



# Town of Cottesloe

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

**Tuesday, 25 October 2022**

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

Signed: 

Presiding Member

Date: 22-11-22

# TOWN OF COTTESLOE



## ORDINARY COUNCIL MEETING CONFIRMED MINUTES

ORDINARY COUNCIL MEETING  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre, 109 Broome Street, Cottesloe  
6:00pm Tuesday, 25 October 2022

A handwritten signature in black ink, appearing to read 'Matthew Scott', is written over a horizontal line.

**MATTHEW SCOTT**  
Chief Executive Officer

31 October 2022

## DISCLAIMER

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

The Town of Cottesloe disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during council meetings.

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

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

The Town of Cottesloe wishes to advise that any plans or documents contained within the agenda or minutes may be subject to copyright law provisions (*Copyright Act 1968*, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction.

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

Agenda and minutes are available on the Town's website [www.cottesloe.wa.gov.au](http://www.cottesloe.wa.gov.au)

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS .....	1
2	DISCLAIMER .....	1
3	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....	1
4	PUBLIC QUESTION TIME .....	1
	4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE .....	1
	4.2 PUBLIC QUESTIONS .....	3
5	PUBLIC STATEMENT TIME.....	6
6	ATTENDANCE .....	6
	6.1 APOLOGIES .....	6
	6.2 APPROVED LEAVE OF ABSENCE.....	6
	6.3 APPLICATIONS FOR LEAVE OF ABSENCE .....	6
7	DECLARATION OF INTERESTS.....	7
8	CONFIRMATION OF MINUTES.....	7
9	PRESENTATIONS .....	7
	9.1 PETITIONS .....	7
	9.2 PRESENTATIONS.....	8
	9.3 DEPUTATIONS .....	8
10	REPORTS.....	9
	10.1 REPORTS OF OFFICERS.....	9
	<b>CORPORATE AND COMMUNITY SERVICES .....</b>	<b>10</b>
	10.1.1 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2022 TO 31 AUGUST 2022	10
	10.1.2 POLICY REVOCATION - ENGINEERING PROGRAMS LONG TERM	13
	10.1.3 PURCHASING POLICY MINOR AMENDMENTS	15
	10.1.4 UPDATE TO PRIVACY POLICY	18
	10.1.5 RECONCILIATION ACTION PLAN	21
	<b>DEVELOPMENT AND REGULATORY SERVICES.....</b>	<b>23</b>
	10.1.6 SDAU DEVELOPMENT APPLICATION FOR MIXED USE DEVELOPMENT - 122 MARINE PARADE, COTTESLOE	23
	10.1.7 PROPOSED PARKING AND PARKING FACILITIES LOCAL LAW	51

- ENGINEERING SERVICES ..... 38**
  - 10.1.8 SHARK BARRIER COMMUNITY SURVEY 38
  - 10.1.9 NATIONAL BROADBAND NETWORK SERVICE AGREEMENT 43
- EXECUTIVE SERVICES ..... 46**
  - 10.1.10 REQUEST FROM THE MINISTER FOR LOCAL GOVERNMENT TO REMOVE WARDS 46
  - 10.1.11 QUARTERLY INFORMATION BULLETIN 49
- 10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES ..... 57**
- 11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN ..... 57**
- 12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:..... 57**
  - 12.1 ELECTED MEMBERS ..... 57**
  - 12.2 OFFICERS..... 57**
- 13 MEETING CLOSED TO PUBLIC..... 57**
  - 13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED..... 57**
    - 13.1.1 BUS SHELTER ADVERTISING 57
  - 13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC ..... 59**
- 14 MEETING CLOSURE ..... 59**

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

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

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

**2 DISCLAIMER**

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

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

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

The Presiding Member announced that Cr Harben had resigned as she has left the district and thanked her for the work that she has done on behalf of the Cottesloe Residents and wished her all the best for the future.

The Presiding Member provided clarity on an Item in the Agenda, Reconciliation Action Plan and provided clarity on the Reconciliation Action Working Group.

**4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****Ordinary Council Meeting – 27 September 2022****Paul Henharen – 75 Marmion Street, Cottesloe – Item 10.14 Section 3**

Q1: Is this risk analysis, [for the Eric Street Share Path] in the public domain, and can a link be provided?

R1: This is not a public document

Q2: The "Shared Path will conform to the Aus Road standards, I understand through verbal communication with the Council officials that this is not the case, and can Council advise what standards have been used in the design?

R2: The design has been certified by an independent engineer that it meets relevant Australian Standards, and has been designed based on the Department of Transport's Planning and Designing for Bike Riding in Western Australian requirements.

Q3: How no sections of affected driveways or verges are available, not the accompanying designs for required additional retaining walls. How has the budget for these changes been allowed in the tender?

- R3: The tender includes provision to reinstate impacted crossovers, within the schedule of quantities.
- Q4: At this stage of the Project one assumes a HAZID was conducted at 50% and a HAZOP at 85% to be incorporated into the final design. Were these conducted and can Council provide a link to these documents?
- R4: Risks were considered and appropriate measures implemented into the design as they were identified.
- Q5: Returning to the Duty of Care that all Councillors and Officials are to incorporate into the decisions for the residents and visitors and the fact that no cross-sections have been completed along driveways (or at least not mine) how has the Council Officials and Councillors made themselves comfortable with the safety aspects of the current design?
- R5: Cross sections are not normally produced for reinstatement elements of a project where level changes are immaterial.
- Q6: Given that we understand the Council is proceeding with the current design, can the Councillors confirm that in complying with the duty of care and the recommendations of the MRWA Supplement to Austroads Guide to Road Design – Part 6A, that takes precedence over State Regulations and the Guide to Traffic Engineering Part 14: Bicycle which states – relatively few driveway crossings exist particularly here the route is used by children to avoid “ride out”; each one of you has visited the following crossovers as a minimum and reviewed sight lines when a vehicle is stationary 6.1 m behind the verge (driver location 1.2-1.4 m above the revised driveway) waiting to move onto the Shared Path: with a minimum sight stopping distance between 25 – 87 m?
- a. 19 Eric Street
  - b. 21 Eric Street
  - c. 23A Eric Street
  - d. 23B Eric Street
  - e. 25A Eric Street
  - f. 25B Eric Street
  - g. 37 Eric Street
  - h. 39 Eric Street
  - i. 43 Eric Street
  - j. 49 Eric Street
  - k. 52 Eric Street and 275 Marmion Street
- R6: The Town’s duty of care has been considered by the design being certified by a suitably qualified and accredited independent Engineer.
- Q7: Has the Council arranged an alternate approach to collecting the refuse bins now they will be placed 4m from the verge along Eric Street?

- R7: There is a buffer between the face of kerb and edge of the shared path closer to the road for resident's bins to be placed.
- Q8: Finally, as Councillors are no doubt aware very few cyclists are insured for damages to property or persons in a collision caused by the cyclist. In NSW legislators consider the Local Govt and one assumes Councillors who approved such designs can be liable for such accidents if the design of shared paths is not compliant with MRWA and Aus Roads policy guidelines?
- R8: The Town cannot speculate on who would be liable for unknown future incidents, however any claim in relation to any public infrastructure installed by the Town will be assessed by the Town's Insurer.

Jack Henharen – 275 Marmion Street, Cottesloe – Item 10.1.4 Section 3

- Q1: The PSP / Shared path by its very nomenclature is to provide safe access to the amenities of Cottesloe for both pedestrian and bicycle users. On the bases that the Forest Street shared path links the railway station and the bike path to Marine Parade is there a safety reason for the same approach not being taken on a shared path through the North of Cottesloe?
- R1: The Eric Street Shared Path is on Council's endorsed Long Term Cycle Network that has been incorporated onto the Department of Transport's approved Western Australia Bike Network. This link connects major destinations such as the North Cottesloe Primary School, Eric Street Shopping Centre and the OBH site. It will also eventually be a significant cyclist gateway into the future Cottesloe Foreshore Redevelopment. Grant Street is the North Cottesloe shared path on both the State Government and Council's strategy that will be considered in due course.

## 4.2 PUBLIC QUESTIONS

Stephen Mellor - 8 Graham Court, Cottesloe

### 10.1.11

- Q1: Will these consultants be paid for by FiveEight as with previous reports or will the costs be shared as it is a joint business plan?

This question was taken on notice.

### 10.1.10

- Q2: Does this mean that in October 2023 there will be four Councillor vacancies filled under the new system and that every future election will have four Councillor vacancies?



R2: As per the Ministers memo that is attached to the Item, the Town of Cottesloe has been provided with two options in progressing his reforms, a voluntary pathway or a default pathway.

Q2: When will the re-election occur to replace Cr Harben?

R2: The CEO will bring a report to Council at the next meeting to consider the options. Date has not been set yet.

#### **10.1.2**

Q3: Why is the current Engineering Policy not being used?

Q4: Is this not bad practice as the Policy was reviewed in 2013 the same time as the 2013-2023 Strategic Community Plan was implemented?

Q5: How will the community now be able to review planned engineering works with 'upgraded programmes NOT being available to the public'?

Q6: The CEO Quarterly Bulletin includes updates to the Corporate Business Plan. Will Council please request Admin to highlight updates in the Bulletins so changes can be identified?

Q7: Is the Corporate Business Plan on the website updated in line with the Quarterly Reports?

#### **10.1.4**

Q8: Will Council please provide immediate access to the Guide on the website?

#### **10.1.7**

Q11: As cash in lieu parking has been included in the *Indiana* proposal can Council please confirm that 'cash in lieu' of parking is part of the *Indiana* Business Plan?

Q12: Will Council please move urgently to develop and approve a 'cash in lieu' of parking Policy?

Q13: How are such cash in lieu calculations usually made and are such payments 'one off' or annual?

These questions were taken on notice.

#### **10.1.6**

Q9: As tonight's resolution is approving advice that has already been submitted to the WAPC, I ask if Council can request that future Officer

reports on developments be made publicly available a minimum of a week before the consultation closing date?

R9: The CEO advised that the item under consideration is for 122 Marine Parade and the recent WAPC decision was regarding an amendment to the SDAU approval for 120 Marine Parade. These are separate and unrelated matters.

