



# Town of Cottesloe

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

**Tuesday, 26 March 2019**

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

A handwritten signature in black ink, appearing to be 'D. ...', written over a horizontal line.

Signed:

Presiding Member

Date: 7/5/19

# TOWN OF COTTESLOE



## ORDINARY COUNCIL MEETING MINUTES

ORDINARY COUNCIL MEETING  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre  
109 Broome Street, Cottesloe  
6:00 PM Tuesday, 26 March 2019

**MAT HUMFREY**  
Chief Executive Officer

30 March 2019

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

The Presiding Member announced the meeting opened at 6:00pm.

**2 DISCLAIMER**

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

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

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

**4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Paul Underwood – 11A Rosendo Street, Cottesloe – Item 10.1.7

Q1: Why has this Council not insisted that the CEO register and record all complaints, including telephone complaints and complaints in writing, not necessarily on the prescribed form?

A1: All complaints (and correspondence) are registered and recorded by the Town in its records management system.

**4.2 PUBLIC QUESTIONS**

Greg Reudavey – 156B Marine Parade, Cottesloe – Item 10.1.4

) Pop up markets – not an objection to the markets but the process that's been gone through.

) North Cottesloe Surf Lifesaving Club are anticipating approval of this to go ahead, first one is on Sunday, only four days away.

) None of the residents have been notified of this and not consulted, so it's new to us.

) The application form seems to be very incomplete.

) There's supposed to be approximately 300 people attending but there's no bump-in time.

) It starts at 7:00am but what time are the people arriving – 6:00am or 5:00am?

) There are people living 25-30metres away from this event. It's poor form not to inform people of what's going on.

) There's music and PA systems also listed and there's no times listed so they could start at 7:00am.

) No traffic management plan, no parking plans.

- ) No rubbish management plan mentioned, coincides with the Nippers event on Sunday so a busy time.
  - ) No rubbish management plan mentioned, just two bins.
  - ) Even today, there's still 12 bins on the sidewalk since Monday.
  - ) The application form is incomplete, looks like a done deal because it's going ahead on Sunday so it's all a bit late for residents to have any say in it.
- A1. Taken on notice.

Mrs Boulter – 3 Millers Court, Cottesloe

- Q1. On what date was the TOMP/TOP depot works lease signed by each of the parties?
- Q2. Has the Minister for Lands approved the lease? If so, when? If not, what advice has the TOC received about this?
- Q3. What premiums have been paid to LGIS over each of the last three years by category – itemised to each year and itemised as to each year for property liability and workers compensation?
- Q4. What amounts have been paid to the Town of Cottesloe from LGIS by way of rebate and /or dividend for each of the last three years, itemised as to each year and whether or not it was a rebate or dividend?
- Q5. In respect of the officer report about the draft minutes of North Cottesloe Primary School Traffic Safety Committee 26 February 2019, why has CEO Humfrey advised Council that there are no recommendations to Council from the committee when there are recommendations from the committee in the committee minutes?
- Q6. In respect of Item 10.1.4 North Cottesloe Centenary Markets, how can conditions 3, 4, 5 and 15 be complied with, given that the first day of the proposed trial is to be Sunday 31 March?
- a. *3. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.*
  - b. *4. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.*
  - c. *5. All signage to be approved by the Chief Executive Officer one month prior to the event. ....*
  - d. *15. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.*
- Q7. In respect to 10.1.4 North Cottesloe Centenary Markets, why wasn't there neighbour consultation about this proposal before the proposal
-

was brought to Council and what consultation will take place and by whom after the trial?

- Q8. In respect to the 10.1.14 Annual Electors' Meeting (28 February 2019) – Receipt of Minutes, why does the Department observer, Teresa Ellis appear twice in the list of Electors and has the list been compared against the electoral roll?
- Q9. In respect of the 10.1.14 Annual Electors' Meeting (28 February 2019) – Receipt of Minutes, why didn't the AEM Presiding Member Angers apply TOC Standing Order to the AEM as required by TOC Standing Order SO 1.3(1)?
- A1. Taken on notice.

Patricia Carmichael – 14-116 Marine Parade - Item 10.1.11

- Q1. p.7 Other expenditure (\$102,144) there is No NOTE to the Accounts. This unknown item "other expenditure" reveals an increase of 14% over budget and yet the item directly below in this report at NOTE 8 shows a trading Loss on Disposal of Assets of (\$11,475). What does this "Other expenditure of \$104,144) relate to? Is it catering or what?
- Q2. p.33 Miscellaneous deposits \$148,180. Is for what? I assume it is NOT for Roads or Footpaths as shown on page 33.
- Q3. p.9 Since 2015/2016 the Infringement Notices have continued to grow in this report to the extent that they are topping nearly half a million dollars.
- Q4. Accounts receivables - Infringements \$499,845 with a provision for Doubtful debts of \$227,574. I could not find a write off of bad debt in the Towns 2018 Annual report which was presented at the Annual Electors meeting 28<sup>th</sup> February 2019? Did the Auditor write off a bad debt in this Annual report but fail to NOTE this information in the Accounts, or is this information not required in the accounts of Not for Profit Organisations reports?
- Q5. What amount (estimate) is recovered from infringement notices per annum?
- Q6. Is there a cost to council for using outside services to recover these fines etc?
- Q7. Who at Council is responsible for signing off on the Audit report?
- A1. Taken on notice.

**5 PUBLIC STATEMENT TIME**

Ken Hall – 10 Antony Street, Palmyra – Item 10.1.3

- ) I have an application for a licence to run our surf competition at Isolators Beach, Cottesloe.



- ) The Cottesloe Longboard Club is now in its 21<sup>st</sup> year.
- ) Club's been supporting and promoting this sport of longboarding at Isolators Beach.
- ) We have a very long history with Council and the local community.
- ) We're one of oldest and most well run clubs in Australia with a membership 70 members this year.
- ) Members include juniors, family memberships and seniors.
- ) We hold nine half-day competitions only.
- ) We've produced two Australian champions, four junior champions
- ) Regular participation in Surfing WA, representing WA on the national stage.
- ) Whalebone Classic in July each year.
- ) Excellent relationship with Council.
- ) Receive regular feedback on community concerns.
- ) Strong social media presence to promote our values.
- ) Encourage Council to support the application so we can move forward with a more formal arrangement.
- ) We note that there are a few unclear questions within the report but we endeavour answer most of those so if there are any questions then we need to answer them.

Michael Aspinall – 4 Uringa Way, Wanneroo – Item 10.1.6

- ) I support the officer's recommendation.
- ) Cottesloe Beach is one of the state's iconic beaches and the ToC spends a considerable amount of ratepayer's funds on maintaining the beaches in a pristine condition and free from litter.
- ) According to the 2017 – 2018 National litter index each state and territory, other than Victoria and WA experienced a reduction in cigarette litter, WA showed a 3% increase in cigarette butts.
- ) Last litter count for WA in November 2018 – eight distinct sites surveyed ie Beach, Car Park, Highway, Industrial, Recreational Park, Residential, Retail Shopping Centres – a total of 151 sites.
- ) Last year there was a lot of publicity regarding banning of plastic bags and straws. Litter count for straws was 149, lightweight plastic bags 35, cigarette butts 2559.
- ) It shows that cigarette butts are a huge problem.
- ) Cigarette butts contain over 6,000 chemicals which leach into the ground when discarded, poisoning the ground and waterways.
- ) Cigarette butts are digested by fish, thinking them to be food.

- ) I no longer eat beach caught fish.
- ) I totally support the recommendastion and hope Council looks at other areas to restrict or ban smoking.

Patricia Carmichael – 14-116 Marine Parade - Item 10.1.15

- Q1. After what happened with the Indiana Restaurant Lease in 2015/2016 I note again in the annual report \$203,518 that related to legal expenses as part of the lease dispute.
- Q2. My concern is that \$200,000 can do a lot of cleaning up at the beaches etc.
- Q3. Who will be responsible for handling all future correspondence in this area – that includes lease documentation, everything?
- Q4. Will there be a person or parties that will be directly involved so this does not happen again to the expense of the Town of Cottesloe residents and ratepayers?
- A1. Taken on notice.

## 6 ATTENDANCE

### Elected Members

Mayor Philip Angers  
Cr Mark Rodda  
Cr Helen Sadler  
Cr Lorraine Young  
Cr Rob Thomas  
Cr Sally Pyvis  
Cr Melissa Harkins

### Officers

Mr Mat Humfrey	Chief Executive Officer
Mr Garry Bird	Deputy Chief Executive Officer
Ms Freya Ayliffe	Manager of Compliance and Regulatory Services
Mr Shaun Kan	Manager Engineering Services
Ms Mary-Ann Winnett	Governance Coordinator

### 6.1 APOLOGIES

Cr Michael Tucak

#### Officers Apologies

Nil

### 6.2 APPROVED LEAVE OF ABSENCE

Nil

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**7 DECLARATION OF INTERESTS**

Mayor Angers declared an IMPARTIALITY INTEREST in item 10.1.4.

Cr Harkins declared an IMPARTIALITY INTEREST in item 10.1.4.

Cr Pyvis declared an IMPARTIALITY INTEREST in item 10.1.7.

Cr Rodda declared an IMPARTIALITY INTEREST in item 10.1.7.

**8 CONFIRMATION OF MINUTES**

**Moved Cr Rodda**

**Seconded Cr Thomas**

**That the Minutes of the Ordinary Meeting of Council held on Tuesday 26 February 2019 be confirmed as a true and accurate record.**

**Carried 6/1**

**For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins**

**Against: Cr Pyvis**

**9 PRESENTATIONS****9.1 PETITIONS**

Nil

**9.2 PRESENTATIONS**

Nil

**9.3 DEPUTATIONS**

Nil

For the benefit of the members of the public present, the Mayor announced that items 10.1.3, 10.1.4, 10.1.5, 10.1.6, 10.1.7, 10.1.8, 10.1.9, 10.1.10, 10.1.11, 10.1.12, 10.1.13, 10.1.14, 10.1.15, 10.2.1, 11.1, 12.1, 13.1.1 have been withdrawn for discussion. All other items will be dealt with en bloc.

**10 REPORTS****10.1 REPORTS OF OFFICERS****PLANNING****10.1.1 PLANNING APPLICATIONS DETERMINED UNDER DELEGATION**

<b>File Ref:</b>	<b>SUB/2798</b>
<b>Applicant(s) Proponents:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>10.1.1(a) Open Development Applications List as of 21 March 2019 [under separate cover]</b>
<b>Responsible Officer:</b>	<b>Mat Humfrey, Chief Executive Officer</b>
<b>Author:</b>	<b>Ed Drewett, Coordinator Statutory Planning</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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**SUMMARY**

This report provides details of the planning applications determined by officers acting under delegation, for the month of February 2019.

**BACKGROUND**

Pursuant to Local Planning Scheme No. 3, Council has delegated its power to determine certain planning applications to the Chief Executive Officer and the Coordinator, Statutory Planning. This provides efficiency in processing applications, which occurs on a continual basis.

Following interest expressed from within Council, this report serves as a running record of those applications determined during each month.

**STRATEGIC IMPLICATIONS**

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

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**STAFFING IMPLICATIONS**

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

**CONSULTATION**

Nil

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**OFFICER COMMENT**

During February 2019 the following planning applications were determined under delegation:

Address	Owner	Applicant	Description	Delegation Notice	Date Determined
22 Loma Street	Ms O Porteous	Mr Phillip Gnech	Two-storey dwelling with undercroft	25/01/2019	8/02/2019
36 Eric St	Eric 36 Pty Ltd	Ms Natasha Young & Ashish Patel	Change-of-use to orthodontic consulting rooms	25/01/2019	14/02/2019
33 Curtin Ave	Ms W Wisbey & Mr K Glass	Mr R White	Rear garage with a roof terrace & first-floor balcony	25/01/2019	14/02/2019
10 Railway St	Mr JP & Ms KS Wood	Distinctive Homes WA	Two-storey dwelling	25/01/2019	14/02/2019
18 Lyons St	Mr D Rosenberg	Owner	Fill & retaining walls	25/01/2019	15/02/2019
105 Napier St	Mr N McDonough	Owner	Single-storey rear additions & raised pool deck	25/01/2019	21/02/2019

Please note that Council will be provided with an up to date list of all outstanding Development Applications with the Council Agenda.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Rodda

Seconded Cr Sadler

**THAT Council receive this report on the planning applications determined under delegation for the month of February 2019.**

**Carried 7/0**

**ADMINISTRATION****10.1.2 THE BLOODY LONG WALK 2019**

**File Ref:** SUB/2798  
**Attachments:** 10.1.2(a) Event Application - Bloody Long Walk 2019  
[under separate cover]  
**Responsible Officer:** Garry Bird, Deputy Chief Executive Officer  
**Author:** Gabrielle Hall, Events Officer  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

The Australian Mitochondrial Disease Foundation is seeking approval to hold their fifth 'The Bloody Long Walk – Perth' event at Cottesloe Beach, on Sunday, 22 September 2019, from 6.00am to 7.00pm. The event raises awareness and funds to support the Australian Mitochondrial Disease Foundation's journey in finding a cure for Mitochondrial Disease.

**BACKGROUND**

The event consists of a 35 kilometre walking challenge, starting at Sir James Mitchell Park, South Perth, and finishing at Cottesloe Beach. The walking challenge presents as an extreme endurance activity, representing the physical challenge faced daily by sufferers of this relatively unknown Mitochondrial Disease which affects the energy capabilities of the body.

In 2015 Australian Mitochondrial Disease Foundation launched a National Series, extending the event to Adelaide and Perth. The Perth event has been very successful in previous years. The purpose of the event is to raise funds for, and awareness of Mitochondrial Disease, as well as to encourage West Australians to challenge themselves to compete in the walking challenge. The 2018 event raised over \$190,000 for the Australian Mitochondrial Disease Foundation.

Entry fees to the event for competitors range from \$98 to \$120.

Participants will be sent off in waves of 150 at a time every five minutes so as to avoid any interference with the general public's use of shared pathways and reduce congestion at the finish line. Organisers expect that there would not be more than 100 to 200 people at the finish at any one time. It is expected that the busiest time for competitors to walk through Cottesloe will be between 12.00pm and 3.00pm.

Participants will receive detailed information packs that will provide clear instruction for competitors to walk mostly single file or two abreast, and to maintain awareness of other users, particularly runners and cyclists using the shared pathways. Marshalls will be allocated at crossing points to advise the competitors of safety.

**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.

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

Priority Area 1: Protect and enhance the wellbeing of residents and visitors.

Major Strategy 1.4: Continue to improve community engagement.

## **POLICY IMPLICATIONS**

### **Beach Policy**

The event complies with the Town's Beach Policy.

### **Event/Facility Classification Policy**

The event meets the assessment criteria of a Charitable Event as outlined in the policy as it satisfies all three of the criteria.

Events in this category will satisfy at least one of the following;

1. The primary purpose of the event is to raise funds for a registered charitable purpose(s); or
2. The event is being organised by a not for profit organisation to raise funds for a registered charity or other not for profit organisation that is a registered charity with the Australian Government; or
3. The primary aim of the event is to promote awareness of a significant community or health issue.

After the event, organisers will be required to submit audited financial statements and receipts demonstrating that the funds have been provided to the nominated charity.

## **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Beaches and Beach Reserves Local Law 2012* has provisions for maintenance and management of the beaches and beach reserves.

## **FINANCIAL IMPLICATIONS**

Based on this information, it is recommended that Council classify this event as a 'Charitable' event, which has no hire fees. As per the Schedule of Fees and Charges the applicant is required to pay a \$200 bond and charged no hire fee. Statutory fees may be charged.

## **STAFFING IMPLICATIONS**

If approved, the Manager Compliance and Regulatory Services will liaise with event organisers to review the relevant event plans and discuss the requirements of the *Health (Public Building) Regulations 1992*.

Officers will be required to attend the event to ensure compliance with the officer's recommendation and statutory obligations.

Officers will liaise with event organisers in regard to ensuring compliance with the new requirement to not use single use plastics.

Staff will meet with event organisers after the event to de-brief.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

Adequate arrangements are made for rubbish collection and removal of recyclable materials.

Staff will assist organisers to avoid the use of any form of single use plastic in accordance with the event conditions.

**CONSULTATION**

Town of Cottesloe

Australian Mitochondrial Disease Foundation

Sorted Events

Cottesloe Surf Life Saving Club

**OFFICER COMMENT**

As part of their Event Plan, organisers have provided a site plan. Signage proposed to be used is provided in their application.

A Risk Assessment Plan and Public Liability Insurance Certificate have been provided. Relevant authorities, such as the local police will be notified of the event taking place. Organisers will address traffic management in Cottesloe by providing shuttle buses for spectators to be transported to and from the Cottesloe train station from 12.00pm until 5.00pm.

Event commentators will make brief announcements at Cottesloe Beach during the competition from 10.00am until 5.00pm. Noise limitations will be put into place and there will be minimal use of audio equipment, however, it is recommended that neighbouring properties be advised of the event taking place and implement a mechanism for them to provide feedback if required.

Due to the anticipated crowd, organisers will provide additional rubbish bins. Event volunteers will remind participants that they are walking through reserves, beaches and places of cultural and historical significance. Event Management Staff will be collecting rubbish from the start, finish and all check points and taking to a central spot to dispose of in hired rubbish bins.

**VOTING REQUIREMENT**

Simple Majority

**COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019****Cr Thomas**

Q1. On page 14, point 4 when neighbouring properties are notified of the event taking place - is that by the Town?

A1. The organisers are expected to do that.



Q2. Do we check that they actually do it?

A2. We generally do and normally they would give us a copy of their letter drop letter.

Q3. With regard to point 11, are we going to get from EarthCarers bin toppers, like a yellow one that says what type of rubbish to put in the bin and a red lid on the other bin?

A3. They do get used for some events but I doubt that we would need additional bins for this event.

#### **Cr Tucak**

Q1. Is the event being run in the same way as previous years in terms of the batches of people finishing?

A1. Yes.

Q2. Has there been feedback, problems, complaints?

A2. The Town has never received any feedback, positive or otherwise.

#### **Cr Sadler**

Q1. At the last Ordinary Council Meeting, Cr Pyvis moved an amendment which was a formatting change which was supported. Is that just a formatting issue or is it possible to have that change throughout or is it something we need to do as a Councillor Motion.

A1. The Administration can do that that.

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

Moved Cr Rodda

Seconded Cr Sadler

**THAT Council APPROVE the application to hold The Bloody Long Walk – Perth at Cottesloe Beach on Sunday, 22 September 2019 from 6.00am to 7.00pm, subject to the following conditions:**

- 1. Class this event as a 'Charitable' event and the hire charges be waived, and a bond of \$200, to be paid prior to the event commencing subject to evidence of Australian Mitochondrial Disease Foundation Deductible Gift Recipient status and, Australian Charities and Not-for-Profit Commissions Charity Register Summary being provided prior to the event.**
- 2. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, be provided prior to the event.**
- 3. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.**
- 4. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.**
- 5. All signage to be approved by the Chief Executive Officer one month prior to the event.**
- 6. The event complies with all noise management conditions imposed on the event by**

the Town of Cottesloe.

7. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*.
8. Compliance with relevant sections of the Town's *Beach Policy*.
9. The event complies with all requirements of the:
  - Ñ1 *Health (Public Buildings) Regulations 1992*
  - Ñ1 *Food Act 2008*
  - Ñ1 *Town's Health Local Law 1997*
  - Ñ1 *Town's Liquor (Licensed Premises) Policy*
  - Ñ1 *Health (Miscellaneous Provisions) Act 1911*
  - Ñ1 *Environmental Protection (Noise) Regulations 1997*
10. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event.
11. Adequate arrangements for rubbish removal and collection, including the provision for recycling.
12. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event.
13. Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event.
14. That the event is a non-smoking event.
15. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.
16. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.
17. The provision of a Disability Access and Inclusion Plan.

#### ADVICE NOTE

##### No Balloons

The Town of Cottesloe *Local Government Property Local Law 2001 (Consolidated)* prohibits at clause 2.8(1)(i) 'releasing an unsecured balloon inflated with a gas that causes it to rise in the air'. Fines apply for breach of this Local Law, and applies to all events and food vans (and the like) approvals.

**Single Use Plastic Exemption**

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

**Fish Habitat Protection Area**

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

Carried 7/0

**10.1.3 COTTESLOE LONGBOARD CLUB - ANNUAL COMPETITIONS**

**File Ref:** SUB/2798  
**Attachments:** 10.1.3(a) Event Application  
 10.1.3(b) Event map  
**Responsible Officer:** Garry Bird, Deputy Chief Executive Officer  
**Author:** Gabrielle Hall, Events Officer  
**Author Disclosure of Interest:** Nil

**SUMMARY**

Cottesloe Longboard Club is seeking approval for the annual longboard competitions to be held at Isolators Reef and Beach on several dates throughout 2019, between 7.00am until 1.00pm. Cottesloe Longboard Club require flexibility on the competition dates as they're dependant on weather and swell conditions.

**BACKGROUND**

Cottesloe Longboard Club attract approximately 40 competitors per competition. The event has minimal impact, with a small pop up judging tent erected, where megaphone announcements are made and barbecue catering is provided to club members only.

Cottesloe Longboard Club have provided the Club's constitution and rules, risk management plan, certificate of currency and site map.

Exclusive use of the fifty metre competition zone is required for these competitions. This does have an impact on other non-competing surfers or beach goers. Cottesloe Longboard Club promote and inform the community about upcoming events through Surfing WA and Cottesloe Longboard Club database and social media platforms.

Proposed competition dates are:

Round 3*	6 or 7 April 2019
Round 4	27 or 28 April 2019
Round 5	25 or 26 May 2019
Round 6	22 or 23 June 2019
Round 7	27 or 28 July 2019
Round 8	10 or 11 August 2019
Round 9	7 or 8 September
Round 10	5 or 6 October
Round 11	26 or 27 October

\*Location to be confirmed could be held at Isolator Reef and Beach or Wedge Island.

**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 1.3: Identify places to host more cultural events and activities.

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

Priority Area 1: Protect and enhance the wellbeing of residents and visitors.

Major Strategy 1.4: Continue to improve community engagement.

## **POLICY IMPLICATIONS**

### **Beach Policy**

This event is in compliance with the Town of Cottesloe's Beach Policy.

### **Event and Facility Classification Policy**

Under the Event and Facility Classification Policy, the event meets the assessment criteria of a community event as outlined in the policy, as '*Spectating at the event is free*' and '*The event is supported or organised by a local community group*'.

## **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

The Town of Cottesloe's *Beaches and Beach Reserves Local Law 2012* has provisions for the maintenance and management of the beaches and beach reserves.

## **FINANCIAL IMPLICATIONS**

As per the Schedule of Fees and Charges the applicant is required to pay a \$480 hire fee and \$300 bond per competition. Cottesloe Longboard Club have requested for hire fees for the annual events be waived.

As the Cottesloe Longboard Club have not previously paid any fees for these events, it is suggested that Council classify this event as a 'Community' event and charge a \$480 hire fee for the full program of events and a \$300 bond for an annual permit of specified dates.

## **STAFFING IMPLICATIONS**

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

## **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

## **CONSULTATION**

Town of Cottesloe

Cottesloe Surf Life Saving Club

Cottesloe Longboard Club

Surfing WA

**OFFICER COMMENT**

Cottesloe Longboard Club have previously operated competitions at Isolators Reef and Beach without a permit. The competitions have had minimal impact overall; however, the Town has received a number of complaints from other surfers regarding the exclusivity of these competitions. Further the dates are often varied to suit surf wave conditions, which can cause frustration for non-competing surfers.

The attached course map outlines the competition area.

Council is able to approve any combination of events (or all of them) as well as placing conditions on any event approval as it sees fit.

**VOTING REQUIREMENT**

Simple Majority

**COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019****Cr Thomas**

Q1. Have we asked how long out from scheduled event they get their weather report?

**A1.** In changing a date, they generally do it on the Tuesday or Wednesday before the scheduled day.

Q2. Is that what the complaints were about, there's not enough lead time?

**A2.** We don't think it's the lead time, we think it's more the fact that they've got the dates booked, the swell isn't favourable, so they change that date to what's a good week-end and everyone wants to get out on those week-ends.

**Mayor Angers**

Q1. If they do change the date to another date that's not included in the recommendation, will it be allowed?

**A1.** Officers have recommended that we allow them to change up to three events per year, not every event.

Q2. How much notice do they need?

**A2.** We have asked that they give us at least 3 working days.

**Cr Tucak**

Q1. Is this number of events the same as what they've been doing previously?

**A1.** Generally – they do have more events but not at Cottesloe. This is their standard program. They have indicated that sometimes they won't hold all the events if the weather is particularly poor that winter, but they never hold more events than stated.

Q2. Is the intent that they're all to be held, depending on conditions?

**A2.** Yes.

Q3. And is the exclusivity on all of these dates, something that would have been in place in previous years?

- A3.** It's unclear, certainly it's been in practice in recent years. From what I understand they've always roped off the reef break for their event so it has probably been going on for some time.
- Q4. Have they indicated how they would manage that?
- A4.** They put out two buoys at either end of the Isolators Reef and I understand that stretches for approximately 50 metres. If other surfers start entering that area, the competition organisers ask them to leave the area.
- Q5. Previously they wouldn't have the right to do that but with this grant of exclusivity they would?
- A5.** They might not formally have had the right, but they've certainly ran the event that way in recent years.
- Q6. What communication do they do outside of their own methods for the events coming up?
- A6.** They do post it on their website so that other people can see when their events are being held, not just members.
- Q7. Is their scope for doing wider advertising?
- A7.** Not sure how that would work if they're changing an event as they would miss local paper publishing deadlines.
- Q8. What's the club's view on that set of complaints that came in?
- A8.** You would need to ask the club that question.

**Cr Young**

- Q1. Could you please go back through what you said about whether they were going to be able change dates?
- A1.** The practice has been that they have eight or nine events listed. It seems to be that more often than not, those dates get changed to be another week-end because of poor swell on the dates that they had chosen. It seems that most of those dates have been very fluid in previous years. It has been recommended that they have the ability to vary three of those dates, otherwise they just have to run the event as scheduled. It gives them some opportunity to have waves for some of their events, but also not completely monopolising the waves.
- Q2. Is there an entrance fee per event?
- A2.** No, entrants pay an annual membership of approximately \$100pa to compete in these events.

**Cr Thomas**

- Q1. Under financial implications you could under the Schedule of Fees and Charges charge them about \$2,500. They're asking that they pay nothing. Officers are suggesting that they pay a one-off \$480 hire fee, covering all of those days. Has the Town seen their financials?
- A3.** The Town hasn't asked for their financials but they have indicated that they could accommodate that in their budget.

Q2. Should we ask for their financials?

A2. It would be a fair request from Council.

### OFFICER RECOMMENDATION

**Moved Cr Rodda**

**Seconded Cr Harkins**

THAT Council APPROVE the application to hold the Cottesloe Longboard Club Competitions at Isolators Reef and Beach on 9 or 10 March 2019, 6 or 7 April 2019, 27 or 28 April 2019, 25 or 26 May 2019, 22 or 23 June 2019, 27 or 28 July 2019, 10 or 11 August 2019, 7 or 8 September, 5 or 6 October and 26 or 27 October between 7.00am until 1.00pm, subject to the following conditions:

1. Class this event as a 'Community' and charge a \$480 hire fee and \$300 bond for an annual permit of specified dates;
2. Exclusive use of Isolator Reef and Beach on competition dates;
3. Written approval from the Town is required to vary the weekend dates changes at least three working days prior to the scheduled event. Generally up to three variations will be permitted by the Town, per calendar year.
4. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, be provided prior to the event.
5. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.
6. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.
7. All signage to be approved by the Chief Executive Officer one month prior to the event.
8. The event complies with all noise management conditions imposed on the event by the Town of Cottesloe.
9. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*.
10. Compliance with relevant sections of the Town's Beach Policy.
11. The event complies with all requirements of the:
  - ⌋ *Health (Public Buildings) Regulations 1992*
  - ⌋ *Food Act 2008*
  - ⌋ *Town's Health Local Law 1997*
  - ⌋ *Town's Liquor (Licensed Premises) Policy*
  - ⌋ *Health (Miscellaneous Provisions) Act 1911*
  - ⌋ *Environmental Protection (Noise) Regulations 1997*
12. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event.
13. Adequate arrangements for rubbish removal and collection, including the provision for



recycling.

14. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event.
15. Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event.
16. That the event is a non-smoking event.
17. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.
18. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.
19. The provision of a Disability Access and Inclusion Plan.

#### ADVICE NOTE

##### No Balloons

The Town of Cottesloe *Local Government Property Local Law 2001* (Consolidated) prohibits at clause 2.8(1)(i) '*releasing an unsecured balloon inflated with a gas that causes it to rise in the air*'. Fines apply for breach of this Local Law, and applies to all events and food vans (and the like) approvals.

##### Single Use Plastic Exemption

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

##### Fish Habitat Protection Area

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

#### COUNCILLOR AMENDMENT

**Moved Cr Young**

**Seconded Cr Sadler**

**Insert wording into Condition 2: Exclusive use of Isolator Reef and Beach on competition dates, 'subject to signage at the Isolated Reef grass area listing proposed dates and the club's website for date updates, which is provided by the Town at the Club's expense'.**

**Carried 7/0**

**COUNCILLOR AMENDMENT**

Moved Cr Pyvis

Seconded Cr Thomas

Number the first paragraph of the officer's recommendation to 1 and insert point 2 as follows:

2. That the Administration follow up correcting the name Isolators to Isolated.

Carried 4/3

For: Mayor Angers, Crs Sadler, Thomas and Pyvis

Against: Crs Rodda, Young and Harkins

**SUBSTANTIVE MOTION AND COUNCIL RESOLUTION**

1. THAT Council APPROVE the application to hold the Cottesloe Longboard Club Competitions at Isolators Reef and Beach on 9 or 10 March 2019, 6 or 7 April 2019, 27 or 28 April 2019, 25 or 26 May 2019, 22 or 23 June 2019, 27 or 28 July 2019, 10 or 11 August 2019, 7 or 8 September, 5 or 6 October and 26 or 27 October between 7.00am until 1.00pm, subject to the following conditions:

- 1) Class this event as a 'Community' and charge a \$480 hire fee and \$300 bond for an annual permit of specified dates;
- 2) Exclusive use of Isolator Reef and Beach on competition dates subject to signage at the Isolated Reef grass area listing proposed dates and the club's website for date updates, which is provided by the Town at the Club's expense;
- 3) Written approval from the Town is required to vary the weekend dates changes at least three working days prior to the scheduled event. Generally up to three variations will be permitted by the Town, per calendar year.
- 4) Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, be provided prior to the event.
- 5) Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.
- 6) Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.
- 7) All signage to be approved by the Chief Executive Officer one month prior to the event.
- 8) The event complies with all noise management conditions imposed on the event by the Town of Cottesloe.
- 9) Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*.
- 10) Compliance with relevant sections of the Town's Beach Policy.
- 11) The event complies with all requirements of the:
  - Ñ1 *Health (Public Buildings) Regulations 1992*
  - Ñ1 *Food Act 2008*
  - Ñ1 *Town's Health Local Law 1997*

- Ñ1 Town's Liquor (Licensed Premises) Policy
- Ñ1 *Health (Miscellaneous Provisions) Act 1911*
- Ñ1 *Environmental Protection (Noise) Regulations 1997*

- 12) No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event.
  - 13) Adequate arrangements for rubbish removal and collection, including the provision for recycling.
  - 14) The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event.
  - 15) Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event.
  - 16) That the event is a non-smoking event.
  - 17) That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.
  - 18) That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.
  - 19) The provision of a Disability Access and Inclusion Plan.
2. That the Administration follow up correcting the name Isolators to Isolated.

#### ADVICE NOTE

##### No Balloons

The Town of Cottesloe *Local Government Property Local Law 2001 (Consolidated)* prohibits at clause 2.8(1)(i) '*releasing an unsecured balloon inflated with a gas that causes it to rise in the air*'. Fines apply for breach of this Local Law, and applies to all events and food vans (and the like) approvals.

##### Single Use Plastic Exemption

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

##### Fish Habitat Protection Area

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

Carried 7/0

**10.1.4 NORTH COTTESLOE CENTENARY MARKETS**

**File Ref:** SUB/2798  
**Attachments:** 10.1.4(a) Event Application Form - North Cottesloe Centenary Markets  
**Responsible Officer:** Garry Bird, Deputy Chief Executive Officer  
**Author:** Gabrielle Hall, Events Officer  
**Author Disclosure of Interest:** Nil

Mayor Angers declared an IMPARTIALITY INTEREST in item 10.1.4 by virtue "I am a member of the club."

Cr Harkins declared an IMPARTIALITY INTEREST in item 10.1.4 by virtue "her son being a member of the North Cottesloe Surf Life Saving Club."

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**SUMMARY**

The North Cottesloe Surf Life Saving Club is seeking approval to host a series of three North Cottesloe Centenary Markets on the Ski Shed Roof at North Cottesloe Beach, on Sunday, 31 March, 7 April and 14 April 2019 from 7.00am to 12.00pm, as a trial.

**BACKGROUND**

The market is to consist of ten three by three pop up tents placed on the perimeter of the Ski Shed Roof. At each market there is provision for one selected Cottesloe community group to participate in the market free of charge, they will be allocated a three by three open area. There is also scope for two buskers to perform at each market.

Each market would be themed with each participating vendor having a product or service that represents that theme. All activations would be structured to provide broad appeal, something unique and value for money. Local residents, local businesses and North Cottesloe Surf Life Saving Club members would have first opportunity to participate as traders.

There will be a total trading window of four hours per activation. Vendors would be charged a \$50 fee per activation; this will be used to contribute to advertising and promotional costs. All traders will be bound to a set of minimum requirements specific to indemnity insurance, standard of product and presentation, and a code of conduct.

North Cottesloe Surf Life Saving Club have consulted surrounding businesses; The Blue Duck, Barchetta, Little SUP and the Ocean Beach Hotel to outline the event concept. As consumable food items are to be omitted from the product mix, all businesses have been supportive, in principal. The precincts at the northern end of Marine Parade are especially supportive of generating increased community activity in the area. Written indication of support is still to be obtained.

As the ski shed roof is used for bicycle parking on the weekends, North Cottesloe Surf Life Saving Club will erect up to six lengths of crowd control barrier on the west side of the club, adjacent to the junior storage area. A dedicated bicycle rack is permanently in this zone and the additional linear metres will compensate for the loss of parking on the ski shed roof.

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Signage will be erected on the entry to the market directing cyclists to the bicycle parking area.

### **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 1.3: Identify places to host more cultural events and activities.

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

Priority Area 1: Protect and enhance the wellbeing of residents and visitors.

Major Strategy 1.4: Continue to improve community engagement.

### **POLICY IMPLICATIONS**

#### **Beach Policy**

The event complies with the Town's Beach Policy.

#### **Event/Facility Classification Policy**

As the North Cottesloe Surf Life Saving Club operate under the auspices of Surf Life Saving Western Australia, who have charitable status, the event meets the assessment criteria of a Charitable Event as outlined in the policy as it satisfies all three of the criteria.

*Events in this category will satisfy at least one of the following;*

- 1. The primary purpose of the event is to raise funds for a registered charitable purpose(s); or*
- 2. The event is being organised by a not for profit organisation to raise funds for a registered charity or other not for profit organisation that is a registered charity with the Australian Government; or*
- 3. The primary aim of the event is to promote awareness of a significant community or health issue.*

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

The Town of Cottesloe's *Beaches and Beach Reserves Local Law 2012* has provisions for the maintenance and management of the beaches and beach reserves.

### **FINANCIAL IMPLICATIONS**

Organisers would be charged fees in accordance with the Event and Facility Classification Policy and Schedule of Fees and Charges, organisers would be charged a \$200 bond per event.

**STAFFING IMPLICATIONS**

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

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

Staff will assist organisers to avoid the use of any form of single use plastic in accordance with the event conditions.

**CONSULTATION**

Town of Cottesloe

North Cottesloe Surf Life Saving Club

The Blue Duck

Barchetta

Little SUP

Ocean Beach Hotel

**OFFICER COMMENT**

North Cottesloe Surf Life Saving Club's primary purpose of trailing the markets is to gauge the viability of the ski shed footprint as a functional event space for community interaction and commercial applications for the club. If successful, the club would consider a model for the next surf season where an increased number of dates could be considered.

The markets would be a free event that provides an opportunity to activate the North Cottesloe Beach precinct whilst complementing the existing activity in the area. The consideration given to the involvement of Cottesloe community group's demonstrates the integrity of community engagement and potential viability of such activity.

North Cottesloe Surf Life Saving Club annually executes successful community events and as such the officer's recommendation is to approve the application for the North Cottesloe Centenary Markets.

**VOTING REQUIREMENT**

Simple Majority

**COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019****Cr Tucak**

Q1. When's the indication of support expected from surrounding businesses?

**A1.** They've started coming in already. Currently they've received verbal support from everyone, so it's just a matter of getting them in writing.

Q2. Is Council able to approve the event without the letters of support?

**A2.** It wouldn't be uncommon to grant an approval without all these coming in, but better for going ahead if they were all received.

Q3. I note that there appears to be some movement of the bike racks and bins. Is there a map?

**A3.** There is a plan. There's a bike rack at the entrance to the boat shed rooftop, small bike rack for six to eight bikes. The area is used for bike parking on Sundays because of a busier period at the beach so they're suggesting that they relocate the bike rack just for the day and put in some temporary bike racks to the north of the club where there are some additional bike racks.

Q4. In the grassed area?

**A4.** Yes.

#### **Mayor Angers**

Q1. Will they have signs saying the bike racks have been moved?

**A1.** We would expect them to have something and there would be a couple of marshalls at the entrance to the site as well.

