

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, 25 October, 2010**

28 October 2010

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7:03 AM.

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

Mayor Kevin Morgan	Presiding Member
Cr Jack Walsh	
Cr Jay Birnbrauer	
Cr Rob Rowell	
Cr Greg Boland	
Cr Dan Cunningham	
Cr Ian Woodhill	
Cr Jo Dawkins	
Cr Victor Strzina	
Cr Davina Goldthorpe	
Cr Patricia Carmichael	

Officers

Mr Graham Patrick	Acting Chief Executive Officer
Mr Andrew Jackson	Manager Development Services
Mrs Lydia Giles	Executive Assistant

Apologies

Nil

Officer Apologies

Mr Carl Askew	Chief Executive Officer
Mr Geoff Trigg	Manager Engineering Services

Leave of Absence (previously approved)

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Mrs Hillary Rumley – 5/14 Athelstan Road, Cottesloe – Re.: Disability Services Advisory Committee

Mrs Rumley thanked the CEO Mr Carl Askew for his prompt response in regards to her query on the ACROD drop off bay at the groyne at Cottesloe beach. She was pleased to see the signage regarding the accessible toilet

and asked questions (see below) in relation to Disability Services Advisory Committee.

- Q1: Why is there no report from the Disability Services Advisory Committee (DSAC) for Council Meeting?
- Q2: Why are the Agenda and Minutes of past DSAC meetings, established 5 years ago, not available on the Town's website?
- Q3: Why isn't the beach wheelchair access at North Cottesloe SLSC available. Now?
- Q4: Why is there still no beach wheelchair at Cottesloe main beach?
- Q5: Why has no member of the DSAC responded to my emails re Disability Access or consulted with any other people with disability as far as I know on these matters as required under the Town's Disability Access and Inclusion Plan (DAIP)
- Q6: Can we people with disability in the Town, as well as other visitor with disabilities, please have an update on the proposed "Access to Water" Forum as well as the "People's Beach" concept as I have been informed by the CEO that these matters have been discussed by the DSAC?

The Mayor responded that he will pass on the thanks to Mr Askew. In regards to the questions, they will be passed on to the acting CEO for a response. The new website will have more information on DSAC activities. In relation to the beach wheelchair at North Cottesloe Beach, the repairs have been authorised by the surf club. They are awaiting the return of the repaired wheelchair. Other questions will be passed on to Cr Goldthorpe as the Chairman of the Committee. In regards to the wheel chair access to the Council Chambers it is an issue that will be looked into.

Ms Dianne Andrewantha, 24 Hawkstone Street, Cottesloe – Item 11.1.2 Rights of Way Laneway Policy Clarification

Ms Andrewantha queried consultation with residents along ROW 14, knowledge of the 2005 Policy changes and a range of environmental concerns including goannas, natural drainage and so on.

The Mayor took the questions on notice for a response.

5 PUBLIC STATEMENT TIME

Ms Mary Evans, 33 Grant Street, Cottesloe – Item 11.1.2 Rights of Way / Laneways Policy Clarifications

Ms Evans spoke against upgrading ROW 14 as bitumen or concrete gets hot. She was also concerned that bobtail goannas and other wildlife in the laneway would be affected.

Mrs Rosie Walsh, 35 Grant Street, Cottesloe – Item 11.1.2 Rights of Way Laneway Policy Clarification

Mrs Walsh spoke on behalf of owners along ROW 14 who do not want it upgraded as it would have negative effects. In 2005 Council received signatures from the residents leading to the policy changes which should be acknowledged.

Mr Jamie Loh, 25 Mann Street, Cottesloe - Item 11.1.1 - No. 2 & 4 Athelstan Street - Five Aged Persons Dwellings - Further Report

Mr Loh as a proponent spoke about the design changes in response to Council's concerns and neighbour objections. He also contended that the density situation was not the issue as some saw it.

Mr Bradley Goodlet, 3 Haining Avenue, Cottesloe - Item 11.1.1 - No. 2 & 4 Athelstan Street - Five Aged Persons Dwellings - Further Report

Mr Goodlet spoke on behalf of a group of resident objectors. He refuted the arguments put forward by the proponents and reiterated the consistent objections maintained. He emphasised the excessive size of the proposed luxury dwellings which he believed could be seen as a back-door way of increasing density.

Mr Tom Loh, 4 Athelstan Road, Cottesloe - Item 11.1.1 - No. 2 & 4 Athelstan Street - Five Aged Persons Dwellings - Further Report

Mr Loh, another proponent, spoke in favour of the proposal which he claimed was compliant with the town planning scheme and ought to be approved.

Ms Clair Medhurst, 186 Little Marine Parade, Cottesloe - Re: Petition: Vera View Dog Beach: Removal of the dog "curfew" from 1 November 2010 to 31 March 2011 10:00am - 4:00pm

Ms Medhurst has organised a petition with 150 signatures that have been obtained in support of lifting the curfew at the Vera View Dog Beach. She stated that there should be a full time dog beach at Cottesloe. She believes it would be more environmentally sound as people do not need to drive and there will not be further wasting ranger's time to observe the beach. There has been no evidence of dog fights and she has never seen any problems. She urged the Council to support the petition.

Mr Paul Jones, 186 Little Marine Parade, Cottesloe - Re: Petition: Vera View Dog Beach: Removal of the dog "curfew" from 1 November 2010 to 31 March 2011 10:00am - 4:00pm

Mr Jones requested that the curfew be lifted. He expressed his view that dogs are a part of family life. Walking the dog facilitates people meeting other dog owners and will help the 'eyes on the street' program. He also mentioned climate change, the sea breeze coming early and the removal of daylight saving having an impact on users of the dog beach. He concluded that the curfew compresses the time people have to walk their dog and generally makes it difficult for people to access the dog beach.

Ms Jenita Enevoldsen, 5/34 Marine Parade, Cottesloe – Item 11.3.2. - Wilderness Society of WA event at Cottesloe Civic Centre

Ms Enevoldsen stated that as a local resident of Cottesloe she would like the “protect Kimberley” event to be held locally. This event will attract approximately 100 people from the local community. She stated that this would be a family friendly event. Volunteers have been organised to wear uniforms to ensure that the Civic Centre walls are protected. If more security is required she is willing to hire them. If the location is unsuitable, she proposed South Cottesloe beach as an alternative, where the 2008 walk against warming was held. She ensured that minimal space will be used at the beach and has confirmed with Cottesloe Surf Club that they will have finished club activities by 10:30am. She intended to invite Premier Barnett and will ensure he has an opportunity to present his case.

Mr Ryle Purich, 8 Athelstan Road, Cottesloe - Item 11.1.1 - No. 2 & 4 Athelstan Street - Five Aged Persons Dwellings - Further Report

Mr Purich urged that Council refuse the proposal due to the adverse impact it would have on surrounding amenity. He believes these family-sized homes could have more than two cars owing to teenage children and the narrow street could not accommodate the extra traffic and parking. He suggested the age stipulation should be increased to over 65. He also pointed-out that many houses are available for sale in Cottesloe as alternative accommodation.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Birnbrauer

[Minutes September 28 2010 Council.DOC](#)

The Minutes of the Ordinary meeting of Council held on Tuesday, 28 September, 2010 be confirmed.

Carried 11/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor announced the loss of a well regarded resident Mrs Marianne Miller. He passed on condolences to the former Deputy Mayor, Mr Bryan Miller and his family.

The Mayor informed Council that Councillor Corinne MacRae from the Town of Cambridge is here to observe the meeting tonight and welcomed her.

8.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE**BACKGROUND**

At the September 2006 meeting of Council it was agreed that the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.

Standing Orders 12.1 and 21.5 read as follows:

Members to Rise

Every member of the council wishing to speak shall indicate by show of hands or other method agreed upon by the council. When invited by the mayor to speak, members shall rise and address the council through the mayor, provided that any member of the council unable conveniently to stand by reason of sickness or disability shall be permitted to sit while speaking.

Suspension of Standing Orders

- (a) The mover of a motion to suspend any standing order or orders shall state the clause or clauses of the standing order or orders to be suspended.
- (b) A motion to suspend, temporarily, any one or more of the standing orders regulating the proceedings and business of the council must be seconded, but the motion need not be presented in writing.

COUNCIL RESOLUTION:

Moved Cr Walsh, seconded Cr Strzina

That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.

Carried 11/0

9 PETITIONS/DEPUTATIONS/PRESENTATIONS**9.1.1 PETITION: VERA VIEW DOG BEACH: REMOVAL OF THE DOG
"CURFEW" FROM 1 NOVEMBER 2010 TO 31 MARCH 2011
10:00AM - 4:00PM**

Cr Walsh submitted a petition with 150 signatures which states "That Cottesloe Council remove the curfew from the Vera View dog beach"

Moved Cr Jo Dawkins, seconded Cr Victor Strzina

That the petition be accepted at this Council meeting and be discussed in item 13 of the agenda "New Business of an Urgent Nature Introduced by Elected Members"

Carried 11/0

The Mayor advised that the Council process for considering reports was that members would advise him of items that they required to be "withdrawn" for further discussion and that all remaining reports would then be moved "*en bloc*" as per the Committee recommendation. He then advised of the following withdrawn items and order for consideration;

Development Services Committee

- 11.1.1 No. 2 & 4 Athelstan Street - Five Aged Persons Dwellings - Further Report
- 11.1.2 Rights of Way / Laneways Policy Clarifications

Works and Corporate Services Committee

- 11.3.2 Wilderness Society of WA event at Cottesloe Civic Centre
- 11.3.1 Men's Shed at Mosman Park
- 11.3.5 Policy Review - Traffic Management
- 11.3.12 Donation Request – Cottesloe Primary School

New Business of an Urgent Nature Introduced by Elected Members/Officers by Decision of Meeting

- 13 Elected Member Motion – Cr Walsh Petition – Vera View Dog Beach – Removal of dog "Curfew"

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

- 11.3.3 Ordinary Election - Appointment of State Electoral Commissioner as Returning Officer for Postal Vote Elections
- 11.3.4 North Cottesloe Primary School - Donation for Steel Metal Statue Silhouettes
- 11.3.6 Policy Review - Temporary Crossings - Installation and Removal

- 11.3.7 North Cottesloe Primary School - Request for Donation to Car Free Project
- 11.3.8 Statutory Financial Reports for the Month of September 2010
- 11.3.9 Accounts Paid for the Month of September 2010
- 11.3.10 Property & Sundry Debtors Report for September 2010
- 11.3.11 General Electors Meeting & Acceptance of 2009/2010 Annual Report

Reports of Officers

- 10.1.1 Indiana Tea House – Monitoring Of Cleaning

Confidential Report

- 11.2.1 No. 68 Railway Street – Change of Use from Residential To Include Consulting Room / Professional Office – Appeal Matter

10 REPORTS OF OFFICERS**10.1 CHIEF EXECUTIVE OFFICER****10.1.1 INDIANA TEA HOUSE – MONITORING OF CLEANING**

File No: SUB/992
Attachments: [Memo to Councillors re Indiana](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 25 October 2010
Author Disclosure of Interest Nil

SUMMARY

In September 2010 Council resolved as follows;

That Council

1. *Support the request from Indiana for a contribution to undertake capital related refurbishment works planned for the Indiana public change rooms and toilets as outlined in this report.*
2. *Authorise the Chief Executive Officer to incur costs up to \$40,000 for the purposes of the refurbishment works as outlined in item 1.*
3. *Pursuant to Section 6.8 of the Local Government Act 1995*
 - i. *Authorise the following expenditure – capital related refurbishment works planned for the Indiana public change rooms and toilets at a cost of not more than \$40,000.*
 - ii. *Amend the 2010/2011 Adopted Budget (to accommodate the above authorised expenditure) as follows:*
 - a. *Increase the Other Property & Services Budget – Public Works – Contractors and Consultants (Expenditure) by \$40,000.*
 - b. *Decrease the Property Reserve by \$40,000*
4. *Be provided with a staff report next month on a plan to ensure that the cleanliness and maintenance of the facility is monitored and enforced to the standard of the Council, in the future, including appropriate staff responsibilities.*
5. *Be provided with a further report ensuring that this facility can remain open 24/7 with suitable safe guards if needed for community safety.*
6. *Be provided with a report on suitable locations and types of toilet facilities along the entire Cottesloe beach front.*

This report addresses part four (4) of the above resolution. Parts five (5) and six (6) will be reported separately in December 2010.

