduced to 5 after amended plans were received showing a condensed floor space requirement.

The subject of this report is to add a further use to the premises in the form of Yoga classes. The Yoga classes would involve one employee and 6 clients per class. The hours of operation would be as follows:

- 6:00am to 7:30am Monday to Friday,
- 5:45pm to 9:15pm Monday to Thursday and;
- 8:00am to 10:00am Saturday

The existing Natural Therapist and Alignment uses would remain under the Health Centre/Consulting Rooms use approval.

**STAFF COMMENT**

The subject site is located in the *Business Zone*, which is defined as:

*'The intent of the Business Zone is to provide for a wide range of uses permissible in a manner compatible with surrounding development...Council will be guided by the height of buildings in adjoining areas and the amenity and parking provisions of Part V – General Provisions of the Scheme.'*

The proposed Yoga classes are supported by planning staff as a use suited to the Business Zone. The use and parking assessment is outlined below.

Yoga is a use not listed in Cottesloe's Town Planning Scheme No.2 (TPS2). Clause 3.3 of TPS2 states that where a use is not specifically listed in the Zoning Table and cannot be reasonably determined as falling within the interpretation of the use classes, Council may:

- a) *'determine that the use is not consistent with the objectives and purpose of the particular zone and is, therefore, not permitted, or*
- b) *determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clauses 7.1.4 and 7.1.6 in considering an application for approval to commence development.'*

The current use of the land is for Health Care/Consulting Rooms (Natural Therapist and Alignment) which are considered an 'AA' use (a use not permitted unless special approval is granted by Council). Consulting rooms generally mean *'a building (other than a hospital or medical centre) used by practitioners who are legally qualified in the prevention and treatment of physical and/or mental injuries or ailments'*. In this case an application has been lodged with Council to extend the uses of the property to include small Yoga classes. Given Yoga takes on a more physical activity use it is proposed to approve an additional use of *Health Studio* to the existing *Health Care/Consulting Rooms*. TPS2 defines *Health Studio* as:

*'...land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation.'*

It is considered by planning staff that the Health Studio definition is more in line with the requirements of the Yoga classes and is therefore supported.

**Car Parking**

Under the current use (Health Care/Consulting Rooms) car parking was calculated at a rate of '1 space for every 40sq metres of Professional Office gross floor area'. This calculation was derived from the Consulting Rooms essentially being classified as an administrative/commercial use under 'Table 2 – Vehicle Parking Requirements' of TPS2. If this practice was to be applied to the current application no additional parking bays would be required as there are no structural changes proposed. However, a Health Studio/Yoga cannot specifically be classified as Professional Offices or Administrative/Commercial use.



When a use is not listed in 'Table 2 – Vehicle Parking Requirements' it can be classified as 'Other Purpose', where the following applies:

*'To be determined by Council having regard to the nature of the use to be made on the site, the known or likely volume of goods or materials, or the number of people moving to or from the site and the likelihood or otherwise of congestion or traffic on any road or in other public places in the vicinity.'*

There are currently 5 bays approved at the rear of the site for the existing uses (Natural Therapist and Alignment). The subject of this application proposes one teacher with an average of 6 clients per class. The classes are proposed to be out of peak traffic times, as follows:

- 6:00am to 7:30am Monday to Friday.
- 5:45pm to 9:15pm Monday to Thursday and.
- 8:00am to 10:00am Saturday.

The applicant provided written justification for the application along with photos and figures for the aforementioned time slots (refer attached).

Further, a recent traffic and car parking study undertaken by Sinclair Knight Merz (SKM) for Council provided the following information for the Swanbourne Business Centre area:

- There is provision for 91 bays (not including parking bays over the railway in Swanbourne).
- The survey showed that the car parks were not fully utilised.
- The highest demand for parking was observed at 5:30pm when the car park was 62% utilised.
- The survey results also showed little demand for on-street parking (currently 39-bays).
- The survey found that the current car parking meets the existing demand.
- The report actually recommended that car parking standards be reduced and incorporate shared parking.

The SKM report essentially concluded that there is ample off-site parking in the immediate vicinity. Further, there is simply no available space on site for additional bays. If Council imposed a requirement for further on-site parking it would essentially force a cash-in-lieu payment.

It is noted that there was one objection regarding traffic congestion and parking requirements. The results of the SKM study would suggest that there is ample parking available. Further, the hours of operations would fall outside of heavy traffic periods, and should have little impact on congestion.

Given the results from the SKM report, the applicant's inability to provide any further on-site parking, the low-key nature of the use and the hours of operations it would seem reasonable to approve the Change of Use with no further increase in parking.

**CONCLUSION**

It is recommended that the application be approved subject to standard conditions.

**VOTING**

Absolute Majority

**COMMITTEE COMMENT**

Committee resolved to delete condition (b), as this is a repetition of condition (1) (d).

**OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the Additional Change of Use Application - Yoga at No 142-144 (Lot 3) Railway Street, Cottesloe in accordance with the plans submitted on 19th August 2005, subject to the following conditions:
  - (a) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (b) The proposed sign is not approved as part of the application. Any proposed sign will need to be the subject of a separate application to Council. Signs do not form part of this approval and must be the subject of a separate application.
  - (c) The approval is for the additional use class of 'Health Studio' for the small-scale Yoga class operation as applied for and is limited to that extent. Any proposed significant intensification of that activity, or future changes of use or physical development would require a further Planning Application and Approval.
  - (d) Signs do not form part of this approval and must be the subject of a separate application.
- (2) Advise the submitters of this decision.

**11.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Woodhill

**That Council:**

- (1) **GRANT its Approval to Commence Development for the Additional Change of Use Application - Yoga at No 142-144 (Lot 3) Railway Street, Cottesloe in accordance with the plans submitted on 19th August 2005, subject to the following conditions:**
  - (a) **The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**

- (b) The approval is for the additional use class of 'Health Studio' for the small-scale Yoga class operation as applied for and is limited to that extent. Any proposed significant intensification of that activity, or future changes of use or physical development would require a further Planning Application and Approval.
  - (c) Signs do not form part of this approval and must be the subject of a separate application.
- (2) Advise the submitters of this decision.

Carried 10/0

**11.1.3 NO 459 (LOT 100) STIRLING HIGHWAY - PROPOSED ILLUMINATED SIGN**

<b>File No:</b>	<b>459 Stirling Highway</b>
<b>Author:</b>	<b>Mr Andrew Jackson</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Meeting minutes 25 July 2005 Plans Submission from Peter Webb – consultant (4) Submission from neighbour (2)</b>
<b>Report Date:</b>	<b>14 October, 2005</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>
<b>Property Owner:</b>	<b>Lanobelle Pty Ltd</b>
<b>Applicant:</b>	<b>Icon Group Management Pty Ltd</b>
<b>Date of Application:</b>	<b>31 March 2005</b>
<b>Zoning:</b>	<b>MRS Primary Regional Road Reservation</b>
<b>Use:</b>	<b>Professional Office</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>852m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>Primary Road Reservation</b>

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**INTRODUCTION**

On 25 July 2005 Council approved a front fence for a professional office at the above address. Council also deferred consideration of a proposed (back-lit) illuminated sign, pending further investigation by the Manager Development Services.

The latter was to enable review of how the sign may be determined, having regard to the zoning, relevant planning controls, neighbour objection and merit of the proposal. Officers have subsequently liaised with the proponent and planning consultant on the matter.

This summary report re-presents the sign proposal for determination. It builds on the previous reports and other information which is attached and should be referred to for background and detail. This includes further advice from the planning consultant, who has suggested a modified design.

Overall, approval is recommended, but with a re-design to make the sign acceptable.

**STATUTORY SITUATION**

The statutory situation relating to this proposal is clarified below.

The land has a zoning classification dictated by the Metropolitan Region Scheme (MRS) of Primary Regional Road Reservation. Council has delegation from the Western Australian Planning Commission (WAPC) to determine such applications, and has consulted first the Department for Planning and Infrastructure (DPI) and then

Main Roads WA (MRWA) accordingly, who have given qualified support to the proposal.

Town Planning Scheme No. 2 (TPS2) is not applicable to MRS-reserved land. Any relevant TPS2 policy is not directly applicable to MRS-reserved land, although Policy 010 Advertising does say that in dealing with advertising proposals for MRS-reserved land Council will take into account any relevant policy of the WAPC. The Town's By-law No. 33 Signs, Hoardings and Billposting, while applicable to this land, does not contain any specific restriction upon such signage.

The MRS itself does not contain any particular provisions relevant to signage control. However, the WAPC has adopted Development Control Policy 5.4: Advertising on Reserved Land, which guides the determination of such proposals. The policy objectives include: *to preserve the amenity of the reserved land and surrounding zoned land*. It goes on to emphasise amenity considerations, including avoiding an accumulation of signs and not affecting traffic safety (ie, minimising driver distractions).

As mentioned, Council is acting for the WAPC to make a decision under the MRS, and is to have regard to any relevant WAPC policy. Council may approve, refuse or condition such a proposal, having regard to the purpose of the reservation, orderly and proper planning, and the amenities of the locality. Where the recommendation of a consulted agency is not acceptable to a council (ie, on MRS / regional planning grounds) the application is to be forwarded to the WAPC for determination.

In this instance the DPI and MRWA, after an initial objection about the location of the proposed sign in relation to possible future road-widening, have advised that they are now willing to support the sign subject to an indemnification condition. This advice is focussed on the physical implication of the development.

Other aspects of orderly and proper planning and amenity fall to Council to take into account, which have been considered in the previous reports. In addition they have given rise to a neighbour objection. There has been an ongoing dialogue in this respect with the planning consultant.

In terms of local area planning Council takes a firm approach to signage control (as reflected in TPS2, Policy 010 and By-law 33), from which the proposal departs. Maintaining this position towards the proposed sign would be consistent with Council's established development control regime and the thrust of the MRS decision-making framework, including WAPC Policy 5.4. The fact of the MRS reservation, in terms of it not being a local zoning and in terms of its road-widening purpose, do not invite a different response from Council.

### **AMENITY CONSIDERATION**

The amenity aspects generated by the proposed sign include its scale, position, orientation, illumination, materials and detailed design. Any illumination visible from neighbouring properties is potentially problematic. The simple solution here is to have a single-panel sign facing the street, with no illumination or low illumination concealed within the sign structure. While the materials and design of the sign are of

a style consistent with the approved front fence, the height of the sign box at 2.7m appears excessive, and could be reduced to be less dominant.

### **CONCLUSION**

Based on the above, it is concluded that the sign may be allowed, provided it is ideally non-illuminated or at most has only low-level, controlled illumination to respect amenity (which would require a re-design); and arguably should be smaller.

It is considered that such a decision would balance the desire of the proponent with the associated planning principles, policy direction and amenity concern of the objector. It is noted that this outcome would be correct and sustained in the absence of any objection. It is also noted that this outcome is the alternative to a refusal.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

This item was withdrawn from the agenda by the applicant Mr Peter Webb, before the meeting.

### **OFFICER RECOMMENDATION**

That Council GRANT its Approval to Commence Development pursuant to the provisions of the Metropolitan Region Scheme, for the Proposed Sign at No 459 (Lot 100) Stirling Highway, Cottesloe in accordance with the plans submitted on 31 March 2005, subject to the following conditions:

- (1) Revised Plans for the sign shall be submitted to the satisfaction of the Manager Development Services showing a re-design as follows:
  - (a) A single-panel structure facing and parallel to the front boundary with Stirling Highway;
  - (b) A maximum height of 1.8m;
  - (c) No illumination, or low illumination contained within the sign box to illuminate only the front panel of the sign.
- (2) All construction work being carried out in accordance with Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.
- (3) The landowner entering into a Deed of Agreement with the Western Australian Planning Commission (WAPC) not to seek from either the Town of Cottesloe or the WAPC compensation for any loss, damage, or expense to remove the approved sign, when the road widening reservation to Stirling Highway is required. This Agreement is to be registered as a Caveat on the Certificate of Title.