Q10: Can the Officer report for 94 Marine Parade be made available?

This question was taken on notice.

Tom Jowett – 31 Eric Street, Cottesloe

Q1: Who made the purchase of \$24,900 for an SSL Certificate Renewal on the Financial Statements and what was it for?

This question was taken on notice

Q2: Which other streets were considered in Cottesloe for a wide bike path?

R2: The Presiding Member advised she would provide, by email, a timeline of the previous Council decisions relating to the Eric Street Shared Path. (See Attachment)

Q3: Why was Eric St selected over these other streets.

R3: Please refer to (R2)

Q4: Why was the path chosen to be on the south side of Eric St?

R4: Please refer to (R2)

Q5: Who decided which side of Eric St the path would be on?

R5: Please refer to (R2)

Q6: When does the Town plan on notifying the Eric St residents in writing and considering feedback a legal requirement under the Act about the significant proposed construction?

R6: A letter was distributed to Eric Street Residents on 12 October 2022.

Q7: Why has the Town refused to release the report from Stanteck where they reportedly told the Town that they were correct in marking your own homework on the safety report?

R7: The Presiding Member advised that these types of reports are not normally released to the Public.

Q8: Item 8.1.1 from the Bike Path Committee meeting of August 2019 and 10.1.5 from April OCM 2022 need to be revoked. Can someone introduce a new business item to revoke these?

R8: The Presiding Member advised that there would be a need to have 3 Elected Members to support revocation motion prior to the above request being able to be considered.

## 5 PUBLIC STATEMENT TIME

### Eric Street Shared Path

Mr Jowett spoke of his concerns relating to the Eric Street Shared Path, the lack of consultation and his concerns of safety.

## 6 ATTENDANCE

### Elected Members

Mayor Lorraine Young  
Cr Helen Sadler  
Cr Craig Masarei  
Cr Melissa Harkins  
Cr Kirsty Barrett  
Cr Chilla Bulbeck  
Cr Brad Wylynko

### Officers

Mr Matthew Scott	Chief Executive Officer
Mr Shane Collie	Director Corporate and Community Services
Mr Shaun Kan	Director Engineering Services
Mr Wayne Zimmermann	Manager of Planning
Ms Jacquelyne Pilkington	Governance & Executive Office Coordinator

### 6.1 APOLOGIES

#### Officers Apologies

Ms Freya Ayliffe	Director Development and Regulatory Services
Mr Ed Drewett	Coordinator Statutory Planning

### 6.2 APPROVED LEAVE OF ABSENCE

Cr Paul MacFarlane

### 6.3 APPLICATIONS FOR LEAVE OF ABSENCE

**OCM146/2022****Moved Mayor Young****Seconded Cr Harkins****That Cr MacFarlane be granted a leave of absence from 25 October 2022 to 26 October 2022.****Carried 7/0****7 DECLARATION OF INTERESTS**

Deputy Mayor Sadler declared an IMPARTIALITY INTEREST in Item 10.1.5 by virtue "I am a member of Reconciliation WA"

Cr. Bulbeck declared an IMPARTIALITY INTEREST in Item 10.1.5 by virtue "I am a member of Reconciliation WA"

Cr. Wylynko declared an IMPARTIALITY INTEREST in Item 10.1.6 by virtue "I am familiar with the principals of the planning group that is representing.

**8 CONFIRMATION OF MINUTES****OCM147/2022****Moved Cr Sadler****Seconded Cr Bulbeck****That the Minutes of the Ordinary Meeting of Council held on Tuesday 27 September 2022 be confirmed as a true and accurate record.****Carried 7/0****For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, Bulbeck and Wylynko  
Against: Nil****9 PRESENTATIONS****9.1 PETITIONS*****Section 9.4 - Procedure of Petitions***

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

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

Nil

**9.2 PRESENTATIONS**

Nil

**9.3 DEPUTATIONS**

Nil

**10 REPORTS****10.1 REPORTS OF OFFICERS****OCM148/2022****Moved Mayor Young****Seconded Cr Masarei****COUNCIL RESOLUTION**

**That Council adopts en-bloc the following Officer Recommendations contained in the Agenda for the Ordinary Council Meeting 25 October 2022:**

<b>Item #</b>	<b>Report Title</b>
<b>10.1.1</b>	<b>Monthly Financial Statements for the period 1 July 2022 to 31 August</b>
<b>10.1.2</b>	<b>Policy Revocation – Engineering Programs Long Term</b>
<b>10.1.3</b>	<b>Purchasing Policy Minor Amendments</b>
<b>10.1.4</b>	<b>Update to Privacy Policy</b>
<b>10.1.5</b>	<b>Reconciliation Action Plan</b>
<b>10.1.6</b>	<b>SDAU Development Application for Mixed Use Development – 122 Marine Parade, Cottesloe</b>
<b>10.1.8</b>	<b>Shark Barrier Community Survey</b>
<b>10.1.9</b>	<b>National Broadband Network Service Agreement</b>
<b>10.1.10</b>	<b>Request From The Minister for Local Government to Remove Wards</b>
<b>10.1.11</b>	<b>Quarterly Information Bulletin</b>

**Carried 7/0****For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, Bulbeck and Wylenko****Against: Nil**

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

**Directorate:** Corporate and Community Services  
**Author(s):** Sarah Jessop, Finance Manager  
**Authoriser(s):** Shane Collie, Director Corporate and Community Services  
Matthew Scott, Chief Executive Officer  
**File Reference:** D22/40218  
**Applicant(s):** Nil  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

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

**OFFICER RECOMMENDATION IN BRIEF**

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

**BACKGROUND**

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

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

**OFFICER COMMENT**

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

- The net current funding position as at 31 August 2022 was \$12,022,223 as compared to \$12,191,880 this time last year.
  - Operating revenue is more than the year to date budget by \$58,973 with a more detailed explanation of material variances provided on page 19 of the attached
-

financial statements. Operating expenditure is \$1,335,298 less than year to date budget, with a more detailed analysis of material variances provided on page 19.

- The Capital Works Program is shown in detail on pages 33 to 34 of the attached financial statements.
- The balance of cash backed reserves was \$8,281,175 as at 31 August 2022 as shown in note 7 on page 26 of the attached financial statements.

#### **List of Accounts Paid for August 2022**

The list of accounts paid during August 2022 is shown on pages 35 to 40 of the attached financial statements. The following material payments are brought to Council's attention:

- \$223,274.72 to WA Treasury Corporation for Loan repayment for library loan (107).
- \$205,390.13 to WMRC for transfer station waste disposal.
- \$148,269.76 to LGIS for Insurance contribution for the 2022/23 year.
- \$88,176.47 to Solo Resource Recovery for FOGO Kitchen Caddy and Bin Sticker distribution.
- \$80,510.26 to Solo Resource Recovery for Waste removal.
- \$46,643.30 to Shine Community Services as part of the combine Council contribution.
- \$41,490.15 to WALGA for membership subscription costs.
- \$35,437.49 to Electricity Generation and Retail for electricity supply.
- \$30,955.44 and \$30,383.77 for employee Superannuation Contributions.

#### **Investments and Loans**

Cash and investments are shown in note 4 on page 21 of the attached financial statements. The Town has approximately 47% of funds invested with the National Australia Bank, 28% with the Commonwealth Bank of Australia and 26% with Westpac Banking Corporation. Municipal term deposits were called in prior to 30 June, which is why more funds continue to be with National Australia Bank at 31 August 2022.

Information on borrowings is shown in note 10 on page 30 of the attached financial statements. The Town had total principal outstanding of \$2,672,066 as at 31 August 2022.

#### **Rates, Sundry Debtors and Other Receivables**

Rates outstanding are shown on note 6 on page 23 and show a balance of \$9,317,023 outstanding as compared to a smaller \$260,224 this time last year. This is due to rates having been levied in July of this year as compared to August last year.

Sundry debtors are shown on note 6 on page 23 of the attached financial statements. The sundry debtors report shows that 3% or \$6,183 is older than 90 days. Infringement debtors are shown on note 6 on page 25 and were \$417,217 as at 31 August 2022.

### **ATTACHMENTS**

- 10.1.1(a) Monthly Financial Report 1 July to 31 August 2022 [under separate cover]**



**CONSULTATION**

Nil.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

Local Government (Financial Management) Regulations 1996

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM149/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Masarei**

**THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2022 to 31 August 2022 as submitted to the 25 October 2022 meeting of Council**

**Carried by En Bloc Resolution 7/0**

**10.1.2 POLICY REVOCATION - ENGINEERING PROGRAMS LONG TERM**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/40297  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

For Council to revoke an outdated and unused Policy being Engineering Programs Long Term.

**OFFICER RECOMMENDATION IN BRIEF**

That Council evoke Policy Engineering Programs Long Term.

**BACKGROUND**

The Policy Engineering Programs Long Term was adopted in 2004 and reviewed in 2013. The Policy is no longer used.

**OFFICER COMMENT**

The Policy is not used and has been superseded by the following contemporary documents:

- Strategic Community Plan
- Corporate Business Plan
- Long Term Financial Plan (currently in development)
- Asset Management Plan (currently in development)
- Annual Budget

The Policy hence requires revocation and removal from Council's Policy Manual.

**ATTACHMENTS**

**10.1.2(a) Engineering Programs - Long Term Policy [under separate cover]**

**CONSULTATION**

Director Engineering Services.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995* Section 2.7(2)(b) states that "the council is to determine the local government's policies.

**POLICY IMPLICATIONS**

Policy revocation recommended.

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Nil.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority.

**OCM150/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Masarei**

**THAT Council revoke Policy Engineering Programs Long Term**

**Carried by En Bloc Resolution 7/0**

**10.1.3 PURCHASING POLICY MINOR AMENDMENTS**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/40435  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

For Council to make minor amendments to the Town's Purchasing Policy.

**OFFICER RECOMMENDATION IN BRIEF**

That Council amend the Purchasing Policy by removing a drafting error in Clause 6.1 which refers to a section in the Policy (7.2) that no longer exists as well as updating position titles that have changed.

**BACKGROUND**

The Town's Purchasing Policy was last reviewed on 23 February 2021. The Policy is one of the most used and widely scrutinised (Audit) and hence requires attention to detail to ensure that it is fully up to date.