#### **Cr Young**

Q1. This event is going to be bringing people into to run markets and I'm just wondering whether people who are brought in will be caught under condition 13 as parties under the control and supervision of the club because I don't think we've actually had this situation before where there will be contactors or I don't know what the arrangement will be with the stallholders and the club and whether the arrangement would bring them within it.

**A1.** They would certainly be under the auspices of condition 13 and as they are for other events such as the Procott Christmas Carnival that had a number of stallholders, all of those were expected to comply. We expect the event organisers to implement that condition with all of their contractors, volunteers, etc.

Q2. Would it be possible to put that in the letter with the event approval to be clarified.

**A2.** Yes, happy to do that but the North Cottesloe Surf Lifesaving Club is well aware of that because of recent events they have hosted, which were subject to the same conditions.

#### **Cr Thomas**

Q1. On page 21 under 'Event/Facility Classification Policy' point 1 states 'The primary purpose of the event is to raise funds for a registered charitable purpose(s)'. Do we know who gets the funds?

**A1.** The club would keep the funds in this instance. The surf club via its affiliation with Surf Lifesaving WA is considered a charitable organisation.

Q2. Does clause 4 apply the same as the previous item - they will the event organisers notify the neighbours?

**A2.** Yes.

**OFFICER RECOMMENDATION****Moved Cr Rodda****Seconded Cr Harkins**

THAT Council APPROVE the application to hold the North Cottesloe Centenary Markets on the Ski Shed Roof at North Cottesloe Beach on Sunday, 31 March, 7 April and 14 April 2019 from 7.00am to 12.00pm, subject to the following conditions:

1. Class this event as a 'Charitable' and a bond of \$200 per event to be paid prior to the event commencing.
2. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, be provided prior to the event.
3. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer.
4. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.
5. All signage to be approved by the Chief Executive Officer one month prior to the event.
6. The event complies with all noise management conditions imposed on the event by the Town of Cottesloe.
7. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*.
8. Compliance with relevant sections of the Town's *Beach Policy*.
9. The event complies with all requirements of the:
  - *Health (Public Buildings) Regulations 1992*
  - *Food Act 2008*
  - *Town's Health Local Law 1997*
  - *Town's Liquor (Licensed Premises) Policy*
  - *Health (Miscellaneous Provisions) Act 1911*
  - *Environmental Protection (Noise) Regulations 1997*
10. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event.
11. Adequate arrangements for rubbish removal and collection, including the provision for recycling.
12. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event.
13. Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event.
14. That the event is a non-smoking event.



15. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.
16. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.
17. The provision of a Disability Access and Inclusion Plan.

#### ADVICE NOTE

##### No Balloons

The Town of Cottesloe *Local Government Property Local Law 2001* (Consolidated) prohibits at clause 2.8(1)(i) '*releasing an unsecured balloon inflated with a gas that causes it to rise in the air*'. Fines apply for breach of this Local Law, and applies to all events and food vans (and the like) approvals.

##### Single Use Plastic Exemption

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

##### Fish Habitat Protection Area

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

#### COUNCILLOR AMENDMENT

Moved Cr Young

Seconded Cr Harkins

In point 3, in the conditions, delete the words 'at least 30 days' and in point five delete the words 'one month'.

Carried 6/1

For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins

Against: Cr Pyvis

#### SUBSTANTIVE MOTION AND COUNCIL RESOLUTION

**THAT Council APPROVE the application to hold the North Cottesloe Centenary Markets on the Ski Shed Roof at North Cottesloe Beach on Sunday, 31 March, 7 April and 14 April 2019 from 7.00am to 12.00pm, subject to the following conditions:**

1. Class this event as a 'Charitable' and a bond of \$200 per event to be paid prior to the event commencing.
  2. Evidence of appropriate Public Liability Insurance, with cover no less than \$10 million, be provided prior to the event.
-

3. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided prior to the event for the approval of the Chief Executive Officer.
4. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required.
5. All signage to be approved by the Chief Executive Officer prior to the event.
6. The event complies with all noise management conditions imposed on the event by the Town of Cottesloe.
7. Compliance with the Town's *Beaches and Beach Reserves Local Law 2012*.
8. Compliance with relevant sections of the Town's *Beach Policy*.
9. The event complies with all requirements of the:
  - *Health (Public Buildings) Regulations 1992*
  - *Food Act 2008*
  - *Town's Health Local Law 1997*
  - *Town's Liquor (Licensed Premises) Policy*
  - *Health (Miscellaneous Provisions) Act 1911*
  - *Environmental Protection (Noise) Regulations 1997*
10. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event.
11. Adequate arrangements for rubbish removal and collection, including the provision for recycling.
12. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event.
13. Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event.
14. That the event is a non-smoking event.
15. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event.
16. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event.
17. The provision of a Disability Access and Inclusion Plan.

**ADVICE NOTE****No Balloons**

The Town of Cottesloe *Local Government Property Local Law 2001 (Consolidated)* prohibits at clause 2.8(1)(i) '*releasing an unsecured balloon inflated with a gas that causes it to rise in the air*'. Fines apply for breach of this Local Law, and applies to all events and food vans (and the like) approvals.

**Single Use Plastic Exemption**

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

**Fish Habitat Protection Area**

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

Carried 7/0

**10.1.5 BY THE C 2019 - ZACCARIA CONCERTS AND TOURING PTY LTD**

**File Ref:** SUB/2798  
**Attachments:** Nil  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Garry Bird, Deputy Chief Executive Officer  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Zaccaria Concerts and Touring Pty Ltd is seeking approval to host two 'By the C' concert events over a single weekend at Cottesloe Beach on a date to be determined in late October to mid November 2019.

The event hopes to attract 6,000 patrons each day with the concerts to be staged as follows;

- )) Saturday 12.00pm to 10.00pm
- )) Sunday 12.00pm to 9.00pm

**BACKGROUND**

Zaccaria Concerts and Touring Pty Ltd is a concert promoter in Australia and Asia with significant experience in the promotion and production of large scale concert events including outdoor concerts.

Zaccaria Concerts and Touring Pty Ltd have successfully managed two By the C events within the Town of Cottesloe in November 2016 and April 2018. Approval was provided for an additional event scheduled for April 2019 which was cancelled due to the illness of the headline act, Mr. John Farnham.

These previous events have been for a single concert only and have generally been held without incident. In order to improve the viability of the 'By the C' event/s, the organiser has requested approval to stage two concert events over a single weekend, on a Saturday and Sunday afternoon/evening.

The event bump will commence on the Wednesday prior to the concert with bump out concluding on the Tuesday after.

**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 1.3: Identify places to host more cultural events and activities.

**POLICY IMPLICATIONS****Events Classification Policy**

The above Policy categorises events into four types with this application being classified as a commercial event, as an admission fee will be charged and the organisers of the event would retain the profits.

**Outdoor Concerts and Large Public Events Policy**

The aim of this Policy is to 'manage the impacts of outdoor concerts and large public events on the community and the environment'. The Policy states:

- a) *The Town of Cottesloe is committed to:*
  - *preserving the reasonable amenity of residents and businesses surrounding avenue used for the purpose of staging outdoor concerts and large public events, and*
  - *to ensuring that the reasonable community/society expectations to be entertained are met.*
- b) *All outdoor concerts and major public events shall comply with the Town of Cottesloe's Guide to Outdoor Concerts and Large Public Events.*
- c) *The Town will support up to two outdoor concerts only at any venue within a 12 month period.*
- d) *The Town of Cottesloe requires the promoter to take all reasonable precautions with regards to public safety, health and the appropriate and sustainable use of the venue.*
- e) *A Risk Management and Evacuation Plan, satisfactory venue maintenance procedure, sufficient crowd control and appropriate public liability cover are to be provided.*
- f) *An application for an event is to be made to Council on the Event Application and Checklist Form not less than 90 days prior to an event. The CEO may request additional information or action as deemed appropriate.*
- g) *The in-principle support of the Council of the Town of Cottesloe to stage an outdoor concert or large public event does not constitute an approval. Approval for an event will only be given by the CEO upon satisfactory compliance with all statutory and other requirements at least 24 hours prior to the commencement of an event.*
- h) *This policy applies in addition to any relevant legislation, Standards Australia standards or any other legal requirement in place at the time an application is made.*

The application is considered to be a permitted event in accordance with this Policy, subject to the restrictions and conditions imposed and final approvals, and as such warrants consideration by Council.

**Beach Policy**

The aim of this policy is to 'provide guidelines for the Town of Cottesloe to enable consistency in decision making in relation to the beachfront'.

The Policy defines a significant beach event as 'an event which involves one or more agencies and which will result in more than 50 people, or any form of structure, being on the beachfront area (including the Marine Parade public areas)'.

In regards to significant beach events as defined by the Policy, commercial events are not to be approved by the Chief Executive Officer and are to be referred to Council for approval, who has absolute discretion in whether approval should be granted or not.

The primary objectives of the Policy are, in summary, to protect and preserve the beach environment. In considering uses of the beach, *'the primary consideration against which all uses are measured is the public interest, particularly for residents of Cottesloe, and safety having regard to the environmental parameters and limits of capacity of the beach reserve. In this context, the beach reserves are to be administered in the interest of residents of Cottesloe, the people of Western Australia and visitors to the metropolitan region'*. Although permissible under this Policy and others described above, it is a question for the Council to consider whether an event of this nature is in the interests of the general public.

A secondary objective of this Policy is to *'identify and develop mechanisms to offset the cost of maintaining the beach area in order that the expenditure is not borne solely by residents and ratepayers of Cottesloe'*. Approval of the event and the subsequent revenue it generates would be in keeping with this secondary objective.

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Environmental Protection (Noise) Regulations 1997*

*Health (Public Buildings) Regulations 1992*

*Food Act 2008*

*Town's Health Local Law 1997*

*Town's Liquor (Licensed Premises) Policy*

*Health (Miscellaneous Provisions) Act 1911*

*Town of Cottesloe Local Government Property Local Law 2001*

*Town of Cottesloe Beaches and Beach Reserves Local Law 2012*

*Metropolitan Region Scheme*

Part 9 of the *Beaches and Beach Reserves Local Law 2012* requires all beach events to be applied for in writing and may be refused by Council or approved with any conditions it so determines.

It is noted that approval from the Western Australian Planning Commission and the Department of Racing, Gaming and Liquor will also be required for the event.

### **FINANCIAL IMPLICATIONS**

As the event is classified as commercial as per Council Policy, the following fees would apply:

Commercial (>500 to <1000 people) – Full Day	\$5,000 per day
Commercial (>1000 ~ <2000 people) – Full Day	\$10,000 per day
Commercial (>2000 ~ <3000 people) – Full Day	\$15,000 per day
Commercial (>3000 ~ <5000 people) – Full Day	\$20,000 per day

Commercial (>5000 people) – Full Day \$25,000 per day

The event organisers have indicated that they are anticipating 6,000 patrons and as such, a fee of \$25,000 would apply per day.

A bond of \$10,000 would also be applicable.

Other minor fees would also be levied such as a Noise Monitoring Fee and Environmental Protection (Noise) Regulations exemption application fee, as required.

If the application was approved by Council, this income would be in excess of budget forecasts for facility hire at Cottesloe Beach and could be used by Council for a specific activity or purpose if so desired. If not, the funds would form part of general revenue for the 2019/20 financial year.

### **STAFFING IMPLICATIONS**

If approved, the Manager Compliance and Regulatory Services will liaise with event organisers to review the relevant event plans and discuss the requirements of the *Health (Public Building) Regulations 1992* and the *Food Act 2008*.

Officers will be required to attend the event to ensure compliance with the officer's recommendation and statutory obligations including traffic management, risk management and relevant Acts.

Staff will meet with event organisers after the event to de-brief.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

Such an event has the potential to impact on the beach environment and comprehensive waste and traffic management plans will alleviate much of this risk.

Officers will liaise with event organisers in regard to ensuring compliance with the new requirement to not use single use plastics.

### **CONSULTATION**

- )] Town of Cottesloe Staff and Elected Members
- )] Zaccaria Concerts and Touring
- )] Western Australian Planning Commission

It is recommended that a condition of any approval be support being obtained from the Cottesloe Surf Life Saving Club before final approval is issued.

Further, feedback received from the 2016 and 2018 'By the C' events indicated that consultation with local businesses will need to be improved. This will be raised with the applicant and a consultation plan will be requested as part of the formal application.

### **OFFICER COMMENT**

From the above, it can be ascertained that relevant Council policies and local laws would allow for an event of this nature to take place. Such an event would undoubtedly impact on the amenity of local residents and restrict access to the beach for the duration of the event. It is a question for Council to determine whether these impacts can be managed to an extent that the event can proceed.

Some of the risks posed by the event in terms of resident's amenity and adverse impact on the reputation of Council include:

- )] Waste Management
- )] Noise
- )] Traffic congestion
- )] Environmental impacts on surrounding dunes
- )] Restricted access to this popular beach area for the duration of the event (11.00am Saturday to 10.00pm on Sunday).
- )] Possible closure of Marine Parade
- )] Alcohol consumption in close proximity to the water

In regards to the above, Zaccaria Concerts and Touring Pty Ltd have demonstrated their awareness of these issues and invested considerable funds at previous events to prepare appropriate management plans to mitigate these risks. It is the view of staff that these can be managed effectively to minimise their impact with the exception of noise, where it is acknowledged that the music will exceed allowed levels and an exemption will be required. Assuming an exemption is granted, there are still measures that can be taken to minimise the level of noise such as the positioning of the stage taking into account prevailing winds.

There would be benefits to local businesses if the event was to proceed due to the large number of patrons the event would attract. These benefits would be most felt by those businesses located near the beachfront, although it could be reasonably expected that other businesses in the Town Centre would also have increased patronage on the day of the event.

A comprehensive proposal and associated documentation will be required from Zaccaria Concerts and Touring Pty Ltd 30 days prior to the date of the event to address issues associated with an event of this scale and they propose to manage them. This includes:

- )] Event application form
- )] Location map
- )] Site plan
- )] Timeline (including bump in and bump out times)
- )] Waste Management Plan (including provisions for rubbish, recycling and toilets)
- )] Noise Management Plan (including approval for non-complying event in accordance with regulation 18 of the Environmental Protection [Noise] Regulations and the *Environmental Protection Act 1986*)
- )] Traffic Management Plan (including parking information to be provided to attendees and possible road closures)
- )] Risk Management Plan
- )] Emergency Management Plan
- )] Consultation plan (local Police, residents and businesses)



- )] Approval from the Department of Racing Gaming and Liquor for a liquor license
- )] Public Liability Insurance Certificate of Currency
- )] Structural engineering certifications
- )] Certificate of electrical compliance
- )] All food permit and stall holder applications

Overall, the 2016 and 2018 By The C event was a success. The event was well facilitated by Zaccaria Concerts and Touring who were able to rectify the minor issues that arose on the day. Staff monitored the event throughout the bump in, bump out and the duration of the event. There were very few incidents with security, Police and Rangers numbers being appropriate for the number of attendees.

After last year's event, feedback was received from 14 attendees and community members. Of this, nine were in support of the event with some expressing excitement at the possibility of it becoming an annual event. There were five objections, principally on the basis of noise and to a lesser extent general congestion and/or inconvenience.

It has been suggested by staff that there may be some merit in closing a section of Marine Parade to facilitate safe pedestrian access to the event. Such a measure would be considered further depending on ticket sales and the final Traffic Management Plan (to be received).

The applicant would need to obtain a Liquor Licence in order to sell alcohol at the event, with this application requiring Council approval before being submitted to the Department of Racing, Gaming and Liquor.

Having given due consideration to the proposal and being mindful of the risks associated with an event of this type, staff are of the view that the event should be granted conditional approval, subject to ongoing review of the various management plans.

The request for two concerts over a weekend, gives the promoter the opportunity to recover costs over two nights, who have stated their intention to seek a separate act for each night, with different styles that are still in keeping with the family friendly environment promoted at previous events.

## **VOTING REQUIREMENT**

Simple Majority

## **COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019**

### **Cr Thomas**

Q1. If I want to have a swim on Sunday morning there's nothing to stop me going down, there won't be any impediment to swimming on the Sunday?

A1. There wouldn't be any impediment and you could even go down on Sunday afternoon for a swim, you just can't go into the fenced off area, the critical issue being that the universal access path is through the concert area, which is why we would ask them to open again on Sunday morning to enable users to use the beach.

**Cr Young**

- Q1. The bump in and bump out for this – is it the same as previously.
- A1.** Yes it will be the same bump in period. Generally they come in on a Wednesday. The site remains open for a couple of days while they're still moving in some equipment but then they shut it down just before the opening about 12:00 on a Saturday or Sunday as the case may be.
- Q2. On page 29 there's reference that there benefits to local businesses if the event proceeds. Have we had feedback from local businesses?
- A2.** We have and generally it's been positive. The first year it was run there was some little negative feedback as some of the businesses felt like they hadn't been included to the full extent or in some cases there were some breakdowns in communication where they were talking to shop owners or business owners rather than the lessees or tenants. We've had no complaints from the most recent event and they're always looking for ways to try to encourage these businesses to get involved.

**Cr Young**

- Q1. The window on the Thursdays from midday to 10:00pm and then from midday until 9:00pm on the Sunday – is there any reason given on why they need such a wide window and is the intention that they're going to have music for that entire time? The third part is for the balance and interest of local residents is it realistic to limit the window of time that they can play loud music?
- A1.** Council can put any limitations they want in terms of time. The first year it was held it was held from 2:00pm through to 9:00pm. The approval for the event that was recently cancelled was for a longer timeframe because they had an extended line-up. The reason they would like to start at 12:00 and 1:00pm is because they will have some local band music in the lead-up to the main artists of the night. The times that could be imposed are at the discretion of Council.
- Q2. If they use the entire window, can that message be expressed to the community so that they know what to expect?
- A2.** Yes, that will certainly happen. They have no artists, at this point in time, so it would depend on their line-up closer to the event what time they may wish to start and certainly that would be in the communications going out.
- Q3. These event conditions include two provisions relating to single-use plastics (paragraphs 13 & 14). Paragraph 14 states that '*Organisers will use their best endeavours to avoid the use of another form of single use plastic.*' I think this should be any other form of single use plastic. I'm curious as to why it's included in this recommendation as it's a bit of a hangover from previous and is obsolete and is inconsistent with paragraph 13 which reads '*including without limit.*' Just wondering if we're sending mixed messages.
- A3.** Condition 14 could be removed. The conditions have been around in that form for awhile. Council approved those from an earlier event approval as an amendment on the night of the Council meeting.

Q4. Was that specific to this event?

**A4.** No, these were a list of standard conditions that were amended several meetings in a row so we started adding them in to save Council having to go through the amendment process every time.

**Cr Sadler**

Q1. Just wanted to find out where the Administration was at in regards to their appetite/research into opening this up to a more competitive process?

**A1.** We've just closed off a brief to solicitors to prepare a licence for us that will come back to Council for consideration for a more ongoing regular event over a number of years and open that to market forces.

Q2. What would be the timing of approving this event versus that brief.