### **COMMITTEE RECOMMENDATION**

**Nil - the matter was withdrawn by the applicant Mr Peter Webb, before the commencement of the meeting.**

**11.1.4 MUNICIPAL INVENTORY**

**File No:** D3.4  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to update the Municipal Inventory to reflect changes that have occurred mainly through demolition approvals and past Council resolutions.

**STATUTORY ENVIRONMENT**

Section 45 of the *Heritage of Western Australia Act 1990* reads as follows:

***Local government inventories***

- (1) *A local government shall compile and maintain an inventory of buildings within its district which in its opinion are, or may become, of cultural heritage significance.*
- (2) *The inventory required by subsection (1) shall be compiled no later than 4 years from the commencement of this Act and shall be —*
  - (a) *updated annually; and*
  - (b) *reviewed every 4 years after compilation.*
- (3) *A local government shall provide the [Heritage] Council with a copy of the inventory compiled pursuant to this section.*
- (4) *A local government shall ensure that the inventory required by this section is compiled with proper public consultation.*

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

The Town Of Cottesloe's strategic plan has a heritage objective which seeks the "preservation of nominated properties on the Municipal Inventory, verges, trees and the foreshore and dune systems."

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

In October 2004 Council settled its Municipal Inventory when it resolved as follows.

- (1) *That Council adopt the changes to the Municipal Inventory recommended by the 2002 review of the 1995 Municipal Inventory subject to:*

- (a) *those buildings that were formerly Category 1 or 2 buildings and that are still intact being listed as Category 3.*
  - (b) *a new Category 7 being created to track heritage buildings and places that are demolished.*
  - (c) *those Category 1 buildings not appearing on the State Heritage Register being downgraded to Category 2.*
  - (d) *the submitters being advised of Council's decision, the likely implications and the process involved.*
- (2) *That Council:*
- (a) *agrees to amend its delegated powers to the Manager of Development Services to allow him to deal and permit the demolition of Category 3 and 5 buildings without referral to Council; and*
  - (b) *amends the delegation adopted by Council at its June 2004 meeting (Item 11.1.12) by:*
    - (A) *Amending (2)(1)(c)(iii) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".*
    - (B) *Amending (3)(1)(d) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".*
    - (C) *Amending (3)(3)(b)(v)(C) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".*

Effectively this meant that aside from those Category 1 and Category 2 buildings shown on the Municipal Inventory, all other buildings on the Municipal Inventory could be demolished without referral to Council.

There are exceptions and they relate to four Category 3 places that were either on Schedule 1 attached to Town Planning Scheme No.2 (i.e. 17 Barsden Street and 102 Broome Street) or referred to In Town Planning Scheme Policy No 12 (i.e. 45 and 62 Broome Street).

A year has passed since the Municipal Inventory was settled and a number of demolitions have occurred in the intervening period without the Municipal Inventory being updated to reflect what has come to pass.

## **CONSULTATION**

Nil.

## **STAFF COMMENT**

The following Category 3 properties have been demolished and should be moved to Category 7. Category 7 tracks those heritage buildings and places that have been demolished.

45 Broome Street  
29 Eric Street  
28 Gibney Street  
9 Grant Street



27 Hawkstone Street  
29 Hawkstone Street  
25 Jarrad Street  
300 Marmion Street  
37 Pearse Street  
39 Pearse Street

149 Marine Parade (a Category 6 property) has been demolished and should also be moved to Category 7.

In September 2004 Council agreed to remove 197 Curtin Avenue (a Category 2 property) from any proposed heritage list to be attached to Town Planning Scheme No.3. It is therefore recommended that in the interests of consistency, this property be downgraded to Category 3 pending the issue of a demolition permit.

In a similar vein, in May 2005 Council resolved to approve the demolition of a 64 John Street (a Category 2 property). As a demolition permit has yet to be issued for this property, it is also recommended that this property be downgraded to Category 3 for the time being.

At a time when any listing of a building on a Municipal Inventory was perceived by some as adversely affecting the capacity to redevelop and/or sell a property, Council agreed to remove two Category 3 places from the Municipal Inventory. They were 3 Barsden Street (February 2004) and 24 Deane Street (February 1998).

It is recommended that Council consider relisting these two properties as Category 3 places subject to consultation with the owners and advising them that such a relisting will have no practical impact on either selling or redeveloping the land.

## **VOTING**

Simple Majority

### **11.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Woodhill

#### **That Council:**

- (1) Downgrade the following category 3 and category 6\* properties to Category 7:**
  - (a) 45 Broome Street**
  - (b) 29 Eric Street**
  - (c) 28 Gibney Street**
  - (d) 9 Grant Street**
  - (e) 27 Hawkstone Street**
  - (f) 29 Hawkstone Street**
  - (g) 25 Jarrad Street**
  - (h) 149 Marine Parade\***
  - (i) 300 Marmion Street**
  - (j) 37 Pearse Street**
  - (k) 39 Pearse Street**

- (2) Downgrade the following properties to Category 3:
- (a) 197 Curtin Avenue
  - (b) 64 John Street
- (3) Consider relisting 3 Barsden Street and 24 Deane Street as Category 3 places subject to consultation with the owners and advising them that such a relisting will have no practical impact on either selling or redeveloping the land.

Carried 10/0

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 18 OCTOBER 2005**

Moved Mayor Morgan, seconded Cr Furlong

That items 12.1.1, 12.2.1, 12.2.2, 12.2.3 be withdrawn from en-bloc voting.

Carried 10/0

The above items were dealt with first before the remainder were dealt with en-bloc.

**12.1 ADMINISTRATION****12.1.1 PROPOSED LOCAL LAW RELATING TO SPECIAL EVENTS**

<b>File No:</b>	<b>X7.2</b>
<b>Author:</b>	<b>Mr Stephen Tindale</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>11 October, 2005</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

A recommendation is made to give in-principal support to a local law relating to special events and seek comment from Council's lawyers on the proposed local law.

**STATUTORY ENVIRONMENT**

Section 3.5 of the Local Government Act applies.

***3.5. Legislative power of local governments***

*(1) 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.*

*(2) A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 3.6.*

*(3) The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.*

*(4) Regulations may set out -*

*(a) matters about which, or purposes for which, local laws are not to be made; or*

*(b) kinds of local laws that are not to be made,*

*and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind.*

*(5) Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).*

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Under the heading of *District Development*, Councils Strategic Plan has the following objective;

A clean, safe beach precinct which is sustainably managed with no new developments West of Marine Parade and proactive conservation of the dune and marine environs.

**FINANCIAL IMPLICATIONS**

An amount of \$5,000 has been set aside in the budget under Administration – Other Governance – Legal Expenses which can be drawn upon in terms of obtaining legal advice on the proposed local law.

**BACKGROUND**

In the run up to the last New Year's Eve festivities, officers of the WA Police Service recommended the adoption of local laws similar to those used by the City of South Perth in controlling activities on the river foreshore and environs on Australia Day.

With some very minor changes, an amended version of the City of South local laws is now presented to Council to ascertain whether there is any in-principle support for the adoption of similar local laws in the Town of Cottesloe for New Year's Eve.

The proposed local law reads as follows:

**LOCAL GOVERNMENT ACT 1995****TOWN OF COTTESLOE****LOCAL LAW RELATING TO SPECIAL EVENTS**

In pursuance of the powers conferred under *Local Government Act 1995* and of all other powers enabling it, the Council of the Town of Cottesloe resolved on ... day of... 2005 to make the following Local Law:

**Citation**

1. This Local Law may be cited as the Town of Cottesloe Special Events Local Law 2005.
2. The Local Law comes into operation on the first day of ... 2005.

**Object and Intent**

3. The object and intent of this Local Law is to provide for the control of the possession and consumption of liquor and the possession and use of certain large objects and sound equipment during special events held in public places in the Town of Cottesloe.

**Inconsistency**

4. In any circumstances where there is an inconsistency between this Local Law and any other Town of Cottesloe local law, to the extent of any inconsistency, this Local Law prevails.

**Interpretation**

5. In this Local Law, the following definitions apply:

“large object” includes:

- a) a lounge chair;
- b) a couch;
- c) a bed;
- d) a mattress;
- e) a refrigerator;
- f) a spa;
- g) a swimming pool;
- h) a wading pool;
- i) a table with any dimension greater than 1.2 metres;
- j) an esky or box with any dimension greater than 1 metre; or
- k) any other object with any dimension greater than 1.5 metres but excluding shade structures (such as beach umbrellas or beach tents) which may have a maximum permissible dimension of 2.5 metres.

“licensed premises” has the meaning given to it by the *Liquor Licensing Act (WA) 1988*

“liquor” has the meaning given to it by the *Liquor Licensing Act (WA) 1988* and includes liquor enclosed in a sealed container.

“Local Law” means, unless the context requires otherwise, this Town of Cottesloe Special Events Local Law 2005.

“loud stereo” means electronic sound equipment with:

- a) any speaker that, when amplified, has a sound output of greater than 40 watts root mean square; or
- b) any combination of speakers that, when amplified, have a total sound output of greater than 60 watts root mean square.

“public place” includes public property, thoroughfares and any place that is on private property that the public are allowed to use but does not include an al fresco dining area or licensed premises.

“public property” means anything whether land or not, which belongs to, or is vested in, or under the care, control or management of the Town of Cottesloe.

“special event day” means a special event day as described in Schedule 1 to this Local Law.

“special event location” means a special event location as described in Schedule 1 to this Local Law.

“thoroughfare” has the meaning given to it by the *Local Government Act 1995 (WA)*.

#### **Possession of Liquor**

6. A person shall not possess liquor in a public place within a special event location on a special event day unless the person:
- (a) is transporting the liquor to private property or licensed premises; or
  - (b) has the prior written permission of the Town of Cottesloe.

**Modified Penalty: \$300**

#### **Possession of Large Objects**

7. A person shall not possess or use a large object in a public place within a special event location on a special event day unless the person:
- (a) is transporting the large object to private property or licensed premises; or
  - (b) has the prior written permission of the Town of Cottesloe.

**Modified Penalty: \$300**

#### **Use of Loud Stereos**

8. A person shall not use a loud stereo in a public place within a special event location on a special event day.

**Modified Penalty: \$300**

#### **Possession of Loud Stereos**

9. A person shall not possess a loud stereo in a public place within a special event location on a special event day unless the person:
- (a) is transporting the loud stereo to a private property or licensed premises;
  - or
  - (b) has the prior written permission of the Town of Cottesloe.

**Modified Penalty: \$300**

#### **Contraventions that Can Lead to Impounding**

10. For the purpose of section 3.39 of the *Local Government Act (WA) 1995* and regulation 29 of the *Local Government (Functions and General) Regulations (WA) 1996* a contravention of any clause of this Local Law is a contravention that can lead to impounding.

#### **Penalties**

11. Each offence under this Local Law is a prescribed offence for the purpose of section 9.16 of the *Local Government Act (WA) 1995*.
12. A person who commits an offence under this Local Law may be liable to a modified penalty.
13. Where an offence under this Local Law is subject to a modified penalty then the amount of the modified penalty, expressed in penalty units, is shown in bold print directly after the prescription of the offence.