Minor amendments are recommended to bring the Policy up to date.

**OFFICER COMMENT**

The amendments to the Policy are as follows:

1. On page 4 in Clause 6.1 there is reference to a redundant clause 7.2 "Sole Source of Supply" which no longer forms part of the Policy. This corrects a drafting error from a previous version of the Policy.
2. In the Purchase Order limits which concludes the Policy on page 6 there are some position titles that have changed:
  - Governance Coordinator and Executive Officer positions have been converted into one position Governance and Executive Support Coordinator.
  - Corporate Services and Engagement Officer position has been retitled to Executive Officer Corporate Services.
  - Human Resources Coordinator position has been retitled to Manager People and Culture.

**ATTACHMENTS**

**10.1.3(a) Purchasing Policy V2 [under separate cover]**

---

**CONSULTATION**

Nil required.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995* Section 2.7(2)(b) states that “the council is to determine the local government’s policies.

**POLICY IMPLICATIONS**

Policy amendment is recommended.

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Nil.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority.

**OCM151/2022****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Mayor Young                      Seconded Cr Masarei

**THAT Council amend the Town’s Purchasing Policy by:**

- 1. Removing the words on page 4 in Clause 6.1 “per Clause 7.2 Sole Source of Supply”.**
- 2. In the Purchase Order limits section on page 6 amend position titles Governance Coordinator and Executive Officer to Governance and Executive Support Coordinator.**
- 3. In the Purchase Order limits section on page 6 amend Corporate Services and Engagement Officer to Executive Officer Corporate Services.**

4. In the Purchase Order limits section on page 6 amend Human Resources Coordinator position to Manager People and Culture

Carried by En Bloc Resolution 7/0

**10.1.4 UPDATE TO PRIVACY POLICY**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/40511  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

For Council to update its Privacy Policy to provide better protect people's privacy by not publishing addresses when dealing with day to day issues such as Application consultation, Electors meeting and other Council business.

**OFFICER RECOMMENDATION IN BRIEF**

That Council amend its Privacy Policy to better protect the privacy of individuals to ensure that addresses are not published unless by law or other legislation provides that they are.

**BACKGROUND**

The Town's Privacy Policy was adopted on 28 July 2020 and there has been a significant shift since that time to greater data protection and clarity around what public organisations should and should not provide in the public sphere. This is most relevant to in official documents and on websites. There has been instances where there has been some confusion as to what information should be in the public realm where that information is generated as part of Council' normal business activities.

This report seeks to clarify these matters and provide stakeholders a clear understanding of what information will and will not be published by the Town.

The Town's Privacy policy already has restrictions on "Sensitive Information" and "Personal Information" which are defined and have clear parameters around use.

**OFFICER COMMENT**

There is an amendment recommended to the Town's current Privacy Policy in relation to the publication of addresses of people.

Generally addresses of members of the public are not published in Council documents. There are a number of exceptions including but not limited to –

- Where a person is an Applicant – for a Planning Approval or similar.
- Where a person is asking a question or making a presentation to Council.
- Where a person has to demonstrate that they are an Elector of the district.
- Where there is a legislative requirement for publication such as the Rate Book and Electoral Roll. The Rate Book and Electoral Rolls are required to made available for

public inspection, therefore it is impossible to fully conceal the addresses of electors, except where they have deemed to be silent electors as determined by the Electoral Commission.

- Freedom of Information documents where third parties have consented to their details being provided.

Where some issues have arisen with the publication of names and addresses are as follows:

- Attendance at Electors Meetings.

It is a legislative requirement that electors are identified at Electors meeting as only electors can vote. If the identification process does not occur any actions or recommendations stemming from these meeting can be questioned and challenged. This identification is generally done by name and address in the meeting minutes.

While the identification is needed for voting purposes, the publication of addresses is not. Hence the proposed administrative practice on this matter is for the identification to occur but the meeting minutes (which appear on the Town's website) to only include the name of the person (such as when moving or seconding a motion and the Attendance List) and the term "Cottesloe Elector".

- Making Comment on an Application before Council

This covers instances where comments are sought on matters such as Building and Planning Applications where it is important to identify that the person making comment has some connection to the Application. It is a reasonable expectation that someone making a comment on a matter that may impact them would need to demonstrate that they are in proximity or will be affected by the Application.

Again the proposed administrative practice is to include the name of the person and a generalised reference to their address. For example if the Application was in John Street, then the identification would be "B. Smith, John Street".

## **ATTACHMENTS**

### **10.1.4(a) Privacy Policy Draft V2 2022 [under separate cover]**

## **CONSULTATION**

Nil. Consideration of advertising the updated Privacy Policy was given consideration however the changes are more administrative in nature and are guided by legislation limiting the scope and ability to significantly change the Policy.

## **STATUTORY IMPLICATIONS**

*Local Government Act 1995 Sections 5.94 and 5.96.*

*Local Government (Administration) Regulations 1996 Clause 29B.*

*Freedom of Information Act 1992.*

*State Records Act 1992.*



**POLICY IMPLICATIONS**

It is recommended that the Town's Privacy Policy be updated.

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM152/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Masarei**

**THAT Council:**

- 1. Amend its Privacy Policy as noted in Attachment 1**

**Carried by En Bloc Resolution 7/0**

**10.1.5 RECONCILIATION ACTION PLAN**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/41694  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

The Reconciliation Action Plan (RAP) Working Group have been developing the Town's first RAP for some time. The draft Plan is now complete and ready for adoption.

**OFFICER RECOMMENDATION IN BRIEF**

For Council to adopt the draft "Reflect" Reconciliation Action Plan and submit the document for endorsement by Reconciliation Australia.

**BACKGROUND**

Council formed a Reconciliation Action Plan (RAP) Working Group following the October 2021 Council elections with the intention of developing a RAP. That work has now been completed and the draft RAP is now presented to Council for adoption.

**OFFICER COMMENT**

Councillors Masarei, Young and Bulbeck have represented Council on the RAP Working Group and along with Council officers and community members have provided the input into the development of the draft RAP.

Members of the RAP Working Group expressed appreciation and satisfaction with the draft RAP at the most recent Working Group meeting held on 11 October 2022.

This is the first of 4 stages in the RAP process with future RAPs being strived for including Innovate, Stretch and Elevate. The draft RAP once adopted by Council is required to be forwarded to Reconciliation Australia for endorsement

**ATTACHMENTS**

**10.1.5(a) Reflect Reconciliation Action Plan [under separate cover]**

**CONSULTATION**

Reconciliation WA.

Reconciliation Australia.

**STATUTORY IMPLICATIONS**

Nil.

---

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

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

Major Strategy 1.4: Continue to improve community engagement.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation. \$20,000 has been allocated in the town's Budget in 2022/23 for the development of and implementation of initiatives in the RAP.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM153/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Masarei**

**THAT Council adopt the draft "Reflect" Reconciliation Action Plan as developed through the Reconciliation Action Working Group to be submitted to Reconciliation Australia for endorsement.**

**Carried by En Bloc Resolution 7/0**

**DEVELOPMENT AND REGULATORY SERVICES****10.1.6 SDAU DEVELOPMENT APPLICATION FOR MIXED USE DEVELOPMENT - 122 MARINE PARADE, COTTESLOE**

**Directorate:** Development and Regulatory Services  
**Author(s):** Wayne Zimmermann, Manager of Planning  
**Authoriser(s):** Freya Ayliffe, Director Development and Regulatory Services  
**File Reference:** D22/40100  
**Applicant(s):** Peakform Investments Pty Ltd  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

A significant development application for Lot 1 (Strata Lots 2-8) 122 Marine Parade, Cottesloe has been referred by the State Development Assessment Unit (SDAU) to the Town for comment or any recommended conditions.

The development application proposes the demolition of a three (3) storey mixed use building and its replacement with a seven storey mixed use building comprising of two levels of basement car parking, a ground floor commercial tenancy (café/restaurant), eight residential apartments on six levels and a roof terrace (for sole use of apartment 8) with other roof structures including a photovoltaic array.

The report discusses the strategic and statutory provisions and assessment criteria relevant to the development application submitted.

The purpose of this report is to provide a Council submission to SDAU on the significant development application.

The documents for the development application are contained in the following links:

[Applicant Development Application Report.pdf](#)

[Applicant Development Application Plans.pdf](#)

[Applicant R Codes Assessment \(Appendix 1\).pdf](#)

[Applicant Certificate of Titles \(Appendix 2\).pdf](#)

[Applicant Architectural Design Report \(Appendix 4\).pdf](#)

[Applicant Landscape Plan \(Appendix 5\).pdf](#)

[Applicant Heritage Impact Statement \(Appendix 6\).pdf](#)

[Applicant Sustainability Assessment \(Appendix 7\).pdf](#)

[Applicant Economic Benefits Statement \(Appendix 8\).pdf](#)

[Applicant Transport Impact Statement \(Appendix 9\).pdf](#)

[Applicant Waste Management \(Appendix 10\).pdf](#)

[Applicant Environmental Noise Assessment \(Appendix 11\).pdf](#)

### **OFFICER RECOMMENDATION IN BRIEF**

That Council advise the Western Australian Planning Commission that it objects to the proposed seven storey mixed use development for Lot 1 (Strata Lots 2-8) 122 Marine Parade, Cottesloe for the reasons outlined in this report.

### **BACKGROUND**

Zoning	MRS:	Urban
	LPS:	Foreshore Centre zone
Use Class:		Mixed Use
Development Scheme:		Local Planning Scheme No. 3 (LPS 3)
Lot Size:		549m <sup>2</sup>
Existing Land Use:		Mixed Use
Value of Development:		\$31.6 million
Owner:		Strata Lots 2 to 7 - Peakform Investments Pty Ltd. Strata Lot 8 - Theresa Incoronata Pty Ltd

On 21 January 2022 a development proposal for a seven storey mixed use building (comprising two basement levels, ground floor commercial, eight apartments on six levels, a roof terrace and other roof structures including a solar array), was submitted to the Town from the Department of Lands, Planning and Heritage (DPLH) for consideration and provision of preliminary high level comments. Car parking and vehicular access for the development is proposed through two levels of basement connected to adjoining Lot 500 (120 Marine Parade) to the south.