BACKGROUND

The cleaning and maintenance of the public toilets and change rooms at Indiana has been a point of contention for many years with regular complaints from the public about the state of the facilities, their general upkeep, maintenance and cleanliness. Many of these complaints come direct to Council (and elected members) on the assumption that Council is responsible for them.

The Lessee has been advised of the need for significant and visible change prior to the 2010 summer and a detailed officer assessment report has been prepared and provided to the Lessee in relation to facility cleaning and maintenance. Attachments one (1) and two (2) within the Councillor memo outline the expectations in this regard.

A meeting took place in August 2010 to discuss the intentions of the Lessee with regard the Town's work schedule and proposed refurbishments, as well as the current cleaning and maintenance regimes. The Lessee discussed a number of proposed changes/improvements which are scheduled for completion by the end of October 2010. The current refurbishment works include plumbing and new fittings, replacement tiling to showers and splash backs, new electrical fittings and floor/ceiling painting.

The potential impact of the proposed changes should clearly demonstrate to the community that significant improvements have been made. Maintaining the refurbished facilities via cleaning and maintenance regimes will now be vital.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Health Act
Indiana Lease

FINANCIAL IMPLICATIONS

The Lessee has proposed to undertake a combination of capital refurbishment and maintenance works at a cost of approximately \$80,000. In line with the above resolution from September 2010 Council has authorised expenditure for capital related refurbishment work up to \$40,000. The lessee is keen to undertake and complete all work, during October and prior to the busy summer season.

The primary cost to Council in undertaking the proposed monitoring regime will be in officer time.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Lessee and Manager – Indiana.
Town staff, including Principal Environmental Health Officer
Elected Members

STAFF COMMENT

Town staff (Environmental Health team) continue to ensure that the lessee maintains cleaning and maintenance standards as per Council's requirements and in accordance with current lease conditions, through ongoing monitoring and inspections and inclusive of formal written notification of minimal expectations.

A number of processes and changes have now been or will be implemented at the Indiana facilities as outlined in the attached Memo and include a range of procedures to monitor and clean the facilities, as well as signage, reporting documentation and monthly meetings with the Town. Maintenance related issues are to be monitored quarterly, documented and raised at meetings with Indiana management.

Regular monitoring of cleaning and maintenance by Town staff commenced from September 2010 and will be fully operational once all refurbishment works have been completed at the end of October 2010. With new signage and reporting requirements in place, Indiana management should be better placed to respond quickly when issues arise. In addition, a similar monitoring system and inspection regime will also be implemented for the public facilities at Barchetta in order to maintain consistency across both public facilities.

VOTING

Simple Majority

COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Boland

THAT Council

- 1. Note the information provided in relation to the monitoring of cleaning and maintenance at Indiana.**
- 2. Support the monitoring system and inspection regime as outlined in the attachment.**

Carried 11/0

11 REPORTS OF COMMITTEES**11.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 18 OCTOBER 2010****11.1.1 NO. 2 & 4 ATHELSTAN STREET - FIVE AGED PERSONS DWELLINGS - FURTHER REPORT**

File No:	2035
Attachments:	2 4 Athelstan.pdf
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	Ed Drewett Senior Planning Officer
Proposed Meeting Date:	18 October 2010
Author Disclosure of Interest	Nil
Property Owner	M J Hansen, Regalstar Investments P/L, Lohsum P/L, T Loh, D L Court, M Cooley, Action Engineering P/L
Applicant	Lawrence Scanlan & Associates Pty Ltd
Date of Application	25 August 2010 (Amended 16/9/10 & 13/10/10)
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Lot Area:	1667m²
M.R.S. Reservation:	Not applicable

BACKGROUND

On 28 September 2010 Council resolved:

That at the request of the applicant the item is deferred to the October Council meeting to enable further consideration of the latest revised plans by submitters, officers and elected members.

This report refers to plans received 16 September 2010 and also to plans received 13 October 2010 which were submitted to address a minor drawing inconsistency in respect to the proposed setback from Unit 1 to the secondary street boundary. These plans therefore supersede those received 25 August 2010 referred to in the previous report to Council and the proposal has been re-advertised to submitters.

The latest plans, covering letter from the architect, associated email and artist's impressions all conveying the proposal are attached, together with two signed petitions received during advertising.

A synopsis of the changes is provided, together with a copy of the previous report contained herein which should be referred to for a fuller appreciation of the proposal.

ADDITIONAL COMMENTS FROM APPLICANT

- Since the August submission, the upstairs family rooms to Units 1 & 5 have been deleted to reduce the size of the units;
- The Units now average 215m² each, which represents an average reduction of 46m² per unit since the earlier submission in 2009;
- The ground floor to all the units conform to disabled access requirements. This has necessarily increased the overall size in the habitable areas for this type of development; and
- The proposed pergola along the western boundary to the ground floor living areas of Unit 1 has been deleted.

ADDITIONAL PLANNING COMMENTS

The amended plans show an increased plot ratio to all the proposed units, with the exception of Unit 1, as detailed in the table below.

PLOT RATIO			
Unit No.	Plans submitted 25 August 2010	Plans submitted 16 September 2010	Difference in Plot Ratio
1	215m ²	206.44m ²	- 8.56m ²
2	211m ²	221.19m ²	+ 10.19m ²
3	202m ²	212.66m ²	+ 10.66m ²
4	211m ²	220.93m ²	+ 9.93m ²
5	214m ²	215.83m ²	+ 1.83m ²

All of the units are still more than double the maximum plot ratio area of 100m² permitted under the acceptable development standards of the RDC, and the fact that they may be smaller than that shown in the applicant's original proposal of 2009 (as detailed in the previous report), is not considered sufficient justification in itself for allowing the proposed development where a density concession is sought.

Furthermore, although the applicant has stated that it has been necessary for the overall size in the habitable areas to be increased to conform with disabled access requirements, this is also not considered to be significant justification for allowing the increased plot ratio, as the Residential Design Codes require developments with a compliant plot ratio of 100m² to accommodate wheelchair access in any event, and the applicant should therefore have factored this into the design prior to submitting the applications.

The Explanatory Guidelines in the Codes state:

The design of aged and dependent persons' dwellings must incorporate or allow for future incorporation of features that are required to serve the special needs of aged and dependent persons such as ramps and wider doorways and passageways to accommodate wheelchairs and handrails in bathrooms and toilets.

Two petitions, signed by a total of 22 residents, have been received following re-advertising. Any further submissions received will be tabled at the DSC and reported

to Council. Clearly, from the comments received there is still strong opposition to the proposal from local residents and the issues raised remain very similar to those received during the previous advertising period. Council will be familiar with the concerns of neighbours and residents in the locality from the previous reports, submissions and speakers on the matter.

Despite the latest revised plans and justifications provided by the applicant, as addressed in the previous reports and discussions on the proposal, the fundamental considerations relating to aged persons dwellings as guided by the RDC are assessed as having not been met, and indeed are significantly exceeded, in terms of the approach to the control of density, plot ratio and scale of development for this specialised type of housing.

The recommendation is to refuse the application, as provided below. However, should Council decide to approve the application as outlined, then condition (m) of the original conditions should be deleted as it is no longer applicable and the date of the plans for approval should be amended to reflect the current version. This is marked-up in the previous recommendation at the end of this report.

PREVIOUS REPORT TO COUNCIL

A copy of the previous report to Council in September 2010 is reproduced below for information:

SUMMARY

This application is seeking the following variations to Town Planning Scheme No 2 (TPS 2), Council's Policies and/or the Residential Design Codes (RDC):

- Plot Ratio (affecting density bonus sought under RDC)
- Walls on boundaries; and
- Retaining/fill in front setback.

Each of these aspects is discussed in this report and refers to plans received on 25 August 2010.

Following an assessment of the application it is recommended that the application be refused for the same reasons given by Council in its previous decision of 22 February 2010 for a similar proposal on these lots.

Notwithstanding this, an alternative recommendation is also provided so Council can consider its options when reviewing the application.

PROPOSAL

This application is for the demolition of two single dwellings and construction of 5 two-storey aged persons dwellings.

The proposed dwellings are attached and comprise:

Ground floor

- Master bedroom;
- Ensuite;
- Study;
- Kitchen/living/dining area;
- Laundry;
- WIR (Units 2, 3 & 4);
- Powder room;
- Store; and
- Double garage.

Upper floor

- 2 bedrooms with ensuite(s) (Units 1, 3 & 5)
- One guest bedroom with ensuite and Carer's Suite including separate bedroom and ensuite (Units 2 & 4);
- Family room (Unit 1 only);
- Upper floor (garden) terraces.

The dwellings are all of contemporary design, two with pitched roofs, two with skillion roofs and one with a flat roof.

BACKGROUND

A summary of recent planning applications previously considered by Council for this site is as follows:

25 May 2009

Council considered an application for 5 Aged Persons Dwellings and resolved:

The item be referred back to administration at the request of the applicant for further consideration for a future meeting of Council to address the issues raised in the Officer's report and for revised plans to be provided.

22 February 2010

Council considered a re-submission of the application for 5 Aged Persons Dwellings and resolved to refuse the application for the following reasons:

- (i) *The proposed dwellings do not represent small-scale, specialised housing that satisfies the requirements of the Residential Design Codes for a density concession to be considered for aged or dependent persons accommodation; and*
- (ii) *The proposed excessive plot ratio and density concession could set an undesirable precedent for similar-sized aged or dependent persons accommodation being sought that is inconsistent with the low-density residential zoning of the locality.*

STATUTORY ENVIRONMENT

- Town Planning Scheme No 2
- Residential Design Codes

PROPOSED LOCAL PLANNING SCHEME NO 3

No change is proposed to the zoning or density of these lots.

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE****Residential Design Codes**

Design Element	Acceptable Standards	Proposed Plot Ratio (based on applicant's calculations)	Performance Criteria Clause
7.1 – Special purpose dwellings	Maximum plot ratio for single houses and grouped dwellings – 100m ²	Unit 1 – 215m ² ; Unit 2 – 211m ² ; Unit 3 – 202m ² ; Unit 4 – 211m ² ; Unit 5 – 214m ²	Clause 7.1.2 – P2

Design Element	Acceptable Standards	Proposed	Performance Criteria Clause
6.3 – Buildings on Boundaries	Walls not higher than 3m with an average of 2.7m up to 9m in length to one side boundary	Eastern wall to Unit 5 has a length of 10.7m; Northern wall to Unit 1 has max. height of 3.7m, averaging 3.45m	Clause 6.3.2 – P2
6.6 – Site works	Excavation or filling between the street alignment and building, or within 3m, whichever is the lesser, not exceeding 0.5m, except where necessary to provide access for pedestrians or vehicles, or natural light for a dwelling	Up to 1m fill to Unit 1	Clause 6.6.1 – P1

CONSULTATION

The Application was advertised as per Town Planning Scheme No 2 and the Residential Design Codes. The advertising consisted of a letter to 11 adjoining

property owners (same as previously advertised). Five submissions were received, including a letter headed from the 'Residents of Athelstan Road' and signed by 9 adjoining property owners. The submissions are summarised below:

Letter signed by: B. Moore, 1 Athelstan St; N Cruickshank, 3 Athelstan St; J Wade, 5 Athelstan St; D Pope, 6 Athelstan St; P Elder, 7 Athelstan St; K Purich, 8 Athelstan St; A. Sudlow, 9 Athelstan St; S Foulds, 10 Athelstan St; E Birchmore, 15 Athelstan St.

