



Town of Cottesloe

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

Tuesday, 26 March 2024

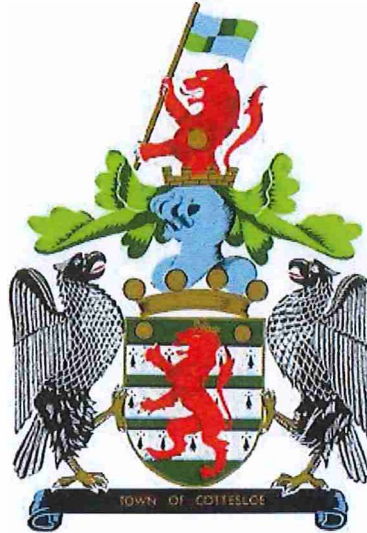
were confirmed as a true and accurate record by Council resolution.

Signed: 

Presiding Member

Date: 23 April 2024

TOWN OF COTTESLOE



ORDINARY COUNCIL MEETING CONFIRMED MINUTES

ORDINARY COUNCIL MEETING
HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
6:00 PM Tuesday, 26 March 2024



WILLIAM MATTHEW SCOTT
Chief Executive Officer

4 April 2024

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

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6:08 pm.

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

2 DISCLAIMER

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

3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Presiding Member announced that the meeting is being video 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****Colin Hughes – Unit 15, 152 Marine Parade, Cottesloe**

Q1: What by-laws if any give the Rangers permission to remove a handheld banner from a ratepayer in a public area?

R1: Generally a permit is not required for a hand held signage (banner), however if it is attached to or placed on Town of Cottesloe property, the Towns Activities on Thoroughfares and Trading in Thoroughfares and Public Place Local Law prohibit such signs without first receiving a permit.

Q2: Is it a by-law that all those wishing to display a hand-held banner in the beach precinct have to have written permission and a permit?

R2: Refer to R1.

Q3: What is the difference between a handheld banner and the numerous T-shirts with political or other messages on them? Are they also banned in public areas?

R3: T-shirts are not designated as signs under the Local Law.

Q4: Has Woodside applied and been given such a permit and if so could the Council please provide me with a copy?

R4: It is unclear as to what Woodside signage is being referred to in this question, however if it is referring to T-shirts, refer to R3, and therefore the Local Law does not apply and a permit is not required.

- Q5: Will the Council issue a cease and desist notice to Woodside to stop them displaying greenwashing on public land?
- R5: Refer to R4.
- Q6: Has the Cottesloe Council signed up for and endorsed the WALGA Climate Change Policy Position?
- R6: The Town of Cottesloe became a signatory the WALGA Climate Change Policy Position in 2012 (<https://walga.asn.au/policy-advocacy/our-policy-areas/environment/climate-change/climate-change-declaration-map>). Council is also member of the Cities Power Partnership, that advocates various climate change mitigation objectives.
- Q7: Has the Council a clear strategy with resources and staff to assess and prioritise the recommendations contained in the document "Curtin's pathway to net zero" recently launched by our Federal member Kate Chaney?
- R7: As a local government, the Town has its own approaches to dealing with the issues reflected in the document, for example see R6. The Town will review the document to give consideration to the specific actions mentioned

Yvonne Hart – 26 Mann Street, Cottesloe

- Q2: What other costs are there associated with live streaming?
- R2: As the majority of the live streaming process is automated, there will be minimal additional costs, outside the initial capital and setup costs.
- Q3: How many depot vehicles are there and who on the ToC staff also has a vehicle with fuel paid from a fuel card?
- R3: 15 Depot Vehicles (no private use), 9 Fleet vehicles with various levels of private use, and 3 vehicles with no private use, totalling 27 vehicles each with an individual fuel card.

Peter Rattigan – 9 Grant Street, Cottesloe Item 11.1

- Q1: What is the percentage of tree canopy in the Town of Cottesloe, on;
- a. Land that is privately owned
 - b. Land that is not privately owned
- R1: a. 45.5% and b. 54.5%
- Q3: If motion 11.1 proposed by Councillor Mason is passed tonight, what will the expected process follow and the likely timeline for that process?
- R3: The expected process and timeline will be determined if the motion is passed by Council.
-

Angus Kennedy-Perkins – 85 Grant Street, Cottesloe – Item 13.1.1

- Q1: Will the Council, support applications under the Property Law Act 1969 (WA) to, where applicable seek relief, where the encroachment was not intentional, did not arise from gross negligence or where the building was not erected by the encroaching owner – the Court may:
- a) Vest the land
 - b) Create an easement or,
 - c) Grant the right to retain possession
- R1: Council is obligated to consider each and every application on the individual merits of each application.

Kevin Cunningham – 55 Grant Street, Cottesloe – Item 13.1.1

- Q1: With respect to this laneway strategy of transferring the laneway land holding from the Town of Cottesloe-owned Certificate of Title lots, to Crown Land,
- a. How many laneways in the Town are intended to be included, and
 - b. How many laneways have currently been surveyed?
- R1: A total of 5 laneways were surveyed, as they are planned to be transferred to the Crown.
- Q2: Of the reported 90 Town notices sent out to date, alleging a resident's encroachment into a laneway,
- a. How many are "minor" (e.g. less than 100mm) and
 - b. How many of those might fall within a surveyor's rounding errors and tolerance of inaccuracy?
- R2: There are approximately 100 encroachments that are less than 100mm. The Town understands the survey results have factored in rounding errors and accuracy tolerances, based on survey industry standards.
- Q3: With the unfolding cost and effort, to the Town and to our residents of this laneway strategy, what are the anticipated benefits intended, specifically against retaining the existing laneway land-holding arrangement?
- R3: The principal aim of the Right of Way (ROW) strategy is to transfer the remaining ROW's to the Crown so that no future Adverse Possession claims can arise and the land will remain available for the benefit of the entire community. This can only be achieved once all encumbrances (encroachments) have been removed to the Crown's satisfaction. An additional benefit is to provide clear title to impacted residents.

Kim Leuing – 38 Florence Street, Cottesloe

Q1: What was the cost to Cottesloe ratepayers for the cadastral survey that has been the cause of dismay for over 90 ratepayers?

R1: Approximately \$60,000

Q2: Given the number of affected residents what is the council budget for anticipated legal challenges for survey error/inaccuracy adverse possession or other disputed processes?

R2: The Town is unable to speculate on the cost of defending potential, yet unknown, legal challenges.

Q3: What is councils options/plans for mediation with affected ratepayers

R3: The Council Resolution (OCM 020/2024) provides a pathway on how Council will manage ROW encroachments with impacted ratepayers.

Q4: Will the Council support residents entitled to adverse possession rights.

R4: Council is obligated to consider each and every application for adverse possession rights on the individual merits of each application.

4.2 PUBLIC QUESTIONSMr Mellor – 8 Graham Court, Cottesloe

Q1 Will Council please instruct Administration to revise/correct or at the very least clarify the 3 comments under:

Integrated Planning Points 1, 2 and 3:

The Department asked:

“Has the Local Government adopted... a Strategic Community Plan?”