14. The contravention of any provision of this Local Law is an offence punishable on conviction by a fine not exceeding \$3000.

***Schedule 1***

**SPECIAL EVENT DAY AND SPECIAL EVENT LOCATION**

***Special Event Day***

That period of the day commencing at noon on the 31<sup>st</sup> of December and finishing at midnight each year, and that period of the day commencing at midnight and finishing at noon on the 1<sup>st</sup> of January each year.

***Special Event Location***

That area bounded by and including the Perth-Fremantle railway line to the east, Jarrad Street to the south and its prolongation westerly to the westernmost boundary of the Town of Cottesloe, the western boundary of the Town of Cottesloe and Eric Street to the north and its prolongation westerly to the westernmost boundary of the Town of Cottesloe.

Dated this ... day of ..... 2005. \_\_\_\_\_

The Common Seal of the Town of Cottesloe was affixed by authority of a resolution of the Council in the presence of-

KEVIN JOSEPH MORGAN, Mayor  
STEPHEN DAVID TINDALE, Chief Executive Officer

**CONSULTATION**

The matter has been discussed on several occasions at New Year's Eve planning meetings.

**STAFF COMMENT**

Historically the adverse impact of 'large objects' and 'loud stereos' on New Year's Eve has not figured as largely as the impact of street drinking.

The control of street drinking insofar as the WA Police Service is concerned is difficult because of a requirement to actually witness the drinking before laying a charge. The actual processing of a charge on the night inevitably diverts Police resources away from actively patrolling the beachfront which can lead to greater disorder.

With underage drinking, things are a little easier as Police officers can simply confiscate any alcohol in the possession of a minor. However the issuing of a receipt for the confiscated liquor and subsequent storage also poses logistical problems.

Currently the Town of Cottesloe's only control over street drinking is very limited and rests with the Town of Cottesloe's *Local Government Property Local Law* which provides as follows.

***Permit required for possession and consumption of liquor***

- 3.15 (1) *A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless*
- 
- (a) *that is permitted under the Liquor Licensing Act 1988; and*
  - (b) *a permit has been obtained for that purpose.*
- (2) *Subclause (1) does not apply where the liquor is in a sealed container.*

The modified penalty for failing to obtain a permit is \$100.

The effective implementation of the local law is obviously constrained by –

1. the paltriness of the fine,
2. the potential for disputation over what constitutes a sealed container, and
3. the difficulties of having to argue on the night that a permit is required.

As a blanket ban on the possession of alcohol is a far simpler message to promote to the broader community in the lead up to New Year's Eve, the proposed local law has much to recommend it.

In researching the proposed local law, several drafting errors were noted and for this reason alone it is recommended that Council's own legal advisers vet the proposed local law.

They may also have further advice to offer on such matters as impounding liquor and the practicality/desirability of enabling Police officers to act as authorised agents of the Town of Cottesloe with respect to the enforcement of the local law.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**COUNCIL COMMENT**

Cr Strzina asked whether the installation of signage during special events has been considered advising that street drinking is prohibited and that fines apply.

The CEO advised that Council sought illuminated trailer signage for last New Year's Eve however was unable to secure the booking. For this year's event illuminated trailer signage has been booked.

**OFFICER & COMMITTEE RECOMMENDATION**

That Council:

- (1) Give in-principle support to a local law relating to special events; and



- (2) Dispatch the proposed local law to Council's solicitors for comment and subsequent referral back to Council for further consideration.

**AMENDMENT**

Moved Cr Walsh, seconded Cr Strzina

That in Schedule 1 the words "westerly to the westernmost boundary of the Town of Cottesloe" be substituted with the words "easterly to the railway line".

Carried 10/0

**COUNCIL RESOLUTION**

Moved Cr Carmichael, seconded Cr Furlong

**That Council:**

- (1) Substitute the words "westerly to the westernmost boundary of the Town of Cottesloe" with the words "easterly to the railway line" in Schedule 1;**
- (2) Give in-principle support to a local law relating to special events; and**
- (3) Dispatch the proposed local law to Council's solicitors for comment and subsequent referral back to Council for further consideration.**

Carried 10/0

**12.1.2 TELECOMMUNICATIONS – ELECTED MEMBERS POLICY**

**File No:** X4.11  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put the *Telecommunications – Elected Members* policy before Council with recommended changes.

**STATUTORY ENVIRONMENT**

The Local Government Act (Section 5.99A) and the Local Government (Administration) Regulations apply.

Section 5.99A of the Act provides as follows:

*5.99A. Allowances for council members in lieu of reimbursement of expenses*

*A local government may decide\* that instead of reimbursing council members under section 5.98(2) for all of a particular type of expense it will instead pay all council members:*

- (a) the prescribed minimum annual allowance for that type of expense; or*
- (b) where the local government has set an allowance within the prescribed range for annual allowances for that type of expense, an allowance of that amount,*

*and only reimburse the member for expenses of that type in excess of the amount of the allowance.*

*\* Absolute majority required.*

The Act provides the following interpretation for “member” (ie includes the Mayor):

*“member”, in relation to the council of a local government, means:*

- (a) an elector mayor or president of the local government; or*
- (b) a councillor on the council (including a councillor who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor);*

Regulation 32 provides as follows:

*32. Expenses that may be approved for reimbursement-s. 5.98(2)(b) and (3)*

*(1) For the purposes of section 5.98(2)(b), the kinds of expenses that may be approved by any local government for reimbursement by the local government are:*

- (a) an expense incurred by a council member in performing a function under the express authority of the local government;*

- (b) *an expense incurred by a council member to whom paragraph (a) applies by reason of the council member being accompanied by not more than one other person while performing the function if, having regard to the nature of the function, the local government considers that it is appropriate for the council member to be accompanied by that other person; and*
- (c) *an expense incurred by a council member in performing a function in his or her capacity as a council member.*
- (2) *The extent to which an expense referred to in subregulation (1) can be reimbursed is the actual amount, verified by sufficient information*

Regulation 34A provides as follows:

*34A. Allowances in lieu of reimbursement of telecommunications expenses. 5.99A*  
*For the purposes of section 5.99A(b), the maximum total annual allowance for telephone and facsimile machine rental charges referred to in regulation 31(1)(a) and any other telecommunications expenses that might otherwise have been approved for reimbursement under regulation 32 is \$2 400.*

Regulation 34AA provides an alternative to providing or reimbursing it connections as follows:

*34AA. Allowances in lieu of reimbursement of information technology expenses. 5.99A*

*For the purposes of section 5.99A(b), the maximum total annual allowance for information technology expenses that have been approved for reimbursement under regulation 32 is \$1 000.*

## **POLICY IMPLICATIONS**

This item relates to the amendment of a Council Policy.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Provision was made in the budget to meet all anticipated costs in this area.

## **BACKGROUND**

In June, 2004 Council amended the *Telecommunications Fee – Elected Members* policy and the main changes were:

- Name change from *Telecommunications Fee – Elected Members* to *Telecommunications - Elected Members* to better reflect the broader nature of the policy.
- Changes to (1) Objectives and (3) Issues to include connection to the internet.
- Changes to 4.1.1 to provide that the amount of the annual telecommunications allowance is set by Council annually as part of its budget setting process.

- Changes to 4.2 to include the provision and disposal of lap top computers with the facsimile equipment already covered by this section.

The proposed new amendments are largely house keeping.

### CONSULTATION

Nil, other than staff.

### STAFF COMMENT

Attached is a copy of the draft revised policy with changes tracked. It is suggested that the changes are housekeeping by nature except for 4.2.3 where the value of a reimbursement is limited to 25% above of what Council pays for a connection. Council currently pay just under \$40 per month for ADSL connections. Contractor and parts costs (modems etc) for each new connection range in cost depending on the time taken and appear to be in the order of \$300 (a once off cost).

The proposed changes are summarised as follows:

- Changes to (1) Objectives and (3) Issues to expressly provide for the reimbursement of costs. Whilst it was understood that the amendments to include Council to provide internet connections extended the reimbursement of costs where Members chose to supply their own, and it was noted that the Act and Regulations provided for Members to claim reimbursement of expenses, it was thought that the policy should be amended to more clearly state the position.
- Changes to (4) Policy to add a section headed 4.3 Internet Connection. This new section deals with the provision of an internet connection and the reimbursement where the Member provides their own. In hindsight this should have been included in the draft put to Council in June, 2004.

### VOTING

Simple majority

### COMMITTEE COMMENT

The word "rescind" was replaced in the recommendation with "amend".

### OFFICER RECOMMENDATION

That Council rescind the current *Telecommunications – Elected Members* policy and adopt the *Telecommunications – Elected Members* policy as attached to the agenda.

### 12.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Strzina, seconded Cr Furlong

**That Council amend the current *Telecommunications – Elected Members* policy and adopt the *Telecommunications – Elected Members* policy as attached to the agenda.**

Carried 10/0

## 12.2 ENGINEERING

### 12.2.1 COTTESLOE BEACH GROYNE - UPGRADING/REINSTATEMENT

**File No:** E 2.15  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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#### SUMMARY

At its meeting in April, 2005 Council resolved the following regarding the Cottesloe Beach Groyne:

- (1) *Request a meeting with the Ministers for Infrastructure, Tourism, Heritage and Sport & Recreation;*
- (2) *Request the Manager Engineering Services to provide an urgent report to Council in relation to the public safety of the groyne, for consideration at the May round of meetings; and*
- (3) *Delegate authority to the Manager of Engineering Services to close the groyne in the interim if the report indicates there is an adverse public safety risk.*

A report was presented in May, 2005 with Council's resolution on the matter being:

- (1) *Receive this report;*
- (2) *Monitor the condition of the Cottesloe Beach Groyne regarding any changes to public safety concerns; and*
- (3) *Readdress this issue as soon as meeting(s) have been held with the appropriate Ministers.*

There have been a number of meetings on this issue, involving officers from several government departments, Council officers and Council's consultants.

The condition of the groyne has also deteriorated in the past two months due to a series of storms.

This report recommends that Council plan to undertake rehabilitation works on the groyne in February/March, 2007 and that an 'all of government' submission be made to the Premier requesting a greater than 50% contribution to the works.

#### STATUTORY ENVIRONMENT

Council is vested with the maintenance and management of this facility. For any works to occur on the beach groyne, several government departments will have to be involved including the Department of Planning & Infrastructure (DPI) New Coastal Assets, DPI State Planning, Heritage and possibly Sport and Recreation.

**POLICY IMPLICATIONS**

There are no existing policies relating to this matter.

**STRATEGIC IMPLICATIONS**

Within Council's Strategic Plan, under the heading 'Governance', Long Term Vision applies to this topic, with decisions being based on the best available advice in the long term interests of the whole community. Under 'District Development', the heading 'Environment' also applies. "Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation."

The Cottesloe Beach Groyne is a Council asset. Under 'Asset Management', the heading 'Appropriate Planning' applies. "Produce and implement a realistic five year plan for the maintenance of all major assets."

**FINANCIAL IMPLICATIONS**

At this stage, the ballpark estimate is \$450,000 for the total works. This report proposes a 'whole of government' approach for financial aid based on a \$2:\$1 basis ie \$2 government, \$1 Council giving a Council contribution for 2006/07 of \$150,000.

**BACKGROUND**

A meeting has been held at the offices of the Minister for Heritage, with the CEO and Manager Engineering Services meeting with officers from the Departments of Housing & Works, Heritage, Transport and Works Procurement.