- Has a sense of déjà vu as proposal does not appear to differ significantly from the previous proposal that was rejected;
- Whilst some 'small' changes and/or concessions have been made there is basically nothing that would change our view that the proposal as it stands should not be approved by Council;
- Is in full agreement with the views expressed by other residents of the street as stated in a letter dated 13 September 2010;
- If there was a demand for this type of housing it would have been included in Local Planning Strategy No 3;
- There is a significant amount of accommodation that provides for this housing configuration without being zoned as over 55s;
- The issue here is the abuse of the Codes by a developer to achieve these outcomes. If the proposal met the requirements of the Codes it is unlikely the residents would be raising an issue;
- Other similar density housing such as in the Flour Mill development is on the other side of the cul-de-sac so has less impact to residents and is located on R30 zoned land;
- The concessions provided under the Aged and Dependent Persons requirements are not being adhered to and the reductions in size and bulk proposed by the developer are largely immaterial changes;
- This proposal is for 5 units of approximately 211m² when the Codes stipulate a maximum 100m² for each dwelling. This is still a 111% increase over the stipulated size. The proposed reduction in size is not a significant modification and is still a long way from meeting the Codes;
- These are all still double-storey, 3-bed, 3-bath dwellings, some with two living areas or a second kitchen, when these dwellings are typically single-storey and designed for one/two residents. At 211m² these are nearly as large as a family home and could feasibly each accommodate 6 individuals;
- The proposal could set a precedent in the area for aged persons dwellings well outside the Codes and could be used to justify other developments, impacting on other residents;
- Noise could be generated from the upper floor terraces fronting the street particularly with the proposed increased density;
- The west-end of Athelstan Street currently has 13 dwellings and houses approximately 35 people. The proposed development would significantly change the demographic of the street;

- The street will change from a low density, quiet, family-orientated street to one where there is significantly higher density and traffic;
- The proposed density is more appropriate in Subi Centro rather than a quiet street in Cottesloe; and
- The development will devalue properties in the street.

D Dures, 1 Haining Avenue

- Objects to five buildings on the lots as they will be too obtrusive as a group.

B & M Goodlet, 3 Haining Avenue

- Objects to proposal;
- There will be a loss of privacy and value to property due to proposed rear balconies – need clarification that proposed 1.6m high screening will be from the top of slab;
- If balconies are removed, it is requested that they be replaced by windows at sufficient height and/or of a material that doesn't overlook our yard;
- A minimum 1.8m high boundary fence/wall above our ground level is required along the rear boundary to avoid privacy concern from the ground floor;
- Roofing materials should be non-reflective; and
- The proposed living areas appear significantly higher than that recommended for the over 55s concession that the developer is requesting.

APPLICANT'S JUSTIFICATION

The applicant has submitted a detailed submission with the application in support of the proposal (refer attached). Although principally the same as that previously submitted, albeit updated to reflect the current application, additional comments have also been made specific to this proposal. These are summarised below:

- The proposed units have been substantially reduced in size since the previous submission;
- The development complies with all the planning guidelines save for the size of the individual units. However, if a standard three house development was constructed, over 1667m² of plot ratio is allowed, and the over 55s scheme as presented only uses a total of 1053m² – 63% of what is allowable;
- The overall massing as presented to the street is substantially less overbearing than a 3-house design and the external modelling of the façade together with the eclectic palette of materials selected will ensure that the dwellings will sit comfortably within the streetscape;
- The garage to Unit 1 is proposed on the north-west corner of the site off the slip road which makes for a gentler, domestic character to the development at the point of maximum visual exposure;
- Units 2, 3, 4 and 5 have had their first floor areas reduced with 2 and 4 completely redesigned;

- The principle of deep setbacks to the upper floors is maintained and increased with the reduction or elimination of some family rooms;
- Total area of units were reduced initially by 317m² and in this submission reduced by a further 114m². This equates to an average reduction of 63m² per unit;
- At first floor level the front street terraces will be screened by 1.6m high hedges;
- First floor accommodation is designed for guests, grandchildren or live-in carers; and
- The current proposal is lower and has less impact on adjoining properties with any issues previously raised having been addressed.

PLANNING COMMENT

The main planning issues have not significantly changed since the previous submission, although the proposal has been have modified and the plot ratio reduced.

The proposed development complies with TPS 2, relevant Council Policies and the RDC for aged and dependent persons, with the exception of the following:

- Plot Ratio;
- Walls on boundaries; and
- Retaining/fill in the front setback.

Each of these issues is discussed below:

Plot Ratio

Under Town Planning Scheme No. 2 the lot is zoned Residential R20. This would permit a maximum of 3 single or grouped dwellings on the amalgamated lots. However, Clause 6.1.3 of the RDC states:

For the purposes of an aged or dependent persons' dwelling, the minimum site area may be reduced by up to one third, in accordance with part 7.1.2 and 7.1.3.

If the 1/3 reduction is applied then the average and minimum lot area may be reduced as shown below:

Single house or grouped dwellings (without reduction)	Aged or dependent persons' dwelling (with reduction)
Min. 440m ² Ave. 500m ²	Min. 293.34m ² Ave. 333.34m ²

On this basis, the amalgamated lots would accommodate 5 aged or dependent persons' dwellings.

The proposed minimum lot areas range from 329.25m² to 330.64m² which are all in excess of the minimum lot area permissible. In this respect, the issue with the proposed development arises over the proposed plot ratio for each dwelling.

Under Clause 7.1.2 of the RDC the Acceptable Development Standards for aged and dependent persons' dwellings state, inter alia:

A maximum plot ratio area of:

- *In the case of single houses or grouped dwellings – 100m²*

Plot ratio is defined as:

The ratio of the gross total of all floors of buildings on a site to the area of land in the site boundaries. For this purpose, such areas shall include the area of any walls but not include the areas of any lift shafts, stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, non-habitable space that is wholly below natural ground level, areas used exclusively for the parking of wheeled vehicles at or below natural ground level, lobbies or amenities areas common to more than one dwelling, or balconies or verandahs open on at least two sides.

The proposed plot ratio for each of the proposed dwellings compared to the previous application is as follows:

Unit	Proposed Plot Ratio (based on applicant's calculations)	Plot Ratio (previous applications)	
Unit 1 (western end)	215m ²	266.86m ²	243m ²
Unit 2	211m ²	265.52m ²	237m ²
Unit 3	202m ²	264.68m ²	223m ²
Unit 4	211m ²	260.84m ²	235m ²
Unit 5	214m ²	247.03m ²	229m ²

All of the proposed units are still more than double the maximum permitted plot ratio area permitted under the acceptable development standards of the RDC.

Furthermore, an assessment of the submitted plans revealed that the proposed dwellings actually exceed the individual plot ratios stated by the applicant and therefore revised plans have been requested to accurately show the correct floor layouts that are reflective of the figures provided based on the RDC definition; ie: for smaller dwellings than shown on the plans.

The relevant performance criteria of the RDC to consider a variation state:

Dwellings that accommodate the special needs of aged or dependent persons and which:

- *Are designed to meet the needs of aged or dependent persons;*
- *Are located in proximity to public transport and convenience shopping;*
- *Have due regard to the topography of the locality in which the site is located; and*
- *Satisfy a demand for aged or dependent persons' accommodation.*

The proposed development has been designed to take account of existing topography and will have reasonable access to public transport and shops (approx. 330m to the nearest bus stop and approx. 360m to the Eric Street shops based on a GIS assessment). This is walkable for the able-bodied.

The applicant has advised that the ground floor of the units will be designed to meet the needs of aged and dependent persons and the petition previously submitted by the applicant signed by local residents indicates that there may be demand for this type of housing.

Notwithstanding this, the plot ratio of each dwelling is still of concern, especially as the applicant has advised that the first floor accommodation is for guests and/or grandchildren, rather than being specifically designed to meet the needs of aged or dependent persons, albeit that a Carer's Suite is now included for Units 2 & 4.

The explanatory guidelines of the RDC further discuss the special purpose dwelling requirements and state:

The intention of this provision is to encourage the development of small-scale specialised housing in local communities, as an alternative to larger scale, relatively segregated complexes.

Because aged or dependent persons' dwellings are generally smaller than conventional dwellings, and the occupants do not usually have a high car ownership ratio, the codes under acceptable development provision 6.1.3 allow the reduction of the site area by one-third of that provided for by the code applying to the site, together with reduced car parking standards.

To prevent these concessions from being abused, for example as a back-door way of increasing density for standard housing without re-coding an area, the concessions are subject to four constraints:

- *There is a limit on the size of such dwellings;*
- *They must be purpose-designed;*
- *There is a minimum of five dwellings in a single development; and*
- *They are subject to a legal agreement to restrict occupancy.*

The guidelines also state:

It is important that dwellings designated aged or dependent persons are designed to allow for aging-in-place whereby dwellings cater for an individual to remain in their chosen place of residence even though their physical and sensory abilities may change over their lifespan, with certain minimum standards, as set out in appropriate Australian Standards, that are part of construction or can be introduced with relative ease. In particular, this would include designs with minimal use of levels or stairs,

adequate passageways and door widths, roofed car parking spaces, accessible utilities and slip-resistant floors for kitchens, laundries, bathrooms and toilets as described in the AS 4299-1995 Adaptable housing. This would result in such dwellings being more flexible to accommodate the changing needs of older people.

Although the applicant's supporting documentation may be taken into consideration, the proposed two-storey dwellings nevertheless do not represent small-scale specialised housing that meet the specific requirements of the Codes intended for a reduction in site area to be applied under the acceptable developments standards of the RDC.

This number of new two-storey dwellings would equate to an approximate density of R30, rather than the existing R20 code, and would have a greater visual impact on the existing streetscape than if the site were developed for 2 or 3 dwellings, albeit that the scale of such dwellings could potentially be larger than that proposed - although with greater separation and less continuous massing.

There is no objection to supporting 3 aged persons accommodation units on these lots with the proposed plot ratio (or larger) as this would satisfy the demand for providing this type of accommodation without compromising the existing R-Code density allocated to this area.

Alternatively, Council could approve the 5 aged persons dwellings as proposed under the relevant performance criteria of the RDC, or consider initiating a Town Planning Scheme Amendment to rezone the lots to Residential R30, which would permit the proposed density development 'as-of-right', rather than having to obtain a significant planning concession under the R-Codes. However, such a Scheme Amendment is likely to attract objections from residents and would generally be contrary to the existing R20 zoning proposed to remain under LPS 3 as recommended in the adopted Local Planning Strategy.

Building on Boundary

Unit 5 (eastern end) has a wall on the boundary that has a height varying between 2.1m and 3m, averaging 2.5m, which is allowable under the RDC, however, its proposed length is 10.7m which exceeds the maximum length permitted under the acceptable development standards of the RDC by 1.7m. Also, the height of the garage and store to Unit 1 along the northern boundary has a height up to 3.7m, averaging 3.45m, and so exceeds the maximum and average heights permitted under the acceptable development standards of the RDC, while its length is only 8.7m and therefore is otherwise compliant.

It is necessary to consider these walls on boundaries under the performance criteria of the RDC which state:

Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*

- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The proposed wall to Unit 5 will be setback behind the 6m front setback area and makes effective use of space considering that the proposed lot will be only 9.34m wide (less than the 10m width usually required for an R20 zone). It will also provide additional screening to the proposed wheelchair access ramp at the front of the unit without having a significant adverse effect on the amenity of the adjoining property.

The proposed garage/store to Unit 1 along the northern boundary makes effective use of space and is necessary to allow sufficient minimum headroom for vehicles entering or exiting the property, whilst also avoiding too steep a driveway gradient for seniors to use. The proposed wall should enhance privacy to the neighbour to the north and would be partially screened by existing trees and other vegetation to reduce its visual impact. No objection has been received from the adjoining property owner.