**A2.** By the time we've gone through the licence with Council and then undertaken Expressions of Interest, we'd be looking at an event in 2020 or beyond that. This is probably the last one, assuming Council goes down the licence path, that Council would be coming this way.

**Cr Tucak**

Q1. With the two day event, have they put a proposal forward for when the sound checks would occur, or would they occur on the day?

**A1.** The sound checks generally occur on the morning of the event so in this case there would be a sound check on the Saturday morning. It was about 10:00am previously and in this case there would be another sound check on Sunday morning at around 10:00am.

**Cr Tucak**

Q1. In relation to the policy on two events in the year, at the end of this, would it be two events or one two-day event?

**A2.** That would be for Council to determine.

**Cr Rodda**

Q1. In relation to condition 1 – where the fee is on a per day basis but we've got the bond and you're going to have up to 6,000 people on the foreshore on two nights, wouldn't it be more prudent to increase the bond on that basis as well?

**A1.** We certainly could, we have no problems with that.

Q2. The public liability insurance seems relatively low, it's more like the minimum these days. Could we follow up with our insurers as to what the minimum should be?

**A2.** We will follow up on that but confident that their public liability insurance policies are far greater than that.

**Cr Harkins**

Q1. With regard to conditions 13 & 14 (single use plastic) and I remember when this was brought in we did discuss this event as far as the cups for wine and beer. Have they told you that they have an alternative to plastic cups?

A1. The did use an alternative last time but I'll have to check on what it was.

**OFFICER RECOMMENDATION**

THAT Council APPROVE the application to hold the By the C concert at Cottesloe Beach on a weekend in late October to mid November 2019 from 12.00pm to 10.00pm on the Saturday and 12.00pm to 9.00pm on the Sunday, subject to the following conditions:

1. Class this event as a 'Commercial' event and \$25,000 per day be charged for the hire fees. A bond of \$20,000 to be paid prior to the event commencing;
2. Evidence of appropriate Public Liability Insurance, with cover no less than \$20 million, provided prior to the event;
3. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer;
4. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required;
5. All signage to be approved by the Chief Executive Officer one month prior to the event;
6. The event complies with all noise management conditions imposed on the event by the Town of Cottesloe;
7. Compliance with the Town's Beaches and Beach Reserves Local Law 2012;
8. Compliance with relevant sections of the Town's Beach Policy;
9. The event complies with all requirements of the:
  - ) *Health (Public Buildings) Regulations 1992*
  - ) *Food Act 2008*
  - ) *Town's Health Local Law 1997*
  - ) *Town's Liquor (Licensed Premises) Policy*
  - ) *Health (Miscellaneous Provisions) Act 1911*
  - ) *Environmental Protection (Noise) Regulations 1997*
10. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event;
11. Adequate arrangements for rubbish removal and collection, including the provision for recycling;
12. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event;
13. Single use plastics including without limit balloons, plastic bottles, plastic bags that

have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event;

14. Organisers will use their best endeavours to avoid the use of another form of single use plastic;
15. That the event is a non-smoking event;
16. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event;
17. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event; and
18. Provision of a Disability Access and Inclusion Plan.

#### ADVICE NOTE

##### No Balloons

The Town of Cottesloe *Local Government Property Local Law 2001* (Consolidated) prohibits at clause 2.8(1)(i) "*releasing an unsecured balloon inflated with a gas that causes it to rise in the air*". Fines apply for breach of this Local Law, and applies to all events and food vans (and the like) approvals.

##### Single Use Plastics Medical Exemption

Exemptions may apply if the Applicant or the council requires the use of single use plastic items for medical reasons, where there is no reasonable alternative and the single use plastics are properly recycled or disposed of or stored safely and sustainably, or are removed from the Town of Cottesloe.

##### Fish Habitat Protection Area (FHPA)

The full length of the Cottesloe Reef is protected by a Fish Habitat Protection Area (FHPA), the only one in the Perth Metropolitan Area. The principal aim of the Cottesloe Reef FHPA is to preserve valuable fish and marine environments for the future use and enjoyment of all people. Plastic and balloon litter pose a significant risk to this very special marine environment. A Cottesloe Reef FHPA brochure is enclosed for your further attention.

#### COUNCILLOR MOTION AND COUNCIL RESOLUTION

Moved Cr Young

Seconded Cr Rodda

**THAT Council APPROVE the application to hold the By the C concert at Cottesloe Beach on a weekend in late October to mid November 2019 from 12.00pm to 10.00pm on the Saturday and 12.00pm to 9.00pm on the Sunday, subject to the following conditions:**

1. Class this event as a 'Commercial' event and \$25,000 per day be charged for the hire fees. A bond of \$20,000 to be paid prior to the event commencing;
2. Evidence of appropriate Public Liability Insurance, with cover no less than \$20

- million, provided prior to the event;
3. Provision of a transport or parking plan and appropriate access/signage to and from the event, which is to be provided at least 30 days prior to the event for the approval of the Chief Executive Officer;
  4. Neighbouring properties are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required;
  5. All signage to be approved by the Chief Executive Officer one month prior to the event;
  6. The event complies with all noise management conditions imposed on the event by the Town of Cottesloe;
  7. Compliance with the Town's Beaches and Beach Reserves Local Law 2012;
  8. Compliance with relevant sections of the Town's Beach Policy;
  9. The event complies with all requirements of the:
    - Ñ1 *Health (Public Buildings) Regulations 1992*
    - Ñ1 *Food Act 2008*
    - Ñ1 *Town's Health Local Law 1997*
    - Ñ1 *Town's Liquor (Licensed Premises) Policy*
    - Ñ1 *Health (Miscellaneous Provisions) Act 1911*
    - Ñ1 *Environmental Protection (Noise) Regulations 1997*
  10. No alcohol is to be served unless a valid licence or permit from the Department of Racing, Gaming and Liquor is provided to the Town prior to the event;
  11. Adequate arrangements for rubbish removal and collection, including the provision for recycling;
  12. The Applicant will (including by directing any parties under their control or supervision) use their best endeavours to minimise waste and litter production from the event;
  13. Single use plastics including without limit balloons, plastic bottles, plastic bags that have a thickness of 35 microns or less, plastic takeaway containers and lids, plastic lined coffee cups/lids, plastic straws, plastic lolly sticks, plastic cutlery and single plastic wrapped lollies will not be used by the Applicant (and any parties under their control or supervision) in setting up, during or in clearing up after the event;
  14. That the event is a non-smoking event;
  15. That the Western Metropolitan Regional Council 'Earth Carers' 'H2O to Go' Water Station facilities are investigated for use at the event;
  16. That the Western Metropolitan Regional Council 'Earth Carers' Event Waste Minimisation Checklist is provided to the event organisers, who are to complete the checklist and return to Council after the event with the aim of reducing the amount of plastics used at the event; and
-

**17. Provision of a Disability Access and Inclusion Plan.****ADVICE NOTE****No Balloons**

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Carried 7/0

For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas, Pyvis and Harkins

**10.1.6 LOCAL GOVERNMENT PROPERTY LOCAL LAW DETERMINATION - BAN ON SMOKING**

**File Ref:** SUB/2798  
**Attachments:** 10.1.6(a) Attachment - Smoking Ban Locations - March 2019 [under separate cover]  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Garry Bird, Deputy Chief Executive Officer  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

A recent amendment to the *Town of Cottesloe Local Government Property Local Law 2011* gives Council the powers to ban smoking on local government property, by making a determination to that effect.

At the request of Cr Pyvis, the banning of smoking at specified sites is presented to Elected Members for consideration.

**BACKGROUND**

In March 2015, a Councillor motion was presented by Cr Pyvis to implement a permanent ban on smoking.

*NOTICE OF MOTION*

*Moved Cr Pyvis, seconded Cr Downes*

*That Council in view of the significant adverse environmental impacts of cigarette butts and in the interest of better community health and amenity that Council support a permanent ban on smoking at all Cottesloe beaches to be implemented by the 2015/2016 summer season.*

*AMENDMENT*

*Moved Cr Walsh, seconded Cr Pyvis*

*That these words be added after the word 'season' '...and that this be done by amending the Town of Cottesloe's Property Local Law as outlined in staff comment'.*

*CARRIED 7/1*

*COUNCIL RESOLUTION*

*That Council in view of the significant adverse environmental impacts of cigarette butts and in the interest of better community health and amenity that Council support a permanent ban on smoking at all Cottesloe beaches to be implemented by the 2015/2016 summer season and that this be done by amending the Town of Cottesloe's Property Local Law as outlined in staff comment.*

*THE AMENDED SUBSTANTIVE MOTION WAS PUT*

*CARRIED 6/2*



Under the *Local Government Act 1995*, Section 3.16, periodic reviews of local laws must be carried out eight years from the day when a local law commenced. A report was presented to the Works and Corporate Services Committee Meeting to perform a periodic review of the *Local Government Property Local Law 2001* and to investigate ways that smoking could be banned.

At the Ordinary Council Meeting held in April 2016, Council considered the public submissions received and resolved to advertise an amendment to the Local Law that would have the purpose and effect of;

**Purpose** To improve the amenity of beaches in Cottesloe by reducing litter from cigarette butts, eliminating exposure to cigarette smoke by beach users and reducing the risk to marine life of ingesting the cigarette butts.

**Effect** Smoking would effectively be prohibited on all beach and beach reserves as determined by Council.

The following resolution was adopted:

*That Council, following the advertising of the review of the Local Government Property Local Law 2001:*

- 1. Advertise the proposed Amendment Local Law (as attached) for a period of not less than 42 days and invite public submissions in regards to the proposed Local Law.*
- 2. Consider all submissions received at a Meeting of Council after the nominated closing date.*

*CARRIED 8/0*

In accordance with the Resolution of Council, this proposal was advertised in May and June 2016, with public submissions closing on 4 July 2016.

A total of seven submissions from the public were received. All of these submissions supported the proposed ban.

In addition to these submissions received, a further submission was received from the Department of Local Government and Communities. It was recommended that the Local Law amendment be redrafted to reflect current best practice and so that the amendment is in a format that is acceptable to the Joint Standing Committee on Delegated Legislation. It was also recommended that the Town seek confirmation that the all of the beaches and beach reserves are within the local government boundary as typically jurisdiction ceases at the low water mark.

The Department of Local Government and Community raised doubt about whether the proposal to ban smoking from all beaches and beach reserves would be approved by the Joint Standing Committee on Delegated Legislation, suggesting it may be viewed as an inappropriate use of the powers conferred on local government.

At the April 2016 Ordinary Council Meeting, a Councillor motion was proposed by Cr Boulter in relation to the banning of balloons.

*COUNCILLOR MOTION & COUNCIL RESOLUTION*

1. *Use of balloons and balloons inflated with a gas that causes them to rise in the air is prohibited for use by the Town of Cottesloe for its own events.*
2. *All events approved by the Town of Cottesloe will be conditioned to prohibit the use of balloons and balloons inflated with a gas that causes them to rise in the air.*
3. *That the Town of Cottesloe administration produce a report to Council about making a by-law to prohibit balloons and the intentional release of balloons inflated with a gas that causes them to rise in the air in the Town of Cottesloe, having regard to NSW Schedule 1 Amendment of Protection of the Environment Operations Act 1997 (Section 3) and Local Law No. 3 (Community Health and Environment Management) 2011 by October 2016 Council meeting.*

*THE SUBSTANTIVE MOTION WAS PUT*

*CARRIED 8/0*

At the October 2016 Ordinary Meeting of Council, a report was presented to Council. The advice received from the Department of Local Government and Communities raised doubt as to whether the proposed amendment would receive the necessary approval from the State Government. It was resolved:

*OFFICER RECOMMENDATION & COUNCIL RESOLUTION*

*That Council:*

1. *Accept the advice from the Department of Local Government and Communities in regards to the current drafting of the proposed Local Government Property Local Law Amendment 2016 and not proceed further with the amendment in it's current form, and*
2. *Engage a suitably experienced consultant to draft an omnibus amendment to the Local Government Property Local Law that will consolidate any past and proposed amendments into one new Local Law for further consideration by Council no later than 28 February 2017.*

*THE SUBSTANTIVE MOTION WAS PUT*

*CARRIED 6/3*

*For: Mayor Dawkins, Crs Angers, Burke, Rodda, Downes & Birnbrauer*

*Against: Crs Boulter, Thomas & Pyvis*

To amend the Local Law to ban smoking and balloon releases, McLeods Barristers and Solicitors were engaged, taking into consideration the advice provided by the Department of Local Government and Communities and the other proposed amendments.

At the May 2017 Ordinary Meeting of Council, it was resolved:

*That Council, in regards to the proposed amendments to the Local Government Property Local Law 2001:*

1. *Advertise the proposed Amendment Local Law (as attached) for a period of not less than 42 days and invite public submissions in regards to the proposed Local Law.*
2. *Consider all submissions received at a Meeting of Council after the nominated closing date.*

*CARRIED 7/0*

In accordance with the Resolution of Council, this proposal was advertised locally and state-wide in June 2017, with public submissions closing on 18 July 2017.

A total of thirteen submissions were received from the public. Of these, four specifically support prohibiting the release of balloons, some from people living interstate and some petitioning for a nationwide ban. The other seven support the proposed amendment to the Local Government Property Local Law 2001 to ban smoking and balloon releases. These submissions have been included for the Elected Members information along with the seven submissions received for the proposal advertised in July 2016 in relation to the smoking ban.

The Department of Local Government and Communities advised that the state-wide notice did not allow for sufficient time. As such, the *Local Government Property Amendment Local Law 2017* was required to be readvertised for the required 42 days in a state-wide public notice.

One further submission was received from the public, supporting the ban.

The proposed amendment was then put to Council in September 2017, where it was subsequently resolved as follows;

#### OFFICER RECOMMENDATION

Moved Cr Rodda, seconded Cr Thomas

That Council, by Absolute Majority:

1. *In accordance with s3.12 (4) of the Local Government Act 1995, adopt the Local Government Property Amendment Local Law 2017 as presented;*
2. *In accordance with s3.12 (5), publish the local law in the Government Gazette and send a copy to the Minister for Local Government;*
3. *After Gazettal, in accordance with s3.12 (6), give local public notice:*
  - (a) *Stating the title of the local law;*
  - (b) *Summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *Advising that copies of the local law may be inspected or obtained from the Town Administration and website.*
4. *Following Gazettal, in accordance with the Local Laws Explanatory Memoranda Directions as issued by the Minister on 7 November 2005, provide a copy of the local law and a duly completed explanatory memorandum signed by the Mayor and the Chief Executive Officer to the WA Parliamentary Joint Standing Committee on Delegated Legislation.*

5. *Authorise the Mayor and Chief Executive Officer to execute all necessary documentation as may be required to adopt the Town of Cottesloe Local Government Property Local Law 2017.*
6. *Thank all those respondents who provided a submission to the proposed Town of Cottesloe Local Government Property Local Law 2017.*

CARRIED 8/0

Since then the issue of the ban on smoking has been presented to the March 2018 and February 2019 Briefing Forums for consideration by Council.

### **STRATEGIC IMPLICATIONS**

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

Priority Area 3: Enhancing beach access and the foreshore

### **POLICY IMPLICATIONS**

The Town's Beach primary objective is:

- a. *To ensure that the land area west of the Marine Parade road pavement is maintained or restored so that:*
  - i. *the sea is accessible and free from pollutants and that the shore line is not altered except as a result of properly investigated and designed works to rehabilitate the land area;*

Further, secondary objectives are;

- a. *To maintain the areas of major recreational use, including their amenities. These areas being the major reserves of:*
  - i. *Cottesloe Beach (defined as being from Mudurup Rocks to Napier Street);*
  - ii. *North Cottesloe Beach (defined as being from Eileen Street to Grant Street).*

Making a determination to ban smoking at specified areas would be in keeping with these strategic objectives of the Policy.

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government (Administration) Regulations 1996*

*Town of Cottesloe Property Local Law 2011*

*Town of Cottesloe Property Local Law Amendment 2017*

*Tobacco Control Products Regulations 2006*

Relevant extracts from the consolidated *Local Government Property Local Law 2001* (which includes the 2017 amendment) is provided below.

**Determination as to use of local government property**

- 2.1 (1) *The local government may make a determination in accordance with clause 2.2-*
- (a) *setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;*
  - (b) *prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;*
  - (c) *as to the matters in clauses 2.7(2) and 2.8(2); and*
  - (d) *as to any matter ancillary or necessary to give effect to a determination*
- (2) *The determinations in Schedule 2 –*
- (a) *are to be taken to have been made in accordance with clause 2.2; may be amended or revoked in accordance with clause 2.6; and*
  - (b) *have effect on the commencement day.*

**Procedure for making a determination**

- 2.2 (1) *The local government is to give local public notice of its intention to make a determination.*
- (2) *The local public notice referred to in subclause (1) is to state that –*
- (a) *the local government intends to make a determination, the purpose and effect of which is summarised in the notice;*
  - (b) *a copy of the proposed determination may be inspected and obtained from the offices of the local government; and*
  - (c) *submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.*
- (3) *If no submissions are received in accordance with subclause (2)(c), the Council is to decide whether to –*
- (a) *give local public notice that the proposed determination has effect as a determination on and from the date of publication;*
  - (b) *amend the proposed determination, in which case subclause (5) will apply; or*
  - (c) *not continue with the proposed determination.*
- (4) *If submissions are received in accordance with subclause (2)(c) the Council is to -*
- (a) *consider those submissions; and*
  - (b) *decide –*
    - (i) *whether or not to amend the proposed determination; or*
    - (ii) *not to continue with the proposed determination.*
- (5) *If the Council decides to amend the proposed determination, it is to give local public notice –*
- (a) *of the effect of the amendments; and*

- (b) *that the proposed determination has effect as a determination on and from the date of publication.*
- (6) *If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.*
- (7) *A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).*
- (8) *A decision under subclause (3) or (4) is not to be delegated by the Council*
  - (a) *the local government intends to make a determination, the purpose and effect of which is summarised in the notice;*
  - (b) *a copy of the proposed determination may be inspected and obtained from the offices of the local government; and*
  - (c) *submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.*

**Discretion to erect sign**

- 2.3 *The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.*

**Determination to be complied with**

- 2.4 *A person shall comply with a determination.*

**Register of determinations**

- 2.5 (1) *The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.*
- (2) *Sections 5.94 and 5.95 of the Act, relating to the right of the public to inspect certain local government information, are to apply to the register referred to in subclause (1). For that purpose, the register is to be taken to be information within section 5.94(u)(i) of the Act.*

**Amendment or revocation of a determination**

- 2.6 (1) *The Council may amend or revoke a determination.*
- (2) *The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.*
- (3) *If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.*

**Division 2 – Activities which may be Pursued or Prohibited under a Determination****Activities which may be pursued on specified local government property**

- 2.7 (1) *A determination may provide that specified local government property is set aside as an area on which a person may –*

- (a) *bring, ride or drive an animal;*
  - (b) *take, ride or drive a vehicle, or a particular class of vehicle;*
  - (c) *fly or use a motorised model aeroplane;*
  - (d) *use a children's playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;*
  - (e) *launch, beach or leave a boat;*
  - (f) *take or use a boat, or a particular class of boat;*
  - (g) *deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;*
  - (h) *play or practice –*
    - (i) *golf or archery;*
    - (ii) *pistol or rifle shooting, but subject to the compliance of that person with the Firearms Act 1973; or*
    - (iii) *a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;*
  - (i) *ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device*
- (2) *A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –*
- (a) *the days and times during which the activity may be pursued;*
  - (b) *that an activity may be pursued on a class of local government property, specified local government property or all local government property;*
  - (c) *that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;*
  - (d) *may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;*
  - (e) *may specify that the activity can be pursued by a class of persons or all persons; and*
  - (f) *may distinguish between different classes of the activity.*

***Activities which may be prohibited on specified local government property***

- 2.8 (1) *A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property:*
- (a) *smoking on premises or within a 5 metre radius of any entrance, exit or aperture of premises;*
  - (b) *riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;*

- (c) *taking, riding or driving a vehicle on the property or a particular class of vehicle;*
  - (d) *riding or driving a vehicle of a particular class or any vehicle above a specified speed;*
  - (e) *taking or using a boat, or a particular class of boat;*
  - (f) *the playing or practice of -*
    - (i) *golf, archery, pistol shooting or rifle shooting; or*
    - (ii) *a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;*
  - (g) *the playing or practice of any ball game which may cause detriment to the property or any fauna on the property;*
  - (h) *the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose;*
  - (i) *releasing an unsecured balloon inflated with a gas that causes it to rise in the air; and*
  - (j) *smoking in contravention of a sign which prohibits the act of smoking.*
- (2) *A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –*
- (a) *the days and times during which the activity is prohibited;*
  - (b) *that an activity is prohibited on a class of local government property, specified local government property or all local government property;*
  - (c) *that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;*
  - (d) *that an activity is prohibited in respect of a class of persons or all persons; and*
  - (e) *may distinguish between different classes of the activity.*
- (3) *In this clause –*
- "premises" means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field*

In summary, the *Local Government Property Local Law 2001* gives Council the power to make a determination to ban smoking at specified areas, subject to the consideration of public submissions regarding the proposed determination, which if subsequently adopted need to be signed accordingly.