The main points coming from that meeting were:

- Department of Planning and Infrastructure has \$150,000 available for expenditure on this project in 2005/06 which, if not spent, could probably be carried over into 2006/07. This allocation could be slightly expanded. The DPI policy only allows for up to a 50/50 contribution for beach/coastal protection with no involvement in tourist sites or public safety.
- A 'whole of government' approach could be considered, with a submission to the Premier, detailing the tourist, heritage and sport/recreation values also involved in the Cottesloe Beach Groyne.
- The beach groyne must be considered an 'icon' for the metropolitan area as well as for the sea coast and Cottesloe, deserving extra consideration.
- Any 'all of government' submission should first be vetted by the Minister for Heritage's advisors, prior to presentation to the Premier.

Since that meeting, there have been several other meetings with officers from the New Coastal Assets section of DPI and Mr David Todd from Worley Parsons. These discussions have allowed a more detailed understanding of the problems, the most practical attitude towards rehabilitation, the design requirements and timing of works.

**CONSULTATION**

There has been no public consultation on this matter.

**STAFF COMMENT**

The original report by Worley Parsons was based on a groyne rehabilitation which upgraded the rock placement to 2005 standards. This meant that the rock protection level on each side of the concrete walkway was in excess of one metre above deck level. This then meant a much higher volume of protective rock, with an increased cost.

The proposed works are now based on the groyne being restored to a 1960's standard with additional strengthening of the 'nose' as an upgrade. The use of a quality machine driven by a quality driver is important to the final result, with each rock having to be individually laid/positioned.

The actual rock work should take 3 to 4 weeks, with the southern end of the beach closed off to the public.

DPI has offered, and the offer accepted, to have departmental surveyors complete a site survey to determine the movement of rock compared to the 1960 construction and provide a basis for a new design to estimate upgrading costs and rock volume required.

After discussions with DPI, it is believed that the estimated rock volume may be approximately 3,000 tonne of large size, plus approximately 1,000 tonne of core 'fill' rock and rubble. The approximate cost of this work, including allowance for deck replacement, is between \$400,000 and \$500,000.

The best timing for these works would be after the December/January school holidays, to be completed in February/March. With the need for survey, design, completion of government submission, vetting prior to presentation to the Premier, the mid December to mid January 'break', hopeful acceptance by the State Government of a funding proposal, calling of tenders, adoption of a winning tender and mobilisation of machinery to the site/supply of rock on site etc, there is not a high chance of the works being undertaken in February/March 2006.

Also, DPI have their allocation of \$150,000 for these works approved for 2005/06. Council has no budgeted funds for this work in 2005/06, although there is a possibility of DPI funding all works and recouping Council's share (probably 50%) in 2006/07.

With a submission regarding an 'all of government' approach, there is some possibility of a higher percentage of government funding.

The alternative, which allows for time to undertake all planning, design, communication, provision of budget funds and a quality submission to the Premier is to plan for all works to occur in February/March 2007.

With regards to the condition of the beach groyne, recent storm damage to the concrete deck should have been fixed by this meeting date. Cracks at the 'nose' of the groyne have become worse and may mean a substantial part of the 'nose' collapsing.

**VOTING**

Absolute Majority – may involve budget changes.

**COMMITTEE COMMENT**

The groyne has lasted longer than it was intended to be and now there is some urgency to undertaking the works. Cottesloe has some recognition from State Government agencies due to the groyne being a tourist attraction.

**12.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Carmichael, seconded Cr Furlong

**That Council:**

- (1) Plan for rehabilitation works on the Cottesloe Beach Groyne in February/March, 2007 with a submission to be prepared for an 'all of government' approach to the works, with the Premier being requested to approve greater than 50% funding towards the required works; and**
- (2) Have staff discuss with the Department of Planning & Infrastructure (DPI) and Worley Parsons (consultant engineers) the details to be included in the submission, based on the DPI survey, and estimates of rock quantities, estimated costs and the scale of intended works, prior to preparation of the submission and consideration by officers from the Department of Heritage before presentation to the Premier.**

Carried by Absolute Majority 10/0



**12.2.2 COTTESLOE BEACH PRECINCT - MEMORANDUM OF UNDERSTANDING  
HERITAGE COUNCIL OF WA**

**File No:** D 4.14  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

Council was asked, by the Heritage Council of WA, to consider agreeing to a Memorandum of Understanding (MOU) for the Cottesloe Beach Precinct at the end of March, 2005. This was reported to Council in April, 2005. The matter was deferred, for legal advice to be sought.

Soon after, the Heritage Council informed Council that the document had deficiencies and that Council should wait until a revised document was available for consideration. The new document is not, as yet, available.

There is now a timing issue, because under the Heritage of Western Australia Act, 1990, the interim registration must proceed to permanent registration within one year (by 23 November, 2005) or it lapses. The process then cannot be restarted for five years.

This report recommends that Council formally inform the Heritage Council that it does not wish the procedure to lapse and that it believes a mutually acceptable agreement is possible in the near future, as a positive outcome for the community.

**STATUTORY ENVIRONMENT**

The Cottesloe Beach Precinct is a number of Crown land reserves vested in Council for management purposes. The agreement is to establish the terms under which the cultural heritage significance of this precinct will be conserved and managed. The agreement is not expected to carry legal authority but it will formalise the understanding between the two parties.

Heritage of Western Australia Act, 1990 – Sections 50 and 53.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

The two most applicable sections of the Strategic Plan are:

*District Development/Environment/Beach Precinct:* A clean, safe beach precinct which is sustainably managed with no new developments West of Marine Parade and proactive conservation of the dune and marine environs.

*District Development/Town Planning/Precincts:* Define, enhance and preserve the following precincts: Marine Parade (commercial and residential); Napoleon Street and Town Centre; Heritage; Recreational and Residential.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Subsequent to Council agreeing to have the draft MOU checked by a lawyer in April, 2005 the Heritage Council stopped the process in order to provide a better MOU document. Various meetings and discussions between and within the Heritage Council and the State Solicitor's Office regarding legal complications with the form of the document has resulted in further delay.

It is expected that a legally acceptable MOU will be developed shortly.

The interim registration of the Cottesloe Beach Precinct occurred on 23 November, 2004. The Heritage of Western Australia Act, 1990 requires permanent registration to be made within 12 months of that date, otherwise the process lapses for five years.

A draft letter has been prepared by the Heritage Council, for the CEO's signature, if Council is in agreement. Its terminology is aimed at gaining the Minister's approval to extend the interim period long enough to have a final agreement accepted by both parties.

**CONSULTATION**

No recent public consultation has occurred on this matter. The community have a general awareness of the Cottesloe Beach Precinct and the proposal to permanently list the area on the Register of Heritage Places.

**STAFF COMMENT**

The final draft document covering the agreed framework for management of development proposals within the precinct has yet to be completed and forwarded to Council, by the Heritage Council, for consideration. This will be the subject of another agenda item to Council as and when the document becomes available.

This matter only deals with the timing problem which has become obvious, because of the 12 months 'life' for the interim agreement coming to an end in November, 2005. An extension of this time period, sufficient for the formal document to be created and legally checked by both parties, should be possible from the Minister, if assurance is provided that both parties believe permanent registration is important and provides a positive outcome for the community. The alternative is a gap of five years before the matter can be re-addressed.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**COUNCIL COMMENT**

Discussion was held in relation to the MOU with the Heritage Council and what would the benefits be for residents.

The Mayor identified one benefit would include a whole of government approach for the funding of the groyne upkeep.

**OFFICER & COMMITTEE RECOMMENDATION**

That Council formally inform the Heritage Council of WA that it supports the permanent registration of the Cottesloe Beach Precinct, to protect its heritage characteristics and that a short time extension of the interim period should provide time to finalise legal complications relating to the proposed form of agreement to achieve that permanent registration in the State Register of Heritage Places.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Strzina

That the recommendation be amended to read:

That Council formally inform the Heritage Council of WA that **subject to reaching agreement on a suitable Memorandum of Understanding**, the council supports the permanent registration of the Cottesloe Beach Precinct, to protect its heritage characteristics and that a short time extension of the interim period should provide time to finalise legal complications relating to the proposed form of agreement to achieve that permanent registration in the State Register of Heritage Places.

Carried 7/3

**12.2.2 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council formally inform the Heritage Council of WA that subject to reaching agreement on a suitable Memorandum of Understanding, the council supports the permanent registration of the Cottesloe Beach Precinct, to protect its heritage characteristics and that a short time extension of the interim period should provide time to finalise legal complications relating to the proposed form of agreement to achieve that permanent registration in the State Register of Heritage Places.**

Carried 7/3

**12.2.3 REQUEST FOR FUNDING ASSISTANCE - PEDESTRIAN ACCESS TO GRANT STREET RAILWAY STATION**

**File No:** E17.11. 2  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

At Council's meeting in May, 2003 Council resolved the following regarding the Grant Street Railway Station and Curtin Avenue intersection:

*That Council:*

- (1) Confirm support for the installation of pedestrian lights at the intersection of Curtin Avenue and Grant Street and advise Main Roads WA that Council will give budget consideration to including a contribution towards the cost of the required modification of the kerb and island alignments.*
- (2) Advise that further consideration will need to be given to Council's role in contributing to the cost of constructing pedestrian and disabled access to Grant Street station.*
- (3) That the matter be subject to prior community consultation.*

Main Roads WA (MRWA) has committed in writing to the pedestrian lights being installed by the end of 2005, with any spare funds left from the Curtin Avenue/Grant Street Intersection Blackspot project going to that installation.

Community consultation was undertaken in 2004 by MRWA, with Council resolving to proceed with the pedestrian 'Puffin' light crossing.

The Public Transport Authority (PTA) have been informed that no MRWA funds will be available for the pedestrian disabled access ramps from Curtin Avenue up to the Grant Street Railway Station.

Consideration has been requested by PTA for Council to partially fund this access on behalf of residents and landowners using the railway station.

This report recommends the contribution of \$10,000 towards a proper pedestrian/disabled access from Curtin Avenue to the Grant Street Railway Station.

**STATUTORY ENVIRONMENT**

Curtin Avenue is under Council's control. PTA control the railway reserve and the railway station. Any new works to improve the pedestrian access to the station would be partially on the road reserve and partially on the rail reserve.

There is no statutory requirement for Council to be involved in this proposal.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

The following provisions apply from Council's Strategic Plan:

*District Development – Asset Management – Disability Issues:* Review disability access plans and ensure suitable accessibility to all major assets for people with disability.

*District Development – Environment – Streetscape:* Provision of clean, safe, sustainably managed streetscapes, with appropriate selections of trees and infrastructure, which are pedestrian friendly and incorporate tidy verges.

**FINANCIAL IMPLICATIONS**

No provision has been made in the 2005/06 budget for any works at this site.

**BACKGROUND**

Early in 2003 MRWA informed Council that the 'shortly-to-be-constructed' principal shared path (PSP) on the east side of Curtin Avenue past the Grant Street Railway Station would not include any connection to the station for pedestrians or cyclists.

A plan of a proposed connection had previously been drawn up and a rough cost estimate of \$70,000 obtained by Council's consultant from the PSP contractor working on behalf of MRWA.

In 2001 WAGR (now PTA) informed Council that it had no 'park n ride' facility on the east side of Curtin Avenue since the road had been upgraded in 1999/2000 and that no upgrading of pedestrian access was planned.

Prior to the PSP being constructed, WAGR agreed to fund \$20,000 towards the estimated cost of the upgraded access estimate of \$70,000. It had been assumed that MRWA would include the remaining \$50,000 within the PSP contract.