Retaining/fill in front setback

Fill and retaining up to 1m above NGL is proposed for the front of Unit 1 to provide a usable (flat) front garden area for the occupants with similar levels to the proposed finished floor level. This variation appears reasonable and can be considered under the performance criteria of the RDC which state:

Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property.

It would have little visual impact on the streetscape due to the existing topography along this section of Athelstan Street and it is a practical measure to provide good accessibility to this area for elderly persons and can be supported.

Additional Comments

Street Tree

The submitted plans show the removal of a street tree in front of Unit 1. However, the applicant has since confirmed that this was an error as the crossover to this Unit no longer necessitates its removal.

Building Height

The calculation of building height stems from Council's determination of natural ground level (NGL). Clause 5.5.1 of the Council's Town Planning Scheme No.2 expresses policy in relation to building height and paragraph (c) provides a basic formula in relation to measurement of such height.

The Council's Policy in relation to Building Heights states:

Provided that it is satisfied that the amenity of the neighbouring area will not be adversely affected, the Council will...measure building height for attached houses

and grouped dwellings from NGL as determined by Council at the centre of the area contained within the external walls of each individual house.

On this basis, the NGL at the centre of each proposed dwelling has been determined to be as shown in the table below, which has been derived using a site survey plan submitted by the applicant and drawn by a licensed surveyor.

ANGL (RL)	Unit 1 – 11.60
	Unit 2 – 11.30
	Unit 3 – 10.50
	Unit 4 – 9.75
	Unit 5 – 9.50

Based on this NGL the permitted and proposed heights (RL) are as follows:

Height parameter	Unit	Permitted	Proposed	<i>Proposed (previous application)</i>
ANGL +6m	Unit 1	17.60	17.60	17.60
+8.5m		20.10	18.80	18.85
	Unit 3	16.50	15.80	14.11
+8.5m		19.00	17.00	
	Unit 4	15.75	15.40	16.02
+8.5m		18.25	16.70	
ANGL +7m	Unit 2	18.30	17.50	18.16
	Unit 5	16.50	15.50	15.27

On this basis, all the proposed dwellings comply with Council's Building height requirements and are generally well below the maximum permitted building heights.

CONCLUSION

The latest proposal is effectively a variation on a theme, yet is a relatively modest improvement over the previous application. The revised plans attempt to address some of the concerns raised before; eg the entries and ground floors will now meet the standards for aged and disabled persons accommodation required under the RDC. Plot ratio is still a substantial fundamental departure from the normal standard specified for this type of housing.

Neighbour objections have again been received, albeit fewer individual submissions were received at this time.

Should Council remain concerned about the proposed increased density on the lots, the proposed plot ratio for each of the aged persons dwellings, and the objections raised during advertising, then the applicant should be advised that the application is not supported.

Alternatively, should Council consider that the proposal has now has adequate merit and sufficient satisfies the relevant performance criteria of the RDC, then a recommendation of approval is outlined.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the prospect of a deferral and took advice from the Manager Development Services that, although the latest revised plans were quite similar to the initial plans and the basic issues were well-known whereby the proposal was capable of being determined, deferral would afford the benefits of additional advertising, liaison and reporting before a final, more considered decision by Council. Committee concluded in favour of allowing more time.

OFFICER RECOMMENDATION

Moved Cr Walsh, seconded Cr Dawkins

1. That Council REFUSE the proposed five aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on 25 August 2010, for the following reasons:
 - (i) The proposed dwellings do not represent small-scale, specialised housing that satisfies the requirements of the Residential Design Codes for a density concession to be considered for aged or dependent persons accommodation; and
 - (ii) The proposed excessive plot ratio and density concession could set an undesirable precedent for similar-sized aged or dependent persons accommodation being sought that is inconsistent with the low-density residential zoning of the locality.

OR:

2. That Council GRANT its Approval to Commence Development of the proposed five aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on ~~25 August 2010~~ 16 September & 13 October 2010, subject to the following conditions:
 - (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.
 - (b) Stormwater runoff from the driveways or any other paved portion of the site shall not be discharged onto the street reserve/s, and right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings submitted for a building licence.
 - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The applicant applying to the Town of Cottesloe for approval to construct the proposed crossovers in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.

- (e) The existing redundant crossovers being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the specification and satisfaction of the Manager Engineering Services.
- (f) Air-conditioning plant and equipment shall be located closer to the proposed dwellings than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (g) The finish and colour of the boundary walls facing the northern and eastern neighbours shall be to the satisfaction of the Manager Development Services, with details being submitted as part of the building licence application.
- (h) The proposed development shall comply with the Acceptable Development Standards of the Residential Design Codes specific to Aged or Dependent Persons Dwellings, Clause 7.1.2 - A2 (iii) & (iv).
- (i) At least one occupant of each dwelling must be disabled, a physically-dependent person, aged over 55, or the surviving spouse of such a person, and prior to issue of a Building Licence the owners shall enter into a legal agreement with the Town of Cottesloe binding the owners, their heirs and successors in title requiring that this provision be maintained. All prospective purchasers shall be advised by the owner/developer or agent of this requirement, which shall also be included as a notification on all titles by the owner/developer.
- (j) The amalgamation of Lots 20 and 21 being finalised by the Western Australian Planning Commission before the commencement of development.
- (k) No verge trees adjoining the site are to be removed and the trees shall be protected at all times during demolition and construction, to the satisfaction of the Manager Engineering Services.
- (l) The owner(s) shall treat the roof surfaces to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- ~~(m) The design of the dwellings shall be modified to have plot ratios (in accordance with the definition of Plot Ratio in the Residential Design Codes) consistent with the plot ratios intended by the applicant as specified in the plans received on 25 August 2010. This shall be accurately shown on the detailed plans submitted for a Building Licence, to the satisfaction of and for approval by the Manager Development Services~~

3. Advise the submitters of the decision.

COMMITTEE COMMENT

Committee recognised the general demand for aged and dependent persons housing, of which it is supportive in-principle, yet it also saw the issues associated with the proposal.

There were mixed views about the size of the dwellings: on one hand those located in up-market areas may be expected to be larger, but on the other hand the plot ratios proposed could not be reconciled with the RDC parameters. The design and modifications were seen as essentially reasonable in themselves, albeit for an increased number of dwellings and at excessive dwelling sizes.

In response to the discussion Mr Jackson advised that the proposal equated to an R30 density in an R20 area. He also advised that the RDC-based mechanism to ensure compliance with this specialised type of housing was usually imposed as a condition – draft condition (i) refers – however, in practice this approach was sometimes problematic.

Overall, the majority of Committee members agreed that the fundamental aspects of density control and dwelling size as guided by the RDC, plus avoiding setting undesirable precedents, meant that refusal of the proposal is the appropriate outcome.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Birnbrauer

1. That Council REFUSE the proposed five aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown on the plans submitted on 16 September and 13 October 2010, for the following reasons:
 - (i) The proposed dwellings do not represent small-scale, specialised housing that satisfies the requirements of the Residential Design Codes for a density concession to be considered for aged or dependent persons accommodation; and
 - (ii) The proposed excessive plot ratio and density concession could set an undesirable precedent for similar-sized aged or dependent persons accommodation being sought that is inconsistent with the low-density residential zoning of the locality.
2. Advise the submitters of the decision.

Carried 5/2

AMENDMENT

Moved Cr Dawkins, seconded Mayor Morgan

That Council resolve to approve the proposal in accordance with option 2 of the original officer recommendation contained in the report.

Carried 6/5

For the Motion: Mayor Morgan, Cr Goldthorpe, Cr Rowell, Cr Cunningham, Cr Dawkins and Cr Strzina

Against the Motion: Cr Birnbrauer, Cr Boland, Cr Carmichael, Cr Walsh and Cr Woodhill

COUNCIL RESOLUTION

That Council GRANT its Approval to Commence Development of the proposed five aged persons dwellings at Nos. 2 & 4 Athelstan Street, Cottesloe, as shown

on the plans submitted on 16 September & 13 October 2010, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.
- (b) Stormwater runoff from the driveways or any other paved portion of the site shall not be discharged onto the street reserve/s, and right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings submitted for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The applicant applying to the Town of Cottesloe for approval to construct the proposed crossovers in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (e) The existing redundant crossovers being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the specification and satisfaction of the Manager Engineering Services.
- (f) Air-conditioning plant and equipment shall be located closer to the proposed dwellings than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (g) The finish and colour of the boundary walls facing the northern and eastern neighbours shall be to the satisfaction of the Manager Development Services, with details being submitted as part of the building licence application.
- (h) The proposed development shall comply with the Acceptable Development Standards of the Residential Design Codes specific to Aged or Dependent Persons Dwellings, Clause 7.1.2 - A2 (iii) & (iv).
- (i) At least one occupant of each dwelling must be disabled, a physically-dependent person, aged over 55, or the surviving spouse of such a person, and prior to issue of a Building Licence the owners shall enter into a legal agreement with the Town of Cottesloe binding the owners, their heirs and successors in title requiring that this provision be maintained. All prospective purchasers shall be advised by the owner/developer or agent of this requirement, which shall also be included as a notification on all titles by the owner/developer.

- (j) The amalgamation of Lots 20 and 21 being finalised by the Western Australian Planning Commission before the commencement of development.
- (k) No verge trees adjoining the site are to be removed and the trees shall be protected at all times during demolition and construction, to the satisfaction of the Manager Engineering Services.
- (l) The owner(s) shall treat the roof surfaces to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.

3. Advise the submitters of the decision.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 6/5

For the Motion: Mayor Morgan, Cr Goldthorpe, Cr Rowell, Cr Cunningham, Cr Dawkins and Cr Strzina

Against the Motion: Cr Birnbrauer, Cr Boland, Cr Carmichael, Cr Walsh and Cr Woodhill

11.1.2 RIGHTS OF WAY / LANEWAYS POLICY CLARIFICATIONS

File No: E13.1
Attachments: [Rights of Way Laneway.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 18 October 2010
Author Disclosure of Interest Nil

INTRODUCTION

The purpose of this report is four-fold, being to:

1. Clarify certain provisions of the ROW Policy which have come into question.
2. Remove any doubt as to whether ROW 14 has been exempted from upgrading.
3. Determine if the development at No. 41 Grant Street must contribute to the upgrading of ROW 14 as required by condition 7 of its approval.
4. Recommend how the Policy could be improved in this regard.

Because this matter relates to both planning and engineering strategies the item is submitted via the Development Services Committee; however, it is also of relevance to the Works & Corporate Services Committee, for a holistic approach by Council.

BACKGROUND

- Council's *Rights of Way / Laneways Policy* (copy attached) has been in place for several years, with the overarching aim of making all lanes public and their progressive upgrading (paving and drainage), including by developer contributions.
- The policy principles recognise the positives of laneway access, streetscape improvements, community benefits and streamlined maintenance.
- A recent development approval for a two-storey dwelling at 41 Grant St, featuring a rear double garage to ROW 14 as its sole vehicular access, has raised queries in connection with the upgrading requirement.
- This has prompted an internal review of the situation and a written request (copy attached) from the architect to waive the laneway upgrading condition.
- The matter is now drawn to Council's attention for further consideration of how the Policy is intended to function in general, as well as in relation to ROW 14 and 41 Grant St in particular.

POLICY FOCUS

- The thrust of the Policy favours securing laneways for constructed vehicular access and funding arrangements for upgrading works in the public interest.
- This is elaborated upon in the *Objectives, Principles, Issues* and *Policy* sections of the instrument.
- This framework and direction was introduced after a period of community consultation and adoption of the Policy by Council in December 2004.

- Recently Council has reinforced this strategic vision in resolving that a five-year program be created for the progressive upgrading of laneways throughout the district, which the Manager Engineering Services is preparing for Council adoption later this year.