“Has the Local Government adopted... a Corporate Business Plan?”

“Does the Corporate Business Plan comply with the Regulations 1996?”

The New Regulations had not been gazetted at that time and the Draft Council Plan did not comply.

R1 No revision or correction is required to the Compliance Audit as the Council Plan complies with the relevant provisions of the Local Government Act and Regulations.

Q2a Has a lease agreement been concluded for 149 Marine Parade – (Barchetta)?

R2a Yes

Q2b If not, what is the status of the negotiations? If it has why has it taken so long? The original final decision was meant to be by 25 July 2023.

- R2b Refer to R2a
- Q2c Is the delay in negotiations to do with the use of the NCSLC boatshed roof space?
- R2c Refer to R2a
- Q2d Has the Minister been briefed and the lease approved?
- R2d The relevant Ministerial approvals have been obtained
- Q2e What is the planned lease period and any extension options?
- R2e 5 years with 2 x 5 year options to extend, for a total potential lease period of 15 years.
- Q2f Can you confirm that the rental with the new lease is to be lower than the previous tenant?
- R2f The base rent will be \$108,060 plus GST pa, with a turnover provision for 2% of annual turnover for turnover over \$3m, capped for turnover up to \$4.5m. Council considered that the total rent (base rent plus turnover-based rent), together with the value of the proposed improvements to the site, represented the best value for the Town.
- Q2g If it is to be lower, how is this justified? As the new tenant will not be responsible for the public toilets and the rent should be increased for that responsibility saving?
- R2g The successful tenderer was selected by Council following a thorough and rigorous tender process. Tender responses were evaluated by a panel of 3 independent experts, overseen by a Probity Auditor engaged by the Town. The successful tenderer was the preferred tenderer recommended by the independent panel. The lease is in the terms of the successful tender response.
- Q2h Has a finalised or revised business case/plan been put to Council? If not, when can this be expected?
- R2h No. The statutory process has been followed and the lease has been executed.
- Q2i Have the new fit-out plans been approved by Council?
- R2i The fit out plans are as per the lessee's tender response.
- Q2j What is the revised tenant financial investment in the fit-out?

- R2j The business plan was based on financial investment in improvements to the site, between \$600k and \$1m. Current estimates are for an investment in excess of \$1m.
- Q2k When can the community expect to see this location in full operation?
- R2k the lessee is progressing the upgrade as quickly as possible. Further information on the expected opening date will be provided by the Town in the coming months.
- Q2l What will be the operating hours?
- R2l Not before 6am and not after midnight, minimum of 5 days per week (subject to any contrary provisions in the Retail Trading Act 1987).
- Q2m What will be the number of licenced customer places?
- R2m Subject to occupancy permits and liquor licence, no significant change to the previous arrangements is expected.
- Q2n Has staff parking or cash in lieu of parking been part of the lease negotiations?
- R2n No change to the previous arrangements.
- Q2o Why was there no 'pop-up' temporary tenancy solution for the duration of the current long closure made?
- R2o Procurement and regulatory requirements applicable to Local governments present challenges for short term pop up solutions and this is complicated by the fact that the Town's intention was to execute a lease with the successful tenderer, with the improvements to be undertaken as soon as statutory processes allowed – and that is in fact what has happened.
- Q2p As this is through to 30 June 2024 what is the forward budget loss of income for the following financial year?
- R2p There is not expected to be budget loss of income in 24/25.
- Q2q Are there any Land Tax issues associated with this lease?
- R2q The Town is not liable to pay land tax.
- Q2r What are the expected total costs for legal advice and lease preparation and signature?
- R2r Taken on notice

Q3 Will Council please instruct Administration to provide more descriptive generic information in Agenda listings for all items that will be discussed behind closed doors?

R3 The CEO has the statutory responsibility to prepare the agenda, therefore it may be difficult for the Council to resolve the to “instruct” the CEO on how to prepare the agenda. This being said the CEO has advised he is prepare to consider the request for more descriptive information in Agenda listings.

Yvonne Hart – 26 Mann Street Cottesloe

Q1 Base rent \$108,000 pa. Barchetta rent was \$114,943.00 pa. Why is the rent for the new Lessee less than the previous Lessee?

R1 The base rent (not the additional turnover provision) is less than the previous lease, however the new lease includes a turnover provision for 2% of annual turnover for turnover over \$3m, capped for turnover up to \$4.5m, which was not part of the previous lease.

Q2a Why was 2% of annual sales suggested as a benchmark to adjust the base rent?

R2a The 2% relates to the turnover provision, refer to R1.

Q2b Who at ToC will monitor this percentage of annual sales?

R2b The Lessee is required to provide the Town with financial statements to verify annual turnover.

Q2c Why does this percentage not kick in until \$3m.

R2c The Turnover provision was as per the Lessee’s tender submission.

Q2d Why is the percentage capped at \$4m?

R2d The Turnover provision is capped at \$4.5m, not \$4m, per the Lessee’s tender submission.

Q3a The Lessee does not begin paying rent until the building is fitted out. The agreement gives three months from Sept 1, 2023, and a further three months if needed. The building has been vacant for 9 months. Who wrote such an open-ended item?

R3a The proposed commencement date, 1 September 2023 was an anticipated date, subject to various State Government approvals, which neither the Town or the Lessee can overwrite (inclusive of state approvals discussed in Part 9 of the Business Plan).

Q3b Why did Council accept this in the Business Plan?

R3b The Business Plan was written based on information available at the time, principally based on the lessee's tender submission. The underlying elements of the proposed transaction described in the Business Plan are still valid. The delays due to the statutory processes were likely to have been similar for all tender responses received.

Q4a OCM Minutes report that a draft lease document has been prepared by Council solicitors based on a Commercial Terms Sheet and adopted by Council. A Commercial Terms Sheet is a nonbinding agreement outlining the basic terms and conditions under which an investment will be made. Is this Commercial Terms Sheet restricting the leasing process?

R4a No.

Q4b As it is non-binding, has either Council or the Lessee walked away from the draft Lease?

R4b No.

Q4c Has a lease agreement been signed?

R4c Yes.

5 PUBLIC STATEMENT TIME

The Mayor thanked Mrs Hart for her questions and advised that The Business Plan was based on the tender submission from the lessee (the successful tenderer), which was evaluated by a tender panel made up of three (3) independent procurement professionals, overseen by a Probity Auditor. Council accepted the recommendation from the tender panel, concluding that the lessee's tender submission presented the best value for the Town. The Mayor also advised Mrs Hart that the basis for many of her questions seemed to be based on a misunderstanding of the commercial terms associated with the lease or the approved Business Plan.