Under the *Tobacco Products Control Regulations 2006*, smoking is already banned in the following places:



- ) Shopping Centres
- ) Cafes and Restaurants
- ) Pubs, Bars, Nightclubs
- ) Sporting Clubs
- ) Patrolled Beaches (between flags)
- ) Playgrounds
- ) Private vehicles where a child under 17 is present

The maximum imposed penalty is \$1,000 and for an infringement notice, \$200.

### **FINANCIAL IMPLICATIONS**

The cost to advertise the proposed determination is estimated to be \$2,500.

Depending on the area which may be subject to a smoking ban and the type of signage to be installed, the cost of signage may possibly range from \$2,000 to \$10,000.

### **STAFFING IMPLICATIONS**

For such a determination to be effectively enforced, additional rangers would need to be engaged so as not to disrupt or hinder existing operational requirements.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

Any ban on smoking would presumably result in less litter from cigarette butts and allow non-smokers to enjoy the beach environment free from cigarette smoke.

### **CONSULTATION**

Elected Members

### **OFFICER COMMENT**

Staff have discussed the banning of smoking at all beaches and have formed the view that such a blanket ban would be difficult to enforce and does not provide any alternative for smokers to visit the beach and be able to smoke lawfully. It is recommended that any ban on smoking be limited, at least in the first instance, to the most popular swimming beaches and/or foreshore areas, that being Cottesloe, North Cottesloe beaches and the area in the vicinity of the playground at Dutch Inn.

Under this scenario, it is proposed that smoking be banned in the following areas (see attached map for further clarification);

1. Cottesloe Beach – Cottesloe Groyne to the grassed terraces north of Indiana and west of Carpark One.
2. Dutch Inn - Southern groyne to just north of the children's playground.
3. North Cottesloe Beach – Carpark south of Barchetta to beach access ramp north of North Cottesloe Surf Life Saving Club.

If Council so determined to ban smoking on all beaches, the following alternative motion is provided for consideration;

That Council, in accordance with the section 2.1 and 2.2 of the Town of Cottesloe Property Local Law, provide local public notice of its intention to ban smoking on all beaches and foreshore reserves west of Marine Parade and Curtin Avenue and invite public submissions for a period of no less than twenty one days regarding the proposal.

### **VOTING REQUIREMENT**

Simple Majority

### **COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019**

#### **Mayor Angers**

Q1. A question on enforcement - how are we able to enforce no smoking on beaches?

**A1.** The discussions previously were that we wouldn't be engaging extra rangers specifically to enforce these provisions, we would probably just expect our rangers to keep an eye out while they're doing their other regular patrols, which does include the beachfronts quite often. There will be an element of public education where they see it, not simply enforcement. We would try to get some other media advertising as well to get the message across.

#### **Cr Sadler**

Q1. What requirements are there in terms of the signage in order for it to be enforceable? Is that something that can be done as on-ground signage at the entrances to paths or is it required to be a sign on a board?

**A1.** There's no real distinction there as long as it's reasonable that anyone who's accessing the beach will have seen those signs, whether it's on a footpath right in front of you or on a sign but we probably would need to look at putting them on all access paths and maybe on the northern and southern boundary of the beaches to adequately cover the signage requirements.

#### **Cr Thomas**

Q1. Going to the officer's recommendation and the preamble and we talk about invite public submissions for a period of no less than 21 days regarding the proposal. I'm a little concerned about the change to the local law the first time as we hadn't met the required time of 42 days. I know they're different, but is 21 days sufficient to satisfy both our requirements and the DLG?

**A1.** The Local Government Property Local Law, where this power comes from, does state that we have advertise the determinations or proposed determinations for a minimum of 21 days whereas the Local Government Act specifies that a local law amendment has to be for a minimum of 42 days.

#### **Cr Young**

Q1. Just looking at the wording, I'm not certain if we're talking about the sand part of beach or are we thinking everything west of Marine Parade – there's no kind of

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eastern limit to the property that we're covering. The grassed terrace is north of Indiana, just north of the children's playground.

**A1.** In the attachments there's a red line around the area.

**Cr Tucak**

**Q1.** Regarding the signage – given that these have boundaries on the sandy area is there a need to have signage on the sands or is it similar to dog beach signs?

**A1.** Yes we probably do, not all points along the beach. but certainly at the northern and southern boundaries – the assumption being that if you happen to be walking along the Leighton or Swanbourne ends you would see the signs and then on all beach access paths and a couple of locations along Cottesloe beach.

**Cr Tucak**

**Q1.** There's a bit of confusion around exactly where N4 is which is referenced in the recommendation and on the map. It may be worth checking where N4 is.

**A1.** We will check the location regarding N4 and add to the map if that's what you're suggesting that the southern point of North Cottesloe Beach that is in the path of N4.

**Q2.** Also, not knowing much about smoking, I notice there's reference to cigarettes in some parts of this, is it intended to address people smoking through vapour and other things, not using traditional cigarettes or is it just cigarettes?

**A2.** We will need to check the exact wording of the amendment that was passed in the local law to see if it includes vaping or other similar things.

**Cr Sadler**

**Q1.** With regards to submissions - are we able to put in the public notice that we have people's names, addresses and postcode? Is that a standard thing that's happening at the Town now and if it's not, how does that become a standard thing?

**A1.** It's a very clear intention of Council that we request the names and addresses of submitters so it will be a standard question on all feedback forms from now. Obviously we can't control how people submit. We may get an email to [council@cottesloe.wa.gov.au](mailto:council@cottesloe.wa.gov.au) because someone's seen the ad and wants to put a submission in and doesn't provide a name and address but we'll just have to put those types of submissions in a separate list.

**Cr Young**

**Q1.** With regards to the timing of advertising. On a slightly different angle – is it possible to advertise alternatives, to call for submissions on option 1, option 2, etc?

**A1.** We could certainly do that but then we would then need to consider those, work out a preferred position and then re-advertise again with our final proposal for a further 21 days. There wouldn't necessarily be a timing on that as it's not stipulated under the Act, it's a non statutory form of consultation.

**OFFICER RECOMMENDATION**

THAT Council, in accordance with the section 2.1 and 2.2 of the Town of Cottesloe Property Local Law, provide local public notice of its intention to ban smoking on the following local government property and invite public submissions for a period of no less than twenty one days regarding the proposal.

1. Cottesloe Beach – Cottesloe Groyne to the grassed terraces north of Indiana and west of Carpark One.
2. Dutch Inn - Southern groyne to just north of the children's playground.
3. North Cottesloe Beach – Carpark south of Barchetta to beach access ramp north of North Cottesloe Surf Life Saving Club.

**COUNCILLOR MOTION AND COUNCIL RESOLUTION****Moved Cr Sadler****Seconded Cr Pyvis**

**That Council, in accordance with the section 2.1 and 2.2 of the Town of Cottesloe Property Local Law, provide local public notice of its intention to ban smoking on all beaches and foreshore reserves west of Marine Parade and Curtin Avenue and invite public submissions for a period of no less than twenty one days regarding the proposal.**

**Carried 7/0**

**ENGINEERING****10.1.7 REMOVAL OF LOMA STREET TREES**

<b>File Ref:</b>	<b>SUB/2798</b>
<b>Attachments:</b>	<b>10.1.7(a) Email from Mr Thomas Alabakis [under separate cover]</b>
	<b>10.1.7(b) Petition from Loma St residents [under separate cover]</b>
<b>Responsible Officer:</b>	<b>Mat Humfrey, Chief Executive Officer</b>
<b>Author:</b>	<b>Shaun Kan, Manager, Engineering Services</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

Cr Pyvis declared an IMPARTIALITY INTEREST in item 10.1.7 by virtue "I am a member of West Tree Canopy."

Cr Rodda declared an IMPARTIALITY INTEREST in item 10.1.7 by virtue "I am a member of the club."

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**SUMMARY**

Council is being asked to consider a request from residents of Loma Street, to remove a Jacaranda tree from their neighbour's verge and replace it with a Norfolk Island Pine. This item has been previously deferred by Council to allow for the reconsideration of the Town's Street Tree Policy, which was adopted at the February 2019 Ordinary Council Meeting.

**BACKGROUND**

On 18 June 2018, the resident of 28 Lomas Street wrote to Elected Members requesting for the removal of an unapproved Jacaranda Tree. It is alleged that this tree was planted sometime in March 2018 and replaced a Norfolk Island Pine that failed to thrive. A petition from Loma Street residents was provided in support of this removal.

At the 28 August 2018 Ordinary Council meeting, Council resolved:

*That Council:*

- 1. Defer this item pending a review by the Administration of the Town's existing Street Tree Policy and, in particular, the provisions of clause (4) paragraph 5, which states that: Tree removals must be seen as a last resort, used for dead and/or dangerous trees; and*
- 2. The Town's Administration informs each of the applicant residents of the review and its likely timing.*

The Street Tree Policy was approved at the February 2019 Ordinary Council Meeting.

Since the adoption of the policy, the resident of 21 Loma Street has confirmed that the Jacaranda Tree was planted between January and February 2017.

**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

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

Priority Area 1: Protect and enhance the wellbeing of residents and visitors.

### **POLICY IMPLICATIONS**

The officer's recommendation is consistent with the recently updated Street Tree Policy.

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government Regulations 1996*

### **FINANCIAL IMPLICATIONS**

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

### **STAFFING IMPLICATIONS**

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

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

The officer's recommendation will maintain the existing canopy cover benchmark, subsequently progressing towards the intended target identified within the *Corporate Business Plan 2017 – 2021*.

### **CONSULTATION**

Staff

Elected Members

### **OFFICER COMMENT**

Whilst the Jacaranda is not consistent with the Loma Street species shown in the Street Tree Masterplan, the removal of this tree would be contrary to the Town's Street Policy. The Town has a commitment to continue maintaining existing street trees. Further, it was not the intent of the Street Tree Master Plan that trees would be removed so that only one species was present – rather the intention of the plan (as stated in it) was to guide any replacement plantings or new plantings that the Town may wish to undertake.

The question has been asked if the Jacaranda (and the previous Norfolk Island Pine) was planted illegally – however this is not a simple issue. The Town has the ability to regulate plantings (and the placement of any structure) on road reserves that it controls. However simply not obtaining permission does not automatically make the placement illegal. In order for any breach to occur, the Town would have to require the planting or obstruction to be removed by serving the appropriate notice. Only once that notice was ignored would an offence be created. Alternatively, the Town is able to remove obstructions or plantings that were not authorised and require the person responsible to pay for the removal.

That being the case, the Town would need to also consider what would have happened had the planting been brought to the attention of the Town when it was first planted. At that time the Street Tree Master Plan had not been adopted so it would not have been

considered in the decision. It is likely that an assessment would have been undertaken on sight lines and safety, which are not concerns in this particular example. That being the case, it is more likely than not that the Town would have taken no further action on the tree itself, but would have written to the owners advising that in future it would be better to seek permission before undertaking any alterations to the verge area.

Regardless of the timing, Section 4.4 within the newly adopted Street Tree Policy does not permit the removal of thriving unapproved trees. The Jacaranda has been deemed to be in good health by both the Town's Works Supervisor and Coordinator of Environmental Projects whom have the appropriate qualifications to make this judgement.

### **VOTING REQUIREMENT**

Simple Majority

### **COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019**

#### **Cr Young**

Q1. Do we actually now know when the tree went in as it seems it straddles the Street Tree Master Plan?

A1. I have spoken to the resident who planted the tree and she claims that she planted the tree around January or February of 2017, which was before the Street Tree Master Plan was adopted and the September 2017 policy.

Q2. The neighbours offer a contrary date?

A2. Yes.

#### **Mayor Angers**

Q1. So the tree has been planted around March 2017?

A1. Yes.

#### **Cr Thomas**

Q1. How do we stop this happening? Can I go down to my verge and put in a jacaranda or tea tree?

A1. We can't so much stop it, we're relying on residents' surveillance and surveillance from staff to identify these types of unidentified plantings and should these plantings become too difficult to relocate we would contact the resident and encourage them to remove the plantings, otherwise, under the street tree policy the time you have to move or relocate it. Maintenance and management of verges is constant problem for all local governments. There has been plenty of media coverage about people paving their entire verge areas and causing problems. We do patrol the areas, we do undertake inspections from time to time like the tree but some things may be missed, not easily seen. In those instances when we do discover them we ask people to remove them first and if they refuse to do that, we then issue a notice requiring it to be removed.

At the time this tree was planted the Town wouldn't have asked them to remove a tree they had planted unless it was a danger to traffic or a particularly noxious species. The tree would probably have been considered ok at that time but subsequent to the Street Tree Master Plan being adopted by Council that's changed.

**Cr Young**

Q1. Who owns the tree now?

A1. As soon as the tree is planted on public property it becomes the Local Government's. We can ask the person who caused it to be put there, to remove it and if they don't do it, we can remove it.

**Cr Rodda**

Q1. The original request was to remove a lot of Coral Trees as well, has that been dropped?

A1. Yes. At this stage the residents of Loma Street have not brought up the Coral Tree, only the Jacaranda Tree has been brought back to discussion.

Q2. What is the size of the Jacaranda Tree at the moment?

A2. The size of the Jacaranda is approximately 150-200 litres.

**Cr Sadler**

Q1. Are we aware how the small NIPs that were there succumbed? Is there room on the verge to plant other trees, which are part of the preferred species from Loma Street, on the verge as well?

A1. The species for Loma Street is Norfolk Island Pines so we would need to check if there's enough space.

**Mayor Angers**

Q1. I'm noticing a lot of people are planting hedges on their verges, not trees. What's the Town's view on that?

A1. As long as it doesn't affect traffic/pedestrian safety or cause maintenance issues for the Town, the Town doesn't have any objection to such plantings on the verge, but it depends on location, what's been planted, etc.

**Cr Harkins**

Q1. Do you still have to get permission to do that?

A1. You should do. The risk you run when you do something on the verge without the local government's permission is that they may serve notice to undo or remove it, which you have to comply with, so we would always recommend to people that if they wish to do something on the verge that's not already covered, they should seek the Town's permission before doing it, to save any unfortunate situations arising.



**OFFICER RECOMMENDATION**

That Council **DECLINE** the request to remove the Jacaranda Tree located at the verge of 21 Loma Street.

**COUNCILLOR MOTION AND COUNCIL RESOLUTION**

Moved Cr Young

Seconded Cr Thomas

That Council:

1. **Allows the request for the removal of the street tree on the verge at 21 Loma Street on the grounds set out in the rationale, below, acknowledging that it is an exceptional case in which departure from Council's Street Tree Policy is warranted;**
2. **Requests the Administration to:**
  - i. **notify the owner of 21 Loma St to remove the Jacaranda tree on the verge in front of the property within 3 months (or such other period as reasonably required by the property owner and agreed to by the Town in order to prepare the tree for successful transplanting), failing which the Town will remove the tree on the expiration of the 3 months (or the period agreed with the owner) and seek to recover the cost of removal from the owner;**
  - ii. **advise the owner of the property that once the Jacaranda is removed the Town will plant a Norfolk Island Pine (being the street tree for Loma St as per the Town's Street Tree Masterplan) on the verge and that responsibility for its maintenance will fall to the Town; and**
  - iii. **photograph and retain a record of the dimensions of the tree prior to removal.**

**Rationale:**

1. **The Jacaranda tree is not the approved street tree for Loma St under the Street Tree Masterplan;**
2. **The tree is very young and has not developed, in term of size, height and canopy, to the extent that it contributes in a significant way to the tree canopy cover in the street;**
3. **The tree was planted quite recently and residents in the street acted very promptly to request its removal and replacement with a Norfolk Island Pine;**
4. **Failure to remove the tree at this stage will potentially burden the street with a tree not in keeping with the Masterplan for a very significant period of time. This will defeat one of the purposes of the Masterplan, preventing a cohesive street planting scheme in the street and frustrating the wishes of a large number of Loma St residents.**
5. **Council should act to ensure compliance with the Masterplan in cases (such as this) where residents have requested compliance in a very timely manner following planting and where it can be achieved without the removal of larger established trees that contribute significantly to the Town's canopy.**

**Carried 7/0**

**10.1.8 REVISED RIGHT OF WAY POLICY**

**File Ref:** SUB/2798  
**Attachments:** 10.1.8(a) Right of Way Policy [under separate cover]  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Shaun Kan, Manager, Engineering Services  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Council is asked to consider the attached, revised Right of Way Policy.

**BACKGROUND**

At the December 2017 Ordinary Council Meeting, Council requested for the Administration to consider several design and related operational matters when revising the Right of Way Policy. Matters within the resolution have been incorporated where possible and the policy is now being represented for consideration.

**STRATEGIC IMPLICATIONS**

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

Priority Area 5: Providing sustainable infrastructure and community amenities

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

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

Priority Area 5: Providing sustainable infrastructure and community amenities.