POLICY MODIFICATION

- In 2005 the policy was modified as a result of the desire expressed by landowners abutting ROW 14 to exempt it from upgrading. The Town received a letter on 29 June 2005 accompanied by informal survey slips from properties abutting the laneway, with nine against upgrading and two for it.
- Clauses 14-16 were added only as generic provisions to address this option, as there is no reference to ROW 14 or any other laneway as an exemption.
- Hence the Policy contains the potential for individual waivers to be entertained on a case-by-case basis.
- The new clauses are quoted below, with key points underlined:

14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW / laneway to allow rear vehicle access, and the developer believes there is a substantial negative attitude from other affected landowners for such ROW / laneway improvements, it is up to the developer to demonstrate to Council that attitude.

15. Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of clause 16 to present Council with the case to prevent such sealing and drainage.

16. The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least 2/3rds of all landowners affected by the proposal supporting the 'no sealing and drainage' case and accepting that any future request to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of two thirds of those owners for a differential rating payment system for those properties to fund such improvement works.

- The modification was undertaken in accordance with the standard procedure to alter policy, comprising:
 1. Initial report to Council on 25 July 2005, which led to a resolution that officers devise a policy modification for laneway upgrading exemption. A letter dated 27 July 2005 advised the survey submitter of this action.
 2. Report back to Council on 27 September 2005 that obtained approval to advertise the proposed policy modification. A letter dated 4 October 2005 advised the survey submitter of this progress.
 3. Final report to Council on 28 November 2005, where the policy modification was adopted.
- Copies of these reports are attached. They convey the sequence of events, factors involved and scope of Council's ultimate decision.

- It is apparent that the draft modification was accepted, advertised and adopted without change. It can be seen that a couple of amendments were moved but lost. The resolutions for instigation and advertising were unanimous, while the concluding vote was divided.
- The modification was effected and has existed thereafter, although as far as officers are aware has not been utilised since inception.

OPERATION OF CLAUSES

- It can be deduced from the reports that the clauses are intended to operate as follows:
 1. In view of the spirit of the Policy, exemption from laneway upgrading is the exception rather than the rule, as landowners may be canvassed to gauge attitudes.
 2. The onus is on a developer or subdivider to evidence the support of landowners to no upgrading, and it is noted that the Policy does not guide the form of signatures gathered or their verification.
 3. The agreement of other landowners to no upgrading is contingent on them also (ie, at the same time) accepting to incur a differential rate if and when in future they agree to upgrading. In practice this double agreement may prove difficult to achieve. It is detected that clause 16 if not read carefully is a little ambiguous here. To be clear, it definitely links the signatories against upgrading to concurrent acceptance of those signatories to differential rating if and when an upgrading proposition arises and they agree to it in future. It is then the minimum two-thirds landowners opting for upgrading who would pay, whether previously opposed, other landowners from before or more recent landowners. The emphasis in the Policy is that there must be *prior* acceptance to that should it eventuate. This is borne-out in the reports to Council in discussing maintenance implications and cost responsibilities, and the Manager Engineering Services has advised that this was always the intent.
 4. Council is to sanction the outcome in each instance, rather than officers under delegation. It is discerned that obtaining the threshold support is the first step and Council's consent is the second. Council's conscious decision each time is important, as circumstances might necessitate upgrading; eg, drainage problems, increased density, extensive subdivision and significant redevelopment.
- In summary, the Policy provides a process to test the prospect of exemption sufficient for Council to evaluate a request, together with any additional considerations.

CRITIQUE OF CLAUSES

- The motivation for the exemption clauses as a mechanism to enable the prevention of upgrading is acknowledged. Nonetheless, closer analysis has identified that the provisions may not be entirely appropriate or could be improved, in that:
 1. They are inconsistent with the gist of the policy for ideally upgraded laneways, albeit that Council has agreed to them.
 2. They vary conventional planning wisdom (ie, as reflected in the Residential Design Codes, etc) to take advantage of laneways for a range of gains, including: streetscape and urban design; traffic management and safety;

access, convenience and security; high standards of infrastructure and amenity; efficient use of space; and adding value to properties. This was mentioned in the earlier reports to Council.

3. Exemption is arguably inequitable and doesn't cater for changing needs or aspirations over time; eg, properties selling, owners redeveloping, evolving planning rules, design innovations, and so on. In addition, for how long an exemption lasts is not prescribed and could be limited to say five-yearly surveys for Council's determination each time.
 4. How the landowners are surveyed and recorded, and how those in support of exemption are held to a differential rate if upgrading is reverted to, is not stipulated. Preferably Council should provide a standard form. Maybe deeds of agreement, or notifications or caveats on title, all of which would be cumbersome and costly to whoever is deemed to pay, are required to secure the commitments to differential rating and avoid disputation. Realistically, it would be better to not get too complicated, provided that the survey adequately communicates the prospective differential rating and Council is satisfied with the probity of the responses.
 5. Any laneways exempted should be listed in the Policy as a publicly-available record.
- Notwithstanding this assessment of the efficacy of the clauses, they do prevail unless Council wishes to revisit this aspect of the Policy.
 - These observations suggest that a few minor technical enhancements to the wording of the clauses for accuracy and consistency are warranted, which could be made administratively without affecting the fundamentals (ie, instead of a substantial modification entailing advertising and adoption).

COUNCIL RESOLUTION

- Council's original resolution towards modifying the Policy is cited hereunder and is quite straightforward, yet there is some confusion about the status of ROW 14 from these past deliberations. Current Elected Members then present may recall the discussion and Council's outlook on the matter.

That Council:

(1) Inform the owners of properties fronting Right of Way No. 14 who have made comment on the possible sealing of Right of Way No. 14 that:

- (a) Council has no long term plans to fund the sealing of all laneways in the Town of Cottesloe;*
- (b) There are no plans or budget allocations for the sealing of ROW No. 14;*
- (c) 48% of all Town of Cottesloe laneways are already sealed, brick paved or concreted, with this percentage increasing due to development conditions;*
- (d) Current development conditions requiring the sealing of laneways have been in place for many years and only apply if a landowner wishes to get vehicle access to a new development or sub-division via the laneway;*
- (e) There are no plans to conduct surveys of landowners regarding sealed laneways;*

(2) Thank the provider of the survey details for the provided information regarding Right of Way No. 14; and

(3) Request staff to develop a policy modification which will:

- (a) Allow laneways to remain unsealed subject to the support of two-thirds of adjoining owners; and*
 - (b) Make it clear that any future request to seal these affected laneways will only be funded by differential rating subject to the support of two-thirds of adjoining owners or not proceed at all.*
- Although the historical concern amongst some landowners along this laneway to prevent its upgrading was addressed and Council modified the Policy, in all seriousness nothing has been discovered to show that in so doing Council explicitly exempted ROW 14 pursuant to its decision.
 - Indeed, the tenor of the resolution is interpreted to advise the subject landowners that, while Council was prepared to modify the Policy for an alternative scenario, it did not wish to promote exemptions and did not specifically endorse ROW 14 (or any other) as exempt; however, the wording reassured those landowners that ROW 14 was not flagged to be upgraded.
 - Conceivably Council was remiss in not dealing with ROW 14 at that stage, or subsequently commencing the process to formalise the exemption request. On the other hand, as mentioned Council may have been of a mind that while willing to support the principle of the modification it did not want to endorse any particular exemption at that juncture but to await developers / landowners to invoke the clauses.
 - The perhaps understandable belief from those landowners is that Council in modifying the Policy implicitly gave consent to the exemption of ROW 14. However, strictly-speaking an exemption couldn't be granted until after the Policy modification was confirmed and the full procedure carried-out, which was not done.

ARCHITECT'S REQUEST

- The architect for the approved development presumes previous exemption of ROW 14 from upgrading, whereby signatures and agreement to a possible future differential rate do not have to be attended to on this occasion.
- In this respect the architect's statement that Council has not demonstrated prior acceptance of landowners to a differential rating to fund upgrading is misplaced, given that:
 - 1. The Policy invites this evidence from an applicant.
 - 2. The absence of such information for ROW 14 indicates that laneway has not undergone the Policy requirements to seek exemption.
- Therefore, taking into account the analysis offered in this report, this claim to waive the upgrading condition cannot be sustained.
- The Manager Engineering Services has assisted the architect with the extent, standard and estimated cost of upgrading. As mentioned, constructed laneway access represents an asset both physically and financially.

CONCLUSION

- The concern and confusion surrounding the Policy in connection with ROW 14 can be appreciated, despite that fact that the Policy is silent regarding any exemption.
 - The research and review performed to clarify this matter has been essential, due to the wider implications for implementation of the Policy and how laneways are
-

managed, as well as to facilitate the approved development at 41 Grant St and future developments.

- As to ROW 14, in 2005 the landowner sentiment was to leave the laneway in a non-upgraded state; however, the prerequisite of also signifying future differential rating should upgrading become desired was not dealt with then or once the Policy modification was completed.
- On balance, it is concluded that Council is faced with a choice to either: (i) morally accept ROW 14 as exempt; or (ii) ascertain that ROW 14 is not exempt as the Policy process has not been followed. If Council determines the latter then it is up to the landowners or the architect to act on clauses 14-16 should they still want to.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed this matter in some detail. It was considered that clauses 14-16 were unclear and could be improved as recommended. It was also appreciated that the situation in relation to ROW 14 appeared untidy and a response regarding 41 Grant St is required. In that respect the extent of upgrading by No. 41 was queried and Mr Jackson reminded Committee how this is guided by the Policy in the established manner, ie a connection to the nearest sealed section of the laneway is to be provided by the developer for continuity of upgraded access. The requirement was not under review by this item, only the subject aspect of the policy.

Discussion ensued regarding whether ROW 14 should be allowed as exempt in the circumstances (noting that it is relatively short and a dead-end), but that exemptions should then not be continued with. In this respect clauses 14-16 were seen as unwieldy and the differential rating requirement as difficult to administer. Mr Jackson explained how it is necessary to report to Council for determination each time a lane is proposed to be exempted. It was suggested that it may be better to delete the exemption provisions altogether.

Mr Jackson commented that the finding regarding ROW 14 would understandably most likely be disappointing to those adjacent landowners still in favour of no upgrading, however, given the strategic outlook of the Policy and its district-wide application, the matter was important to be clarified for all concerned. He cautioned against automatic removal of clauses 14-16 without further consideration and proper process including community consultation. Committee made an amendment to add to the recommendation accordingly, whilst preserving the other points to address the particular needs and Policy improvements at this stage.

OFFICER RECOMMENDATION

Moved Cr Boland, seconded Cr Dawkins

That Council:

1. Notes this report about the situation and operation pertaining to Council's *Rights of Way / Laneways Policy*.

2. Advises the architect for the approved development at 41 Grant Street that condition 7 requiring upgrading of the laneway is still required to be fulfilled, because ROW 14 is not considered by Council as exempted from upgrading under the Policy, as exemption can only occur in accordance with the process described in clauses 14-16 of the Policy.
3. Reminds the architect that condition 8 of the approval requiring removal of the existing crossover from Grant Street is required to be met.
4. For all exempted ROW / laneways, affirms the requirement for differential rating in the event of a future upgrading proposal pursuant to clause 16 of the Policy.
5. Directs that any exemptions are listed in a table attached to the Policy as follows:

TABLE OF ROW / LANEWAYS FOR WHICH COUNCIL HAS GRANTED EXEMPTION FROM UPGRADING PURSUANT TO CLAUSES 14-16 OF THIS POLICY

<i>ROW / Laneway</i>	<i>Date of Council decision</i>

6. Authorises officers to make the following technical improvements to the wording of clauses 14-16 of the Policy as an administrative step for the sake of clarity:

Deletions shown struck-out and additions shown underlined:

14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW / laneway to allow rear vehicular access, and the developer or subdivider believes there is a substantial negative attitude from other affected landowners for such ROW / laneway improvements, it is up to the developer or subdivider to demonstrate to Council that attitude.
15. Where no application for a development or subdivision has been received relating to the ~~drainage and sealing~~ and drainage of a ROW / laneway, and one or more landowner wishes to prevent the sealing and drainage of a ROW / laneway, then the concerned landowner(s) ~~would~~ may undertake the requirements of clause 16 to present Council with the case to prevent such sealing and drainage.
16. The demonstration of a local landowner attitude against the ~~drainage and sealing~~ and drainage of a ROW / laneway to meet a development or subdivision condition must include the signatures of at least two-thirds of all landowners affected by the proposal supporting the 'no sealing and drainage' case, and at the same time accepting that any future request to Council from any affected (ie previous or subsequent) landowner to upgrade ~~or seal~~ that ROW / laneway must include an acceptance of at least two-thirds of those landowners for a differential rating payment

system for those properties whose landowners support upgrading to fund such improvement works.