The Town provided preliminary comments at an officer level only, raising concerns about the proposal including advice as to matters that had not been properly addressed and additional information that was required to enable a thorough assessment to be undertaken. The proposed development was considered by the State Design Review Panel (SDRP) on 15 February 2022 and the development plans were revised to address input from the design review process.

## **OFFICER COMMENT**

### **Local context and site characteristics**

The subject site is located on Marine Parade and Napier Street, directly opposite Cottesloe Beach. It is situated between two local landmarks being Cottesloe Beach Hotel approximately 150 metres to the south and the Ocean Beach Hotel approximately 300 metres to the north. The height of existing development along this section of the beachfront ranges from two to six storeys.



**Figure 1: Location of the subject site**

The Cottesloe train station is approximately 950 metres south-east of the site which is approximately a 12 - 14 minute walk. The immediate surrounds generally comprise a mixture of commercial and residential development, including restaurants, cafes, shops and various types of accommodation.

There is currently a three storey mixed use building on the site comprising a cafe on the ground floor and six apartments located on the second and third storeys. The site has a gentle slope upwards from Marine Parade with a level difference from front to rear of approximately 600mm.

### **Strategic Planning Framework**

#### **Perth and Peel @ 3.5 million**

This overarching spatial framework for the Perth and Peel regions provides guidance on where development should occur to ensure sustainable urban growth, protect the environment and heritage and make the most effective use of existing infrastructure. The proposed development is inconsistent with vision, key principles and aims of this strategic planning document as:

- The resulting residential density for the site provides solely for large residential dwelling units and fails to provide for diverse dwelling types and choice to meet the needs of the changing demographics for this locality,
- It adversely impacts on the existing public infrastructure along the Cottesloe foreshore through overshadowing and impacts on views to and from a State heritage listed site (Cottesloe Administration Centre).
- It provides for a form of residential and commercial development that should be located in the Cottesloe Town Centre which is the designated activity centre in the spatial framework and approval of the development would undermine rather than strengthen the potential growth of the activity centre.

#### State Planning Policy No.2.6 - State Coastal Planning Policy

The proposed development conflicts with *State Planning Policy No.2.6 of the Western Australian Planning Commission* in respect to building height.

SPP 2.6 specifies that:

- Maximum height limits should be specified as part of controls outlined in a local planning scheme and/or structure plan, in order to achieve outcomes which respond to the desired character, built form and amenity of the locality.
- When determining building height controls in a local planning scheme and/or structure plan, building heights should have due regard to the following planning criteria:
  - development is consistent with the overall visual theme identified as part of land use planning for a locality or in an appropriate planning control instrument such as a local planning strategy;
  - development takes into account the built form, topography and landscape character of the surrounding area;
  - the location is part of an identified coastal node;
  - the amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and
  - there is overall visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.
- The building height and built form provisions in the Town of Cottesloe Local Planning Scheme No.3 (LPS No.3) were developed from the extensive community consultation undertaken in the preparation of the current Town of Cottesloe Local Planning Strategy (LPS). The proposed development does not satisfy the criteria in SPP 2.6 as it conflicts with the future planning and development objectives of the Town's LPS and the LPS No.3 due to the proposed excessive building height, built form, overshadowing and adverse impact on visual permeability of the foreshore and ocean.

#### Local Planning Strategy

The Town of Cottesloe's Local Planning Strategy (LPS) [endorsed by WAPC in 2012](#) sets out the long term planning directions for Cottesloe, including the recommended approach and actions to address changes that are necessary for the future development of the local government area over the next 10 to 15 years.



The LPS describes the purpose of the Foreshore Centre zone as follows:

*'This is the chief zoning for the beachfront activity precinct to enable its multi-purpose uses and built-up character to evolve (within clearly defined limits) while respecting the residential (including short-stay accommodation) amenity and informal recreational nature of the locality serving both local and regional users. Typically higher densities are allowed here subject to acceptable planning and development outcomes. Under LPS3 there is some minor rationalisation of this zoning and upgrading of density. In addition, LPS3 would restrict residential use to upper levels to encourage commercial activity at ground level. Also, to prevent residential land use predominating in the area, the size of dwellings, including short-stay accommodation dwellings, is restricted.'*

The LPS also identifies the subject land as situated within a 'Beachfront Precinct' and the precinct is defined by a number of attributes including:

*"...a predominantly lower-rise scale of beachfront development in relative harmony with the beach and adjoining residential areas and the natural environment of the beach is not dominated by an urban backdrop of over-height buildings with adverse impacts."*

The LPS also states that:

*"Short-stay accommodation is proposed to be encouraged in beachfront locations and present opportunities for non-private dwelling opportunities. Dwelling size is to be limited in LPS3 to 125 square metres to provide short-stay dwellings an advantage over permanent residential."*

The LPS recognises the beachfront precinct along Marine Parade from Eric to Forrest Streets as a specialised node of commercial activity essentially serving the beach recreational, entertainment and holiday trade. It emphasises the future of the beachfront is dependent on the combined local and regional role of this recreational activity node and the need for sensitive land use and development planning. The Strategy supports some mixed-use redevelopment focused on beachfront activity whilst restricting permanent residential land use predominating in the area and facilitating the provision of better tourist/visitor facilities along with more short-term accommodation.

The development objectives for the beachfront area include:

- Mixed-use redevelopment focused on beachfront activity;
- The provision of a mixture of land uses with an active commercial/recreational street-front that is not displaced by residential; and
- A built edge to Marine Parade, orientation to a pedestrian promenade, and amenity and built form controls including height and setbacks in respect of views, overshadowing, privacy and urban design.

Although the proposed development includes a commercial tenancy on the ground floor to be used as a café/restaurant with an active interface with Marine Parade and Napier Street, the predominant use proposed is permanent residential apartments.

This is contrary to long term planning directions under the LPS to restrict permanent residential development along Marine Parade.

Cottesloe Beach Foreshore Master Plan



The Town has endorsed a Master Plan for improvements to the Cottesloe Beach foreshore adjacent to the site. The Master Plan will guide the enhancement and management of the foreshore in the future. Although the proposal will provide some activation along the Marine Parade frontage through a proposed alfresco dining forecourt and possible improvements to the verge, the height of the building will have adverse impacts on the amenity of the area (through overshadowing, loss of views and privacy).

The proposed shared vehicle access and parking arrangement with the adjoining Lot 500 (120 Marine Parade) is supported in principle as it removes access to Marine Parade from Lot 500 however, this requires a condition to ensure that traffic, pedestrian and cyclist movement and safety issues arising from the combined vehicle access and parking arrangement (i.e. two basement levels of parking with access ramps across both lots with one access point from Napier Street) are satisfactorily addressed. The transport impact statement submitted with application fails to explain the cumulative impact of vehicle access and movement from the two developments on the surrounding street network and how the proposed shared access and parking arrangement will function and be implemented.

Measures to ensure that rights for vehicular access is provided across the common lot boundary for perpetuity is critical should the development be approved.

Part 17 of the *Planning and Development Act 2005 (PD Act)*

The proposal has been assessed against the key considerations for the determination of this application under Part 17 of the PD Act, as follows:

The Purpose and Intent of the Local Planning Scheme

The purposes of Local Planning Scheme No.3 (LPS3) include:

- Set out the local government's planning aims and intentions for the Scheme area;
- Zone land within the Scheme area for the purposes defined in the Scheme; and
- Control and guide land use and development.

The aims of the Scheme include:

- To promote the Local Planning Strategy;
- Provide opportunities for housing choice and variety in localities which have a strong sense of community identity and high levels of amenity;
- Ensure that land uses and development adjacent to Marine Parade are compatible with the residential and recreational nature of their setting and the amenity of the locality;
- Ensure that new development is compatible with the conservation significance and aesthetic value of heritage places and areas and coastal landscape; and
- Recognise the principle of the maintenance and enhancement of important views to and from public places.

The proposal conflicts with the aims of LPS3 as it will result in adverse impacts from the increased building height, including overshadowing, loss of privacy, loss of views (including views of a heritage place on the State Register) and reduced amenity for residents and the general public in this important coastal locality. It also fails to deliver appropriate

opportunities for housing choice, particularly for holiday and short-stay purposes in a recognised tourist area.

#### Building height

The proposed 7 storey development including a roof terrace (23.8 metres to top of the roof) plus a photovoltaic array and lift overrun) is contrary to the requirements of the Town of Cottesloe Local Planning Scheme No.3 (LPS3) as it exceeds the building height limit of a maximum of five (5) storeys (21 metres above natural ground level) by 2.8 metres. The lift overrun adds a further 1.0 metre to the built form (24.8 metres to lift overrun). The proposed development application cannot be approved under LPS3 as there is no discretion under the Scheme to vary the maximum building height.

The proposed additional height of the development will increase the development's built form, scale, and overshadowing of adjacent properties, particularly the coastal foreshore area to the west and the existing two storey residential properties to the east and south east of the site. It will also reduce the light and privacy of existing adjacent buildings and adversely impact on the public domain and amenity of the locality. Previous sentiments expressed by the Cottesloe community were that building heights along the coastal foreshore east of Marine Parade should be restricted to a maximum 5-storeys in this location. This position has not changed and is strongly echoed in the community response to the current proposal.

#### Setbacks from Street and other lot boundaries

Under Schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum 4 metres from Marine Parade, Napier Street and the eastern boundary of the lot. The curvature of the proposed built form results in the setbacks of the building and balconies from the fourth to seventh floor encroaching into the required 4 metre setback, and in some instances a nil setback to balconies is proposed. The development as proposed will therefore result in increased building bulk and overshadowing of adjoining and adjacent properties including parts of the beach foreshore and public domain which will adversely affect the amenity of the locality.

#### Vehicle access and Parking

As previously mentioned the proposed shared vehicle access and parking arrangement with the adjoining Lot 500 (120 Marine Parade) to the south is welcomed in principle as it removes the access to Marine Parade from Lot 500 however, it is unclear whether there will be traffic, pedestrian and cyclist movement and safety issues arising from the combined vehicle access and parking arrangement and the single crossover to and from Napier Street.