**CONSULTATION**

No public consultation has occurred regarding the need to upgrade the pedestrian access to the railway station.

**STAFF COMMENT**

Council has already committed \$63,333 to the intersection Blackspot project, including a ramp between the Curtin Avenue east side kerb line and the principal shared path.

PTA operate a public transport facility which does not comply with disabled access requirements, however, part of the length of the upgraded path proposal would be on the Curtin Avenue road reserve vested in the Town of Cottesloe.

There has been some concern that the Grant Street Railway Station will be removed in the near future, however if this is to occur, it would be in conjunction with a new station being built on the north side of the Eric Street railway bridge crossing. Funds

for these works are at least 10 years away. Therefore, any investment from any source into improved pedestrian access at Grant Street would have a longer term value.

Without improved access from the PSP to the railway station the investment in improved pedestrian crossing facilities and the 'Puffin' lights would appear to lose value to the travelling public using the train.

At two separate meetings involving MRWA, PTA and officers from the Towns of Cottesloe and Mosman Park, this funding problem was discussed. Given that the original quote in 2002 was from a private contractor, the Town of Mosman Park was requested to provide a quotation covering the PTA required improvements for pedestrian/disabled access to the station from Curtin Avenue. It is expected that a lower value quotation will be provided.

In recent years, there has been a question regarding the future of the Grant Street Railway Station. There is a strong possibility that the station, which has the lowest level of patronage on the Perth to Fremantle line, will eventually be removed, with a new station possibly being built just north of the Eric Street road/rail bridge site. PTA statements have generally indicated no funding commitments to change the Grant Street station site for five to ten years. However the existing site provides problems in terms of being on a curve, inability to lengthen the station to use longer trains and the spacing problems between stations.

With all of the Council commitment to the Grant Street/Curtin Avenue intersection Blackspot project and the 'Puffin' crossing, safety for pedestrians and cyclists crossing at this point will be dramatically improved, from the west side of Curtin Avenue to the principal shared path.

However, PTA has demonstrated less than total commitment to a pedestrian access, to Australian Standards, from the PSP to the railway station. Part of the alignment exists on Council controlled road reserve but the primary function of the access is to have pedestrians (including the elderly and disabled) safely gain access and egress to and from the station platform. Most of the use made is by Town of Cottesloe ratepayers and residents.

On this basis, while still acknowledging that PTA have the obligation to provide safe pedestrian access to their facilities, it is proposed that Council contribute \$10,000 towards the immediate installation of standard pedestrian and disabled access to the Grant Street Railway Station, with proper gradients, widths, hand rails and tactile paving being included.

#### **VOTING**

Absolute Majority – budget change proposed.

#### **12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Strzina, seconded Cr Furlong

**That Council contribute \$10,000 towards the construction of a proper standard pedestrian/disabled access from Curtin Avenue to the Grant Street Railway Station.**

Carried by Absolute Majority 10/0

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**12.3 FINANCE****12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 SEPTEMBER, 2005**

<b>File No:</b>	<b>C 7. 4</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Period Ending:</b>	<b>30 September, 2005</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 September, 2005, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Financial Statements are presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

It will be noted from the Operating Statement on page 17 that operating revenue is ahead of budgeted figures by an amount of \$324,780, the main reason for this being grant monies for roadwork's paid in advance. Overall expenditure is \$308,946 less than budgeted, with the main reasons relating to timing differences.

**VOTING**

Simple Majority

**12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Strzina, seconded Cr Furlong

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 September, 2005, as submitted to the 18 October, 2005 meeting of the Works and Corporate Services Committee.**

Carried 10/0

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**12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 30 SEPTEMBER, 2005**

**File No:** C12 and C13  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 September, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 September, 2005, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Schedule of Investments and Schedule of Loans are presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The Schedule of Investments on Page 45 of the Financial Statements shows that \$3,719,313.31 was invested as at 30 September 2005. Of this, \$696,359.17 was reserved and so restricted funds. Approximately thirty two per cent of the funds were invested with the Home Building Society, seventy six two per cent with National Australia Bank, and six per cent with Bankwest.

The Schedule of Loans on Page 47 shows a balance of \$411,203.57 as at 30 September 2005. Of this \$198,572.05 relates to self supporting loans.

**VOTING**

Simple Majority

**12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Strzina, seconded Cr Furlong

**That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 September, 2005, as submitted to the 18 October, 2005 meeting of the Works and Corporate Services Committee.**

Carried 10/0

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**12.3.3 ACCOUNTS FOR THE PERIOD ENDING 30 SEPTEMBER, 2005**

**File No:** C 7. 8  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 September, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the List of Accounts for the period ending 30 September, 2005, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The List of Accounts is presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Significant payments included in the list of accounts commencing on page 40 of the Financial Statements, brought to Council's attention include:

- \$20,941.57 to West Australian Local Government Superannuation Plan being for employer contributions to the plan.
- \$13,490.40 to The Aged Persons Support Service being Council's first instalment towards the service.
- \$219,626.98 to FESA being Council's first instalment.
- \$68,724.00 to Procott Incorporated being monies raised in 2004-05 via a specified area rate on Town Centre properties.
- \$42,265.76 & \$90,811.80 to the Town of Mosman Park for roadwork's and drainage, mainly the Eric Street Drainage Works.
- \$22,121.66 to the Municipal Property Scheme being the second instalment of property insurance for 2005-06.
- \$10,117.80 to the Marley Family Trust being for various footpath installations.

- \$30,389.74 to Trum Pty Ltd (t/a Wasteless) being for domestic and commercial waste collection services for the month of August 2005.
- \$21,155.26 to the ATO being for the Business Activity Statement for the period ended 31-08-05.
- \$10,307.00 to Claremont Asphalt for various asphalt works.
- \$50,359.86 & \$49,434.39 being staff payroll for the month of September.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Strzina, seconded Cr Furlong

**That Council receive the List of Accounts for the period ending 30 September, 2005, as submitted to the 18 October, 2005 meeting of the Works and Corporate Services Committee.**

Carried 10/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD  
ENDING 30 SEPTEMBER, 2005**

**File No:** C 7. 9  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 September, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 September, 2005, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Property and Sundry Debtors Reports are presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The Sundry Debtors Report on page 45 of the Financial Statements shows a balance of \$223,642.19 of which \$94,933.32 relates to the current month. Of this, \$35,000.00 relates to the sale of a tractor. The balance of aged debt greater than 30 days stood at \$128,708.87 of which \$57,668.11 relates to Pensioner Rebate claims, \$14,516.15 relates to disputed legal expenses incurred with the Sea View Golf Club lease, and \$45,500.00 relates to the trade in of a truck. It is anticipated that these debtors will be cleared shortly.

The Property Debtors Report on page 44 of the Financial Statements shows a balance of \$1,999,306.91. Of this amount \$167,734.83 and \$7,040.25 are deferred rates and deferred ESL respectively. As can be seen on the Balance Sheet on page 18 of the Financial Statements, rates as a current asset stood at \$1,824,532, as against \$2,531,277 at the same time last year.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Strzina, seconded Cr Furlong

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the period ending 30 September, 2005; and**
- (2) Receive the Sundry Debtors Report for the period ending 30 September, 2005.**

Carried 10/0

**13 AUDIT COMMITTEE MEETING HELD ON 18 OCTOBER 2005**

Moved Cr Strzina, seconded Cr Walsh

That the meeting accept and deal with the committee meeting items as a matter of urgent business.

Carried 10/0

**13.1 AUDIT REQUIREMENTS 1 JULY, 2005 TO 30 JUNE, 2008**

<b>File No:</b>	<b>C7.2</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Author Disclosure of Interest:</b>	<b>Whilst the author has no financial interest in the appointment of an auditor, the audit work is conducted on areas of operation under the control of that officer. Also three of the auditors listed are known to the author as auditors for previous employers.</b>
<b>Report Date:</b>	<b>12 October, 2005</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

The purpose of this report is to place before the Committee quotations received for audit services and to recommend that Mr D Tomasi be appointed.

**STATUTORY ENVIRONMENT**

Part 7 of the Local Government Act deals with Audits and Division 1A deals with Audit Committees:

*7.1A. Audit committee*

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.*
- (2) The members of the audit committee of a local government are to be appointed\* by the local government and at least 3 of the members, and the majority of the members, are to be council members.*

*\* Absolute majority required.*

- (3) A CEO is not to be a member of an audit committee and may not nominate a person to be a member of an audit committee or have a person to represent him or her as a member of an audit committee.*
- (4) An employee is not to be a member of an audit committee.*

*7.1B. Delegation of some powers and duties to audit committees*

- (1) Despite section 5.16, the only powers and duties that a local government may delegate\* to its audit committee are any of its powers and duties under this Part other than this power of delegation.*

*\* Absolute majority required.*

*(2) A delegation to an audit committee is not subject to section 5.17.*

#### *7.1C. Decisions of audit committees*

*Despite section 5.20, a decision of an audit committee is to be made by a simple majority.*

Division 2 deals with the appointment of Auditors and

#### *7.2. Audit*

*The accounts and annual financial report of a local government for each financial year are required to be audited by an auditor appointed by the local government.*

#### *7.3. Appointment of auditors*

*(1) A local government is to, from time to time whenever such an appointment is necessary or expedient, appoint\* a person, on the recommendation of the audit committee, to be its auditor.*

*\* Absolute majority required.*

*(2) The local government may appoint one or more persons as its auditor.*

*(3) The local government's auditor is to be a person who is*

- (a) a registered company auditor; or*
- (b) an approved auditor.*

#### *7.4. Disqualified person not to be auditor*

*(1) A person may not be appointed as a local government's auditor if that person is a disqualified person.*

*(2) In this section disqualified person means a person who:*

- (a) is a councillor or an employee of the local government;*
- (b) is a person who is in debt for more than the prescribed amount to the local government for a period of more than 35 days after
  - (i) in the case of that part of the debt which is for a rate or service charge under Part 6, the date the rate notice was issued; or*
  - (ii) in the case of that part of the debt which is not for a rate or service charge, the date an account was rendered to the person by the local government;**
- (c) is an employee of, or a member of the governing body of, an entity of a kind prescribed for the purposes of this paragraph; or*
- (d) is a member of a class of persons prescribed for the purposes of this subsection.*

*The Minister may approve a person who, immediately before the commencement of this Act*

(a) was a registered local government auditor within the meaning of that term in Part XXVII of the Local Government Act 1960 5 as in force before that commencement; and

(b) was the auditor of a local government,

as an approved auditor for the purposes of this Act.

#### 7.6. Term of office of auditor

(1) The appointment of a local government's auditor is to have effect in respect of the audit of the accounts and annual financial report of the local government for a term of not more than 5 financial years, but an auditor is eligible for re-appointment.

(2) The appointment of an auditor of a local government ceases to have effect if

(a) his or her registration as a registered company auditor is cancelled;

(b) his or her approval as an approved auditor is withdrawn;

(c) he or she dies;

(d) the auditor ceases to be qualified to hold office as auditor or becomes a disqualified person;

(e) the auditor resigns by notice in writing addressed to the local government;  
or

(f) the appointment is terminated by the local government by notice in writing.

(3) Where

(a) the registration of a local government's auditor as a registered company auditor is suspended; or

(b) a local government's auditor becomes unable or unwilling to carry out all or part of his or her duties,

the local government is to appoint\* a person to conduct the audit or to complete that part of the audit which remains to be conducted, as the case requires.

\* Absolute majority required.