AMENDMENT

Moved Cr Dawkins, seconded Cr Strzina

That a point 7 be added to the decision as follows: *Requests officers to report-back to Council on the prospect of and process for considering the possible deletion of clauses 14-16 from the Policy.*

Carried 6/0

COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Birnbrauer

That Council:

1. Notes this report about the situation and operation pertaining to Council's *Rights of Way / Laneways Policy*.
2. Advises the architect for the approved development at 41 Grant Street that condition 7 requiring upgrading of the laneway is still required to be fulfilled, because ROW 14 is not considered by Council as exempted from upgrading under the Policy, as exemption can only occur in accordance with the process described in clauses 14-16 of the Policy.
3. Reminds the architect that condition 8 of the approval requiring removal of the existing crossover from Grant Street is required to be met.
4. For all exempted ROW / laneways, affirms the requirement for differential rating in the event of a future upgrading proposal pursuant to clause 16 of the Policy.
5. Directs that any exemptions are listed in a table attached to the Policy as follows:
 - a. TABLE OF ROW / LANEWAYS FOR WHICH COUNCIL HAS GRANTED EXEMPTION FROM UPGRADING PURSUANT TO CLAUSES 14-16 OF THIS POLICY

<i>ROW / Laneway</i>	<i>Date of Council decision</i>

6. Authorises officers to make the following technical improvements to the wording of clauses 14-16 of the Policy as an administrative step for the sake of clarity:

Deletions shown struck-out and additions shown underlined:

14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW / laneway to allow rear vehicular access, and the developer or subdivider believes there is a substantial negative attitude from other affected landowners for such ROW / laneway improvements, it is up to the developer or subdivider to demonstrate to Council that attitude.

15. Where no application for a development or subdivision has been received relating to the ~~drainage and sealing~~ and drainage of a ROW / laneway, and one or more landowner wishes to prevent the sealing and drainage of a ROW / laneway, then the concerned landowner(s) ~~would~~ may undertake the requirements of clause 16 to present Council with the case to prevent such sealing and drainage.

16. The demonstration of a local landowner attitude against the ~~drainage and sealing~~ and drainage of a ROW / laneway to meet a development or subdivision condition must include the signatures of at least two-thirds of all landowners affected by the proposal supporting the 'no sealing and drainage' case, and at the same time accepting that any future request to Council from any affected (ie previous or subsequent) landowner to upgrade ~~or seal~~ that ROW / laneway must include an acceptance of at least two-thirds of those landowners for a differential rating payment system for those properties whose landowners support upgrading to fund such improvement works.

7. Requests officers to report-back to Council on the prospect of and process for considering the possible deletion of clauses 14-16 from the Policy.

The amended substantive motion was put.

Cr Walsh declared a Proximity interest in Item 11.1.2 due to his property backing on to ROW 14 and left the meeting at 8:13 PM.

AMENDMENT

Moved Cr Birnbrauer, seconded _____

1. To delete condition 4 to 7 and insert a new item 4 to read: "Advise the architect to further canvass the owners of the surrounding properties to obtain signatures regarding the bitumen on the laneway and agreeing to a deferential rating clause in the future.
2. To add a new item 5 to read: to authorise the officers to make technical improvement in clause 14 and 16 which will make it clear to avoid future misinterpretation.

THE MOTION LAPSED FOR WANT OF A SECONDER

AMENDMENT

Moved Cr Boland, seconded Cr Birnbrauer

That item 5 and 6 in the officer recommendation be removed

Lost 2/8

AMENDMENT

Moved Mayor Morgan, seconded _____

That item 7 in the officer recommendation be removed

THE MOTION LAPSED FOR WANT OF A SECONDER

COUNCIL RESOLUTION

That Council:

1. Notes this report about the situation and operation pertaining to Council's *Rights of Way / Laneways Policy*.
2. Advises the architect for the approved development at 41 Grant Street that condition 7 requiring upgrading of the laneway is still required to be fulfilled, because ROW 14 is not considered by Council as exempted from upgrading under the Policy, as exemption can only occur in accordance with the process described in clauses 14-16 of the Policy.
3. Reminds the architect that condition 8 of the approval requiring removal of the existing crossover from Grant Street is required to be met.
4. For all exempted ROW / laneways, affirms the requirement for differential rating in the event of a future upgrading proposal pursuant to clause 16 of the Policy.
5. Directs that any exemptions are listed in a table attached to the Policy as follows:

- b. TABLE OF ROW / LANEWAYS FOR WHICH COUNCIL HAS GRANTED EXEMPTION FROM UPGRADING PURSUANT TO CLAUSES 14-16 OF THIS POLICY

<i>ROW / Laneway</i>	<i>Date of Council decision</i>

6. Authorises officers to make the following technical improvements to the wording of clauses 14-16 of the Policy as an administrative step for the sake of clarity:

<i>Deletions shown struck-out and additions shown underlined:</i>

- 14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW / laneway to allow rear vehicular access, and the developer or subdivider believes there is a substantial negative attitude from other affected landowners for such ROW / laneway improvements, it is up to the developer or subdivider to demonstrate to Council that attitude.**
- 15. Where no application for a development or subdivision has been received relating to the ~~drainage and sealing~~ and drainage of a ROW / laneway, and one or more landowner wishes to prevent the sealing and drainage of a ROW / laneway, then the concerned landowner(s) ~~would~~ may undertake the requirements of clause 16 to present Council with the case to prevent such sealing and drainage.**
- 16. The demonstration of a local landowner attitude against the ~~drainage and sealing~~ and drainage of a ROW / laneway to meet a development or subdivision condition must include the signatures of at least two-thirds of all landowners affected by the proposal supporting the 'no sealing and drainage' case, and at the same time accepting that any future request to Council from any affected (ie previous or subsequent) landowner to upgrade ~~or seal~~ that ROW / laneway must include an acceptance of at least two-thirds of those landowners for a differential rating payment system for those properties whose landowners support upgrading to fund such improvement works.**

7. Requests officers to report-back to Council on the prospect of and process for considering the possible deletion of clauses 14-16 from the Policy.

THE SUBSTANTIVE MOTION WAS PUT

Carried 10/0

Cr Walsh returned to the meeting at 8:37 PM

11.2 CONFIDENTIAL REPORT**MOTION TO MEET BEHIND CLOSED DOORS**

Moved Mayor Morgan, seconded Cr Strzina

In accordance with Standing Order 15.10 “That the Council meets behind closed doors – Effect of Motion” (LG Act s5.23) that Committee discuss late item 12.1.1: No. 68 Railway Street – Change of Use from Residential to include Consulting Room / Professional Office – Appeal Matter, and that it be dealt with behind closed doors

In accordance with Section 5.23 (2) of the Local Government Act 1995 the meeting is closed to members of the public, with the following aspect(s) of the Act being applicable to this matter:

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

Carried 11/0

Mayor Morgan adjourned the meeting at 9:33pm

Mayor Morgan reconvened the meeting at 9:34pm

ATTENDANCE:

Mayor Kevin Morgan	Presiding Member
Cr Jack Walsh	
Cr Jay Birnbrauer	
Cr Rob Rowell	
Cr Greg Boland	
Cr Dan Cunningham	
Cr Ian Woodhill	
Cr Jo Dawkins	
Cr Victor Strzina	
Cr Davina Goldthorpe	
Cr Patricia Carmichael	

Mr Graham Pattrick
Mr Andrew Jackson
Mrs Lydia Giles

**11.2.1 NO. 68 RAILWAY STREET – CHANGE OF USE FROM RESIDENTIAL TO
INCLUDE CONSULTING ROOM / PROFESSIONAL OFFICE – APPEAL
MATTER**

File No: 1978
Attachments: [Confidential Report and attachments](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services



CONFIDENTIAL REPORT NOT INCLUDED

COMMITTEE RECOMMENDATION

Moved Cr Boland, seconded Cr Dawkins

That Council determines its position on the revised proposal, having regard to the recommendation contained in the officer report, in order to advise the State Administrative Tribunal and the applicant at the next mediation conference in this matter.

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That Council resolves to adopt the first option contained in the recommendation for advice to the State Administrative Tribunal and the applicant at the next mediation conference.

Carried 11/0

COUNCIL RESOLUTION

That Council resolves to adopt the first option contained in the recommendation for advice to the State Administrative Tribunal and the applicant at the next mediation conference.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 11/0

MOTION TO PROCEED WITH OPEN DOORS

Moved Mayor Morgan, seconded Cr Strzina

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

Carried 11/0

Door open 9:41pm

The public were invited back into the room in order for the Presiding Member to read aloud the Council Resolution.

11.3 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 19 OCTOBER 2010**11.3.1 MEN'S SHED AT MOSMAN PARK**

File No: SUB/1107
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

This report recommends that Council agree to consider the inclusion of \$20,000 funding for the Men's Shed in the budget for each of the next 2 financial years commencing in 2011/12.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

This is outside the guidelines of the Donations Policy.

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

The request is for \$20,000 each year for 2011/2012 & 2012/2013

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

There has been extensive research carried out by the proponents for this concept. They have primarily been working with staff and elected members of the Town of Mosman Park but also have involved staff and elected members of the Town of Claremont and Shire of Peppermint Grove as well as staff from the Town of Cottesloe. There has been consultation with Lotterywest, Office of Crime Prevention, Healthway and WA Police as well as local community groups like Probus and the Rotary Club.

STAFF COMMENT

The Mosman Park Men's Community Shed is a project to build a diverse workshop, wood and metal working area, kitchen and meeting room. The theme is about men feeling useful and contributing again to their communities, learning or sharing their

skills, making friends, networking and availing themselves of health information programmes and opportunities. Men's Sheds are under the auspices of a variety of organisations whose ethos they tend to exemplify.

The target for the Men's Shed is to provide men over the age of 55 within the local government area of the G4 (Cottesloe, Claremont, Mosman Park & Peppermint Grove) with an environment where they can mix with their peers and strengthen the local communities. Research indicates there are 2,500 men who meet these criteria in the G4. The organisers are aiming for an initial membership of 200 people in the first year.

The \$780,000 construction costs of the shed are proposed to be met with a grant that has been lodged with Lotterywest. The \$250,000 fit-out costs are proposed to be met by Healthway. The Town of Mosman Park have donated the land required for the project. The Mosman Park Rotary Club is providing \$30,000 to cover the initial running costs.

The Town of Mosman Park and the Town of Claremont have been approached to fund \$20,000 pa for the next 2 years. The Shire of Peppermint Grove have been approached to fund \$10,000 pa for the next 2 years.

The Men's Shed aims to provide activity, identity and meaning for older, unemployed, job-redundant, 'downsized', isolated, depressed and happily retired, active, creative, enthusiastic men. Men's Sheds are recognized as vital, viable places to fulfil these needs and provide relaxed, happy creative spaces for men to enjoy.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

THAT Council agree to consider the inclusion of \$20,000 funding for the Men's Shed in the budget for each of the next 2 financial years commencing in 2011/12.

Carried 11/0

Cr Boland declared an Impartiality interest in Item 11.3.2 by virtue of being a member of Wilderness Society and declared to vote based on its merit.

Mayor Morgan declared an Impartiality interest in Item 11.3.2 by virtue having a booking in the Civic Centre on the same proposed date and declared to vote based on its merit.