6 ATTENDANCE

Elected Members

Mayor Lorraine Young

Cr Helen Sadler

Cr Chilla Bulbeck

Cr Brad Wylynko

Cr Michael Thomas

Cr Katy Mason

Cr Jeffrey Irvine

Cr Sonja Heath

Officers

Mr William Matthew Scott	Chief Executive Officer
Mr Shane Collie	Director Corporate and Community Services
Mr Shaun Kan	Director Engineering Services
Mr Steve Cleaver	Director Development and Regulatory Services
Ms Jacquelyne Pilkington	Governance & Executive Office Coordinator
Mr Paul Neilson	Manager Planning Services

6.1 APOLOGIES

Nil

Officers Apologies

Nil

6.2 APPROVED LEAVE OF ABSENCE

Cr Melissa Harkins

6.3 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 DECLARATION OF INTERESTS

Mayor Young declared an IMPARTIALITY INTEREST in 13.1.1 by virtue “as some of the residents are known to me”

Cr Irvine declared a PROXIMITY INTEREST in 13.1.1 virtue “as residents opposite 53 John Street are known to me and were donors for my election campaign”

Cr Heath declared an IMPARTIALITY INTEREST in 13.1.1 by virtue “as some of the residents are known to me”

Cr Mason declared an IMPARTIALITY INTEREST in 13.1.1 by virtue “as some of the residents are known to m”

8 CONFIRMATION OF MINUTES**OCM024/2024**

Moved Cr Sadler

Seconded Cr Heath

That the Minutes of the Ordinary Meeting of Council held on Wednesday 28 February 2024 be confirmed as a true and accurate record.

Carried 8/0

For: Mayor Young, Crs Sadler, Bulbeck, Wylenko, Thomas, Mason, Irvine and Heath

Against: Nil

OCM025/2024

Moved Cr Heath

Seconded Cr Irvine

That the Minutes of the Special Meeting of Council held on Tuesday 12 March 2024 be confirmed as a true and accurate record.

Carried 8/0

**For: Mayor Young, Crs Sadler, Bulbeck, Wylenko, Thomas, Mason, Irvine and
Heath
Against: Nil**

9 PRESENTATIONS

9.1 PETITIONS

Section 9.4 - Procedure of Petitions

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

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

Nil

9.2 PRESENTATIONS

Nil

9.3 DEPUTATIONS

Nil

CORPORATE AND COMMUNITY SERVICES**10.1.1 LEASE OF PART RESERVE 3235 (LOT 37) NAPIER STREET, COTTESLOE TO WAVECONN FOR THE PLACEMENT OF A TEMPORARY MOBILE PHONE TOWER**

Directorate: Corporate and Community Services
Author(s): Shane Collie, Director Corporate and Community Services
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D24/8874
Applicant(s): Pro Realty Property Consultants on behalf of Waveconn
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider submissions received on the proposal to lease a portion of Reserve 3235 Napier Street (John Black Dune Park) for the purposes of a Temporary Communications Facility (Mobile Phone Tower) while the Ocean Beach Hotel is being redeveloped and make a decision on whether to proceed with the Lease.

OFFICER RECOMMENDATION IN BRIEF

That Council in accordance with Section 3.58 of the Local Government Act 1995 enter into a Lease with Waveconn (represented by Pro Realty Property Consultants) for the placement of a Temporary Communications Facility (Mobile Phone Tower) on a portion of Reserve 3235 as depicted on the attached Location Plan and per the terms and conditions stated.

BACKGROUND

An approach has been made by Pro Realty Property Consultants on behalf of Waveconn, the company who own the existing Mobile Phone Tower Infrastructure at the Ocean Beach Hotel in Cottesloe to place a Temporary Communications Facility (Mobile Phone Tower) on a portion of Reserve 3235 Napier Street. The current Tower will be decommissioned as part of the Ocean Beach Hotel redevelopment. Multiple telecommunications carriers would be unable to provide a service to the area without the Telecommunications infrastructure. Given the usage of mobile phones to have a black spot of coverage in the middle of Cottesloe would be highly undesirable.

Waveconn are an infrastructure provider and neutral host for telecommunications facilities and the request for a temporary Tower on Reserve 3235 will support the equipment of multiple carriers. The Lease sought is simplified by being through one neutral supplier.

A number of alternative sites were investigated by the Proponent including alternative private land and other Reserve land in the vicinity. The most suitable determined was a portion of Reserve 3235 (John Black Dune Park). The Town has power to Lease for a period of up to a period of 21 years and the Term sought is estimated to be 2 years. Given that there may be a time lag in the redevelopment of the Ocean Beach Hotel it is also recommended that a further 2 year option (at Council's discretion) be included in the Lease document.

OFFICER COMMENT

Negotiations with the Proponent's representative have been undertaken over the past 6 months and a Lease fee has been agreed upon. Initially the Proponent was unwilling to pay a Lease fee due to the Telecommunications Act (Federal) which permits the installation of these type of facilities on public land with no approvals required. Hence with the opportunity to generate some income with the understanding that the facility may be installed even if Council objects, the invoking of a Lease appears to be a positive and strategic position for the Town to take. It is known that a number of similar facilities are in place throughout the State and that a Lease fee is paid.

Hence a Valuation was sought on 14 November 2023 and a figure of \$30,000 + GST per annum was determined for this site. This has been accepted by the Proponent. The Proponent will also need to access power to the site and the closest point is the Tennis Club (which is leased from the Town). The Tennis Club have commented and they are seeking the following to be addressed as part of the proposal:

1. Redesign of the switchboard
2. Draw of the Telstra tower
3. Will there be any issues should we need to upgrade our power requirements
4. Position of meter in the box
5. Modifications to the dome
6. Trenching location
7. Sign off by ours/the Towns electrical consultants

These requests are reasonable and common sense and protect the Tennis Club's interests. The points would be included as part of the Town's instructions to its solicitor in drawing up the Lease document should Council be in agreeance.

Investigations by Council's Works and Environmental staff have determined a suitable location (circled red on the diagram below) on the site which takes into account the location of the new Skate Park, access to power, distance from residential premises and aesthetics. The key positives in this matter is continued mobile service in the area and income from the Lease fee.



The proposed Lease is considered a “Disposal” pursuant to Section 3.58 of the Local Government Act and as such Local Public Notice was required to be provided and any submissions considered before a final decision is made. Hence Council resolved at its 27 February 2024 meeting as follows:

- “1. In accordance with Section 3.58 of the Local Government Act 1995 provide Local Public Notice that it proposes to dispose of by way of Lease a portion of Reserve 3235 as depicted in this Report and located on the attached Plan for the purposes of siting a Mobile Phone Communications Tower, inviting submissions to be made by Wednesday 13 March 2024.***
- 2. That should no submissions be received opposing the location of the Mobile Phone Communications Tower, the Mayor and Chief Executive Officer be authorised to sign and seal a Lease document prepared by Council’s solicitors at the Proponent’s cost permitting the use of part Reserve 3235 for the locating of a temporary Mobile Phone Communications Tower as described in this Report.***
- 3. The administration working to negotiate a clause in the lease for an annual increase in line with CPI and;***
- 4. The inclusion of a make good clause in the lease.”***

At the close of advertising four submissions have been received hence the matter is referred to Council for a final decision. The submissions primarily related to the following:

- Perceived health risk from Mobile Phone Towers.
- Interference with Skatepark Landscaping.
- Environmental Impact.
- Visual Amenity.