#### 7.7. Executive Director may appoint auditor

If by 30 November in any year a local government has not appointed an auditor the Executive Director may appoint

(a) a qualified person; or

(b) in default of an appointment under paragraph (a), the Auditor General,

to be the auditor of the local government's accounts and annual financial report for the relevant financial year.

#### 7.8. Terms of appointment of auditors

(1) Subject to this Part and to any regulations, the appointment of a person as auditor of a local government is to be made by agreement in writing on such terms and conditions, including the remuneration and expenses of the person to be appointed, as are agreed between that person and the local government.

- (2) *The remuneration and expenses payable to the auditor of a local government (whether appointed by the local government or by the Executive Director under section 7.7) are payable by the local government.*

## **POLICY IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

The current budget includes provision of \$10,500 for audit fees. Of this \$6,500 will be required to pay the final account to the current auditor (agreed fee for 2004/05 \$8,500 less \$2,000 paid in 2004/05) with the balance (\$4,000) being available to meet any fee charges billed by the new auditor in 2005/06.

## **BACKGROUND**

Council passed the following resolution at its August 2005 meeting:

*That Council:*

- (1) *Request the Audit Committee to:*
- (a) *Obtain quotations from each of the five auditors listed in the Committee's minutes for 18 August, 2005, plus any other suitably qualified auditor the Committee may choose to seek a quotation from. The term of the audit agreement to be from 1 July, 2005 to 31 June, 2008;*
  - (b) *Review quotes received and recommend an Auditor to Council; and*
- (2) *Adopt the following audit specifications;*

## **AUDIT SPECIFICATIONS**

### **1. Introduction**

*This document is provided for the assistance of auditors who wish to apply for the role of auditor with the Town of Cottesloe*

*Auditors are required to address all of the matters outlined in the specification.*

*Auditors who submit an application may be asked to provide further information and/or make a presentation to the Audit Committee.*

### **2. Objectives of the Audit**

*To provide an independent audit opinion of the accounts and annual financial reports of the local government for each financial year covered by the term of the audit appointment.*

### **3. Term of the Audit Appointment**

*For the financial years commencing 1 July 2005. through to 30 June 2008 (three years)*

### **4. Scope of the Audit**

*The auditor is to –*

- 4.1 *Carry out such work as is necessary to form an opinion as to whether –*



- (a) *the accounts are properly kept; and*
- (b) *the annual financial report:*
  - (i) *is prepared in accordance with the financial records; and*
  - (ii) *represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the Australian Accounting Standards, the Local Government Act 1995 (as amended), the Local Government (financial Management) Regulations 1996 (as amended) and other mandatory professional reporting requirements.*

- 4.2 *Give an opinion in his or her audit report on –*
- (a) *the financial position of the local government; and*
  - (b) *the results of the operation of the local government.*

- 4.3 *Include in his or her audit report*
- (a) *any material matters that indicate significant adverse trends in the financial position or the financial management practices of the local government;*
  - (b) *any matters indicating non-compliance with financial management requirements of the Act, Regulations and any other written law.*

- 4.4 *Amendments to Scope of the Audit*  
*The Auditor to liaise with Council's Audit Committee in relation to the conduct of each audit and the Committee may increase the scope of the audit under terms agreed to by the Auditor.*

## **5. Audit Methodology and Approach**

- (a) *The auditor is required to comply with the requirements of section 7.9 of the Local Government Act 1995 and the Local Government (Audit) Regulations 1996.*
- (b) *An audit is to be carried out in accordance with "Auditing Standards" and "Audit Guidance Statements" adopted from time to time by the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia.*
- (c) *The auditor is to provide the local government with a general outline of his/her methodology*
- (d) *The auditor is to provide the local government with a plan for the audit including:*
  - *timing of interim audit visits (visits should be in the period February to April);*
  - *final audit visit. (should be in September with the final audit to be completed and the audit report delivered to the Town by 30 September each year unless Council's Audit Committee seeks to make alternative arrangements);*
  - *timing of the legislative requirement to meet with the local government and whether that meeting will be in person or by some other means; and*
  - *the method to be used to communicate with, and provide advice and information to, the local government.*
- (e) *The auditor is required to produce an audit report as required by section 7.9 of the Local Government Act 1995 and, if considered appropriate by the auditor, a management report.*

## **6. Critical Matters to be Audited**

*The auditor is to include in his or her application the extent to which the critical matters outlined below will be audited so as to form an opinion on the manner in which they have been maintained.*

- (1) *Revenue*
    - *Rates Revenue*
    - *Government Grants*
-

- *User pays revenue*
  - *Profit on sale of non-current assets*
  - *Other income*
- (2) *Expenditure*
- *Salary and wage costs*
  - *Depreciation*
  - *Materials and contract expenditure*
  - *Loss on sale of non-current assets*
  - *Insurances*
  - *Bad debts*
  - *Other expenditure*
- (3) *Current Assets*
- *Bank and short term investments*
  - *Receivable and prepayments*
  - *Inventory*
- (4) *Non-Current Assets*
- *Property, plant , furniture and equipment*
  - *Infrastructure and depreciation*
  - *Other receivables*
- (5) *Liabilities (current and non-current)*
- *Creditors and accruals*
  - *Loan borrowings including new loans raised*
  - *Provision for annual and long service leave entitlements*
- (6) *Reserve Funds*
- (7) *Contingent Liabilities*
- (8) *Capital Commitments*
- (9) *Accounting Policies and Notes to the Financial Statements*
- (10) *Cash Flow Statement*
- (11) *The financial ratios required by the Local Government (Financial Management) Regulations 1996*

## **7. Hours, Fees and Expenditure**

*The auditor is to provide:*

- *Estimate of the time to be spent on the audit.*
- *Fees for completing the audit in accordance with this specification.*
- *Nominated auditor(s) and registered company audit number(s)*
- *Experience of the nominated auditors in completing local government audits.*

*The auditor is to provide a fee for any additional audit requested by Council.*

## **8. Terms**

*Conditions to be noted by auditors*

*The auditor shall not subcontract to a third party.*

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*The auditor shall not, and has no right to, assign the audit contract to third parties.*

*The auditor shall not be engaged by the local government to undertake any financial consultancy with the local government that requires the preparation of financial information that will be the subject of the annual audit.*

*The auditor shall confirm that he or she has, and will maintain during the duration of the audit term, professional indemnity insurance covering the legal liability arising out of any neglect, default, error, or omission.*

### **Termination of Appointment**

*The appointment as auditor is terminated if:*

- (a) the auditor ceases to be a registered company auditor;*
- (b) the auditor ceased to be an approved auditor under Section 7.5 of the Local Government Act 1995*
- (c) the auditor is a disqualified person under Section 7.4(2) of the Local Government Act 1995;*
- (d) the auditor resigns by notice in writing to council;*
- (e) Council serves notice in writing to the auditor terminating the appointment.*

On behalf of the Audit Committee quotations were sought from the following auditors:

<b>AUDITOR</b>	<b>COMPANY</b>
Greg LeGuier	Grant Thornton
Tony Macri	Barret & Partners - DFK
Brad McVeigh	BDO
David Tomasi	Haynes Norton
Tony Bevan	Horwarth (WA)

Copies of responses to quotation sought have been distributed to Committee Members are summarised as follows:

#### AUDIT QUOTATIONS 2005/06 TO 2007/08

#### SUMMARY OF QUOTATIONS SOUGHT AND RECEIVED

QUOTATIONS CLOSED 4PM 29/9/2005

AUDITOR REGISTRATION NUMBER	COMPANY	QUOTE RECEIVED ON TIME	SPECS MET	CURRENT FEE			
				LG CLIENTS	2005/06 \$, INC GST	2006/07 \$, INC GST	2007/08 \$, INC GST
Mr D J Tomasi - 15724 Alternate - Mr R B Swarbreck - 14170	UHY Haines Norton	Yes	Yes but aspects will 22/09/2005 need to be confirmed in appointment letter	57 in WA plus Christmas Island	7425	7810	8250
Mr T Macri - 6/A/855	Barrett & Partners - DFK	Yes	Yes but aspects will 22/09/2005 need to be confirmed in appointment letter	20 in WA	10450	11000	11550
Mr G LeGuier (Council's current auditor)	Grant Thornton	No - informed that he did not intend to lodge a quote					
Mr B Mc Veigh - 15507	BDO Chartered Accountants & Advisers	Yes	Yes but aspects will 29/09/2005 need to be confirmed in appointment letter	14 in WA	13700	13910	15400
Mr A G Bevan - 15403 Mr G D O'Brien - 170197	Horwarth Audit (WA) Pty Ltd	No Email copy	Yes but aspects will 30/09/2005 need to be confirmed in appointment letter	18 in WA Plus Cocos (Keeling) Islands	9350	9900	10450

Mr A G Bevin from Horwarth Audit (WA) Pty Ltd phoned on 30 September to say that audit work pressures had resulted in his quotation not being sent by the closing date (29/9/2005) and he emailed a copy. The hard copy was received 3 October, 2005.

### **CONSULTATION**

The author spoke with Mr Bevin regarding the lodgement of his quotation and with Mr Tomasi regarding meeting Council's required audit completion requirements.

### **STAFF COMMENT**

Council's current auditor Mr G Le Guier advised that he would not be quoting this time as his local government audit clients are now smaller in number. The reduced numbers has resulted in his firm being less able to provide the service in a way that is satisfactory to both parties.

Mr Bevin's quote was received after the closing time/date of 4pm 29 September, 2005. There is no impediment known to the author to allowing this quotation to be considered other than fairness to others that did lodge quotes on time.

It is suggested that, from the information supplied, the four auditors who lodged a quotation are well qualified and experienced to provide services to the Town. Each has a number of local government clients that would permit them to build up a good level of knowledge of the area.

It is recommended that the quotation received from Mr D J Tomasi be accepted. It is noted that the quotation is the lowest in terms of fees and that the cheapest option is not always the best however in this case there is nothing to suggest that Mr Tomasi's services would be inferior to the other prospective providers.

### **VOTING**

Simple majority

### **13.1 OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Carmichael, seconded Cr Jeanes

**That Council appoint Mr D J Tomasi as its auditor for the period 1 July, 2005 to 30 June, 2008 to complete audits in accordance with Council's adopted specifications and for the quoted costs of \$7,425 (inc GST) for year ended 30 June, 2006, \$7,810 (inc GST) for year ended 30 June, 2007 and \$8,250 (inc GST) for year ended 30 June, 2008.**

Carried 10/0

**13.2 AUDIT COMMITTEE MEMBERSHIP**

Cr Carmichael reported that a CPA Publication recommended, among other things, that Local Government Audit Committees include persons who are external to Council.

The matter was discussed and it was noted that the Department of Local Government and Regional Development Operational Guidelines on Audit Committees provided that if a local government wished to appoint one or more persons other than elected members to the committee, it should ensure they have the requisite knowledge and skills to provide benefit to the committee.

**13.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Carmichael, seconded Cr Jeanes

**That Council call for expressions of interest from residents who have relevant knowledge and skills to sit on Council's Audit Committee.**

Carried 10/0

**14 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

Moved Cr Furlong, seconded Cr Strzina

That the meeting accept and deal with these items as a matter of urgent business.

Carried 10/0

**15.1 ANNUAL REPORT & ANNUAL ELECTORS MEETING**

**File No:** X3.2  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 19 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to accept the annual report for the 2004/05 financial year and to confirm that the annual electors meeting is to be held on Wednesday, 23<sup>rd</sup> November, 2005.