From the information submitted, including the transport impact statement the following issues have been identified:

- The proposed waste collection will impact on the ingress/egress negatively, blocking the access ramp while in use.
- Vehicle manoeuvring around waiting bay on verge is very restricted as the crossover is not a direct route.
- It is unclear whether vehicle headroom clearances are achieved for both tenant and commercial access.

- Ramp gradients are also unclear.

Also the application fails to explain the cumulative impact of vehicle access and movement from the two developments on the surrounding street network and how the proposed shared access and parking arrangement will function and be implemented. This is a critical consideration in determining if the proposed development should be supported.

In respect of vehicle parking requirements the proposal:

- Complies with the residential parking requirements under the Residential Design Codes (Vol. 2).
- Does not comply with the commercial parking requirements as it only provides two commercial parking bays on-site while LPS No.3 requires 15 commercial bays.

The proposed waste management arrangements for the development application are unacceptable as the proposed collection of waste bins will block any other vehicle access to and from the site while this is occurring. Furthermore the proposed waste storage and bin storage areas, including bins sizes, will require approval from the Town, at the building application stage.

#### Orderly and Proper Planning and Preservation of Amenity

The proposal is considered contrary to the orderly and proper planning as it will result in adverse impacts from the increased building height, including overshadowing, loss of privacy, loss of views (including views of significance to and from a heritage place on the State Register) and reduced amenity for residents and the general public in this important coastal locality.

#### Impact on Views

Lot 1 (122 Marine Parade) is located in relatively close proximity (approximately 180 metres to the west) of the Cottesloe Civic Centre which was made a Permanent Entry on the State Heritage Register in 1997. The height and bulk of the proposed development will adversely impact on important views to and from the Cottesloe Civic Centre. This conflicts with the objective of the Foreshore Centre zone under Clause 4.2.3(d) of LPS3 and the endorsed Conservation Plan for the Cottesloe Civic Centre.

In addition, the height, reduced setbacks and building bulk of the proposed development will adversely impact on views and privacy of adjacent residential development which is predominantly 2 storeys. Should the proposal be approved it will set a precedent for similar or higher development on adjoining and nearby lots along Marine Parade which will result in an cumulative adverse impact on views along the beachfront and to and from the Civic Centre.

#### Use of the Development

Lot 1 (122 Marine Parade) is zoned "Foreshore Centre" and is located in 'Special Control Area 2' (SCA2) in LPS3. The aims and objectives of the Scheme for the zone and SCA2 include providing opportunities for housing choice and variety and a limited range of commercial shopping. Clause 6.4.3.1(d) of the Scheme requires in SCA2 that development should provide a minimum of 25% of the total multiple dwellings proposed comprising a maximum plot ratio area of 70m<sup>2</sup> and 25% shall comprise a maximum plot ratio of greater than 70m<sup>2</sup> but not greater than 90m<sup>2</sup>.

The size and composition of the eight (8) multiple dwellings in the proposed development does not satisfy this requirement as all of the multiple dwellings are large three bedroom dwellings well in excess of the prescribed requirement. The composition of the proposed development and the size of the proposed apartments is outlined below:

Use	Level	Strata Area
Commercial	Ground	269m <sup>2</sup>
Apartment 1	1	197m <sup>2</sup>
Apartment 2	1	184m <sup>2</sup>
Apartment 3	2	197m <sup>2</sup>
Apartment 4	2	184m <sup>2</sup>
Apartment 5	4	306m <sup>2</sup>
Apartment 6	5	306m <sup>2</sup>
Apartment 7	6	306m <sup>2</sup>
Apartment 8	7	262m <sup>2</sup>

The proponent claims that State Planning Policy 7.3 Volume 2 adequately provides for a mix of apartment sizes and types. Although State Planning Policy 7.3 provides guidance on the mix and types of apartments there is no specific standard for short-stay or holiday accommodation which is important in planning for development in beachfront localities such as the Cottesloe foreshore.

The Strategy describes the purpose of the Foreshore Centre zone as follows:

*'This is the chief zoning for the beachfront activity precinct to enable its multi-purpose uses and built-up character to evolve (within clearly defined limits) while respecting the residential (including short-stay accommodation) amenity and informal recreational nature of the locality serving both local and regional users. Typically higher densities are allowed here subject to acceptable planning and development outcomes. Under LPS3 there is some minor rationalisation of this zoning and upgrading of density. In addition, LPS3 would restrict residential use to upper levels to encourage commercial activity at ground level. Also, to prevent residential land use predominating in the area, the size of dwellings, including short-stay accommodation dwellings, is restricted.'*

Although the proposed use of the ground floor is of a commercial nature (cafe/restaurant) as no dimension is shown on the development plans, it is unclear if the depth of the commercial tenancy from the Marine Parade frontage complies with the required minimum depth of 9 metres under Clause 6.4.3.5 of LPS3. Under LPS No.3 a café use is not defined but vehicle parking requirements for a restaurant is one car space for every eight persons accommodated. The proposed cafe/ restaurant use of the commercial tenancy will have a capacity of approximately 120 persons and pursuant to the parking rates under Table 3 of LPS No.3 this equates to a requirement of 15 commercial bays.

The application proposes two car bays only and seeks approval to a parking shortfall of 13 car bays based on an existing parking shortfall of 6 bays for the current cafe use on Lot 1 and

pursuant to Clause 7.1 of Schedule 13 of LPS No.3, a 20% reduction in accordance with a traffic impact assessment that has been submitted with the application supporting the reduction. The application also seeks under Clause 5.8.3 of LPS No.3 a parking credit for the parking deficiency of the existing tourism use. Under these circumstances, the shortfall in car parking may be considered through cash-in-lieu arrangements.

#### Response to the Economic Effects of the COVID-19 Pandemic

The economic benefits statement submitted in support of the proposal indicates that the development cost in the construction phase is \$31.6 million (plus supply-chain effect of \$27.98 million) and that it will provide 100 full-time equivalent direct and indirect jobs during the construction of the development (construction timeframe 24 months) and 11 on-going jobs. The scale of the job creation for the project it is considered marginal.

#### State Planning Policies and Policies of the WAPC

- State Planning policy 7.0 - Design of the Built Environment (SPP 7.0)

SPP 7.0 sets out the objectives, measures, principles and processes which apply to the design and assessment of built environment proposals through the planning system. It is considered that the application has not provided sufficient justification to demonstrate that the proposed development meets the policy objectives as it:

  - Proposes development of a form and scale inappropriate to the context and the existing character of the Cottesloe foreshore area which will have significant impacts on the neighbouring properties and the public domain.
  - Fails to adequately provide for the social, environmental and economic opportunities for new housing in a recognised important tourist locality.
  - Proposes development that will adversely impact on and fails to fully respect views of and from a designated important local heritage site.
  - Fails to provide residential development that offers future residents the opportunities for better living choices and affordability when seeking a home in the locality.
- In terms of the 10 design principles in SPP 7.0 the Town attended a presentation of the proposal to the State Design Review Panel (SDRP) on 15 February 2022, and at the meeting various planning matters were discussed with the applicant in respect to the preliminary proposal.
- The applicant has subsequently submitted an Architectural Design Report in response to the 10 Design principles as part of the application, and the following comments are provided to this response:
- Context & Character

The response to the built form and envelope, particularly height is based on a solar analysis. The response by the applicant does not remove concerns that have been raised in this report about adverse impact of the built form on the amenity of neighbouring properties, particularly the public domain of the coastal foreshore area and adjacent residential sites, through overshadowing and loss of views and privacy. In addition, further detail regarding the analysis of views from the Civic Centre is required as currently it only examines views from specific points within the Civic

Centre grounds and fails to properly consider the **important** views of the Civic Centre looking from the beachfront and from other viewpoints along Marine Parade.

#### Landscape Quality

The applicant's submission indicates that the proposed development provides landscaping throughout the subject site and adjacent public space comprising on-structure planting (including deep soil planters), the provision of a public parklet, and redevelopment of an adjacent public micro-park. The submission further indicates that the on-structure landscaping seeks to mimic the scattered landscaping on nearby sand dune.

The development application reports indicates that as the development has a 100% site coverage, no on-site ground floor deep soil zones are proposed and that this is compensated for by on-structure planting and improvements to the adjacent public realm. The development proposes a total of 468m<sup>2</sup> of landscaping (comprising 332.5m<sup>2</sup> deep soil outside the lot boundary, 124.654m<sup>2</sup> planting on-structure within the lot boundary, with an additional 10.9m<sup>2</sup> of shallow plantings).

While the proposed improvements to the public realm are welcomed, the bulk of the planting and landscaping for the site is dependent on utilising public land to ensure that the maximum development potential can be achieved on the site. Such an approach is considered unacceptable and simply adds to the building bulk and scale of the development.

In respect to the on-structure landscaping proposed it is considered that the some of the window planter boxes are likely to have servicing and maintenance issues, and the location and types of street trees will need to be carefully planned given the need for safe vehicle and pedestrian movement and the coastal climatic conditions.

#### Built Form and Scale

Refer to Context and Character above.

#### Functionality & Build Quality

The proposed vehicular access arrangements for the development include an access ramp to two basement levels of vehicle parking across both Lot 1 and adjoining Lot 500 to the south. This coupled with access to and from the site via a single driveway from Napier Street, is likely to create access issues for vehicles using this section of Napier Street where it intersects with Marine Parade, and create an unsafe environment for pedestrians and cyclists.

As mentioned previously the Transport Impact Statement submitted with the application is unclear and fails to explain the cumulative impact of vehicle access and movement from the two developments on the surrounding street network and how the proposed shared access and parking arrangement will function and be implemented. The proposed access to and from the basement car parks combined with other proposed access arrangements, including for waste management, clearly demonstrate that the traffic management of the development will result in major impacts on traffic circulation, access and safety and therefore it should not be approved.

### Sustainability

The sustainability elements of the proposed development focus on the energy efficiency, water efficiency and health and wellbeing for the occupants of the building. Further information regarding the materials that are proposed to be used in the development and the impact of this on the environment is required.

### Amenity

The height and bulk of the proposed development will overshadow the adjacent buildings and have a significant impact on the coastal foreshore and the associated public domain. It will also cause visual privacy issues to neighbouring properties and will adversely impact on important views to and from the Cottesloe Civic Centre. The applicant's response does not demonstrate that these issues will be appropriately addressed.