- Noise Pollution.
- Safety and Aesthetics.
- Access to Power (Tennis Club).

None of the submissions addressed the issue of the Lease cost and market value rental. As there is a Mobile Phone Tower in the area presently the matters raised such as perceived health risk, noise pollution and safety are not considered.

The environmental impact is mitigated by the proposed location being within the landscaping zone of the proposed Skate Park which is predominately invasive weed (Tee Tree) and sand patches. The Town's Works staff have selected the most appropriate location for the 66m² required for the Tower.

Visual Amenity is a matter that arises due to this being a more visible site than the present location on the top of the Ocean Beach Hotel. The Tower is proposed to be 30m high. While the issue of Visual Amenity is subjective on balance this location is considered to be a sufficient distance away from residents who may have a line of sight view to the proposed Tower.

ATTACHMENTS

- 10.1.1(a) Consultation Feedback 1 [under separate cover]**
- 10.1.1(b) Consultation Feedback 2 [under separate cover]**
- 10.1.1(c) Consultation Feedback 3 [under separate cover]**
- 10.1.1(d) Consultation Feedback 4 [under separate cover]**

CONSULTATION

Consultation was in accordance with Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

Local Government Act 1995 Section 3.58 Disposing of Property

- (1) In this section —
 - dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;
 - property includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
 - (a) the highest bidder at public auction; or
 - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

- (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;and
 - (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned; and
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition —
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Council Plan 2023 – 2033*.

Priority Area 2: Our Town - Healthy natural environs and infrastructure meeting the needs of our community.

Major Strategy 2.2: Engage with external stakeholders to create connectivity throughout the Town.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation. Income is to be \$30,000 per annum should the Lease proceed.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

There are no perceived sustainability implications arising from the officer's recommendation. The site has been fully scoped by Council's Engineering and sustainability team and there is minimal impact to existing vegetation.

VOTING REQUIREMENT

Simple Majority

OCM027/2024

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Wylynko

Seconded Cr Thomas

THAT Council:

1. **NOTE the four(4) submissions received (as attached) in regards to the proposed disposition, by way of lease, of a 66m2 Portion of Reserve 3235 Napier Street;**
2. **AGREE to formally dispose of by way of Lease a 66m2 portion of Reserve 3235 Napier Street as depicted in this Report and located on the enclosed Plan for the purposes of siting a Mobile Phone Communications Tower providing reasons that the site and the consideration to be received are appropriate and best serve the community interest.**
3. **INSTRUCT the Chief Executive Officer (CEO) to develop the Lease document inclusive of the following:**
 - **Lease fee of \$30,000 per annum;**
 - **An annual increase in rent will be in line with CPI;**
 - **A two year option (at Council's discretion) Clause to be included;**
 - **A "make good" clause to be included;**
 - **The drafting of the Lease document to be at the Proponent's cost;**
 - **The issues raised by the Cottesloe Tennis Club to be communicated to the Proponent and included in the Lease document if deemed necessary by Council's solicitors to ensure the interests of the Club are satisfied.**
4. **INSTRUCT the CEO notify all submissioners of this decision**

Carried by En Block Resolution 8/0

10.1.2 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2023 TO 31 JANUARY 2024

Directorate: Corporate and Community Services
Author(s): Wayne Richards, Finance Consultant
Authoriser(s): Shane Collie, Director Corporate and Community Services
File Reference: D24/9240
Applicant(s):
Author Disclosure of Interest: Nil

SUMMARY

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

OFFICER RECOMMENDATION IN BRIEF

That Council receives the Monthly Financial Statements for the period 1 July 2023 to 31 January 2024.

BACKGROUND

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

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

OFFICER COMMENT

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

- The net current funding position as at 31 January 2024 was \$7,849,854 as compared to \$6,938,165 this time last year.
- Operating revenue is more than the year to date budget by \$113,089 with a more detailed explanation of material variances provided at note 2, explanation of material variances, of the attached financial statements. Operating expenditure is \$1,676,494 less than year to date budget, with a more detailed analysis of material variances

provided at note 2, explanation of material variances, of the attached financial statements. Some of these variances include projects that are likely to be carried forward to the next financial year notably the ERP project and the Cottesloe Village Precinct Plan which has associated contributions from the Shire of Peppermint Grove.

- The Capital Works Program is shown in note 13, details of capital acquisitions, of the attached financial statements. The Harvey Field Playground upgrade is likely to be carried forward to the next financial year along with associated funding sources.
- The balance of cash backed reserves was \$8,460,171 as at 31 January 2024 as shown in note 7, cash backed reserves, of the attached financial statements.

List of Accounts Paid for January 2024

The list of accounts paid during January 2024 is shown on note 14, list of accounts, of the attached financial statements. Purchases made via credit card and fuel cards are listed separately below the list of electronic fund transfers and cheque payments.

The following material payments are brought to Council's attention:

- \$48,220.00 & \$46,303.00 to the Australian Taxation Office for payroll tax deductions
- \$36,222.70 & \$37,992.72 to Superchoice Services Pty Ltd for staff superannuation contributions
- \$89,195.94 to Solo Resource Recovery for waste collection/disposal services
- \$28,997.26 to CSCH Pty Ltd t/as Charles Cleaning Company for contracted cleaning works
- \$26,211.99 to ManagedIT for information technology services
- \$252,459.58 to Phase 3 Landscape Construction Pty Ltd for construction works at the new skate park
- \$46,643.30 to Shine Community Services for the Town's contribution to the service
- \$200,700.10 to Western Metropolitan Regional Council for waste disposal costs
- \$100,367.89 to Classic Contractors for construction works at the Anderson Pavilion
- \$103,746.02 to Town of Mosman Park for Depot lease charges
- \$151,187.60 & \$149,444.90 to Town of Cottesloe Staff for fortnightly payroll
- \$2,000,000.00 to Commonwealth Bank of Australia for a new term deposit

Investments and Loans

Cash and investments are shown in note 4, cash and investments, of the attached financial statements. The Town has approximately 36% of funds invested with the National Australia Bank, 40% with the Commonwealth Bank of Australia and 24% with Westpac Banking Corporation.

Information on borrowings is shown in note 10, information on borrowings, of the attached financial statements. The Town had total principal outstanding of \$2,277,303 as at 31 January 2024.

Rates, Sundry Debtors and Other Receivables

Rates outstanding are shown on note 6, receivables, and shows a balance of \$2,038,219 outstanding as compared to \$1,120,316 this time last year.

Sundry debtors are shown on note 6, receivables, of the attached financial statements. The sundry debtors report shows that 23% or \$44,267 is older than 90 days. Infringement debtors are shown on note 6, receivables, and shows a balance of \$488,604 as at 31 January 2024.

ATTACHMENTS

10.1.2(a) Agenda Report - Monthly Financial Report 1 July 2023 to 31 January 2024
[under separate cover]

CONSULTATION

Nil

STATUTORY IMPLICATIONS

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Council Plan 2023 – 2033*.

Priority Area 4: Our Leadership and Governance - Strategic leadership providing open and accountable governance.