**BACKGROUND**

Council is required to hold a general meeting of electors once in each financial year and this meeting is to be held not more than 56 days after Council accepts the *Annual Report*.

The *Annual Report* is to be accepted by the Council no later than 31 December following the close of the financial year to which it relates, unless the Auditor's Report is not available at that time, in which case the annual report is to be accepted by Council no later than two months following receipt of the auditor's report (Section 5.54).

The CEO is to give local public notice of the availability of the report as soon as practicable after the report has been accepted by the local government (Section 5.55).

The CEO must also convene the annual electors' meeting by giving 14 days local public notice (Section 5.29).

All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable -

- (a) at the first ordinary council meeting after that meeting; or
- (b) at a special meeting called for that purpose,

whichever happens first.

If at a meeting of the Council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the Council meeting (Section 5.33).

### **CONSULTATION**

N/A.

### **STAFF COMMENT**

The *Annual Report* is made up of a number of documents that include reports from the Mayor and CEO, reports on principal activities, auditor's report, financial report and other reports and information as prescribed.

The last annual general meeting of electors was held on 14th December, 2004.

The most suitable date to hold the annual electors meeting appears to be Wednesday, 23<sup>rd</sup> November, 2005. Any decisions made at the meeting will therefore be referred through to the November 28<sup>th</sup> meeting of full Council for further consideration.

### **POLICY IMPLICATIONS**

Nil.

### **STRATEGIC IMPLICATIONS**

Nil.

### **FINANCIAL IMPLICATIONS**

Nil.

### **VOTING**

Simple Majority

### **15.1 OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Woodhill, seconded Cr Dawkins

**That Council:**

- (1) Accept the Annual Report for the 2004/05 Financial Year as tabled at the October 2005 Council meeting; and**
- (2) Confirm that the Annual Meeting of Electors is to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 23rd November, 2005 commencing at 7.00pm.**

Carried 10/0

**15.2 1 GERALDINE STREET, COTTESLOE - PEDESTRIAN ACCESS WAY CLOSURE TO VEHICLES**

**File No:** 1 Geraldine & E13. 1.23  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 19 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

Staff became aware of vehicles being driven on a Pedestrian Access Way (PAW) off Geraldine Street several months ago, due to a neighbours query on whether they could also drive across part of the PAW.

The only vehicle use is by the owner of 1 Geraldine Street. The PAW was being used to access his double garage.

The purpose of this reserve had changed in 1997 from 'underwidth road' to PAW on the strong wishes of the residents, including the owners of 1 Geraldine Street, who agreed to stop using the access for vehicle entry.

Staff have written, pointing out the illegality of vehicle use and that a bollard would be installed to protect pedestrian use of this access.

The owners finally made contact through a Planning Consultant, just before the bollard was to be installed, requesting alternatives which would allow continued vehicle access to 1 Geraldine Street down the PAW.

This report recommends that the owner of 1 Geraldine Street be informed that no vehicle use of a PAW can be approved on a Crown land reserve vested for this use, and that a bollard will be installed by the end of November, 2005 to ensure protection to the public.

**STATUTORY ENVIRONMENT**

The access is vested in Council as a PAW. Council has no power to allow vehicles to be driven on the full length of the PAW. Only a change of legal status back to a Laneway/Right of Way would restore the vehicle access right. This has been confirmed through contact with the Department of Land Information.

**POLICY IMPLICATIONS**

Council's policy on Laneways/Rights of Way applies.

**STRATEGIC IMPLICATIONS**

The most applicable areas of Council's Strategic Plan are:

*Governance/Consistency:* All decisions made are consistent with relevant statutes, Council policy and the aims of this plan.



*Management/Statutory Compliance:* All procedures and decisions comply with external and internal statutes.

### **FINANCIAL IMPLICATIONS**

Nil, if statutory requirements are met. Unknown, if vehicle use continues on PAW.

### **BACKGROUND**

This access was gazetted as a public street in 1983. The approval for a garage on 1 Geraldine Street was given, with access from this underwidth street, after that date.

In 1997, in order to stop vehicles using this access from Geraldine Street to a multi-storey unit development in Gadsden Street, residents in this area successfully petitioned Council to have this access converted to a PAW. In order for this to occur, the owner of 1 Geraldine Street committed in writing to stop using the vehicular access to the existing double garage and that the garage would be converted to gain access from Geraldine Street.

Recently, a query was received from the owner of 1A Geraldine Street, requesting approval to drive over the north end of this PAW to gain access to a proposed new subdivided block on the south side of 1A Geraldine Street. This request was refused. The question was then asked regarding why 1 Geraldine Street still continued to be allowed to drive on the PAW.

The records were then checked and the details emerged regarding the 1997 undertaking.

### **CONSULTATION**

Full consultation occurred in 1997, including written agreement from the owner of 1 Geraldine Street, for the conversion of the underwidth road to a PAW.

### **STAFF COMMENT**

The Department of Land Information (ex DOLA) and Council have no flexibility on this issue. The PAW is Crown land which does not allow vehicle use. An alternative is to go through the process of converting part or all of the access to Laneway/Right of Way status, which would also allow access to the block of units on the west side.

The conversion in 1997 to a PAW would never have been approved if 1 Geraldine Street continued to require vehicle access.

The process to convert back to underwidth road or PAW would include a public advertising period and letters to all affected residents. Given the very strong resident demand to stop vehicle use of this access it is unlikely general community support would be available.

Council could agree to extend the time before a bollard is installed, to allow changes, as proposed in 1997, to be made to the garage to allow access from Geraldine Street.

**VOTING**

Simple Majority

**COUNCIL COMMENT**

The Manager Engineering Services tabled additional information received from the owner of the property. He advised that the owner's lawyer believes there is an opportunity to obtain insurance for the Pedestrian Access Way.

There was a mixed reaction from the Councillors in relation to the recommendation and some Councillors requested deferment until the November round of meetings to allow for further investigation.

The Manager Engineering Services advised that Council doesn't have the power to allow vehicle access on a PAW, the proposal would go to Department of Land Information for consideration, although they are strongly against the idea of vehicles driving on a PAW.

**OFFICER RECOMMENDATION**

That Council inform the owner of 1 Geraldine Street that a bollard will be installed at the end of November, 2005 to prevent vehicle use of the side Pedestrian Access Way, as agreed to in 1997, and to protect the public from illegal vehicle use of this access.

**AMENDMENT**

Moved Cr Cunningham, seconded Cr Jeanes

That the matter be deferred back to administration for a further report and that the bollard not be installed at this time.

Carried 7/3

**15.2 COUNCIL RESOLUTION**

Moved Cr Cunningham, seconded Cr Jeanes

**That the matter be deferred back to administration for a further report and that the bollard not be installed at this time.**

Carried 7/3

**15.3 STATEMENTS OF PLANNING POLICY - ROAD AND RAIL TRANSPORT POLICY AND METROPOLITAN FREIGHT NETWORK**

**File No:** D2.7  
**Author:** Ms Delia Neglie/Mr Andrew Jackson  
**Author Disclosure of Interest:** Nil  
**Report Date:** 19 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to advise the Western Australian Local Government Association and the Western Australian Planning Commission that Council notes the intended measures and implementation proposals for draft *Statement of Planning Policy: Road and Rail Transport Noise* and draft *Statement of Planning Policy: Metropolitan Freight Network* and make comment on same.

**BACKGROUND**

15.1 The *Town Planning and Development Act* enables the Western Australian Planning Commission (WAPC) to prepare statements of planning policy under section 5AA of the Act. These policies are to make provision for any matter which may be the subject of a town planning scheme and are to be directed primarily towards broad general planning and facilitating the coordination of planning throughout a region or the state by all relevant local governments.

The WAPC has released for comment two draft statements of planning policy– the first on road and rail transport noise and the second on the metropolitan freight network. The policies will have an impact on local government from transport infrastructure and land use planning contexts.

The Western Australian Local Government Association (WALGA) intends to make a submission on behalf of member Councils and asks for comment to enable a response to be coordinated and submitted to Department for Planning and Infrastructure (DPI) by the end of the comment period which is 31 October 2005.

**DETAILS****Road and Rail Transport Noise**

This policy would **apply** when assessing traffic noise impacts associated with:

- new primary distributor or district distributor roads in the vicinity of residential and other noise-sensitive land uses;
- new rail infrastructure in the vicinity of residential and other noise-sensitive land uses;
- major upgrading of existing roads or upgrading of existing rail infrastructure which is likely to result in a significant increase in capacity and/or noise, in the vicinity of residential and other noise-sensitive land uses;
- rezoning of land for residential development or other noise-sensitive land uses in the vicinity of an existing or proposed primary distributor or district distributor road or a railway;

- subdivision of land for residential development or other noise-sensitive land uses in the vicinity of an existing or proposed primary distributor, district distributor road or a railway; and
- new residential development and other noise-sensitive development in the vicinity of an existing or proposed primary distributor or district distributor road or railway.

The **objectives** of this policy are:

- to establish noise criteria against which planning and development applications can be consistently assessed;
- to identify proposals that require noise mitigation measures;
- to minimise the effect of road and rail traffic noise on residential development and other noise-sensitive land uses; and
- to ensure that the efficient operation of road and rail transport corridors is not adversely affected by adjacent, incompatible (noise-sensitive) development.

Three 'exposure levels' are established.

- *Level 1* is the target level – the level of outdoor noise that is desirable and requires no amelioration.
- *Level 2* is the level under which new noise-sensitive development should be designed and constructed to minimise noise impact. Future design guidelines to assist with this are proposed.
- *Level 3* refers to outdoor noise exposure that would require noise management measures in the construction of new or upgraded roads and railways and as per Level 2 for existing infrastructure.

Local government is required to make provision in town planning schemes for the control of noise-sensitive development in areas affected by Exposure Level 2 or Exposure Level 3 noise criteria. Such provisions should generally take the form of special control areas that would apply to those areas zoned for residential and other noise-sensitive forms of development immediately adjacent to major transport corridors. The extent of special control areas would normally be defined through site-specific noise assessment.

Notifications on certificates of title advising the purchasers of the potential for nuisance and/or reduced levels of amenity as a consequence of freight noise is suggested and also as a condition of subdivision/development approval.

### **Metropolitan Freight Network**

The intent of this policy is to identify and protect the metropolitan freight road and rail network as well as minimise the adverse impact of freight transport noise on adjacent development. The policy aims to ensure that land use and transport are mutually compatible by providing a framework for the movement of goods, effectively reducing the amount of freight traffic on local roads. Routes have been designated on the basis of importance for the movement of freight to and within the Perth Metropolitan Region as shown in Appendix 1 of the Policy.

The **objectives** of the policy are to:

- facilitate the development and operation of an efficient freight network, based on strategic co-location of freight handling facilities serviced by an integrated network of freight transport facilities;
- protect the primary freight network from avoidable encroachment by any incompatible or noise-sensitive development with the potential to compromise freight handling and/or transport operations;
- minimise adverse environmental and social impacts associated with the handling and movement of freight on noise-sensitive development, such as housing; and
- inform local government and landowners of the designation of existing and proposed freight network.

**Policy measures** include the:

- Strategic location of freight handling facilities.
- Development within freight route areas of influence – to be controlled to minimise the potential conflicts caused by noise, vibration, traffic and diminished air quality associated with the handling or transport of freight. Noise-sensitive land uses will be permitted subject to conditions that ameliorate the impact of freight movement. Compatible land uses such as light industry and certain commercial developments may be appropriate within the area of influence. The draft Transport Noise Policy should be used as a guide in the control of noise-sensitive development.
- Freight network operational and infrastructure measures – where appropriate, new and/or upgraded freight routes should be considered with a view to relieving or reducing the adverse impact on existing noise sensitive development. Where such action has already been planned, consideration should be given to adjusting the program of work in order to ameliorate any unacceptable impacts associated with the use of existing routes by heavy volumes of freight vehicles.