11.3.2 WILDERNESS SOCIETY OF WA EVENT AT COTTESLOE CIVIC CENTRE

File No: SUB/126
Attachments: [Wilderness.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

The Wilderness Society of WA have requested permission to hold a 'Protect the Kimberley' community forum at the Civic Centre. This report recommends Council approve this request.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

The Outdoor Concerts & Large Public Events policy and guidelines are both relevant when considering this application. As stated in the policy:

(b) All outdoor concerts and major public events shall comply with the Town of Cottesloe's Guide to Outdoor Concerts and Large Public Events.

In additional the policy states that:

(f) An application for an event is to be made to Council on the Event Application and Checklist Form not less than 90 days prior to an event. The CEO may request additional information or action as deemed appropriate

(g) The in-principle support of the Council of the Town of Cottesloe to stage an outdoor concert or large public event does not constitute an approval. Approval for an event will only be given by the CEO upon satisfactory compliance with all statutory and other requirements at least 24 hours prior to the commencement of an event.

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

As the Wilderness Society is a charitable organisation and there is anticipated to be less than 1,000 patrons to this event, it is classified as Category 1 in our fees and charges. This means the Wilderness Society will be required to pay a \$550 fee (including GST) and a refundable \$1,000 bond.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

This request was discussed at the Events Committee on Tuesday the 5th of October, 2010 and it was agreed to be referred to Council for a decision.

STAFF COMMENT

The Civic Centre is a good venue for an events and functions. The event is unlikely to cause a disturbance to local residents as it finishes early, is family based and will not have loud music.

The event is scheduled to run on November 28th from 9am to 1pm with the forum section going for an hour from 11am to noon. The organisers want to have 2 or 3 stalls set up on the northern end of the main lawn. They plan to have 3 or 4 guest speakers using a small PA system and want to have a small jazz band playing.

It is estimated that there will be approx. 450 people.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Strzina, seconded Cr Walsh

THAT Council:

- 1. Approve the Wilderness Society hosting a community forum in the grounds of the Civic Centre on the 28th of November, 2010;**
- 2. Class the event as a charity community event, category 1, with a \$550 fee and a \$1000 bond.**

Carried 7/4

11.3.3 ORDINARY ELECTION - APPOINTMENT OF STATE ELECTORAL COMMISSIONER AS RETURNING OFFICER FOR POSTAL VOTE ELECTIONS

File No: SUB/1121
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

A recommendation is made to declare, in accordance with section 4.20(4) of the *Local Government Act, 1995*, the Electoral Commissioner to be responsible for the conduct of the 2011 ordinary elections together with any other elections or polls which may also be required and to decide, in accordance with section 4.61(2) of the *Local Government Act, 1995*, that the method of conducting the election will be as a postal election.

BACKGROUND

To assist in budget preparations the WA Electoral Commission has provided Council with an estimate for the next scheduled ordinary elections, planned for 15 October 2011.

The current procedure required by the *Local Government Act, 1995* is that the Electoral Commissioner's written agreement is to be obtained before the vote is taken. To facilitate the process, the letter received by the Town from the Electoral Commissioner can be taken as agreement to be responsible for the conduct of the ordinary elections in 2011 for the Town of Cottesloe, together with any other elections or polls that may also be required.

STRATEGIC IMPLICATIONS

The following section of the Town of Cottesloe Future Plan applies:

Section 4: Underpinning sustainability principles

- (3) *Good Governance: Leadership, transparency, accountability, probity, proper management, effective services, equitable access to services, commitment to partnership working and organisational capacity building.*

Council acknowledges the views and interest of all components of the community and strives to achieve a balanced and proactive position on issues which affect public, commercial and private sectors.

To the extent that postal elections encourage broader participation in local government elections, postal elections can be seen as strengthening the

acknowledgement that Council gives to "... the views and interest of all components of the community."

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Local Government Act, 1995 – Sections 4.20(4) and 4.61(2) which read as follows:

4.20 CEO to be returning officer unless other arrangements are made

(1) *Subject to this section the CEO is the returning officer of a local government for each election.*

(2) *A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for an election.*

*** Absolute majority required**

(3) *An appointment under subsection (2) has no effect if it is made after the 80th day before election day.*

(4) *A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election.*

*** Special majority required**

(5) *A declaration under subsection (4) has no effect if it is made after the 80th day before election day.*

(6) *A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.*

4.61 Choice of methods of conducting the election

(1) *The election can be conducted as a -*

"postal election" which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

"voting in person election" which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted, or delivered, in accordance with regulations.

(2) *The local government may decide* to conduct the election as a postal election*

*** Special majority required**

(3) *A decision under subsection (2) has no effect if it is made after the 80th day before election day.*

(4) *A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.*

(5) *A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.*

(6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.

(7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

FINANCIAL IMPLICATIONS

The estimated cost for the 2011 election is \$23,000 plus GST, which has been based on the following assumptions:

- 5,450 electors;
- response rate of approximately 50%;
- 5 vacancies; and
- count to be conducted at the premises of the Town of Cottesloe.

Costs not incorporated in the estimate include:

- non-statutory advertising (i.e. additional advertisements in community newspapers and promotional advertising);
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns; and
- one local government staff member to work in the polling place on election day.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

Given that Council's previous election was held via postal elections and voter turnout was increased, this method of voting is recommended for the 2011 Ordinary Elections.

VOTING

Absolute Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

That Council:

- 1. Declare, in accordance with section 4.20(4) of the Local Government Act, 1995, the Electoral Commissioner to be responsible for the conduct of the 2011 ordinary elections together with any other elections or polls which may also be required; and**

2. Decide, in accordance with section 4.61(2) of the Local Government Act, 1995, that the method of conducting the election will be as a postal election.

Carried 11/0

11.3.4 NORTH COTTESLOE PRIMARY SCHOOL - DONATION FOR STEEL METAL STATUE SILHOUETTES

File No: SUB/143
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

At its May 2010 meeting, Council resolved to:

- 1. Seek advice from Main Roads WA and LGIS on the suitability and liability issues raised by the proposed installation of five steel silhouette figures to be installed on Eric Street road verge fronting the North Cottesloe Primary School.*
- 2. Inform the North Cottesloe Primary School on Council's decision, which will not affect the grant application approval but may affect the final location or material of the proposed structures.*

Main Roads WA and LGIS advice is now available. The recommendation is that Council resolve to inform the North Cottesloe Primary School that due to concerns and advice provided by Main Roads WA and Council's insurers, approval can not be given to the installation of a number of steel silhouettes on the Eric Street road verge in front of the North Cottesloe Primary School and that the alternative sites inside the school boundaries would be recommended.

BACKGROUND

The North Cottesloe Primary School requested and were approved a \$5,000 donation for the creation and installation of a series of steel cut out figures (5) in the shape of children, to be installed behind the Eric Street kerb line fronting the school. The steel thickness is 5 millimetres and the aim is to slow vehicles on Eric Street down as they pass the school and to reduce the use of vehicles past the school. The problem is the safety and liability of such steel figures close to cyclists and vehicles using Eric Street, and the level of distraction to drivers and cyclists.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Main Roads WA has concerns with obstructions on the road verge which do not collapse to reduce damage or injury. Council's liability regarding potential accidents therefore becomes pertinent.

FINANCIAL IMPLICATIONS

\$5,000 is the donation cost. Ongoing maintenance, including removal of graffiti, would be a further recurrent cost. If Council is liable for injury claims, (because of the road reserve location), then such costs could be substantial.

SUSTAINABILITY IMPLICATIONS

Nil, apart from energy efficiency where slower vehicles would use less fuel and less car use to deliver or pick up children at the school.

CONSULTATION

The results of consultation with Main Roads WA and Council's insurers – LGIS – is included.

STAFF COMMENT

The proposed silhouettes, as covered by the Main Roads WA letter are proposed to attract the driver's attention and to advertise a message. Regardless of the value of the message, the silhouettes will form a series of shapes on a busy and often confusing section of Eric Street. The increase in the number and variety of signs and devices or road verges is reducing the effectiveness of control signs for pedestrian and vehicular traffic. Installing multiple large silhouette children shapes close to Eric Street in front of the school may impact on child safety and potential liability.

If these sheet steel shapes are to be installed permanently near Eric Street, the potential for vandalism and graffiti also increases, including the shapes being pulled out and either stolen or thrown onto the street.

The alternative location suggested inside the school grounds would remove these issues.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

THAT Council inform the North Cottesloe Primary School that due to concerns and advice provided by Main Roads WA and Council's insurers, approval can not be given to the installation of a number of steel silhouettes on the Eric Street road verge in front of the North Cottesloe Primary School and that the alternative sites inside the school boundaries be recommended.

Carried 11/0

11.3.5 POLICY REVIEW - TRAFFIC MANAGEMENT

File No: POL/37
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

Council is required to regularly review its policies. Its policy on "Traffic Management" was adopted in August 2002.

The recommendation is for Council to note the review of its Traffic Management policy and resolve to continue with its application and inclusion in the Policy Manual, unchanged.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Review of existing policy.

STATUTORY ENVIRONMENT

This policy relates to Councils obligations to provide safe infrastructure to allow for the movement of pedestrians, cyclists, motorists and public transport. It includes the construction of various assets which restrict or control the movement of vehicles at intersections or to slow down vehicles to the zoned speeds.

Control of vehicle speeds and movement is a Police duty, bound by state legislation. All new traffic installations must first be approved by Main Roads WA for the legal installation of line marking and control signage.

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

Under this policy, the Objectives, Principles and Issues remain and are correctly expressed. The Road Hierarchy has been established by Main Roads WA in liason with metropolitan councils. There is currently a move to join the regional and metropolitan road hierarchies together to create one state wide hierarchy.

The Traffic Management Strategy provision remains applicable and the consultant traffic study undertaken in recent years was an example of the need for an 'all of Cottesloe' approach to traffic management. Pedestrians and Cyclists remain a strong consideration for traffic management, particularly at intersections. Road Classification is controlled by Main Roads WA and the design aspect, in recent years, has tended to be centred on Black Spot, road safety at intersections and speed control on residential and local collection and distribution roads.

Schedule 3 of the policy deals with intervention guidelines. Council has a number of modern computerised vehicle classifiers (upgraded car counters) which provide speeds, types of vehicles and the volumes of the different vehicle types on the roads or streets being counted, for every hour of the count. This allows for a more developed understanding of vehicle movement within the Town of Cottesloe, with the intervention levels in the policy being made easier to apply.

Under Councils 5 year management programs for infrastructure, the 5 year plan for Road Safety Improvement and Speed Restrictions allows Council to budget, annually for priority needs to ensure safe and effective traffic movement and management.

VOTING

Simple Majority

OFFICER RECOMMENDATION

THAT Council note the review of its Traffic Management policy and continue with its application and inclusion in the Policy Manual, unchanged.

COMMITTEE DISCUSSION

Committee discussed the attached policy and identified potential changes in both wording and content to better reflect the intention of the policy to include traffic calming and safety treatment as well as to reflect and reference the more recent changes identified through the EBD process.

AMENDMENT

Moved Cr Boland, seconded Mayor Morgan

That Committee refer the item back to administration for further review and report back to Council.

Carried 7/0

THE SUBSTANTIVE MOTION WAS PUT

Carried 7/0

AMENDMENT

Moved Cr Cunningham, seconded Mayor Morgan

That the word 'Committee' be replaced with the word 'Council'

Carried 11/0

COUNCIL RESOLUTION

That Council refer the item back to administration for further review and report back to Council.

Carried 11/0

11.3.6 POLICY REVIEW - TEMPORARY CROSSINGS - INSTALLATION AND REMOVAL

File No: POL/31
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

Council is required to regularly review its policies. The policy on “Temporary Crossings – Installation and Removal” has not been reviewed since its adoption in 1999.

The recommendation is for Council to remove the policy “Temporary Crossing – Installation and Removal” from the Policy Manual.