Major Strategy 4.3: Deliver open, accountable and transparent governance.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

OCM028/2024

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Wylynko

Seconded Cr Thomas

THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2023 to 31 January 2024 as submitted to the 26 March 2024 meeting of Council.

Carried by En Bloc Resolution 8/0

EXECUTIVE SERVICES**10.1.4 COUNCIL PLAN DELIVERABLE TIMEFRAMES**

Directorate: Executive Services
Author(s): William Matthew Scott, Chief Executive Officer
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D24/9235
Applicant(s):
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider the attached Council Plan deliverable timeframes, as an indicator of prioritisation, especially for the next 4 years.

OFFICER RECOMMENDATION IN BRIEF

That Council adopt the attached timeframes associated with the Council Plan Deliverables.

BACKGROUND

The current Council Plan was adopted by Council at the Dec'23 Ordinary Council Meeting (OCM). Since its adoption the Administration has been reviewing the deliverables in order to determine when these can be achieved. A draft timetable was workshopped with Elected Member at the March briefing session, resulting in very minor changes. The deliverable timetable is now in final version, requiring Council's endorsement the Administration can prepare budget submissions for the 2024/25 Budget, as well commence a review of the Long Term Financial Plan.

OFFICER COMMENT

The attached Deliverable Timeframe was initially developed by the Town Administration, and then workshopped by Council at the March Briefing Session, resulting in very minor suggested changes.

Should Council adopt the attached deliverable timeframes, the Administration can commence preparing budget submissions for the 2024/25 Annual Budget, start to review the current Long Term Financial Plan, and provide the community with better understanding when important elements of the Council Plan will be progressed and achieved.

ATTACHMENTS

10.1.4(a) Council Plan Deliverable Timeframe [under separate cover]

CONSULTATION

Elected Members

STATUTORY IMPLICATIONS

Local Government Act 1995

S5.56 Planning for the Future

POLICY IMPLICATIONS

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

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Council Plan 2023 – 2033*.

Priority Area 4: Our Leadership and Governance - Strategic leadership providing open and accountable governance.

Major Strategy 4.2: Work innovatively and collaboratively with government, industry, business and community to deliver positive outcomes.

RESOURCE IMPLICATIONS

Should Council adopt the attached deliverable timeframes, future annual budget submissions and the Long Term Financial Plan review will be based on providing the appropriate resources for each respective year.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

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

VOTING REQUIREMENT

Simple Majority

OCM029/2024

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Wylynko

Seconded Cr Thomas

THAT Council ADOPT the attached Deliverable Timeframes associated with the Council Plan

Carried by En Bloc Resolution 8/0

1

ENGINEERING SERVICES**10.1.3 STREET TREE MASTERPLAN**

Directorate: Engineering Services
Author(s): Shaun Kan, Director Engineering Services
Authoriser(s): William Matthew Scott, Chief Executive Officer
File Reference: D24/7133
Applicant(s): Internal
Author Disclosure of Interest: Nil

SUMMARY

For Council to consider endorsing an update to the current 2017 Street Tree Masterplan (STM) to include only changes previously approved by Council, so that the Administration can develop a community engagement plan for community consultation on:

1. Greening Infrastructure Strategy (GIS);
2. Natural Area Management Plan (NAMP); and
3. Street Tree Masterplan (STM)

OFFICER RECOMMENDATION IN BRIEF

That Council APPROVES the STM changes mentioned in the summary section and instructs the CEO to prepare and circulate a Community Engagement Plan to Elected Members for feedback before commencing the consultation on the STM, GIS and NAMP.

BACKGROUND

At the July 2023 OCM Council adopted the GIS, an overarching document for management plans and policies related to 'greening' in the Town of Cottesloe. Strategies forming part of the GIS include the NAMP, which was endorsed by Council at the September 2023 OCM and the STM, which is yet to be endorsed for consultation.

The current Street Tree Masterplan was adopted in 2017. Since that time over 700 new trees have been planted in Cottesloe, with some being a different tree species to that provided in the current STM. These variations were approved by Council and were for a variety of reasons. These amendments were made only after Council had considered public feedback. The emergence of a pathogen affecting the Town's iconic Norfolk Island Pine (NIP) trees has also been a significant influence.

In light of the above, a review and update of the current STM was necessary. An Arborist consultant (ArborCarbon) was engaged for this work which was completed in 2023.

An updated STM was presented at the October 2023 Ordinary Council Meeting (OCM) with recommendations to endorse this document for the purpose of public consultation. Council deferred the item and resolved as follows:

That Council DEFERS the Endorsement of the attached Street Tree Masterplan for the purpose of public consultation so that issues including the following can be discussed at an Elected Members Workshop:

- 1. Identification of 'heritage streets' and the legislative consequences in relation to the Town's Norfolk Island pines (NIPs);*
- 2. Rationale for defining 'distributor' roads for succession and replacement planting; and*
- 3. Information to be contained in the proposed contextual statement for the community consultation identifying the risks, costs and benefits of Norfolk Island Pine succession and replacement planting as opposed to planting alternate species.*

That the item be brought back to the NOVEMBER 2023 Ordinary Council Meeting (OCM) incorporating the outcomes of the above discussion into proposed changes to the Street Tree Masterplan and the officer's comment to inform the community as fully as possible of the likely costs and risks associated with succession and replacement planting of Norfolk Island Pines.

This workshop was held in February and March 2024 and the following was discussed:

- The October 2023 OCM resolution;
- Additional Arborist consultation pertaining to the pathogen affecting the NIPs;
- NIP Rationalisation principles; and
- Community consultation terms of reference

A heritage consultant (Element) was engaged to provide advice to Council on associated heritage matters at the February 2024 Elected Members Workshop.

Council is now asked to endorse the attached STM so an engagement plan can be developed to enable community consultation on all three (3) documents (GIS, NAMP and STM) as per point 3 of the July 2023 OCM resolution.

OFFICER COMMENT

1.0 ArborCarbon Review of the 2017 Street Tree Masterplan

Prior to the October 2023 OCM, ArborCarbon reviewed the following elements of the 2017 STM:

- Appropriateness of Council approved species change from the 2017 STM;
- Appropriateness of other street tree species that remain unchanged from the 2017 STM; and
- Rationalisation of Norfolk Island Pine Trees.

1.1 Appropriateness of Council Approved Changes and Remaining Species

The key points from this review are:

- ArborCarbon supports the Council approved changes to the 2017 Masterplan in table 1 below. These changes only occurred following public consultation and contain species that already exist in Cottesloe.