### Legibility

This element is adequately addressed.

### Safety

The proposed vehicle and pedestrian access arrangements to and from the proposed development are unacceptable as explained under the 'Functionality & Build Quality' design principle.

### Community

The size and composition of the multiple dwellings in the proposed eight apartment development does not satisfy the housing choice and variety provisions under LPS No.3.

As mentioned under 'Amenity' design principle the height and bulk of the proposed development will overshadow the adjacent buildings and have a significant impact on the coastal foreshore and the associated public domain. In addition, it will adversely impact on important views to and from the Cottesloe Civic Centre.

The proposed development therefore fails to properly address this design principle and should not be supported.

Further, the development will directly benefit from the proposed Foreshore Redevelopment however, there has been no consideration given to assisting the Town, via a developer contribution, to achieve this for the benefit of both the community and future residents of the development.

### Aesthetics

The aesthetics of the design is understood to capture the ocean feeling of the locality. The size and shape of the balconies that encroach into the front setback area will result in some increase in overshadowing of the public domain. In addition, the roof deck area is likely to become a rather inhospitable environment for a large part of the time due to climatic conditions particularly the strong south-westerly and westerly winds that occur in this locality.

**ATTACHMENTS**

Nil

**CONSULTATION**

The application was not advertised by the Town as the Council is not the determining authority. The application is a significant development application for Lot 1 (Strata Lots 2-7) Marine Parade, Cottesloe that has been referred by the State Development Assessment Unit (SDAU) to the Town for comment as required under Part 17 of the *Planning and Development Act 2005*. SDAU has advertised the revised development application on its website..

**STATUTORY IMPLICATIONS**

- *Planning and Development (Local Planning Schemes) Regulations 2015,*
- *Planning and Development Act 2005 - Part 17 Special provisions for COVID-19 pandemic relating to development applications;*
- *Local Planning Scheme No. 3;*
- *Residential Design Codes.*

**POLICY IMPLICATIONS**

The proposal conflicts with, or is contrary to, various strategic planning documents (State & Local Government) and policies as outlined in this report.

**STRATEGIC IMPLICATIONS**

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

Priority Area 4: Managing Development

Major Strategy 3.6: Develop and implement an asset management plan for coastal infrastructure which seeks to promote the enjoyment of the coastline while protecting the dune environment.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority



OCM154/2022

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Mayor Young

Seconded Cr Masarei

1. THAT Council ADVISES the Western Australian Planning Commission that it objects to the proposed seven (7) storey development for Lot 1 (Strata Lots 1-7) Marine Parade, Cottesloe for the following reasons:
  - a) The proposed development is contrary to the established State and Local Planning Framework including State Planning Policy No.2.6 of the Western Australian Planning Commission in respect to building height and adverse impacts on amenity of the locality.
  - b) The proposed height and street setbacks are contrary to the requirements of the Town of Cottesloe Local Planning Scheme No.3 and will have a significant detrimental visual impact on the locality and affect views of the foreshore and ocean from nearby properties. The proposed development does not respect the scale and built form of surrounding development.
  - c) The site is located in relatively close proximity (approximately 180 metres to the west) of the Cottesloe Civic Centre which was made a Permanent Entry on the State Heritage Register in 1997. The height and bulk of the proposed development will adversely impact on important views to and from the Cottesloe Civic Centre. This conflicts with the objective of the Foreshore Centre zone under Clause 4.2.3(d) of LPS3 and the endorsed Conservation Plan for the Cottesloe Civic Centre.
  - d) Under Schedule 15 of LPS3 all development above a height of 12 metres is to be setback a minimum of 4 metres from Marine Parade. The balconies of level 1 – 6 of the proposed development project into this setback area resulting in overshadowing of the public domain which is unacceptable.
  - e) There is insufficient parking proposed for the non-residential use and access/egress from Napier Street combined with pedestrians and cyclists requires further detail.
  - f) There has been no consideration of a developer contribution being made towards the Town's existing infrastructure plans for the locality, including development of the adopted Foreshore Masterplan.
  - g) The sizes of the proposed multiple dwellings do not provide sufficient diversity to ensure adequate housing choice in the development.
  - h) The application fails to demonstrate how the shared arrangement for vehicle access from Napier Street via a single vehicle width crossover, across Lot 1 will be achieved and be maintained in perpetuity. The application should not be supported until this matter is resolved.
  - i) The proposed waste management arrangements for the development application are unacceptable as the proposed collection of waste bins will obstruct other vehicles' access to and from the site.
2. That should the Western Australian Planning Commission support the proposed

development that conditions be imposed requiring:

- A cash-in-lieu payment for the shortfall of six (6) car parking bays in accordance with Regulation 77G (3) of the Deemed provisions of the *Planning and Development (Local planning Schemes) Regulations 2015*.
  - A significant monetary contribution be made to the Town for infrastructure items identified in the Town's adopted Foreshore Master Plan to support the orderly development of the area and to cater for the additional demand generated from the proposed development and other sites with potential redevelopment along the Cottesloe Foreshore.
3. That this report and the Council resolution be forwarded to SDAU and the Western Australian Planning Commission for consideration

Carried by En Bloc Resolution 7/0

**ENGINEERING SERVICES****10.1.8 SHARK BARRIER COMMUNITY SURVEY**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/40548  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

For Council to consider the results of the recent shark barrier survey.

**OFFICER RECOMMENDATION IN BRIEF**

That Council:

- Lays on the table the one month extension until the February 2023 mid-year budget review for the additional funds to be sourced; and
- Notes that signs providing information on swimming directions will be installed in consultation with the Cottesloe Surf Lifesaving Club.

**BACKGROUND**

At the July 2022 Ordinary Council Meeting, Council resolved as follows:

**OCM001/2022****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**THAT Council:**

- 1. NOTES the additional information requested;**
- 2. REQUESTS the Chief Executive Officer to carry out a Cottesloe District wide community consultation survey in accordance to determine whether:**
  - a. The shark barrier introduction has been beneficial;**
  - b. The current period is appropriate;**
  - b. Any other improvements required to the shark barrier or its operations; and**
  - c. Survey respondents wishes to make any other general comments in addition to points two (a) to (c).**
- 3. NOTES that a Community Engagement Plan will be provided to Council prior to the commencement of the survey; and**
- 4. NOTES that a report will be tabled at an Ordinary Council Meeting upon the completion of the public consultation survey.**

**Carried by En Bloc Resolution 8/0**

Council is to note the following additional information requested at the June 2022 Ordinary Council Meeting. The following is a link to the Officer's Report (Item 10.1.8):

<https://www.cottesloe.wa.gov.au/council-meetings/ordinary-council-meeting/28-june-2022-ordinary-council-meeting/303/documents/confirmed-minutes-ordinary-council-meeting-28-june-2022.pdf>

- Ecoshark Barrier Maintenance Contract – This expires April 2024 and the additional cost quoted by the supplier (see confidential attached) is for structural monitoring and reporting;
- Local Government Insurance Scheme – The insurers have agreed to cover the shark barrier during the extension provided there is no wilful negligence and any damage or loss is not caused by a storm event exceeding a particular intensity (see confidential attachment);
- Storm Pattern – The intensity over the past 10 years over the installation period of October to March including the one month extension to April does not exceed the limit quoted in the insurance policy;
- State Government Approvals - DPLH Section 91 approvals (expires 2024) may need amending if the barrier installation was extended beyond March regardless.
- The Town's *Beaches and Beach Reserves Local Law 2012* - This allows the prohibit of surfing through sign installation but would need amending should this extension occur beyond the 2022/2023 season.

The consultation occurred between 12 August and 4 September 2022 through an online survey, advertised district wide. The following provides a summary of the results received (attached):

- Approximately 400 responses were received;
- 96% (394) indicated that the introduction was beneficial;
- 75% (309) supported the 1 October to 30 April install date (one month extension to the original end date); and
- Preferentially, 1 October to 30 April was ranked first and status quo last.

Though there is clear community preference to extend the current shark barrier period, Council will need to consider the financial and other implications of potentially implementing this desired change.

### **OFFICER COMMENT**

From the survey the community has suggested improvements and general comments are within the attached consultation summary report. One of the more popular improvements requested was for the installation of lanes within the enclosure to maximise the use of area by swimmers.

Given the time needed to investigate, Council is asked to consider information signs as an interim measure, in consultation with the Cottesloe Surf Lifesaving Club. A budget item will be included in the 2023/2024 budget for the lane lines installation.

The Town acknowledges the strong community support and recommends that shark barrier installation period (currently October to March) be extended to April. However, before a decision is made on this extension, Council needs to be conscious of significant increase in the current annual maintenance cost (see attached correspondence). The following are funding options open for Council to consider:

1. Option one: Identify cost savings now within the current budget;
2. Option two: Finance through the Shark Barrier Reserve (Remaining Value of \$136,158.00);
3. Option three: Source the additional funds at budget review;
4. Option four: Do not consider the extension so that no additional budget is required; and
5. Option five: Defer the one month extension and include this in the 2023/2024 budget.

Option three is preferred way forward for the following reasons:

- Overwhelming response from the community survey for the extension to 30 April;
- A majority of survey participants provided positive feedback on the introduction of the swimming enclosure;
- This funding approach delivers a balance between affordability and community expectations, noting that both the Long Term Financial Plan (being finalised) and the draft Asset Management Plan will include such additional cost to ensure the one month extension is financially sustainable.

In the unlikely scenario that the additional funds cannot be found, Council should consider Option two as the alternative first before Option five. Option four whilst open to Council, is not recommended as there seems to be clear community desire to extend the barrier period to April.

The Administration is also aware that to permanently change the barrier installation period there may be a need to change the Beaches and Beach Reserve Local Law (2012) to restrict surfing, which may take 6-12 months. A temporary solution would be the installation of signage advising beach patrons of the extension. Council may consider permanently amending the local law in future years, should the propose change of installation period (to April) prove a success.