BACKGROUND

Nil

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Review of existing policy

STATUTORY ENVIRONMENT

Local Government Act 1995

FINANCIAL IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

This policy has not been referred to by staff, as far as is known, for over 6 years. It is very prescriptive and the road verge bond system plus staff site inspections have replaced this policy in practical terms.

Building sites needing access by demolition machines, materials delivery trucks etc often arrange to have part or all of the footpath concrete slabs removed and the

alignment replaced with compacted limestone. At the end of the house construction, the slabs are replaced by the builder or a new in-situ concrete footpath is negotiated (at the builders cost). If the requirement is only for a short section of a path or the old crossover removed to allow heavy vehicle access, the process is easier to arrange.

Therefore, this policy is considered to be no longer required for staff use and can be removed from the Policy Manual.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

THAT Council remove the policy “Temporary Crossings – Installation and Removal” from the Policy Manual.

Carried 11/0

11.3.7 STATUTORY FINANCIAL REPORTS FOR THE MONTH OF SEPTEMBER 2010

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

Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

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 2010, to Council

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD net profit or loss of \$310,434 as at 30 September 2010. Operating Revenue is below budget by \$46,401 (1%). Operating Expenditure is \$227,469 (9%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 30 September 2010 is shown on page 7.

The Capital Works Program is listed on pages 22 - 27 and shows total expenditure of \$1,541,657 compared to YTD budget of \$1,630,543. Included in this section is an anomaly relating to the new library. The report currently shows YTD expenditure against this project of \$1,181,266 compared to a total budget of \$789,848. Part of the

reason for the \$391,418 unfavourable variance is that we have not received our share of the grant funds (\$790,049) from the Shire of Peppermint Grove.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

THAT Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 September, 2010, as per the attached Financial Statements, submitted to the 19 October 2010 meeting of the Works and Corporate Services Committee

Carried 11/0

11.3.8 SCHEDULE OF INVESTMENTS AND LOANS AS AT 30 SEPTEMBER 2010

File No: SUB/150 & SUB/151
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 September 2010, as per attachment, to Council.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

No financial resource impact.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 18 of the Financial Statements shows that \$3,067,684.76 was invested as at 30 September 2010.

Reserve Funds make up \$649,240.82 of the total invested and are restricted funds. Approximately 58% of the funds are invested with the National Australia Bank, 8% with Westpac, and 34% with BankWest.

The Schedule of Loans on page 19 shows a balance of \$6,763,104.69 as at 30 September, 2010. There is \$459,792.00 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

THAT Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 September 2010, as per the attached Financial Statements, as submitted to the 19 October 2010 meeting of the Works and Corporate Services Committee.

Carried 11/0

11.3.9 ACCOUNTS PAID FOR THE MONTH OF SEPTEMBER 2010

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the list of accounts paid for the period ending 30 September 2010 to Council, as per the attached financial statements

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The list of accounts commencing on page 9 of the Financial Statements has the following significant payments that are brought to your attention:

- \$10,088.60 to Synergy for street-lighting charge for August 2010
 - \$14,346.33 to WA Local Government Superannuation Plan for superannuation contributions.
 - \$14,635.89 to WA Local Government Superannuation Plan for superannuation contributions.
 - \$27,129.29 to BCITF for July 2010 deductions
 - \$20,150.90 to ADH Vehicles for a new motorised cart for the depot
 - \$136,337.79 to the Shire of Peppermint Grove for contribution toward the new library
 - \$224,801.73 to the WA Treasury Corp for loan repayment 107
-

- \$34,751.63 to Transpacific Cleanaway for waste collection services.
- \$39,694.65 to Subaru Osborne Park for purchase of new vehicle
- \$24,987.57 to LGIS Liability for Councils payment of property scheme insurance for 2010-2011.
- \$321,364.80 to Fire & Emergency Services WA for FESA levy for the 1st quarter
- \$105,203.95 to the Shire of Peppermint Grove for contribution toward the new library
- \$12,332.33 to Western Metropolitan Regional Council for transfer station tipping fees.
- \$11,220.00 to Breac Pty Ltd for environmental health services.
- \$23,925.00 to Boya Equipment for purchase of mower
- \$131,738.48 to the Shire of Peppermint Grove for quarterly contribution toward library management
- \$10,128.34 to WALGA for acquisition of new ROMAN software and recruitment advertising
- \$64,166.27, \$64,061.03 & \$65,695.00 for staff payroll.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

THAT Council receive the List of Accounts for the period ending 30 September 2010, as per the attached Financial Statements, as submitted to the 19 October 2010 meeting of the Works and Corporate Services Committee.

Carried 11/0

11.3.10 PROPERTY & SUNDRY DEBTORS REPORT FOR SEPTEMBER 2010

File No: SUB/145
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 September 2010 to Council.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report commences on page 20 of the Financial Statements and shows a balance of \$83,115.51 of which \$20,814.94 relates to the current month. The balance of aged debtors over 30 days stood at \$62,300.57

Property Debtors are shown in the Rates and Charges analysis on page 21 of the Financial Statements and show a balance of \$2,860,149.22. Of this amount \$204,328.83 and \$425,283.38 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$2,654,204 in 2010 compared to \$2,116,409 last year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

THAT Council receive the Property and Sundry Debtors Report for the period ending 30 September 2010, as per the attached Financial Statements, as submitted to the 19 October 2010 meeting of the Works and Corporate Services Committee.

Carried 11/0

11.3.11 GENERAL ELECTORS MEETING & ACCEPTANCE OF 2009/2010 ANNUAL REPORT

File No: SUB/19
Attachments: [Town of Cottesloe - Annual Report 2009 2010.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

A recommendation is made to accept the annual report for the 2009/10 financial year and to hold the General Electors Meeting on Wednesday, 8 December 2010.

BACKGROUND

The annual report (see attached) is made up of a number of reports including those of the Mayor and CEO, an overview of the plan for the future, the annual financial statements, the auditor's report and other statutory and prescribed reports and information. The last General Meeting of Electors was held on Wednesday, 2 December 2009. Subject to Council's acceptance of the Annual Report, the proposed date for the electors meeting is Wednesday, 8 December 2010.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

The relevant sections of the *Local Government Act 1995* read as follows:

5.27. Electors' general meetings

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

5.29. Convening electors' meetings

- (1) *The CEO is to convene an electors' meeting by giving -*
 - (a) *at least 14 days' local public notice; and*

*(b) each council member at least 14 days' notice,
of the date, time, place and purpose of the meeting.*

- (2) The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

5.53. Annual reports

- (1) The local government is to prepare an annual report for each financial year.*

- (2) The annual report is to contain -*

(a) a report from the mayor or president;

(b) a report from the CEO;

[(c), (d) deleted]

(e) an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;

(f) the financial report for the financial year;

(g) such information as may be prescribed in relation to the payments made to employees;

(h) the auditor's report for the financial year;

(ha) a matter on which a report must be made under section 29(2) of the Disability Services Act 1993;

(hb) details of entries made under section 5.121 during the financial year in the register of complaints, including -

(i) the number of complaints recorded in the register of complaints;

(ii) how the recorded complaints were dealt with; and

(iii) any other details that the regulations may require; and

(i) such other information as may be prescribed.

5.54. Acceptance of annual reports

- (1) Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

** Absolute majority required.*

- (2) If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

5.55. Notice of annual reports

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

Regulations 15 and 19B of the *Local Government (Administration) Regulations, 1996* require that:

15. Matters for discussion at general electors' meetings s. 5.27(3)

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

19B. Annual report to contain information on payments to employees s. 5.53(2)(g)

For the purposes of section 5.53(2)(g) the annual report of a local government for a financial year is to contain the following information -

- (a) the number of employees of the local government entitled to an annual salary of \$100 000 or more;*
- (b) the number of those employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000.*

FINANCIAL IMPLICATIONS

The cost to produce, print and distribute the Annual Report and report summary is under \$8,000 and is accommodated within the 2010/11 Budget.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The proposed date for the Annual General meeting of Electors of 8 December 2010 is the most suitable in terms of ensuring that the Annual Report summary (the small, coloured version of the Annual Report which is printed on recycled paper) is distributed to all households in advance of the meeting.

VOTING

Absolute Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Rowell

That Council:

1. Accept the Annual Report for the 2009/10 Financial Year, and
2. Call for the Annual General Meeting of Electors to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 8 December 2010 commencing at 7.00pm.

Carried 11/0

11.3.12 DONATION REQUEST – COTTESLOE PRIMARY SCHOOL

File No: SUB/143
Attachments: [Memo to Councillors re Donation Request Cottesloe Primary School.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 19 October 2010
Author Disclosure of Interest Nil

SUMMARY

This report recommends Council support and approve a request from Cottesloe Primary School P&C Association for a donation of \$500 towards their upcoming fete on Saturday 20 November 2010.

BACKGROUND

A written request has been forwarded to the Mayor for a donation to the Cottesloe Primary School P & C Association for their upcoming fete. They will be raising funds for school playground equipment.

The Donations Policy does not allow any discretion for requests to be handled administratively outside of the budget process, hence the need to have the matter dealt with by Council.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

The recommendation is for \$500 and will require an absolute majority as it is an unbudgeted item. Whilst there is no allocation in the current budget for requests outside of those already considered and approved there is budget capacity and the forward prediction, at this early stage of the year, is for a positive end of year position.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Elected Members

STAFF COMMENT

The request from Cottesloe Primary School meets the policy guidelines and had the request been received in April when Council considered its donation requests and budget, it would have been recommended for approval.

Whilst there is currently no limitation in the policy stopping someone applying for a donation at any time, the current practice has been to refer such applications to the next round of donations – i.e. March 2011. Clearly that is not a consideration in this case as the fete is next month. Neither Cottesloe Primary School nor the P&C were an applicant for a donation this year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Goldthorpe

THAT Council support and approve the request from Cottesloe Primary School P&C Association for a donation of \$500 towards their upcoming fete on Saturday 20 November 2010 from it's 2010/11 Donations account.

Carried 7/0

AMENDMENT

Moved Cr Dan Cunningham, seconded Mayor Kevin Morgan

That these words be added after Council: "by reason of extraordinary circumstances"

Carried 11/0

COUNCIL RESOLUTION

THAT Council by reason of extraordinary circumstances support and approve the request from Cottesloe Primary School P&C Association for a donation of \$500 towards their upcoming fete on Saturday 20 November 2010 from it's 2010/11 Donations account.

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 11/0

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

Nil

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

Moved Mayor Morgan seconded Cr Strzina

That the motion submitted by Cr Walsh be accepted as New Business of an Urgent Nature introduced by an Elected Member.

Carried 11/0

Moved Cr Walsh seconded Cr Strzina

That Cottesloe Council remove the curfew from the Vera View dog beach

AMENDMENT

Moved Cr Boland, seconded Mayor Morgan

That Council

1. Seek Community consultation regarding the removal of the curfew from the Vera View Dog Beach; and,
2. Accept the petition received tonight and it be accepted as part of the community consultation

Lost 5/6

For the Motion: Mayor Morgan, Cr Boland, Cr Cunningham, Cr Woodhill, and Cr Strzina

Against the Motion: Cr Goldthorpe, Cr Rowell, Cr Dawkins Cr Birnbrauer, Cr Carmichael and Cr Walsh

AMENDMENT

Moved Cr Dawkins, seconded Cr Rowell

That Council

1. Remove the curfew on the Vera View Dog Beach on a trial basis commencing 1 November 2010 for the remainder of this summer; and,
2. Request staff to prepare, and complete by the end of summer, a report to Council including community consultation regarding the removal of the curfew from the Vera View Dog Beach during the trial period.

Carried 6/5

For the Motion: Cr Goldthorpe, Cr Rowell, Cr Dawkins Cr
Birnbrauer, Cr Carmichael and Cr Walsh
Against the Motion: Mayor Morgan, Cr Boland, Cr Cunningham, Cr
Woodhill, and Cr Strzina

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 6/5

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 9:41 PM

CONFIRMED: MAYOR DATE: / /