Street name	Existing species in Street Tree Masterplan	New Proposed Species
Torrens Court	Coral	Olive non-fruiting (Swan Hill)
Balfour Street	Queensland box	Peppermint
George Street	Queensland box	Peppermint
Kathleen Street	Queensland box	Peppermint
Clarendon Street	Rottnest Island Tea tree	Peppermint
Princes Street (Marine Parade to Avonmore Terrace)	Rottnest Island Tea tree	Hakea Laurina
Avonmore Terrace	Rottnest Island Tea tree	Hakea Laurina will replace the Rottnest Island Tea tree where verges are less than 8 meters wide

Table 1: Council Approved 2017 Masterplan Variations

- Current street tree themes for those street species that remain unchanged in the 2017 STM were retained to continue the non-native tree character of Cottesloe;
- Maintaining the current themes carries on species diversity for resilience against disease threats (i.e. shot-hole borers, dieback and pathogen) that could seriously affect a less diverse environment; and
- Exotic trees support indigenous wildlife as a diverse food sources but predicted climate changes impacts the survival of these naturally found exotic tree species. CSIRO predicts 2050 climate is likely to resemble Cervantes (<https://www.climatechangeinaustralia.gov.au/en/projections-tools/climate-analogues/analogues-explorer/>).

Further details are found in the ArborCarbon Report in Attachment A.

1.2 Norfolk Island Pines Rationalisation

There are approximately 1300 NIPs within the Cottesloe District comprising of 900 mature trees (over 3 metres) and 400 developing trees (under 3 metres).

Given the recent pathogen challenges with the NIPs and costs associated with preventive measures, rationalising this specie is particularly important to ensure financial and

environmental sustainability. Discussion of cost implications is in later sections of this report.

It is important to note that should Council approve a species change for streets that currently have NIPs as the designated specie, this is in relation to any NIP that is failing to thrive only. Replacement planting will occur only when a NIP fails to thrive. Healthy and thriving NIPs will not be removed.

In their 2023 review, ArborCarbon were asked to update the 2017 STM NIP specie based on the following rationalisation criteria.

- Selected Local Roads that contain heritage listed NIPS (Municipal and State Inventory) where NIPs appear to form a significant part of the street's aesthetics; and
- All Distributor Roads (Roads of Significance) as Gateways to Cottesloe with the lining of these iconic trees along these streets befitting as Entry Statements to create a boulevard that provides a welcoming feel for visitors to a tourist destination.

A summary of these changes including a version of this updated STM is contained within the October 2023 OCM Minutes (item 10.1.4):

- October 2023 OCM Confirmed Minutes - <https://www.cottesloe.wa.gov.au/council-meetings/ordinary-council-meeting/24-october-2023-ordinary-council-meeting/321/documents/confirmed-minutes-ordinary-council-meeting-24-october-2023-updated.pdf>
- October 2023 OCM Minutes Attachment - <https://www.cottesloe.wa.gov.au/council-meetings/ordinary-council-meeting/24-october-2023-ordinary-council-meeting/321/documents/attachments-v2.pdf>

Given the quantum of work done by ArborCarbon, it is recommended that any further Arborist engagement occurs only after the public consultation when the community's aspirations are known. This also avoids further delays to the public consultation process.

The current ArborCarbon report (Attachment A) contains sufficient information to seek community feedback.

2.0 Response to October 2023 OCM Resolutions

2.1 Identification of 'heritage streets' and the legislative consequences in relation to the Town's Norfolk Island pines

2.1.1 Legislative Implications

'Heritage Streets' mentioned in the October 2023 OCM report refers to example streets as listed below in table 2. This table includes NIPs listed on any heritage register (Local, State and National) either through their:

- Connection with a heritage listed property; or
- Some other heritage significance on that road.

More research will occur to confirm that this is the complete list after Council determines the NIP rationalisation criteria following the public consultation and as part of developing the draft STM.

Local Register	State Register
48 Forrest Street (Barsden Residence)	Cottesloe Civic Centre 109 Broome Street
102 Broome Street (Laxey Glenn)	Cottesloe Beach Precinct Marine Parade (Forrest Street to Eric Street)
All Pearse Street NIPs	NIP Precinct Curtin Avenue, Railway Street, Forrest Street, Loma Street and John Street. These locations are under consideration for entry into the State Register and is currently going through the public consultation phase.
All Broome Street NIPs	All Marmion Street NIPs
All John Street NIPs	
All Forrest Street NIPs	
All other trees on Broome Street	
All Avonmore Terrace Melaleuca trees	

Table 2: Local and State Registered NIPs

These trees in table 2 are protected under the Heritage Act (2018) and Local Planning Schemes with any removals requiring Council approval even if they meet the Street Tree Policy's removal criteria. Any unauthorised removal is deemed an offence.

2.1.2 Protective Measures for Heritage Trees

The following are protective measures for heritage listed NIPs:

- Significant Verge Tree Register (Register)

This register lists all Local and State Heritage Inventory identified heritage trees, regardless of species. Unique identification numbers and global positioning coordinates assigned to these significant trees allows them to be located on the Town's Global Information System. This database is publicly available.

- Conservation Management Plan (CMP)

This is a framework that ensures these heritage listed trees (or any other tree determined significant by Council) are appropriately preserved. The links below provide examples to this document:

(a) Queen's Gardens Heritage Management Plan - <https://nla.gov.au/nla.obj-3168927070/view>

(b) Stirling Gardens Heritage Management Plan - <https://nla.gov.au/nla.obj-2991194034/view>

Council is to note that:

- NIPs (or any other species) with historical and aesthetical significance can be incorporated into the register and CMP, it does come at an expense;

- There is no specific criteria to define trees of historical and aesthetical significance. Council needs to determine this with advice from a heritage consultant; and
- No legislation protects trees of historical and aesthetical significance. Refer to Attachment D (NIP Register) for roads that may contain such NIPs determined by Element for a number of reasons (Aboriginal site and the extended time that NIPs existed).

It costs approximately \$60,000 to \$90,000 to develop a CMP depending on the extent Council wishes to pursue (the specific figure has commercial in confidence implications).

State Government grants to a maximum of \$20,000 are available for the CMP development.

An update to the Street Tree Policy should also occur in conjunction with a CMP to require:

- Council approval for the removal of protected trees;
- The preservation of these protected trees in line with the CMP; and
- Any other matters proposed by the then appointed heritage consultant.

2.2 Rationale for defining 'distributor' roads for succession and replacement planting

Attachment B is a map that identifies various distributor roads within the district and how they connect to higher order primary distributor roads (Stirling Highway and Curtin Avenue) that connect Cottesloe to other parts of Western Australia. This formed one of the rationalisation principles in table 2.

NIPs are befitting species as entry statements as these distributor roads are gateway routes to Cottesloe. Lining these streets with NIPs provides a welcoming boulevard effect to a tourist destination. This streetscape design is consistent with the following Street Tree and Residential Verge Policy principles:

- recognizes the environmental and aesthetic value of street trees
- significance of providing canopy cover
- contribution toward a safe and attractive streetscape

2.3 Information to be contained in the proposed contextual statement for the community consultation identifying the risks, costs and benefits of Norfolk Island Pine succession and replacement planting as opposed to planting alternate species

Council is to note that it is very difficult to predict the lifespan of NIPs. Most of the NIPs that have been removed in Cottesloe are recent and a result of the pathogen (predominant risk) rather than their age.