#### **ATTACHMENTS**

- 10.1.8(a) Email - Eco Shark Barrier - Shark Barrier removal date - Cost Implications [CONFIDENTIAL] [UNDER SEPARATE COVER]**
- 10.1.8(b) Email - Town of Cottesloe - Extension of Shark Barrier - Insurance Implications [CONFIDENTIAL] [UNDER SEPARATE COVER]**
- 10.1.8(c) Combined All Summary Data - Shark Barrier Community Consultation - Redacted [under separate cover]**

**CONSULTATION**

The following stakeholders have been consulted:

State Government;

Town of Cottesloe staff;

Ecoshark Barrier;

Cottesloe Surf Lifesaving Club;

LGIS; and

Town of Cottesloe residents, businesses and ratepayers.

**STATUTORY IMPLICATIONS**

DPLH section 91 approvals

Beaches and Beach Reserves Local Law 2012

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

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

Major Strategy 1.4: Continue to improve community engagement.

The proposed community consultation allows Council to understand the views of the community and make an informed decision that would be in their best interest based on what can be done.

**RESOURCE IMPLICATIONS**

A budget variation will be required.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM155/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young**

**Seconded Cr Masarei**

**THAT Council:**

1. **THANKS** the survey participants for taking the time to provide feedback, noting that 96% of respondents indicated that the introduction of the Shark Barrier has been beneficial to the Town;
2. **SUPPORTS** the change of the annual installation period to 1 October to 30 April, subject to funding the additional budget required for the Ecoshark Barrier Maintenance Contract variation quoted by the Supplier within the Confidential Attachment as part of the Mid Year Budget Review considerations;
3. **NOTES** that subject to points two, signs to restrict surfing will be required in the month of April until the Beaches and Beach Reserve Local Law (2012) is permanently amended;
4. **NOTES** that signs providing direction to swimmers using the enclosure will be installed in consultation with the Cottesloe Surf Lifesaving Club and that the implementation of swimming lane lines will be included in the 2023/2024 budget for Council's consideration; and
5. **NOTES** that the additional expenditure being considered will be incorporated as part of the Town's Long Term Financial Plan (currently in development) and the draft Asset Management Plan to ensure the proposal is financially sustainable.

**Carried by En-Bloc Resolution 7/0**

**10.1.9 NATIONAL BROADBAND NETWORK SERVICE AGREEMENT**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/40553  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

For Council to authorise the Chief Executive Officer (CEO) to sign the attached National Broadband Network (NBN) Service Agreement

**OFFICER RECOMMENDATION IN BRIEF**

That Council endorses the attached NBN Service Agreement and authorises the Chief Executive Officer to execute this document and apply the common seal if required.

**BACKGROUND**

There is a previous Service Agreement signed in 2017 where the Town waived its right to receive work notifications from NBN before it carries out works on Council land (road reserves and Town vested Crown Land).

Under the Local Government Act (1995) Section 9.49A – Execution of Documents, Council authorisation is required for the Chief Executive Officer, Mayor (or equivalent) or another nominated officer to sign a document on behalf of a Local Government.

Legal advice has been obtained relating to the different matters including the exemption of Council set fees within its budget. Both the advice and the NBN Service Agreement have been included as confidential attachments.

**OFFICER COMMENT**

Council's authorising the CEO to sign the document would mean that the Town continues to waive the right to receive NBN notification when the entity carries out low impact works such as maintenance of infrastructure or installation of new customer connections (as defined within the confidential agreement).

Notwithstanding this, it will be important to note that the Town is currently being informally notified by way of email from NBN contractors without the need to complete any applications forms for a permit to be issued. Should Council decide that it wants the Town to be notified, NBN would then need to fill out the necessary paper work for processing.

Council is to consider the confidential legal advice attached relating to the commentary above that provides further information on either way it chooses for the Administration to proceed.

Given resource constraints and by virtue that there are clauses within current legislation that provide reinstatement work quality assurance, a recommendation is made for Council to



authorise the CEO to sign the attached confidential agreement. Further protection is also provided by the ability for the current and any future Council to withdraw from the waiver should it wishes to do so, noting that no justification is required.

It may also be prudent to note that any works carried out within the district are evident (reinstated trenches and new pits) and normally reported by residents, ratepayers and businesses should they be completed to an unsatisfactory standard.

### **ATTACHMENTS**

**10.1.9(a) NBN - Legal Advice from McLeods - REF#49545-22.07.08-DFN-Cottesloe**  
**[CONFIDENTIAL] [UNDER SEPARATE COVER]**

**10.1.9(b) NBN - Town of Cottesloe Notification Agreement for Maintenance Activities**  
**[CONFIDENTIAL] [UNDER SEPARATE COVER]**

### **CONSULTATION**

Cottesloe Coastcare Association

Town of Cottesloe Staff

Council Solicitors

Perth NRM

### **STATUTORY IMPLICATIONS**

#### ***Local Government Act (1995) Section 9.49A – Execution of Documents***

- (1) *A document is duly executed by a local government if —*
    - (a) *the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or*
    - (b) *it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.*
  - (2) *The common seal of a local government is not to be affixed to any document except as authorised by the local government.*
  - (3) *The common seal of the local government is to be affixed to a document in the presence of —*
    - (a) *the mayor or president; and*
    - (b) *the CEO,*

*each of whom is to sign the document to attest that the common seal was so affixed.*
  - (4) *A local government may, by resolution, authorise the CEO, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.*
  - (5) *A document executed by a person under an authority under subsection (4) is not to be regarded as a deed unless the person executes it as a deed and is permitted to do so by the authorisation.*
-

(6) *A document purporting to be executed in accordance with this section is to be presumed to be duly executed unless the contrary is shown.*

(7) *When a document is produced bearing a seal purporting to be the common seal of the local government, it is to be presumed that the seal is the common seal of the local government unless the contrary is shown.*

### **POLICY IMPLICATIONS**

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

### **STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

### **RESOURCE IMPLICATIONS**

The agreement execution reduces the demand on current resources to process any application from NBN.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

### **VOTING REQUIREMENT**

Simple Majority

**OCM156/2022**

### **OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Masarei**

**THAT Council NOTES the Confidential Legal Advice and AUTHORISES the Chief Executive Officer to sign the attached National Broadband Network Service Agreement and apply the common seal if required**

**Carried by En-Bloc Resolution 7/0**

**EXECUTIVE SERVICES****10.1.10 REQUEST FROM THE MINISTER FOR LOCAL GOVERNMENT TO REMOVE WARDS**

**Directorate:** Executive Services  
**Author(s):** Matthew Scott, Chief Executive Officer  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/41514  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

For Council to consider the request by the Minister for Local Government to voluntarily remove wards from the district.

**OFFICER RECOMMENDATION IN BRIEF**

That Council utilise the Default Pathway to abolish wards.

**BACKGROUND**

On 20 September 2022 the Minister for Housing; Lands; Homelessness; Local Government, the Hon John Carey MLA (the Minister) issued a letter to the Town of Cottesloe (attached) advising a Local Government Reform Bill was in progress and expected to be introduced into Parliament in early 2023. This Bill will (if passed) amend the current Local Government Act 1995 (the Act) to provide for:

1. The Introduction of Optional preferential voting
2. Directly elected Mayors and Presidents for band 1 and 2 Local Governments;
3. Council Numbers based on population; and
4. The removal of wards for band 3 and 4 local governments.

In the Letter, the Department of Local Government, Sport and Cultural Industries (DLGSC) has identified that the Town of Cottesloe (the Town) may need to abolish wards under the proposed amendments (reforms).

Accordingly, the Minister has advised two (2) pathways the Town can consider to achieve this change:

1. Voluntary Pathway; or
2. Default Pathway

The Voluntary Pathway would require the Town to commence the current statutory ward review process with the intent to abolish wards for the 2023 ordinary elections.

Schedule 2.2 (5), Local Government Act 1995, provides the process to undertake a review of wards, effectively being:

1. The Local Government resolves to undertake a ward review (with the intention of abolishing wards);
-

2. Develop a comprehensive discussion paper on the ward review;
3. Advertise the discussion paper and seek submissions for a minimum of six(6) weeks;
4. The Local Government needs to consider the submissions received and draft a report to the Local Government Advisory Board (Advisory Board);
5. The Local Government resolves to accept the Report to the Advisory Board;
6. The Advisory Board considers the Local Government Report and makes a recommendation to the Minister;
7. The Minister agrees or rejects the Advisory Board's recommendation.

According to the letter from the Minister, if the Council chooses this course of action, it must resolve by 28 October 2022 to commence the process, and have a report to the Advisory Board by 14 February 2023.

Alternatively, the Default Pathway would require Council to resolve to take this pathway, and the wards would be automatically abolished when the Amendment Act is passed.

The Minister has requested the Town to advise the DLGSC on which pathway it will take by 28 October 2022.

### **OFFICER COMMENT**

Given the 2 Options, and the Minister's intent to legislate the removal of wards for Band 3 and 4 Local Government, the default pathway seems the obvious pathway to take. If Council was to undertake the Voluntary Pathway, it seems regardless of the Council's, Community's, or Advisory Board's preference, the Minister will abolish the Town's wards. There seems little value in undertaking a process, potentially creating expectations, when the outcome has already been decided.

As there seems that there will be no consequences to this approach, given the written advice from the DLGSC (attached), the recommended option is the Default Pathway.

### **ATTACHMENTS**

- 10.1.10(a)    Wards - Letter from Minister [under separate cover]**
- 10.1.10(b)    Wards - Advice from DLGSC [under separate cover]**

### **CONSULTATION**

Nil

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Schedule 2.2 – Provisions about names, wards, and representation.*

### **POLICY IMPLICATIONS**

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

---

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

Major Strategy 6.4: Enhance the Town's ability to embrace and manage change.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM157/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Masarei**

**THAT Council ADVISE the Department of Local Government, Sport and Cultural Industries (DLGSC) that it will abolish wards as per the Default Pathway, as outlined in the Minister for Local Government Letter, 20 September 2022.**

**Carried by En-Bloc Resolution 7/0**

**10.1.11 QUARTERLY INFORMATION BULLETIN**

**Directorate:** Executive Services  
**Author(s):** Matthew Scott, Chief Executive Officer  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/41736  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

To provide Council information and statistics on key activities during the year on a quarterly basis, as requested by Council or recommended by the Administration.