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

**POLICY IMPLICATIONS**

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

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government (Functions and General) Regulations 1996*

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**STAFFING IMPLICATIONS**

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

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**CONSULTATION**

Elected Members

Town of Cottesloe Staff

**OFFICER COMMENT**

The attached Right of Way Policy has incorporated the following points from the December 2017 Ordinary Council Meeting. The labelling of each key heading is similar to that of the December 2017 minutes.

**1a. Laneways Administered Under the Policy**

All Right of Ways owned by the crown and vested in the Town of Cottesloe will be administered under this Policy. ROW 14 has been exempted.

**1b. Design and Costing Related Considerations**

Operational matters under this point will be addressed through a Right of Way Strategy after the policy is adopted.

**1c. Objectives of Councils Community Strategy and 1d. Town's Mission Statement**

Sustainability, good governance, best practice and community participation are the key themes within the Town's Strategic Community Plan and Mission Statement.

The Right of Way Strategy will ensure sustainability in laneway design. Best practice will be achieved through research on approaches used by other councils with similar demographics. Resident consultation in the planning for laneway works and incorporating feedback where practical delivers meets the good governance and community participation objectives.

**1e. Human Induced Climate Change Policy**

This will be addressed as part of the Right of Way Strategy

**1f. Community Health Plan**

There are no perceived implications between the plan and the revised policy.

**1g. Laneway Cadastral Surveys and 1h. List of Privately Owned Right of Ways**

This will be undertaken upon the adoption of the Policy with cadastral boundaries details being reflected in the updated Right of Way Report. This report currently reflects privately owned laneways.

**1i. Current Status and Treatment of ROW14**

No works have since been undertaken after the petition to not seal the laneway was received.

**1j. User Pay Principle and 1k. Building Bonds for Laneway Damages as a Result of Developments**

The revised policy adopts a user pay principle under a Right of Way contribution scheme. Developers are required to provide a bond equivalent to the contribution when obtaining a Building Permit for the works.

**VOTING REQUIREMENT**

Simple Majority

**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

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

Priority Area 1: Protect and enhance the wellbeing of residents and visitors.

**POLICY IMPLICATIONS**

The officer's recommendation is consistent with the recently updated Street Tree Policy.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government Regulations 1996*

**FINANCIAL IMPLICATIONS**

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

**STAFFING IMPLICATIONS**

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

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

The officer's recommendation will maintain the existing canopy cover benchmark, subsequently progressing towards the intended target identified within the *Corporate Business Plan 2017 – 2021*.

**CONSULTATION**

Staff

Elected Members

### OFFICER COMMENT

Whilst the Jacaranda is not consistent with the Loma Street species shown in the Street Tree Masterplan, the removal of this tree would be contrary to the Town's Street Policy. The Town has a commitment to continue maintaining existing street trees. Further, it was not the intent of the Street Tree Master Plan that trees would be removed so that only one species was present – rather the intention of the plan (as stated in it) was to guide any replacement plantings or new plantings that the Town may wish to undertake.

The question has been asked if the Jacaranda (and the previous Norfolk Island Pine) was planted illegally – however this is not a simple issue. The Town has the ability to regulate plantings (and the placement of any structure) on road reserves that it controls. However simply not obtaining permission does not automatically make the placement illegal. In order for any breach to occur, the Town would have to require the planting or obstruction to be removed by serving the appropriate notice. Only once that notice was ignored would an offence be created. Alternatively, the Town is able to remove obstructions or plantings that were not authorised and require the person responsible to pay for the removal.

That being the case, the Town would need to also consider what would have happened had the planting been brought to the attention of the Town when it was first planted. At that time the Street Tree Master Plan had not been adopted so it would not have been considered in the decision. It is likely that an assessment would have been undertaken on sight lines and safety, which are not concerns in this particular example. That being the case, it is more likely than not that the Town would have taken no further action on the tree itself, but would have written to the owners advising that in future it would be better to seek permission before undertaking any alterations to the verge area.

Regardless of the timing, Section 4.4 within the newly adopted Street Tree Policy does not permit the removal of thriving unapproved trees. The Jacaranda has been deemed to be in good health by both the Town's Works Supervisor and Coordinator of Environmental Projects whom have the appropriate qualifications to make this judgement.

### VOTING REQUIREMENT

Simple Majority

### COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019

**Cr Thomas**

- Q1. On page 2 of 4 of the Right of Way Policy under 6.1 Right of Way Ownership '*All ROWs sections owned by the Town of Cottesloe will be surrendered to the Crown through provisions within the Local Government Act 1995*' . Are any of our right of ways not surrendered to the crown?
- A1.** Over the next couple of years the Town will be going through a process of verifying the cadastral boundaries and eventually getting back each ROW back to the crown.
- Q2. So we do have some invested in the crown?

- A2.** At the moment, other than a few privately owned laneways, the remaining ROWs are vested in the crown. There are two exceptions where there are parts of ROWs but it would cross multiple titles and one of those titles is now subject to adverse possession so we couldn't cede it to the crown.
- Q3. So there's one laneway involved?
- A3.** One laneway, two titles.
- Q4. On page 3 in the first paragraph, the last sentence states *'The contribution will be allocated to the Town's ROW upgrade program should that section be already sealed and drained.'* – if you skip down 2 paragraphs *'In the event where financial contribution is not required...'* Why would we not require a financial contribution because we're talking in paragraph one about a contribution and now we're saying in the event it's not required?
- A4.** There have been instances where a contribution has been made by a previous owner. If that owner has sold and the new owner has decided to redevelop the land, we would not taking a contribution, rather a construction bond to ensure quality and integrity of the laneway has been maintained throughout, before and after the construction is complete.
- Q5. So if I own a property, I've upgraded that section or paid the money to the Town and come back to Town I don't pay a contribution.
- A5.** The second time you don't have to pay the contribution, you just pay a bond that we hold.
- Q6. The last paragraph of 7.2 *'The Council will be responsible for developing and approving all designs. Developers and land owners will bear the full cost difference between their approved proposals and the Council's design.'* Can you please explain this to me?
- A6.** As per our ROW strategy requires the laneway to be asphalt and the developer comes back in and decides to do an entry statement to the laneway, the developer will have to contribute should the Town undertake the works. The developer would have to top up the difference between the asphalt and what the developer is proposing.
- Q7. Generally what the developer would propose would be better than the asphalt?
- A7.** They would still have to pay the difference.
- Q8. Under point 8.3 *'Developers and landowners may be responsible for maintaining their prepared Council approved design'* If I'm a developer, put the design in, Council approves it, does that mean as a private developer I would always be responsible for maintaining that?
- A8.** It would be rarely used. In a situation where someone wants to do something that's extravagant, different or changes levels, what we would seek before we gave permission to do that is put a notification on the title that says you remain responsible for the payments for the lifetime of the improvements.
- Q9. We've had a fair bit of discussion through Council regarding the treatment of the lanes whether it's asphalt, permanent paving, limestone, road base, plants, etc. There is nothing mentioned here about that.

- A9.** Once this policy is adopted, the ROW Strategy will be developed and identifies the desired road treatments.

**Cr Sadler**

**Q1.** Point 6.2 where it's talking about purchasing of encroached land, what's the intent there because it says at the top laneways used by the public for the purpose of public access and then we seem to be describing here placing authority, that if the owner wants to close it then they may opt to close it. It sounds very permissive in its wording. I'm wondering if the wording be stronger so it may 'apply' to close that section, because 'opt' makes it sound like they can just do it. What's the intent of that sentence because it sounds like it's at odds with point 5?

**A1.** The word 'apply' would be better. Our original intention was that when we say 'opt' they would still have to go through the administration process. In the past there have been situations where requests have been made for rows to closed but when they've heard of the process that they need to go through.

**Q2.** Would the appropriate thing for me to do be to move a minor amendment at the Council meeting.

**A2.** We will change it before Council.

**Cr Tucak**

**Q1.** In point7.1 the policy is saying that contribution for the development approval be for the section of the Right of Way and the wording of the next paragraph is talking about the '*funds combined with Council's budget will be used to reconstruct any unsealed pavement sections of that ROW.*' Is that saying that Council will do the whole right of way?

**A1.** That's correct. There are times when the majority of the residents that make ROW access will have made a contribution but there's still a shortfall because not everyone has made a contribution so it means the Council/administration will allocate funds. In the event that owner makes a contribution, the Town pays for the balance to seal the ROW, when the remaining 20% submit a development approval they will still have to make a contribution and as the end of that paragraph states their contribution will go into the Town's funds to seal other ROWs. In the end, everyone who has a ROW will contribute at some point. The main situation, where we get to a critical mass, where it becomes critical to seal a ROW it means we don't have to wait for everyone to put in a development application.

**Cr Young**

**Q1.** I have concern about the calculation in point 7.1 where it reads '*the applicant (ratepayer or developer) will make a financial contribution for the full road pavement length and width of the property. An approved development with ROW vehicle access will contribute a sum equal to the cost of sealing and draining the width and length of the property frontage.*' There's going to be a lot of situations where that's not actually going to be what's required, for example, the frontage could be the shorter part of the

block, and it wouldn't be the width and length in most cases unless there's a ROW running behind and adjacent to the property.

- A2.** It's almost impossible for us to write one rule that will cover every possible ROW. There will be instances where a driveway wraps around a property, we would only charge for frontage. At end of the day all these people would contribute once and once only. Once a contribution has been received the maintenance and ongoing costs will revert to the Town. This is intended for people who have had ROWs that at one point or other they would contributed equally in a similar way and the Town would use that money to build other ROWs.
- Q2. Isn't it the intention that they contribute a sum equal to the cost of draining the part of the laneway that they're using, it could be behind and it could be to the side so could it be framed in those terms?
- A2.** Yes it could but is it fair? If you've got a property on a corner that has one long boundary and one short boundary and everyone else on that boundary only has a short boundary should the person on that corner have to pay more than anyone else who fronts that ROW. Previous councils have taken the view that that wasn't the way to proceed.
- Q3. The way it's worded at the moment a person in that scenario would be paying for both the width and the length of the property frontage.
- A3.** No, it's only the frontage, not the side.

#### **OFFICER RECOMMENDATION**

That Council ADOPT the attached revised Right of Way Policy subject to Section 6.2 – the word 'opt' be replaced with 'apply' to read, '*owners may apply to close that section through the purchase of the encroached land area*'.

#### **COUNCILLOR MOTION AND COUNCIL RESOLUTION**

Moved Cr Rodda

Seconded Cr Sadler

That:

- (a) **this item be deferred until the next Ordinary Council Meeting;**
- (b) **the Administration undertake a further review of the revised Right of Way Policy (ROW Policy), including**
- 1) **an analysis of the fees derived by the Town from contributions made pursuant to ROW Policy over the previous 5 years to determine whether a revised ROW Policy that provides for 'contributions' remains appropriate.**
  - 2) **consideration of the matters set out in the Council resolution of 12 December 2017.**

**Carried 7/0**



**10.1.9 HAWKSTONE STREET AND HAMERSLEY STREET CLOSURE**

<b>File Ref:</b>	<b>SUB/2798</b>
<b>Attachments:</b>	<b>10.1.9(a) Hawkstone Street and Hamersley Street - Concept Plan [under separate cover]</b>
	<b>10.1.9(b) Feedback - Hamersley Street and Hawkstone Street Bend Treatment [under separate cover]</b>
<b>Responsible Officer:</b>	<b>Shaun Kan, Manager, Engineering Services</b>
<b>Author:</b>	<b>David Lappan, Engineering Technical Officer</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

**SUMMARY**

Council is asked to consider the closure and cul-de-sac of Hawkstone Street and Hamersley Street bend to improve vehicle, cyclist and pedestrian safety and to provide future opportunities to improve public open space and connectivity between reserves.

Approval is required for the Administration to commence the road closure process within the *Land Administration Act 1997*. This will ultimately be approved by the Minister of Lands.

**BACKGROUND**

The Town has received resident concerns relating to traffic and pedestrian safety at along Hawkstone Street, particularly around the Hamersley Street bend.

Following the Council's approval at the October 2018 Ordinary Council Meeting, the Town has installed yellow no stopping lines to both sides to remove all street parking along the bend. This has improved vehicle sight lines.

Council has consulted with affected residents regarding the proposed closure. 61 responses were received from the request for feedback letters sent.

Support	42
Oppose	14
Undecided	2

**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 1.1: Develop an 'integrated transport strategy' that includes cycling, park and ride, Cott Cat, public transport and parking management strategies to meet the needs of pedestrians, cyclists and other non-vehicular traffic.

**POLICY IMPLICATIONS**

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

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Land Administration Act 1997*

**58. Closing roads**

- (1) *When a local government wishes a road in its district to be closed permanently, the local government may, subject to subsection (3), request the Minister to close the road.*
- (2) *When a local government resolves to make a request under subsection (1), the local government must in accordance with the regulations prepare and deliver the request to the Minister.*
- (3) *A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice.*
- (4) *On receiving a request delivered to him or her under subsection (2), the Minister may, if he or she is satisfied that the relevant local government has complied with the requirements of subsections (2) and (3) —*
  - (a) *by order grant the request; or*
  - (b) *direct the relevant local government to reconsider the request, having regard to such matters as he or she thinks fit to mention in that direction; or*
  - (c) *refuse the request.*
- (5) *If the Minister grants a request under subsection (4) —*
  - (a) *the road concerned is closed on and from the day on which the relevant order is registered; and*
  - (b) *any rights suspended under section 55(3)(a) cease to be so suspended.*
- (6) *When a road is closed under this section, the land comprising the former road —*
  - (a) *becomes unallocated Crown land; or*
  - (b) *if a lease continues to subsist in that land by virtue of section 57(2), remains Crown land.*

**FINANCIAL IMPLICATIONS**

If supported by Council and approved by the Minister of Lands. A budget amendment would be required for the works.

**STAFFING IMPLICATIONS**

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

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**CONSULTATION**

Town of Cottesloe Staff

Hammersley Street and Hawkstone Street Residents

Letters were sent to directly impacted residents inviting feedback on 6 December 2018. The submission period closed on 21 December 2018. A summary of submissions is attached.

A copy of all the submissions received have been provided to Elected Members separate to the agenda to protect privacy details of the respondents.

**OFFICER COMMENT**

Under the *Land Administration Act 1997*, the proposal would need to be advertised by state wide public notice and resolved by Council before being considered by the Minister for Lands. Section 58 requires the Town to submit a written application outlining the reason for closure and consult with service authorities before advertising for public comment for 35 days.

If approved, the closure would create additional public open space for activation. Aesthetically upgrades will comprise of increase in plantings and integration with Grant Marine dune system. Footpath connections within the proposed reserve will also improve pedestrian safety.

**VOTING REQUIREMENT**

Simple Majority

**COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019****Mayor Angers**

Q1. I've received many enquiries on that block of land, that portion, there is reticulation built into it, but we don't water it because we don't have a water ration for it.

A1. We do water it.

**Cr Harkins**

Q1. In the officers comment, it mentions footpath connections. Will it be bike friendly as well?

A1. We'll take that into consideration as well.

**Cr Tucak**

Q1. Can you please explain to me unallocated crown lands, does it need to be allocated at some point? How does that process work?

A1. Unallocated Crown lands is Crown land that doesn't have a vesting order or management order on it. What would likely happen in this case is that if the road is

closed, it's no longer a road reserve, the crown would have to allocate it. The most likely scenario is they would give the Town a vestment or management order for that land.

- Q2. What are the potential uses, the processes we've talked about – bike paths and all sorts of things people want to see. Does that go as part of the closure process or something the Town does once it receives the allocation?
- A2. It would be something the Town does upon receiving the allocation.
- Q3. So it's automatic that bitumen itself would be removed when the road is closed or is it something that would fall into that process?
- A3. To build the cul-de-sac will need a design and it would more than likely have to come to Council for approval. Once the right of way is closed we would have to put a barrier or something across to stop people driving through it.
- Q4. So there's a set process for Council to resolve this?
- A4. Once the land is vested to the Town, we would then likely engage a designer to design what can go in there and what would be best, best place for any bike paths to go through and Council would need to approve that.

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

Moved Cr Sadler

Seconded Cr Thomas

**That Council APPROVES commencing the Road Closure Process within the *Land Administration Act 1997*.**

**Carried 7/0**

**10.1.10 OCEAN POOL FEASIBILITY STUDY - STAGE TWO**

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

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**SUMMARY**

Council is being asked to consider if it wishes to proceed with the second stage of the Ocean Pool Feasibility Study.

**BACKGROUND**

At the November 2018 Ordinary Council Meeting, the Administration presented Advisian's estimated cost for preliminary environmental and cultural heritage assessments for Council to determine whether to proceed with Stage Two of the Ocean Pool Feasibility Study. Council resolved as follows after considering the information provided:

*Moved Cr Boulter*

*Seconded Cr Pyvis*

*That Council:*

- 1. Does not proceed with the Ocean Pool Feasibility Study Stage 2 for Option Two location south of the groyne.*
- 2. Does not proceed with any further Pool Feasibility site studies.*
- 3. Requests that the Town of Cottesloe administration publishes the Ocean Pool Stage One report including on the TOC website and attached to the minutes of this meeting.*

*Lost 4/4(5)*

*For: Crs Boulter, Sadler, Thomas and Pyvis*

*Against: Mayor Angers, Crs Rodda, Tucak and Young*

In accordance with section 5.21(3) of the Local Government Act 1995, as the votes were equally divided, the Presiding Member (Chairperson), Mayor Angers, cast a second vote.

The Tender for the Ocean Pool Feasibility Study (awarded to Advisian at the April 2018 Ordinary Council Meeting) broke the Study into two parts. As awarded, the decision to proceed with the second stage of the Study rests solely with the Town. The resolution above followed a request from Council to seek quotes for the costs of proceeding with a portion of the Study at the September 2018 Ordinary Council Meeting – which occurred when authorisation was sought for Stage 2 of the Study.

**STRATEGIC IMPLICATIONS**

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

Priority Area 3: Enhancing beach access and the foreshore

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Major Strategy 3.1: Implement the 'Foreshore Redevelopment Plan' in consultation with the community.

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

Priority Area 3: Enhancing beach access and the foreshore.

Major Strategy 3.1: Implement the 'Foreshore Redevelopment Plan' in consultation with the community.

### **POLICY IMPLICATIONS**

The proposed pool will need to comply with the Beach Policy.

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government Regulations 1996*

Planning approval is required from the West Australian Planning Commission.

### **FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

### **STAFFING IMPLICATIONS**

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

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

The recommended ocean pool location south of the Groyne (Option Two) would require significant environmental and heritage investigation.

### **CONSULTATION**

Town of Cottesloe Administration

Elected Members

Community Consultation

### **OFFICER COMMENT**

As outlined in the Background section, it was always envisaged that this Ocean Pool Feasibility Study would consist of two sections. The first section, in short, would be to identify if there was a preferred location in the event the Town proceeded to construct an Ocean Pool and whether there were any "critical flaws" in the Ocean Pool project at any of the three previously provided sites.

The Tender was awarded such that the second stage of the Study would only proceed with the Council's consent. This was done so that the Town could consider the outcomes of stage 1, which included an estimate of costs, before deciding whether it wished to proceed to stage 2.