The various tables within Attachment C contains the whole of life cost analysis comparison for the various scenario mention below. Attachment D (NIP Register) provides a summary of the current NIP population along the various Cottesloe Streets, their heritage status, whether the streets are distributor roads including possible historical and aesthetical significance (reasons provided in register);

- Table 3 - Maintaining a tree species (including the NIP) using existing practices to a prescribed pathogen preventive measure for only a NIP;

- Table 4 – Total additional cost and associated rate increases required to fund the maintenance of NIPs using the prescribed pathogen preventive measures in the following scenarios:
 - (a) Scenario 1 - All existing matured NIP Population reflected in Attachment D;
 - (b) Scenario 2 - Existing matured Heritage Listed NIPs (Table 2) and those found on Distributor Roads only (Attachment B) only; and
 - (c) Scenario 3 - Existing matured Heritage Listed NIPs Only (Table 2).
- Table 5 and 6 – For the 3 scenarios above, the total additional cost and associated rate increases required to fund the maintenance of NIPs using the prescribed pathogen preventive measures in succession and replacement planting.
- The scenario in tables 3 to 6 considers the following assumptions:
 - (a) 100 year analysis period;
 - (b) Standard maintenance covers watering in the first 3 years after the tree is planted, trimming and soil management only for the remaining period; and
 - (c) Pathogen preventive measures applies to **all** NIPs over 20 years old and this covers additional watering and special supplements. NIPs under 20 years old are managed through standard maintenance described in point b.

It is reasonable to conclude that the pathogen preventive measures cost significantly higher in comparison to the existing maintenance practices. The cost of replacement as a strategy to retain the population in the 3 scenarios is lower than that of succession planting.

3.0 Proposed Pathway

There are a number of options open for Council to consider in progressing the consultation:

Option 1: Council notes the information provided in this report and defers the public consultation. It then asks the CEO to organize another elected member workshop on guiding principles to develop a STM for community consultation. This is then advertised together with the GIS and NAMP to seek community feedback before considering to formally adopt the final version for all 3 documents; or

Option 2: Council notes the information provided in this report, and notes the update to the current 2017 STM (updated with the Council approved changes in table 1) as a foundation for the public feedback process.

A link to the current 2017 STM is as follows:

<https://www.cottesloe.wa.gov.au/documents/1494/street-tree-masterplan>

The CEO can then develop a community engagement plan for consultation on the STM, GIS and NAMP, inclusive of a discussion on the matters raised in this report and information on the costs and amenity impacts associated with the various options available on the future replacement of the NIPs.

The CEO then organizes a workshop with Elected Members to review the community feedback and workshop any required changes to the three documents, prior to formally adopting them.

Option 2 is the preferred approach as this is consistent with Council's Community Consultation Policy and rather than have another Elected Member workshop, this option will allow Elected Members to review and potentially refine the three documents based on community feedback.

Council is to note that it is difficult to accurately develop a Community Engagement Plan until a public consultation version of a STM is known. The officer's recommendation is worded accordingly.

Council is to note the following additional officer's comment around the Community Engagement Plan and the public consultation process further to the Agenda Forum:

- The existing STMP updated only with the approved changes in table 1 and common tree names;
- The STMP is put out for public consultation where respondents then comment whether they want to retain or change the specie on each street (amongst other matters);
- NIPs
 - (a) Further explanation on the whole of life costings within Attachment C, asking residents to note that the pathogen treatment is currently not implemented and may only be required should this be determined by Council;
 - (b) Further expanding (a), one of the factors that Council considers could include (but not limited to) contemporary risk, pertaining to whether this is still a problem and the likelihood of this occurring again in the future;
 - (c) The definition of failing to thrive and the process around revival of declining health as the immediate response will be incorporated into the Community Engagement Plan; and
- The final Community Engagement Plan, STMP, NAMP and GIS incorporating the changes previously resolved by Council in July and September 2023 is circulated before advertising for public consultation.

ATTACHMENTS

- 10.1.3(a) Attachment A - Arbor Carbon Report - J23833 - Town of Cottesloe - Advice Norfolk Island Pines - 231011 [under separate cover]**
- 10.1.3(b) Attachment B - Cottesloe Distributor Road Map [under separate cover]**
- 10.1.3(c) Attachment C - Street Tree Masterplan - Whole of Life Cost Analysis [under separate cover]**
- 10.1.3(d) Attachment D - Street Tree Masterplan - Norfolk Island Pine Register [under separate cover]**

CONSULTATION

Council accepting the officer's recommendation or equivalent will allow the consultation to occur over April 2024 and an item returning to either the May or June 2024 Ordinary Council Meeting.

STATUTORY IMPLICATIONS***Local Government Act 1995***

*Section 2.7 – Role of Council****Heritage Act (2018)***

Local Planning Scheme**POLICY IMPLICATIONS**

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

STRATEGIC IMPLICATIONS

This report is consistent with the Town's *Council Plan 2023 – 2033*.

Priority Area 2: Our Town - Healthy natural environs and infrastructure meeting the needs of our community.

Major Strategy 2.4: Work collaboratively to protect, enhance and increase our natural assets and green canopy.

RESOURCE IMPLICATIONS

Resource requirements are in accordance with the existing budgetary allocation.

ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS

The STM contributes to expanding canopy cover

VOTING REQUIREMENT

Simple Majority

OCM030/2024**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Wylynko

Seconded Cr Mason

THAT Council:

1. **NOTES** the changes to the 2017 Street Tree Masterplan to include only the street species that have been previously approved by Council (summarised in table 1 within the officer's comment) for the purpose of public consultation;
2. **INSTRUCTS** the Chief Executive Officer (CEO) to prepare an Engagement Plan for community consultation on:
 - a. **Green Infrastructure Strategy** (as noted in the July 2023 OCM Minutes);
 - b. **Natural Area Management Plan** (as noted in the September 2023 OCM Minutes);
 - c. **The Street Tree Masterplan** (as noted in point 1);

Inclusive of discussing the various matters raised within the officer's commentary of

this report and cost and amenity impacts associated with various options available with to regards to Norfolk Island Pines (NIPs)

3. **INSTRUCTS** the CEO to circulate the Engagement Plan to Elected Members and consider any feedback prior to initiating community consultation; and
4. **REQUESTS** the CEO to organise a workshop with Elected Members to review the feedback received from the community consultation.