**OFFICER RECOMMENDATION IN BRIEF**

THAT Council notes the information provided in the Quarterly Information Bulletin (Attachments).

**BACKGROUND**

This report is consistent with the Town's Strategic Community Plan 2013 – 2023. Priority Area 6: Providing open and accountable local governance.

This report is consistent with the Town's Corporate Business Plan 2020 – 2024. Priority Area 6: Providing open and accountable local governance.

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

**OFFICER COMMENT**

Nil

**ATTACHMENTS**

**10.1.11(a) CEO Quarterly Report to Council [under separate cover]**

**CONSULTATION**

Nil

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

**POLICY IMPLICATIONS**

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

---

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM158/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Masarei**

**THAT Council notes the information provided in the Quarterly Information Bulletin**

**Carried by En-Bloc Resolution 7/0**

**10.1.7 PROPOSED PARKING AND PARKING FACILITIES LOCAL LAW**

**Directorate:** Development and Regulatory Services  
**Author(s):** Freya Ayliffe, Director Development and Regulatory Services  
**Authoriser(s):** Matthew Scott, Chief Executive Officer  
**File Reference:** D22/41537  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

---

**SUMMARY**

This report proposes advertising the draft *Town of Cottesloe Parking and Parking Facilities Local Law 2023*.

**OFFICER RECOMMENDATION IN BRIEF**

That Council seek submissions on the proposal for a draft Parking and Parking Facilities Local Law pursuant to *Clause 3.12 of the Local Government Act 1995*.

**BACKGROUND**

At the August Ordinary Council Meeting, Council deferred the Officers recommendation to advertise the proposed Parking and Parking Facilities Local Law and requested the item be presented at a Briefing Workshop for discussion. The proposed Local Law was presented at the September briefing and included a comparison of modified penalties for each parking local law offence from various, neighbouring Council's. *As per the Local Government Act 1995 a modified penalty that may be prescribed for an offence is not to exceed 10% of the maximum fine that could be imposed for that offence by a court.* In accordance with the *Town's Parking and Parking Facilities Local Law 2009* that maximum penalty is \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day during which the offence continued.

The proposed local law and modified penalties have been further reviewed by administration, with no further changes made.

It is recommended that the *Town of Cottesloe Parking and Parking Facilities Local Law 2023* be approved for advertising.

**OFFICER COMMENT**

Up to date and relevant local laws are an important cornerstone of good governance. Further, the Town has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner. The repeal and replacement of this Local Law will result in a more efficient and effective local government by removing an outdated Local Law from the public record.



To comply with the provisions of Section 3.12 of the Local Government Act 1995, when proposing to amend or create a Local Law, the Presiding Person is required to give notice of the purpose and effect of the proposed Local Law at the Council meeting where the Local Law is being considered.

The purpose and effect of the proposed *Town of Cottesloe Parking and Parking Facilities Local Law 2023* is as follows:

**Purpose: To provide for the orderly control and regulation of Parking and Parking Facilities within the Town of Cottesloe.**

**Effect: To ensure that all matters associated with parking within the district of the Town of Cottesloe are governed by this Local Law unless otherwise provided in the Act, regulations or other written law.**

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

- In 2022 the existing Local Law was examined by the Administration, including Ranger Services and Regulatory officers.
- The Western Australian Local Government Association (WALGA) Model Local Law was combined with the Town's previous existing Local Law and amendments made where required.
- A new draft of the Local Law based on the WALGA model was prepared, while retaining those sections that are relevant and specific to the Town of Cottesloe.

Matters within the Local Law that are considered significant for Council's consideration are as follows:

1. Table of Contents and page numbers of the Local Law will be removed when the Local Law is at the gazettal stage. All Local Laws are treated this way to avoid confusion with the Government Gazette Table of Contents and page numbering systems.
2. The Residential and Visitor Parking Permit section has been amended and now references a separate Parking Policy allowing for greater flexibility. This Policy does not form part of the Local Law and is still in draft format and will be submitted to Council at a later point in time for adoption. The non finalisation of this Policy need not delay the lengthy Local Law making process, particularly as Council has been seeking this Local Law to be updated for some time now.
3. The section relating to paid parking has been retained though Council has not introduced paid parking and there is no intention to do so. This section has been retained as it provides Council the ability to introduce paid parking, noting it does not have to. The State imposed restrictions remain in place along the Foreshore.
4. Sectors "A" and "B" have been removed from the draft Local Law. The reason is that this now provides consistency in penalties across the district.
5. The fines and penalties within the Local Law are consistent with the WALGA Model and industry standard. The Joint Standing Committee on Delegated Legislation (JSCDL) is likely to reject the Local Law if the penalties differ from the Industry Standard.

6. The remainder of the Local Law is principally the same as the current Local Law and is compatible with the Parking System introduced in 2021.

Please note that the local law is currently being reviewed by the Solicitors, this process will be completed while the Local Law is being advertised.

### **ATTACHMENTS**

- 10.1.7(a) Attachment - DRAFT Parking and Parking Facilities Local Law - Oct 2022**  
**[under separate cover]**

### **CONSULTATION**

The formal consultation process is embedded in the legislation associated with the review of a Local Law. Consultation consists of two 6 week advertising periods.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

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

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

#### **3.12 Procedure for making a Local Law**

- (1) *In making a Local Law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2A) *Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*
- (a) *give local public notice stating that —*
- (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and*
- (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
- (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice,*

*being a day that is not less than 6 weeks after the notice is given; and*

- (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*
- \* Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) After the local law has been published in the Gazette the local government is to give local public notice —*
- (a) stating the title of the local law; and*
  - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) advising that the local law is published on the local government’s official website and that copies of the local law may be inspected at or obtained from the local government’s office.*
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) In this section —*
- making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

### **POLICY IMPLICATIONS**

It is intended to introduce a Parking Permit Policy relating to Residential and Visitor Parking as noted at Council’s Briefing Session held on 12 July 2022. This will be formally submitted to Council for adoption in due course and need not hold up the progress of the Local Law itself.

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

1. THAT Council PROVIDES Local Public Notice that it proposes to create the Town of Cottesloe Parking and Parking Facilities Local Law 2023, as contained within *Attachment 1* to this report, inviting public submissions on the proposal in accordance with Section 3.12 (3) (iii) of the *Local Government Act 1995*.

OCM159/2022

Moved Cr Barrett

Seconded Cr Masarei

**COUNCILLOR AMENDMENT**

1. THAT Council PROVIDES Local Public Notice that it proposes to create the Town of Cottesloe Parking and Parking Facilities Local Law 2023, as contained within *Attachment 1* to this report, subject to the amendments to the prescribed offences schedule as per the additional Councillor attachment provided, inviting public submissions on the proposal in accordance with Section 3.12 (3) (iii) of the *Local Government Act 1995*.

**RATIONALE:**

1. As discussed in the briefing forum, some of the proposed modified penalties are excessive relative to neighbouring Councils.

2. Whilst this is going out for Public Submissions, I believe it is unlikely that many residents will drill into the detail and most residents would rely on their Councillors to ensure what is being proposed is fair and reasonable and not excessive.

Lost 2/5

For: Crs Harkins and Barrett

Against: Mayor Young, Crs Sadler, Masarei, Bulbeck and Wylynko

**OCM160/2022**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION FORSHADOWED MOTION)**

**Moved Mayor Young**

**Seconded Cr Wylynko**

1. **THAT Council PROVIDES Local Public Notice that it proposes to create the Town of Cottesloe Parking and Parking Facilities Local Law 2023, as contained within *Attachment 1* to this report, inviting public submissions on the proposal in accordance with Section 3.12 (3) (iii) of the *Local Government Act 1995*.**

**Carried 6/1**

**For: Mayor Young, Crs Sadler, Masarei, Harkins, Bulbeck and Wylynko**

**Against: Crs Barrett**

**10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES**

Nil

**11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

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

**OCM161/2022**

**MOTION FOR BEHIND CLOSED DOORS**

**Moved Mayor Young                      Seconded Cr Sadler**

**That, in accordance with Section 5.23(2)(d), Council discuss the confidential reports behind closed doors.**

**Carried 7/0**

**For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, Bulbeck and Wylenko**

**Against: Nil**

*The public and members of the media were requested to leave the meeting at 6:50 pm*

**13.1.1 BUS SHELTER ADVERTISING**

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

**OFFICER RECOMMENDATION**

THAT Council:

1. CONSIDERS the confidential legal advice;
2. NOTES the attached confidential proposal submitted;
3. NOTES that a tender will be advertised in early 2023 to allow time for an ideal set of specifications to be prepared for that process.

OCM162/2022

Moved Cr Sadler

Seconded Cr Bulbeck

COUNCILLOR MOTION

THAT COUNCIL

DEFERS consideration of ITEM13.1.1 Bus Shelter Advertising to the November Ordinary Council Meeting in order that the item can be brought to the November Elected Member Workshop

Lost 0/7

For: Nil

Against: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, Bulbeck and Wylynko

OCM163/2022

Moved Cr Bulbeck

COUNCILLOR AMENDMENT

THAT Council

3. NOTES that a tender will be advertised in early 2023 after input from a Councillor Workshop to allow time for an ideal set of specifications to be prepared for that process.

Motion lapsed due to a lack of a Seconder

OCM164/2022

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (FORESHADOWED MOTION)

Moved Cr Masarei

Seconded Cr Barrett

THAT Council:

1. **CONSIDERS** the confidential legal advice;
2. **NOTES** the attached confidential proposal submitted;
3. **NOTES** that a tender will be advertised in early 2023 to allow time for an ideal set of specifications to be prepared for that process.

Carried 7/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, Bulbeck and Wylynko

Against: Nil

OCM165/2022

**MOTION FOR RETURN FROM BEHIND CLOSED DOORS**

Moved Mayor Young                      Seconded Cr Sadler

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

Carried 7/0

For: Mayor Young, Crs Sadler, Masarei, Harkins, Barrett, Bulbeck and Wylynko

Against: Nil

*The public and members of the media returned to the meeting at 7:04 pm.*

**13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC**

**13.1.1 BUS SHELTER ADVERTISING**

The resolution for item 13.1.1 was read aloud.

**14 MEETING CLOSURE**

The Presiding Member announced the closure of the meeting at 7:05 pm.