At this stage, officers are recommending that Council cease the project at this point on the following grounds;

1. There is a significant cost associated with the second stage of the Study;
2. The Town already has a number of infrastructure and other projects underway, and diverting resources to continue the study, at this time, does not appear to be the most efficient use of those resources; and
3. The Town has the requisite information on costs (capital and operating) now that it needs to make a determination on the financial viability of an Ocean Pool at the three proposed locations. Until the Town can demonstrate its capacity to make those financial commitments, the project should be placed on hold.

It should be noted that the Council is not being asked to make a determination on Ocean Pools going forward. If a community group or organisation wishes to proceed with their own study and make an application to the Town, the recommendation below would not prevent the Council considering that request on its own merits. The recommendation from officers simply stops the current study, and places the Town's involvement on hold, until such time as the financial viability of such a proposal can be established.

#### **VOTING REQUIREMENT**

Simple Majority

#### **OFFICER RECOMMENDATION**

**Moved Cr Thomas**

**Seconded Cr Pyvis**

**That Council:**

1. **ADVISE** Advisian that it will not be proceeding with the second stage of the Ocean Pool Feasibility Study at this time; and
2. **AUTHORISES** the Chief Executive Officer to make arrangements for the interim report to be published.

#### **COUNCILLOR AMENDMENT**

**Moved Cr Pyvis**

**No Seconder, Lapsed**

Add a point 3 as follows:

Request the CEO report to the April 2019 Council meeting all costs of the project to date, with all costs itemised.

#### **SUBSTANTIVE MOTION AND COUNCIL RESOLUTION**

**That Council:**

1. **ADVISE** Advisian that it will not be proceeding with the second stage of the Ocean Pool Feasibility Study at this time; and
2. **AUTHORISES** the Chief Executive Officer to make arrangements for the interim report to be published.

**Carried 7/0**

**FINANCE****10.1.11 FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2018 TO 28 FEBRUARY 2019**

**File Ref:** SUB/2798  
**Attachments:** 10.1.11(a) Monthly Financial Statements for the period 1 July 2018 to 28 February 2019 [under separate cover]  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Wayne Richards, Finance Manager  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

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

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

**BACKGROUND**

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

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

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**POLICY IMPLICATIONS**

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



**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government (Financial Management) Regulations 1996*

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

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

**STAFFING IMPLICATIONS**

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

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**CONSULTATION**

Senior staff

**OFFICER COMMENT**

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

- )] The net current funding position as at 28 February 2019 was \$4,174,513 and is in line with previous financial years as shown on pages 2 and 23 of the attached Financial Statements.
- )] Rates and emergency services levies receivables at 28 February 2019 stood at \$1,138,378 as shown on pages 2 and 26 of the attached Financial Statements.
- )] Operating revenue is more than year to date budget by \$355,170 with a more detailed explanation of material variances provided on pages 21 and 22 of the attached Financial Statements. Operating expenditure is \$294,869 less than year to date budget with a more detailed analysis of material variances provided on pages 21 and 22.
- )] The Capital Works Program is approximately 37% complete as at 28 February 2019 and a full capital works program listing is shown on pages 34 to 36.
- )] Whilst Salaries and Wages are not reported specifically, they do represent the majority proportion of Employee Costs which are listed on the Statement of Financial Activity (By Nature and Type) on page 7 of the attached Statements. As at 28 February 2019 Employee Costs were \$38,447 less than the budgeted year to date amount.
- )] The balance of cash backed reserves was \$11,663,574 as at 28 February 2019 as shown in note 7 on page 28 of the monthly financial statements.

**List of Accounts for February 2019**

The List of Accounts paid during February 2019 is shown on pages 37 to 45 of the attached Financial Statements. The following significant payments are brought to Council's attention:

- ⌋ \$25,516.88, \$25,437.53 and \$25,260.89 to Superchoice Services Pty Ltd for superannuation contributions.
- ⌋ \$32,944.76 to Surf Life Saving Western Australia for the monthly provision of surf life saving service.
- ⌋ \$27,500.00 to Blue Tang Pty Ltd trading as Emerge Associates for foreshore consultancy.
- ⌋ \$69,747.59 to Rico Enterprises Pty Ltd trading as Solo Resource Recovery for waste collection and disposal services.
- ⌋ \$59,455.00 to HiTech Security (WA) Pty Ltd for CCTV installation and upgrades.
- ⌋ \$163,633.80 to the Shire of Peppermint Grove for contributions towards library services.
- ⌋ \$159,242.85 and 33,074.22 to Western Metropolitan Regional Council for waste disposal services.
- ⌋ \$118,342.12 and \$116,017.11 to the Town of Cottesloe staff for fortnightly payroll.
- ⌋ \$320,000.00 to the Town of Cottesloe Investment account held with National Australia Bank.

**Investments and Loans**

Cash and investments are shown in note 4 on page 24 of the attached Financial Statements. Council has approximately 35% of funds invested with National Australia Bank, 32% with Bankwest, 22% with Commonwealth Bank of Australia and 11% with Westpac Banking Corporation. Council had a balance of \$11,663,574 in reserve funds as at 28 February 2019.

Information on borrowings is shown in note 10 on page 31 of the attached Financial Statements and shows Council had total principal outstanding of \$3,985,059 as at 28 February 2019.

**Rates, Sundry Debtors and Other Receivables**

Rates revenue information is shown in note 9 on page 30 of the attached Financial Statements. Rates outstanding are shown on note 6 on page 26 and show a balance of \$1,138,378 as compared to \$1,392,917 this time last year.

Sundry debtors are shown on note 6, pages 26 and 27 of the attached Financial Statements. The sundry debtors show that 62% or \$38,109 is older than 90 days. Infringement debtors are shown on note 6(a) and stood at \$499,845 as at 28 February 2019.

**Budget Amendments**

The budget amendments are listed on pages 12, 13 and 25 of the Financial Statements

**VOTING REQUIREMENT**

Simple Majority

**COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019****Cr Thomas**

- Q1. On page 37, line item 3, Telstra – ‘*Reversal of cheque – Trust 1-2849 – Retention amount.*’ What does that refer to?
- A1. We would have to check but it appears that we tried to repay them a bond that they may have paid us at some point in time that we obviously cancelled and properly withdrawn.
- Q2. On the same page, AMPAC Debt Recovery – is that just a commission rate that they charge? If so, what do they charge?
- A2. There’s a sliding scale of charges depending on the amount of the debt and the amount of work that has to go into it and it varies a lot so we will send you out a list. It applies to a number of properties and was mostly rate debts which were relatively straightforward.
- Q3. The last item on the same page – Installation of 95m kerb for foreshore tree nodes, \$2,999. It seems like a lot of money just for kerbing just for those tree nodes.
- A3. We would have to check that for you but it sounds about right.
- Q4. On the next page – Major Motors - Service and Repairs. It seems to be a lot of money.
- A4. It could have been for a couple, but will check.
- Q5. On page 40 – Marindust Sales and Ace Flagpoles. Did they really charge us \$6,652.80 to supply and install one set of AFL goal posts for one of the parks?
- A5. It appears so. They are quite expensive generally.
- Q6. Are they steel or timber?
- A6. Steel.
- Q7. On page 40, Stainless steel plaques, \$214 – was that for the Australia Day Awards?
- A7. No, it was for installation around one of the sculptures but will check which one.
- Q8. On the bottom of the same page – remove and replace 10m handrail. It works out to \$546 per meter, so very expensive.
- A8. The supplier is a regular supplier so it may be other invoices on the same line, but we will check that.
- Q9. Why we are paying the Town of Mosman Park for removal of waste from Mosman Park Depot because if we’re leasing property surely the lessor should be making the property right not us.
- A9. We used to have waste bins at Sea View Golf Club where we put road tippings and greenwaste and when we moved out of there, we transferred that at Mosman Park. The agreement we have with them and Town of Claremont is that we will alternate who pays for the waste. The Town of Mosman Park organise it, but we share between three local governments.

**Cr Tucak**

Q1. It's quite high, almost as much as the WMRC. Why is it that high?

A1. It would depend on what sort of waste is being taken away.

Q2. How often would we be paying that?

A2. I would have to get the invoices out and check.

**Cr Harkins**

Q1. On page 37 – there's a delivery of our waste sustainability calendars to the Church of Christ. Why do they get that?

A1. We have an arrangement with a gentleman who volunteers his time on behalf of the church will go around and hand deliver these to everyone's letterbox.

Q2. So, is that a donation to the church?

A2. He does the service and takes it as a donation to the church.

**Cr Tucak**

Q1. Comparing the red and blue lines on page 3 of the report. I just want to understand the difference between the infrastructure assets miscellaneous from the YTD and the depot functions on the same page.

A1. With the infrastructure assets miscellaneous the amended YTD budget is approximately \$1.9M and so far we've only spent approximately \$1.25M of it. So you're comparing the budget for the YTD versus the actual for the YTD it's probably just a question of timing. The other indication of this is Roads to Recovery amendment that we recently put through as well as increased our budget allocation so more has to be spent in a short period of time.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Young**

**Seconded Cr Rodda**

**THAT Council RECEIVE the Financial Statements for the period 1 July 2018 to 28 February 2019 as submitted to the 26 March 2019 meeting of Council.**

**Carried 6/1**

**For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins**

**Against: Cr Pyvis**

**10.1.12 SUNDRY DEBTOR BAD DEBT WRITE OFF**

**File Ref:** SUB/2798  
**Attachments:** Nil  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Garry Bird, Deputy Chief Executive Officer  
**Author Disclosure of Interest:** Nil

**SUMMARY**

A recommendation is made to write off \$10,425.16 of bad debts.

**BACKGROUND**

The debts recommended for write off are summarised as follows:

<b>Amount</b> (as at 12 March 2019)	<b>Description</b>	<b>Comment</b>
\$3801.41	Waste Collection and Food Premises Risk Assessment Fee	Company has been wound up
\$3,535.51	Waste Collection and Food Premises Risk Assessment Fee	Company is in liquidation
\$3,088.24	Waste Collection and Food Premises Risk Assessment Fee	Company has been wound up

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**POLICY IMPLICATIONS**

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

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

**6.12 Power to defer, grant discounts, waive or write off debts**

- (1) *Subject to subsection (2) and any other written law, a local government may -*
- (a) *when adopting the annual budget, grant\* a discount or other incentive for the early payment of any amount of money; or*
  - (b) *wave or grant concessions in relation to any amount of money; or*

(c) *write off any amount of money, which is owed to the local government.*

*\* Absolute majority required.*

(2) *Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.*

(3) *The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.*

### **FINANCIAL IMPLICATIONS**

The total value of the debts to be written off is \$10,425.16 as at 12 March 2019. Interest continues to accrue on some of the above debts. This amount is not considered as significant in the context of the overall Budget.

### **STAFFING IMPLICATIONS**

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

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

### **CONSULTATION**

Nil

### **OFFICER COMMENT**

The debts are being recommended for write off as it is highly unlikely that they will be able to be recovered. Having such debts shown on the Town's financial records after it is known that they will not be recovered is not in keeping with accounting standards.

### **VOTING REQUIREMENT**

Simple Majority

### **COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019**

#### **Cr Tucak**

Q1. Is it a common occurrence?

**A1.** It is for waste collection services. We have this problem from time to time where some of the food premises, especially who have those services, close up shop in very short notice and by the time our staff are made aware of it, the bins have still been out, we still need to provide the services. It's not until we commence debt recovery action ourselves that we've even found out that they've closed their doors in some cases.

Q2. If they are in liquidation would the Town be involved in the liquidation?

**A2.** The Town would be an unsecured creditor so the prospect of even recovering the funds through that liquidation process is highly unlikely.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Rodda

Seconded Cr Young

**THAT Council write off the debts as presented, representing a total of \$10,425.16 as at 12 March 2019.**

**Carried 6/1**

**For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins**

**Against: Cr Pyvis**

**EXECUTIVE SERVICES****10.1.13 DELEGATION OF LOCAL GOVERNMENT POWERS TO CHIEF EXECUTIVE OFFICER - LIMITATIONS AS TO THE NUMBER OF DOGS - DOG ACT 1976**

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

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**SUMMARY**

The purpose of this report is to obtain Council approval to provide the Chief Executive Officer delegated authority to permit the keeping of additional dogs on a residential property subject to;

- There being no objections from surrounding properties and;
- The property is capable of confining the dogs.

**BACKGROUND**

Currently all requests seeking permission to keep more than two dogs on a residential property within the Town are considered by Council. In accordance with *Part V of the Dog Act 1976 (the Act)* a local government may, by a local law under *the Act* limit the number of dogs that have reached three months of age that can be kept in or at the premises in the local governments district.

The Towns *Dog Local Law (3.2)* - the limitation as to the number of dog's states:

- *The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Dog Act two dogs over the age of 3 months and the young of those dogs under that age.*

A local government may, by absolute majority as defined in *the Local Government Act 1995* section 1.4, delegate to its Chief Executive Officer any power or duty.

- The delegation must be in writing and;
- The delegation may expressly authorise the delegate to further delegate the power or duty.

**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.

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

Priority Area 6: Providing open and accountable local governance.

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

### **POLICY IMPLICATIONS**

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

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Dog Act 1976*

*Dogs Local Law 2011*

### **FINANCIAL IMPLICATIONS**

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

### **STAFFING IMPLICATIONS**

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

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

### **CONSULTATION**

Chief Executive Officer

Senior Ranger

### **OFFICER COMMENT**

Currently all requests seeking permission to keep more than two dogs on a residential premises are considered by Council. This process can be delegated to the Chief Executive Officer, which will expedite such requests. Prior to the Chief Executive Officer granting approval consultation with surrounding properties and an inspection of the property that submitted the request will take place to assist with decision making.

It is also recommended that a limit on the delegation be noted in the Delegation Register that the delegation can only be exercised where no objections are received and only after an inspection shows that the property is capable of confining the dogs. If either of these cannot be shown, the matter would then have to be presented to Council for consideration.

**VOTING REQUIREMENT**

Absolute Majority

**COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019****Cr Rodda**

Cr Rodda congratulated the Administration for this initiative, which is fantastic, it will no longer have to come to Council and will reduce officer time in preparing reports and Council's time in dealing with this trivial matter.

**Cr Young**

Q1. Very happy for it to be moved into a delegated authority role but just wanted to be clear on how widespread the consultation would be given that nuisance dogs can affect more than the immediate neighbours and I also wanted to know if a permit could be granted provisionally so that it can be revoked if there were substantiated problems.

A1. Consultation is further than just the neighbouring properties so it's the block where the house resides. We can do up to 50m around each side of the house if the Council chooses. The permit can be conditioned with whatever Council sees fit. We look into complaint register as well, if there are complaints from surrounding properties, all that information is fed to the CEO.

**Cr Young**

Q1. Dogs barking can be a bone of contention between neighbours and they might not want to have their details out in the public if they've lodged a complaint. Is there any way that can be kept private?

A1. We never release the details of people making a complaint.

**Cr Sadler**

Q2. Are you saying we could actually make it a condition that for more than two dogs it's an annual application or something like that or would that be too difficult?

A2. The dogs would still have to be registered so they would just have to pay the registration fee. The dogs still have to be registered, so we know they're there. We wouldn't require them to apply every year.

**OFFICER RECOMMENDATION**

THAT Council provide the Chief Executive Officer delegated authority to permit the keeping of additional dogs on a residential property subject to;

1. There being no objections from surrounding properties and;
2. The property is capable of confining the dogs.

**COUNCILLOR MOTION AND COUNCIL RESOLUTION**

**Moved Cr Young**

**Seconded Cr Thomas**

**THAT Council provide the Chief Executive Officer delegated authority to permit the keeping of an additional dog on a residential property subject to;**

- 1. There being no objections from surrounding properties and;**
- 2. The property is capable of confining the dogs.**

**Carried 6/1**

**For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins**

**Against: Cr Pyvis**

**10.1.14 ANNUAL ELECTORS' MEETING 2019 - RECEIPT OF MINUTES**

**File Ref:** SUB/2798  
**Attachments:** 10.1.14(a) Minutes - Annual General Meeting of Electors - 28 February 2019 [under separate cover]  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Mat Humfrey, Chief Executive Officer  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Following the Annual General Meeting of Electors, held on 28 February 2019, it is recommended that Council accept the minutes of the meeting, as attached.

**BACKGROUND**

At the 5 February 2019 Special Council Meeting, Council resolved to '*Set the Annual General Meeting of Electors for 6:00 PM on Thursday, 28 February 2019 in the Lesser Hall.*'

In addition to the Elected Members, senior officers and two local journalists, more than 200 hundred members of the public attended the meeting. The meeting was held in the Lesser Hall.

**STRATEGIC IMPLICATIONS**

Presenting the minutes of the Annual General Meeting of Electors to Council aligns with priority area six of the *Strategic Community Plan 2013 – 2023* '*Providing open and accountable local governance.*'

**POLICY IMPLICATIONS**

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

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

**5.27. Electors' general meetings**

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

**5.32. Minutes of electors' meetings**

*The CEO is to —*

- (a) *cause minutes of the proceedings at an electors' meeting to be kept and preserved; and*

*(b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.*

#### **FINANCIAL IMPLICATIONS**

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

#### **STAFFING IMPLICATIONS**

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

#### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

#### **CONSULTATION**

Nil

#### **OFFICER COMMENT**

There was only one motion passed by the Electors Meeting which adopted the Annual Report for the year ended 30 June 2018. While other motions were presented, they were not adopted by the meeting.

The meeting itself was a challenging meeting for the staff present and alterations have been made to internal procedures for future Elector's Meetings. These include that all Elector's Meetings shall be held in the War Memorial Hall, more staff will be on hand to assist with the running of the meeting and Council will be asked to consider adopting formal meeting procedures for the running of Electors Meetings. Previous electors meetings have not required these steps to be taken, but in light of this year's meeting, these steps are now required.

#### **VOTING REQUIREMENT**

Simple Majority

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

**Moved Cr Young**

**Seconded Cr Rodda**

**THAT Council ACCEPT the Minutes of the Annual General Meeting of Electors held on 28 February 2019, as attached.**

**Carried 6/1**

**For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins**

**Against: Cr Pyvis**

**10.1.15 ASSIGNMENT OF LEASE - INDIANA**

**File Ref:** SUB/2798  
**Attachments:** 10.1.15(a) Indiana Lease Correspondence [CONFIDENTIAL]  
[UNDER SEPARATE COVER]  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Garry Bird, Deputy Chief Executive Officer  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

A request has been received from the current lessee's of Indiana to assign the lease to another entity, Perth Venues Pty Ltd.

**BACKGROUND**

The current lease for Indiana commenced on 3 August 1995 for a term of twenty one years, with the option to renew for two further terms of fifteen years and ten years respectively. The first of these options has been exercised by the lessee which runs until 3 August 2031. At that point a further option in favour of the lessee for 10 years would be available.