**Implementation** of the policy is proposed through:

- zoning and special controls – areas of influence associated with primary freight routes (existing and proposed) should be included as either special control areas or special use zones in order to facilitate appropriate control of development. Also, when preparing town planning schemes and amendments, local governments should consider the potential for land use conflict between freight handling and movement and adjacent noise-sensitive land uses. Zoning and permissible uses of land in areas adjoining primary freight routes or established freight nodes should be reviewed to ensure, as far as practicable, that they are compatible with freight operations.
- development and subdivision control – development may be controlled through the imposition of conditions relating to such matters as the scale, nature of goods handled, times of operation, numbers and types of vehicles permitted to access the premises, provision for vehicular manoeuvring and parking, lighting, signage, fencing, noise barriers, landscaping and road up-grading; and

- notification and advice – as per the Road and Rail Transport Noise Policy and also, in response to property inquiries or the transfer of land, notification should occur by written advice of the relevant local government to prospective purchasers advising of the potential for nuisance and/or reduced levels of amenity as a consequence of freight noise.

### CONSULTATION

Nil.

### STAFF COMMENT

The rationale for regional freight route and freight noise planning policies is appreciated and the means of implementation via town planning schemes and associated measures is appropriate.

At the same time, however, it is considered that an integrated planning approach to land use and transportation should recognise the following:

- a focus on not only economic implications but also social and environmental implications, for a sustainable system;
- the need for a balance between the Network City strategy of transit-oriented development, activity corridors and nodes, urban consolidation and density increases and the proposed policies;
- a need for the planning, development and management of freight routes, and for the operation of freight transportation through industry standards and environmental regulations, to share the responsibility for noise minimisation and amelioration rather than to transfer the burden unduly to the planning system.

The *Metropolitan Freight Route Policy* nominates Curtin Avenue as an existing primary freight road under Main Roads WA (MRWA) jurisdiction and alongside this, a future primary freight road (the proposed Curtin Avenue upgrade). These routes traverse the Town of Cottesloe through residential areas and the Town Centre. A number of sites provide the opportunity for future development (e.g. private land, Town Centre and environs, WA Institute for Deaf Education site, etc). Future development of these and other sites would largely be expected to be residential, in accordance with maintaining the predominant residential zoning and amenity of the suburban area.

Council will be required to implement the policy in the following respects:

- Design of Curtin Avenue upgrade – noise attenuation may be required in the design if the Exposure Level was to reach Level 3 – the cutting-in of Curtin Avenue as proposed in the Town Centre Study Concept Plan prepared by Hames Sharley for the Town may influence this.
- Control of new development along the freight route – noise attenuation methods through building materials and design would need to be considered as development requirements and conditions of approval – new design guidelines, when prepared by the DPI, would need to be implemented.
- Special Control Areas would be required to be adopted in the Town Planning Scheme over noise impacted “areas of influence” – noise assessments may be required to determine the extent of these areas.

- Notification on the title of new development would be required and all property enquiries would require advice regarding noise impacts.
- Zoning and permissible uses of land in areas adjoining primary freight routes or established freight nodes should be reviewed to ensure, as far as practicable, that they are compatible with freight operations.

This last implementation tool, which is part of the *Metropolitan Freight Network Policy*, is difficult. The residential land use expected to be developed along Curtin Avenue would be considered to be incompatible with a freight route but would be the best use for the amenity of the area.

Cottesloe's town planning scheme review can be cognisant of the proposed policies but cannot formally incorporate their measures until they become official, which may be after the date of lodgement of the scheme with the Minister for consent to advertise.

It is therefore recommended that WALGA and the WAPC be advised that the Town of Cottesloe notes the policy measures and implementation proposals and provides the comments as shown in the recommendation below.

### **POLICY IMPLICATIONS**

The proposed regional policies will ultimately be translated into the town planning scheme and any related local planning policy.

### **STRATEGIC IMPLICATIONS**

The proposed regional policies would influence local strategic land use planning through the local planning strategy, town planning scheme and local planning policy.

### **FINANCIAL IMPLICATIONS**

Noise assessment under the *Road and Rail Transport Noise Policy* would be required in order to establish exposure levels and thereby determine level of noise impact amelioration that would be required and the extent of special control areas in the town planning scheme.

### **VOTING**

Simple Majority

### **15.3 OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Woodhill

**That Council advise the Western Australian Local Government Association and the Western Australian Planning Commission that it notes the intended measures and implementation proposals for draft *Statement of Planning Policy: Noise and Road and Rail Transport* and draft *Statement of Planning Policy: Metropolitan Freight Network* and wishes to comment as follows:**

- (1) **The rationale for regional freight route and freight noise planning policies is appreciated, and the means of implementation via town planning schemes and associated measures is appropriate. At the same**

time, however, it is considered that an integrated planning approach to land use and transportation should recognise the following:

- i. a focus on not only economic implications but also social and environmental implications, for a sustainable system;
- ii. the need for a balance between the Network City strategy of transit-oriented development, activity corridors and nodes, urban consolidation and density increases and the proposed policies; and
- iii. a need for the planning, development and management of freight routes, and for the operation of freight transportation through industry standards and environmental regulations, to share the responsibility for noise minimisation and amelioration rather than to transfer the burden unduly to the planning system.

(2) There is concern regarding:

- i. The cost of noise assessments with regard to:
  - (a) establishing the “areas of influence” for the purpose of development control and the town planning scheme; and
  - (b) the Exposure Levels for the Curtin Avenue upgrading.
- ii. Noise attenuation requirements with regard to any upgrade of Curtin Avenue and who would meet the additional cost; and
- iii. The requirement for zoning and permissible uses of land in areas adjoining primary freight routes or established freight nodes to be reviewed to ensure, as far as practicable, that they are compatible with freight operations – this is not feasible in established residential areas where future development is expected to be residential and thereby incompatible with freight operations.

Carried 10/0



**15.4 LOCAL GOVERNMENT HERITAGE WORKING PARTY - FINDINGS REGARDING LOCAL HERITAGE PROTECTION SYSTEM FOR LOCAL GOVERNMENT HERITAGE**

**File No:** D3.3  
**Author:** Ms Delia Neglie  
**Author Disclosure of Interest:** Nil  
**Report Date:** 19 October, 2005  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to endorse the Local Government Heritage Working Party's findings regarding a local heritage protection system for WA and that the Western Australian Local Government Association (WALGA) be advised accordingly.

**BACKGROUND**

The *Heritage of Western Australia Act* has been considered in need of review for some time but various Heritage Bills have not progressed in recent years. There is an industry view that neither of the *Heritage of Western Australia Act* or the *Town Planning and Development Act* provides a conclusive heritage system for WA. As a result, there is limited detailed guidance on the practical application heritage planning controls for Western Australian local governments.

The Local Government Heritage Working Party with representatives from the WALGA, local government, the Heritage Minister, REIWA and DPI was thus established in 2002 to discuss a range of issues involving heritage. A first-stage discussion document outlining why the heritage management system in WA requires reform was released in 2003. The working party reconvened in 2004 and has produced the second stage of its work. WALGA is seeking comments from local governments on these findings by the 24<sup>th</sup> October, 2005.

**CONSULTATION**

In addition to the WESROC Executive some discussion has occurred with WESROC planning / heritage officers. This has indicated a general consensus in support of the findings in terms of overall direction, although it has also been noted that details will need to be addressed in the implementation.

The proposals are not yet in the public arena.

**STAFF COMMENT**

The findings recommend a package of measures as the basis for improvements to the local heritage protection system in WA. These are summarised here descriptively, but not evaluated or critiqued, as they represent the shared view of local government:

- **Basic principles for Local Heritage Surveys (Municipal Inventories)** – guidelines for preparing surveys proposed to be included in an updated *Local Government Heritage Manual*.

- **Assessment Criteria** – a framework for standard criteria in assessing heritage significance is proposed to be included in an updated *Local Government Heritage Manual*.
- **State Planning Policy for Heritage** – a draft *Statement of Planning Policy* is proposed (under Section 5AA of the *Town Planning and Development Act*) to provide a policy base for local governments regarding heritage lists, heritage and urban character areas, considerations for development assessment and control, town planning schemes and local planning strategies.
- **Amendments to Model Scheme Text Provisions** – minor amendments are proposed for clarification of heritage lists and requirements for planning approval.
- **Local Planning Policy** – guidance notes for the preparation of policies are proposed to be included in an updated *Local Government Heritage Manual* or the Department of Planning and Infrastructure's *Planning Schemes Manual*.
- **Heritage Incentives** – proposes the need for incentives to achieve heritage outcomes on the premise that an effective heritage system is founded on a balance of 'sticks and carrots'. Suggested forms of incentives are: funding, grants, loans, rate concessions, planning incentives, revaluations and discounted purchasing.
- **Education** – strategies are proposed for educating users of the heritage system, i.e. local government staff and councillors, the public and professions.
- **Insurance** – explores strategies for dealing with difficulties in providing insurance for heritage-listed properties and proposes that the Heritage Council seek expressions of interest from insurance brokers prepared to provide insurance cover.
- **Accreditation of Heritage Consultants** – it is proposed that the Heritage Council continue to manage a Directory of Heritage Consultants.
- **Research on Property Value Impacts** – proposes to encourage support for research into the perceived negative impacts of heritage protection on property values.

WALGA has asked all local governments to comment on the findings by way of a pro-forma that seeks agreement or disagreement on each of the recommendations. A coordinated response will be forwarded by WALGA to the Minister for Heritage and Planning.

Responses are due by end October, 2005.

There is general agreement to the principles and proposals of the working party.

The proposals are in line with the manner in which Council has approached the preparation of a heritage list derived from Categories 1 & 2 and of its Municipal Inventory.

If implemented, the findings will provide Council with greater guidance in preparing its *Local Planning Strategy*, *Local Planning Policy on Heritage* and draft *Town Planning Scheme No. 3*.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

The Town Of Cottesloe's strategic plan has a heritage objective which seeks the "preservation of nominated properties on the Municipal Inventory, verges, trees and the foreshore and dune systems."

**FINANCIAL IMPLICATIONS**

Nil

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

That council endorse the Local Government Heritage Working Party findings and the Western Australian Local Government Association be advised accordingly.

**COUNCIL COMMENT**

Heritage is a contentious issue in Cottesloe and not enough time has been allowed for Councillors to fully consider this matter. It was suggested that this item be deferred until the November round of meetings.

**AMENDMENT**

Moved Cr Jeanes, seconded Cr Utting

That this item be referred back to the Development Services Committee and be represented to Council in the November round of meetings.

Carried 8/2

**AMENDMENT**

Moved Cr Cunningham, seconded Cr Dawkins

That Council request an extension of time to provide comment on the findings of the Local Government Heritage Working Party.

Carried 10/0

**15.4 COUNCIL RESOLUTION**

Moved Cr Cunningham, seconded Cr Dawkins

**That Council:**

- (1) Refer this item back to the Development Services Committee and be represented to Council in the November round of meetings; and**
- (2) Request an extension of time to provide comment on the findings of the Local Government Heritage Working Party.**

Carried 10/0

**16 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 8.10 pm.

CONFIRMED: DEPUTY MAYOR ..... DATE: ...../...../.....