Carried 8/0

For: Mayor Young, Crs Sadler, Bulbeck, Wylynko, Thomas, Mason, Irvine and Heath

Against: Nil

COUNCILLOR AMENDMENT

Moved Cr Bulbeck

As per Officers Recommendation subject to adding to point 2c;

including the following information in the Engagement Plan to best inform the community when considering how many and which Norfolk Island pines should be replaced when they die:

- The Arborist has recommended replacing ALL Norfolk Island Pines which die with more climate adapted species
- The cost per pine tree per annum for each Norfolk Island Pine tree receiving pathogen and climate protection as well as the 100 year cost. This is \$465 p.a. for each climate adapted tree as opposed to \$2301 p.a. for each treated Norfolk Island Pine.
- Choosing not to treat a failing Norfolk Island pine is also equivalent to planting an additional 6 trees per annum for each Norfolk Island Pine not treated, noting that this ratio does not take account of any cost of treating diseases affecting other species (e.g. dieback in the peppermints)
- That the pathogen prevention treatment is provided for trees 20 years and older and consists of watering twice a week from January to April (32 watering sessions x \$55 per water = \$ 1760) plus bio-prime (trace element) application + medicap nutrient tablets + phosphate treatments to combat the disease (\$1000) plus dead wooding/ removing infected limbs.
- Norfolk Island Pines in Cottesloe are registered in three 'heritage' registers:
 - (1) the National Estate (Cottesloe Civic Centre)
 - (2) State Heritage Register (Cottesloe Beach Precinct; Pine Court; Pine Lodge; Norfolk Island Pine Precinct: Curtin Av, Railway St, Forrest St, Loma St, John St) and

(3) the Municipal Inventory (Marmion St; Forrest St; 52 Norfolk Island Pine Trees on John St; John, Broome & Forrest Sts).

- There is no legislative requirement to replace any Norfolk Island Pine in Cottesloe which dies with another Norfolk Island Pine. However, the minister can grant a protection order for trees and other places protected in the State Heritage register (see Heritage Act 2018 and State Register of Heritage Places: [inHerit - State Heritage Office \(dplh.wa.gov.au and the map below for pines appearing in the State Heritage register\)](#)).

The Amendment lapses for want of a Secunder.

10.2 RECEIPT OF MINUTES AND RECOMMENDATIONS FROM COMMITTEES**10.2.1 RECEIPT OF AUDIT COMMITTEE MINUTES**

Attachments: 10.2.1(a) Unconfirmed Minutes - Audit Committee - 13 March 2024
[under separate cover]

OCM031/2024

Moved Cr Sadler

Seconded Cr Irvine

THAT Council RECEIVES the attached Unconfirmed Minutes of the Audit Committee Meeting held on 13 March 2024 and ADOPTS the recommendations contained within including the following two items which require an Absolute Majority vote:

“8.1.4 COMPLIANCE AUDIT RETURN

Moved Mr Dimsey

Seconded Mr McKenzie

THAT the Audit Committee

ENDORSES and RECOMMENDS that Council ADOPT the 2023 Compliance Audit Return and AUTHORISES the Mayor and Chief Executive Officer to certify the Return so that it may be returned to the Department of Local Government and Communities by the due date of 31 March 2024.

Carried by Absolute Majority 5/0

8.1.5 MID-YEAR BUDGET REVIEW 2023/24

Moved Cr Heath

Seconded Cr Irvine

THAT the Audit Committee by absolute majority

- 1. RECEIVES the Budget Review for the Financial Year 2023/24;*
- 2. ADOPTS the amendments contained within the attached Budget Review document including the following new projects:*
 - (a) Renewal of Irrigation at Jasper Green Park (\$10,500)*
 - (b) Replacement of three Lighting Towers at the Civic Centre (\$15,000)*
- 3. Notes the estimated cash surplus at 30 June 2024 of \$214,025.*

Carried by Absolute Majority 5/0”

Carried 8/0

For: Mayor Young, Crs Sadler, Bulbeck, Wylynko, Thomas, Mason, Irvine and Heath

Against: Nil

11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:**12.1 ELECTED MEMBERS****12.2 OFFICERS****13 MEETING CLOSED TO PUBLIC****13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED****OCM032/2024****MOTION FOR BEHIND CLOSED DOORS****Moved Mayor Young Seconded Cr Irvine**

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

Carried 8/0

**For: Mayor Young, Crs Sadler, Bulbeck, Wylynko, Thomas, Mason, Irvine and Heath
Against: Nil**

The public and members of the media were requested to leave the meeting at 6:45 pm

The Presiding Member changed the Order of Business as follows;

13.1.2 T01/2024 - STREET SWEEPING - TENDER

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

OCM033/2024**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION****Moved Cr Wylynko Seconded Cr Heath****THAT Council**

- 1. AUTHORISES the Chief Executive Officer to award the Street Sweeping Services Tender to TENDERER B mentioned in the Officer Recommendation in Brief Section;**

2. AUTHORISES the:

- a. Mayor and Chief Executive Officer to sign the Contract and affix the Town's Common Seal (if required);
- b. Chief Executive Officer or delegate to manage the Street Sweeping contract, including the provision of possible variations (provided the variation is necessary in order for the goods or services to be supplied, does not change the general scope of the contract and is managed within the allotted budget allocation); and
- c. Mayor, Elected Members and the Town's Administration to disclose the identity of the successful Tenderer

Carried 8/0

For: Mayor Young, Crs Sadler, Bulbeck, Wylynko, Thomas, Mason, Irvine and Heath

Against: Nil

13.1.3 120 - 122 MARINE PARADE LICENCE AGREEMENT

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

OCM034/2024

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Mason

Seconded Cr Thomas

THAT Council

1. **NOTES** legal advice obtained;
2. **ENDORSES** the attached agreement; and
3. **AUTHORISE** the Mayor and Chief Executive Officer to sign the attached agreement and affix the Town's Common Seal (if required), **SUBJECT** to the proponent paying all legal cost to prepare the attached document.

Carried 8/0

For: Mayor Young, Crs Sadler, Bulbeck, Wylynko, Thomas, Mason, Irvine and Heath

Against: Nil

Cr Irvine left the meeting at 6:57 pm.

13.1.1 53 JOHN STREET DOSCAS LANE ENCROACHMENT

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

OCM035/2024**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION****Moved Cr Wylynko****Seconded Cr Heath****THAT Council**

- 1. NOTES legal advice obtained; and**
- 2. DEFERS any further action to allow the removal of the Doscas Lane encroachments to the agreement principles mentioned under the preferred approach (Option 1) within the officer's comment section;**
- 3. AUTHORISE the Mayor and Chief Executive Officer to sign the final agreement and affix the Town's Common Seal (if required), PROVIDED the final agreement is consistent with the principles approved in point 2; and**
- 4. REQUIRES the matter to return to the April 2023 Ordinary Council Meeting should there be any changes to the principles approved by Council.**

Carried 7/0**For: Mayor Young, Crs Sadler, Bulbeck, Wylynko, Thomas, Mason and Heath****Against: Nil****OCM036/2024****MOTION FOR RETURN FROM BEHIND CLOSED DOORS****Moved Mayor Young****Seconded Cr Thomas**

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

Carried 7/0**For: Mayor Young, Crs Sadler, Bulbeck, Wylynko, Thomas, Mason and Heath****Against: Nil**

The public and members of the media returned to the meeting at 6:58.

Cr Irvine returned to the meeting at 6:59 pm.

13.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

13.1.1 53 JOHN STREET DOSCAS LANE ENCROACHMENT

The resolution for item 13.1.1 was read aloud.

13.1.2 T01/2024 - STREET SWEEPING - TENDER

The resolution for item 13.1.2 was read aloud.

13.1.3 120 - 122 MARINE PARADE LICENCE AGREEMENT

The resolution for item 13.1.3 was read aloud.

14 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 7:02 pm