The Lease comprises a number of documents, including but not limited to the original lease (1995) and a deed of settlement (2000) as well as several previous assignments of the lease itself. In the provisions of the current lease, the lease can be assigned however, any assignment requires the consent of the lessor (the Town). It also contains provision that the consent of the Town will not be unreasonably with-held.

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**POLICY IMPLICATIONS**

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

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government (Functions and General) Regulations 1996*

The provisions of the *Local Government Act 1995* have been fulfilled in the approval of the original lease and would need to be fulfilled again if any new lease proposal or lease extension request was to be received from the new lessee.

**FINANCIAL IMPLICATIONS**

There are no perceived financial implications arising from the officer's recommendation as no substantive changes to the lease are recommended.

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**STAFFING IMPLICATIONS**

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

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

There are no perceived sustainability implications arising from the officer's recommendation as no material changes to the lease area or uses are recommended.

**CONSULTATION**

Jackson Macdonald (Town's Solicitors)

**OFFICER COMMENT**

Although Council cannot unreasonably withhold assignment of the lease, it is recommended that Council's solicitors be instructed to provide a thorough due diligence check of the new lessee, in conjunction with preparing assignment documents (the costs of which will be transferred to the new lessee). The due diligence would include documenting the ownership arrangements of the new lessee (see confidential attachment) and ensuring the entity is capable of meeting its obligations under the lease.

The requested assignment came with several requests for variation under the lease itself. It is recommended that only two of these be agreed to, with the remainder declined at this stage. It should be noted that the requests were of a minor nature, and could have been more accurately described as clarifications. However, due to the already complex nature of the agreement, officers are recommending that they not be accepted at this stage.

The two requested variances that are being recommended are as follows;

1. **Transition the personal guarantees of directors to bank guarantees provided in the name of the leasing entity.** The lease already contains a requirement for the lessee to provide a bank guarantee to the equivalent of three months rent. It is proposed to increase this to six months in lieu of the Directors providing personal guarantees. Officers have sought legal opinion and are recommending this for adoption by Council. The recommendation is based on the uncertain nature of Director's Guarantees (for example, it is difficult to keep track of the personal circumstances of a director) and that in the event of a rent default, the Town would have access to a bank guarantee for six months rent, which gives sufficient time to initiate any other action required.
2. **Allow the Liquor License to be held in the name of a related entity.** The incoming lessee is a part of a group of companies and one related entity already has a liquor license (see confidential attachment). They have requested that this entity be able to hold the liquor license for the Indiana Venue. Officer's have discussed this with the Town's solicitors and do not believe this presents any risk to the Town. There will still need to be a nominated person on site while liquor is being sold and all of the requirements of the liquor license will need to be adhered to. However, it should be noted that the party that holds the liquor license should at all times remain a related entity to the lessee.

An incoming lessee does represent an opportunity to reset the Indiana venue. Officers are recommending the assignment be authorised as it will allow the relationship with the new

lessee to begin in a positive light. All of the obligations of the lease (bar the two specifically mentioned) will flow to the new lessee along with the rights associated with the lease.

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

THAT Council authorise the Mayor and the Chief Executive Officer to execute the assignment of the lease documents required for the Indiana at Cottesloe Beach, subject to;

1. Satisfactory due diligence checks to be undertaken by the Town's solicitors prior to signing of the assignment documents;
2. The assignment being on the basis that all obligations associated with the venue and lease, transfer to the new lessee on assignment;
3. The assignee acknowledging they are aware and have undertaken their own due diligence on the site and lease documentation;
4. The Town acknowledging its obligations under the lease and sub-lease documents remain in place; and
5. Allowing the director's guarantees to be replaced by a doubling of the bank guarantee required to be held (3 months to 6 months rent); and
6. Allowing a related entity to hold the liquor license for the facility, subject to satisfactory due diligence checks on the related entity being completed by the Town's solicitors.

### **COUNCILLOR MOTION AND COUNCIL RESOLUTION**

**Moved Cr Rodda**

**Seconded Cr Young**

**THAT Council authorise the Mayor and the Chief Executive Officer to execute the assignment of the lease documents required for the Indiana at Cottesloe Beach to Perth Venues Pty Ltd, subject to;**

1. **Satisfactory due diligence checks to be undertaken by the Town's solicitors prior to signing of the assignment documents;**
2. **The assignment being on the basis that all past, present and future obligations associated with the venue and lease, transfer to the new lessee on assignment;**
3. **The assignee acknowledging they are aware and have undertaken their own due diligence on the site and lease documentation;**
4. **The Town acknowledging its obligations under the lease and sub-lease documents remain in place; and**
5. **Allowing the director's guarantees to be replaced by increasing the bank guarantee required to be held (3 months to 9 months rent); and**
6. **Allowing a related entity to hold the liquor license for the facility, subject to satisfactory due diligence checks on the related entity being completed by the Town's solicitors.**

**Carried 7/0**



**COUNCILLOR MOTION AND COUNCIL RESOLUTION**

Moved Cr Rodda

Seconded Cr Sadler

**That items 10.1.1 and 10.1.2 be carried by en bloc resolution.**

**Carried 7/0**

**10.2 RECEIPT OF COMMITTEE MINUTES****10.2.1 RECEIPT OF COMMITTEE MINUTES**

- Attachments:**
- 10.2.1(a) Unconfirmed Minutes - Art Advisory Panel - 26 February 2019 [under separate cover]**
  - 10.2.1(b) Unconfirmed Minutes - Beach Access Paths Committee - 6 March 2019 [under separate cover]**
  - 10.2.1(c) Unconfirmed Minutes - Bike Planning Committee - 7 March 2019 [under separate cover]**
  - 10.2.1(d) Unconfirmed Minutes - Community Safety and Crime Prevention Committee - 26 February 2019 [under separate cover]**
  - 10.2.1(e) Unconfirmed Minutes - Disability Services Advisory Committee - 12 March 2019 [under separate cover]**
  - 10.2.1(f) Unconfirmed Minutes - North Cottesloe Primary School Traffic Safety Committee - 26 February 2019 [under separate cover]**
  - 10.2.1(g) Unconfirmed Minutes - Short Stay Use Committee - 27 February 2019 [under separate cover]**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION****Moved Cr Rodda****Seconded Mayor Angers****THAT Council note the attached Unconfirmed Minutes of the Committee Meetings.****Carried 6/1****For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins****Against: Cr Pyvis****COUNCILLOR QUESTIONS – Agenda Forum 19 March 2019****Cr Tucak**

- Q1.** There seems to be something missing. The Beach Access Paths Committee – there was a resolution about environmental aspects of future tenders and the North Cottesloe Primary School Traffic Safety Committee on 26 February – there was a fairly significant recommendation which is seeing the project proceed through to revision with a view to being put out to consultation and that should have made it through to this agenda.
- A1.** The minutes will be noted. With regard to the NCPSTSC recommendation is that it will go back to the committee one more time before it's put to Council for a final decision, so it will return to the committee and subject the arborist's report and several other things being sent to you then they will make a recommendation to Council but we will check that.

Cr Tucak

Q1. As a basic level of consistency, there seems to be a whole lot of committee recommendations that are internal on various committees and puzzled why they're not included.

A1. The recommendations are only to Council so if the committee uses the words "the Committee Recommends to Council". If they make that recommendation to Council and Council adopts it, there's no room for the Committee to go back and reconsider it so we need to be careful.

Cr Sadler

I had the same situation where I thought something was happening on the Bike Planning Committee but when I went to look for the detail it was actually that information was being sought from the Administration and then being brought back to the next Committee meeting. If that's the case, that's why it hasn't come up before the Council, it's because that's an internal process done sideways.

Cr Rodda

Q1. Is there a way, given that some of these committees meet very infrequently that the minutes can be circulated and essentially be taken as read unless someone calls them in or can they do it by a circular resolution by email so they all agree with it?

A1. You could get informal agreement but you wouldn't be able to say that the minutes have been accepted by the Committee until the next Committee meeting - the Act is quite clear on that. The Act is very clear that the minutes are considered at the next available Committee meeting.

Cr Harkins

Q1. For the Disability Services Advisory Committee – on page 64 it lists where they're looking at putting new Acrod bays. This just says John Street. I'm assuming they're meaning outside the Cottesloe Beach Hotel?

A1. It was outside John Street Café.

Cr Rodda

Q1. For discussion purposes only – would it be possible to have the text in there for each these things and maybe highlight or italic the recommendations, something that needs Council's input? Noting the minutes but in the minutes there would be some things the Committee resolves themselves and then something in italics or something that requires a Council resolution?

A1. If a recommendation is in bold it's the Committee asking the Council to make a decision. It's the same as an officer recommendation. We've asked the Committees to use the words "that the Committee recommends to Council."

**RECOMMENDATIONS**

## J) 10.2.1(a) Art Advisory Panel

Meeting held 26 February 2019

## 4.1 Public Art Strategy Objectives

- a) Current public art locations, audit and spreadsheet

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Sadler                      Seconded Cr Harkins**

**That Mr Mellor update the location audit page with the above criteria as the column headings to recirculate to the Committee.**

**Carried 7/0**

- b) Identify available/possible locations

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Sadler                      Seconded Cr Harkins**

**That the administration investigate the following locations:**

- 1. Grant Street median strip and roundabouts**
  - 2. Grant Marine Park vegetated areas**
  - 3. PSP opportunities**
  - 4. Verge along Napier Street and Forrest Street**
- 4.2 Foreshore Universal Access – Art Commission**

**Carried 7/0**

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Sadler                      Seconded Cr Harkins**

**That Committee request the administration speak with FORM, Artsource, DADAA and any other identified suitable organisation regarding development discussion.**

**Carried 7/0**

- 4.4 Department of Culture and the Arts (DCA) Grants

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Sadler                      Seconded Cr Harkins**

**That the administration investigate DCA opportunities for public art commissions including the Foreshore Universal Access pathway and a Cottesloe Village Laneway project.**

**Carried 7/0**

## ) 10.2.1(b) Beach Access Paths Committee

Meeting held 6 March 2019

7.1 Beach Access Paths Committee – Meeting Schedule 2019

**OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Young                      Seconded Cr Rodda**

**That the Beach Access Paths Committee ADOPT the proposed meeting schedule as attached for the 2019 meeting calendar and advertise the dates on the Town of Cottesloe website;**

**And that the Beach Access Paths Committee recommends;**

**THAT Council ENDORSE the Beach Access Paths Committee 2019 meeting schedule as attached.**

**Carried 7/0**

9.2.3 Smoking Ban Signage

**COMMITTEE RECOMMENDATION**

That the Committee recommend to Council;

That the Town of Cottesloe administration implement Council's resolution to ban smoking on all beaches and place no smoking icon signage on all existing and future signage to the extent necessary to enforce the no smoking by-law on all Cottesloe beaches as a matter of urgency.

**COUNCILLOR MOTION AND COUNCIL RESOLUTION**

**Moved Cr Young                      Seconded Cr Rodda**

**That Council REJECTS the Committee Recommendation 9.2.3 (smoking ban signage).**

**Carried 7/0**

9.2.5 Brief to PUBLIK Signage Strategy

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Young                      Seconded Cr Rodda**

**That the Committee recommend to council;**

**Following completion of S10, S12, N6 and N7 the original signage be reinstated to satisfy compliance issues until the PUBLIK signage strategy has been resolved.**

**Carried 7/0**

## ) 10.2.1(c) Bike Planning Committee

Meeting held 7 March 2019

6.1 Bike Planning Committee – Meeting Schedule 2019

**OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Sadler                      Seconded Cr Harkins**

**That the Bike Planning Committee recommend;**

**That the Council ENDORSE the Bike Planning Committee 2019 meeting schedule as attached.**

**Carried 7/0**

## ) 10.2.1(d) Community Safety and Crime Prevention Committee

Meeting held 26 February 2019

No recommendations for Council to consider.

## ) 10.2.1(e) Disability Services Advisory Committee

Meeting held 12 March 2019

6.2 Audit of ACROD Bays

**COMMITTEE RECOMMENDATION**

The Disability Services Advisory Committee recommends to Council that the following sites be investigated for an upgrade of current ACROD bays or the installation of new ACROD bays and be presented to Council for consideration in the budget:

- ) Second bay at the Groyne beside existing bay – Marine Parade
- ) A bay at the southern Groyne (South Cottesloe) – Marine Parade
- ) Marine Parade to align with future universal beach access paths
- ) Swanbourne Shops- possibly work with Claremont
- ) Daisies
- ) John Street
- ) Sensory Park Area – South Cottesloe – Vlamingh Memorial
- ) Eric Street IGA on Chamberlain Street

**COUNCILLOR MOTION AND COUNCIL RESOLUTION**

**Moved Cr Harkins                      Seconded Cr Young**

- 1. The Disability Services Advisory Committee recommends to Council that the following sites be investigated for an upgrade of current ACROD bays or the installation of new ACROD bays and be presented to Council for consideration in the budget:**

-  Second bay at the Groyne beside existing bay – Marine Parade
-  A bay at the southern Groyne (South Cottesloe) – Marine Parade
-  Marine Parade to align with future universal beach access paths
-  Swanbourne Shops- possibly work with Claremont
-  Daisies
-  John Street
-  Sensory Park Area – South Cottesloe – Vlamingh Memorial
-  Eric Street IGA on Chamberlain Street

2. As part of the investigation, the owners of the businesses affected be consulted, in particular, Daisies, John Street Café and IGA.

**Carried 7/0**

- 7.1 Disability Services Advisory – Meeting Schedule 2019

**OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Harkins            Seconded Cr Young**

**The Disability Services Advisory Committee recommends;**

**THAT Council ENDORSE the Disability Services Advisory 2019 meeting schedule as attached.**

**Carried 7/0**

9. General Business

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Harkins            Seconded Cr Young**

**Council recommends to Council;**

**That Ellen Robinson be formally appointed to the Disability Services Advisory Committee as a voting member.**

**Carried 7/0**

10.2.1(f) North Cottesloe Primary School Traffic Safety Committee

Meeting held 26 February 2019

No recommendations for Council to consider.

10.2.1(g) Short Stay Use Committee

Meeting held 27 February 2019

- 5.3 The Local Planning Strategy review process and specific committee engagement (*attached at Annexure 3*);

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Harkins          Seconded Cr Young**

**The Short Stay Use Committee recommends;**

- 1. That the Committee reconvene in July 2019 following the release of the findings and recommendations of the Parliamentary Inquiry Report into Short Stay Accommodation given the probability of the Inquiry impacting on the Town's future direction in the area**
- 2. That the Administration keeps the Committee informed of developments in this area generally.**

**Carried 7/0**



**10.3    REPORTS OF COMMITTEES**

**11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****11.1 COUNCILLOR MOTION - SPEED REFORM ALGA CONFERENCE**

The following motion has been proposed by Cr Sadler.

**ALGA “Future Focused” Conference 2019****COUNCILLOR MOTION AND COUNCIL RESOLUTION****Moved Cr Sadler****Seconded Cr Thomas**

**THAT Council adopt the following statement which is to be put to the Australian Local Government Association (ALGA) conference as follows:**

**Town of Cottesloe Motion:**

**That this National General Assembly call on the Australian Local Government Association to develop a policy on the traffic speeds in urban Australia to meet the needs of current and future Australians based on national and international evidence regarding safety, amenity, illness prevention and sustainability.**

**That the policy statement be used to progress speed reform in urban Australia at a Federal and State level.**

**Carried 7/0**

**COUNCILLOR RATIONALE**

Lowering speed on residential streets is the future of our cities. It saves lives in the short term. 90% of people hit by a car at 50km/hr die; 90% of people hit by a car at 30km/hr survive. It saves lives in the long term. Lower speeds on our streets get students on bikes to school and uni. It gets Mums and Dads walking to public transport and biking to work. Every street becomes a street for people as well as cars. Obesity prevented. Mental health improved. Diabetes and cancer lessened. There is a wealth of international and some local evidence demonstrating these benefits.

The current ALGA position in relation to travel speeds on local roads misses the opportunity to address the benefits of widespread speed reform (page 25 of the 2019 Local Government Roads and Transport Agenda <https://cdn.alga.asn.au/wp-content/uploads/ALGA-2019-Local-Government-Roads-and-Transport-Agenda.pdf> ). It states that the ALGA is seeking locally targeted action for “safer pedestrians and cyclists, through speed management and provision of appropriate safety measures such as grade separated paths, pedestrian crossings, clear sight lines”

Recommendation 8 from the 2018 Inquiry into the National Road Safety Strategy is to “Accelerate the adoption of speed management initiatives that support harm elimination” [https://roadsafety.gov.au/nrss/files/NRSS\\_Inquiry\\_Factsheet\\_September\\_2018.pdf](https://roadsafety.gov.au/nrss/files/NRSS_Inquiry_Factsheet_September_2018.pdf) The most effective way to accelerate speed management initiatives is through speed reform.

The development of this policy by the Australian Local Government Association is an important step in beginning a coordinated strategic approach to speed reform at a federal

and state level. Change occurring road by road, council by council will not achieve the system wide improvements needed to turn around our looming health crisis.

What benefits do we get from speed reform? Our amenity improves along with health and safety. Noise lessens. We meet our neighbours. Travel times by car remain comparable. Emissions lessen. It's affordable, it's within our reach. It aligns with the objectives of the National Road Safety Strategy. Doing this is an important and necessary step to be "Future Focused" – if we want our children's future to be a brighter one.

**OFFICER COMMENT**

Nil.



**13.1.1 PROTECTED SWIMMING ENCLOSURE**

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

**File Ref:** SUB/2792  
**Attachments:** Nil  
**Responsible Officer:** Mat Humfrey, Chief Executive Officer  
**Author:** Shaun Kan, Manager, Engineering Services  
**Author Disclosure of Interest:** Nil

**SUBSTANTIVE MOTION AND COUNCIL RESOLUTION**

Moved Cr Young    Seconded Cr Harkins

**THAT Council:**

- 1. AUTHORISES the finalisation of the procurement process, which will result in a recommendation to Council of a preferred supplier for the product, for Council's determination;**
- 2. NOTES that the Administration will request for a budget amendment when recommending the preferred supplier for Council's approval;**
- 3. AUTHORISE the Chief Executive Officer to obtain feedback from other councils regarding the use of a protected swimming enclosure and undertake community and stakeholder consultation on a Protected Swimming Enclosure at Cottesloe Beach; and**
- 4. AUTHORISE the Chief Executive Officer to obtain all permits and approvals for a Protected Swimming Enclosure at Cottesloe Beach.**

**Carried 6/1**

**For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins**

**Against: Cr Pyvis**

**MOTION FOR BEHIND CLOSED DOORS**

Moved Cr Rodda    Seconded Cr Thomas

**In accordance with Standing Orders 15.10 that the meeting be re-opened to members of the public and media.**

**Carried 6/1**

**For: Mayor Angers, Crs Rodda, Sadler, Young, Thomas and Harkins**

**Against: Cr Pyvis**

*The public and members of the media returned to the meeting at 8:03pm.*

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

**13.1.1 PROTECTED SWIMMING ENCLOSURE**

The resolution for item 13.1.1 was read aloud.

**14 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 8:05pm.