

# TOWN OF COTTESLOE



## ORDINARY COUNCIL MEETING

# AGENDA

ORDINARY COUNCIL MEETING  
TO BE HELD IN THE  
Council Chambers, Cottesloe Civic Centre  
109 Broome Street, Cottesloe  
6:00 PM Tuesday, 27 February 2024

# Town of Cottesloe

## ORDINARY COUNCIL MEETING

Notice is hereby given that the next Ordinary Council Meeting will be held in the Council Chambers, Cottesloe Civic Centre

109 Broome Street, Cottesloe on **27 February 2024** commencing at **6:00 PM**.

The business to be transacted is shown on the Agenda hereunder.

Yours faithfully,



William Matthew Scott  
**Chief Executive Officer**

23 February 2024

## DISCLAIMER

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

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

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

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

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



# DISCLOSURE OF INTERESTS

Agenda Forum

Ordinary Council Meeting

Special Council Meeting

Name of Person Declaring an interest

Position

Date of Meeting

This form is provided to enable members and officers to disclose an Interest in the matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 34C.

## INTEREST DISCLOSED

Item No

Item Title

Nature of Interest

Type of Interest

Financial

Proximity

Impartiality

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Financial

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Impartiality

## DECLARATION

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

# DISCLOSURE OF INTERESTS

## Notes for Your Guidance

### IMPACT OF A FINANCIAL INTEREST (s. 5.65. & s. 67. Local Government Act 1995)

A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest:

- a. In a written notice given to the Chief Executive Officer before the Meeting or;
- b. At the Meeting immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- a. Preside at the part of the Meeting relating to the matter or;
- b. Participate in, or be present during, any discussion or decision making procedure relative to the matter, unless and to the extent that, the disclosing member is allowed to do so under *Section 5.68* or *Section 5.69* of the *Local Government Act 1995*.

### INTERESTS AFFECTING FINANCIAL INTEREST

The following notes are a basic guide for Councillors when they are considering whether they have a **Financial Interest in a matter**.

1. A Financial Interest, pursuant to s. 5.60A or 5.61 of the *Local Government Act 1995*, requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measured in money terms. There are expectations in the *Local Government Act 1995* but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e sporting, social, religious etc, and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e, if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors and ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **must** be given when the matter arises in the Agenda, and immediately before the matter is discussed. Under s. 5.65 of the *Local Government Act 1995* failure to notify carries a penalty of \$10 000 or imprisonment for 2 years.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
  - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) of the *Local Government Act 1995*; or
  - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the *Local Government Act 1995*, with or without conditions.

### **INTERESTS AFFECTING PROXIMITY (s. 5.60b Local Government Act 1995)**

1. For the purposes of this subdivision, a person has a proximity interest, pursuant to s.5.60B of the Local Government Act 1995, in a matter if the matter concerns;
  - a. a proposed change to a planning scheme affecting land that adjoins the person's land; or
  - b. a proposed change to the zoning or use of land that adjoins the person's land; or
  - c. a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
2. In this section, land (the proposal land) adjoins a person's land if;
  - a. The proposal land, not being a thoroughfare, has a common boundary with the person's land; or
  - b. The proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
  - c. The proposal land is that part of a thoroughfare that has a common boundary with the person's land.
3. In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

### **INTERESTS AFFECTING IMPARTIALITY**

Definition: An interest, pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.

A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which will be attended by the member, must disclose the nature of the interest;

- a. In a written notice given to the Chief Executive Officers before the Meeting or;
- b. At the Meeting, immediately before the matter is discussed.

### **IMPACT OF AN IMPARTIALITY DISCLOSURE**

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest exist.

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

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****3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Stephen Mellor 8 Graham Court, Cottesloe

- Q1 Does Administration keep a record of how much staff time has been spent on the Indiana Development proposal over the last two years?
- R1 Not specifically.
- Q2 If it does what is the current total, if not, what is the Administration's estimate of that total?
- R2 Given the nature of requesting, waiting for responses, and considering information generated from multiple stakeholders it is difficult to estimate, however, it is expected that +100 officer hours have been spent on this project.
- Q3 Before any more time is spent, is it not overdue for the Council to consult its Community on whether the Council should further consider a proposal to redevelop our iconic beach pavilion tea-house and put out a Business Plan for State-wide consultation?
- R3 Council's resolution SCM 130/2022 states the process to be undertaken by Council. To change this process would require Council to rescind this decision.
- Q4 Given that the local residents and ratepayers are KEY stakeholders, does this not mean that before any such decision to put the proposal out for State-wide consultation, Council should first consult with its local community?
- R4 This would be a decision of Council.
- Q5 Will Council please instruct Administration to provide a one month advance preview for residents, ratepayers, and Elected Members of

- the business plan and all the specialist reports before the proposal is put to Council in the New Year?
- R5 This would be a decision of Council.
- Q6 At the Agenda Forum I asked about ROWs and the answer given needs a bit more clarity. Can you please provide a list of all the Town's ROWs that have not yet been transferred to Government ownership?
- R6 ROW 13, 20A, 20D, 21A – Title 2751/771  
ROW 20B, 21B – Title 2966/423  
ROW 70A – Title 1400/530
- Q7 Is Council confident that it is meeting the regulation requirements in declaring that the Draft Council Plan incorporates the Strategic Community and Corporate Business Plans as required by the current Regulations?
- R7 Yes.
- Q8 Is it right for a Consultant to decide which suggestions from the Public Consultation are included in the final draft or have those decisions been made by the Administration without consultation with the Elected Members?
- R8 The role of the consultant was to prepare a draft Council Plan for Council's consideration based on the outcome of community consultation and feedback. Attached to the Council Plan Report (10.1.6) was the Community Feedback Analysis, which included all the individual submissions from the community. Therefore Council was fully aware of the feedback provided and had the ability to modify the Council Plan if Council was not agreeable with the Consultants or Administration's analysis.
- Q9 If the Council Plan takes the place of the former Strategic Community and the Corporate Business Plans, what are the cascading documents we can expect, in what sequence, and when?
- R9 The Council Plan informs all of Council's strategic and operational documents. Council will be provided an opportunity to determine the priority of updating and developing these documents in the first quarter of 2024.
- Q10 Why is the Plan without Strategic and Deliverables numbered identifiers?
- R10 It was considered unnecessary by the consultant. It was then considered further by Council. Council resolved, after considering the format, to endorse the draft as presented.
-

- Q11 When will we see the budget lines allocation as a long-term financial plan tied to a deliverables schedule?
- R11 The Long Term Financial Plan will need to be reviewed to accommodate deliverables within the Council Plan. This will be done based on Council's determined priorities, as discussed in R9.
- Q12 Why is 'Develop and Implement a Public Toilet Strategy' (June 2021 Resolution) not included in the Plan when it is stated as a Community Priority on page 12?
- R12 A Public Toilet Strategy is not mentioned as a priority on page 12 of the Council Plan, however, Public Toilets, as with all public amenities will need to be considered in the review of the Asset Management Plan and related Infrastructure Strategies.
- Q13 Why is 'Sinking the Railway', a continuing major objective in the new Draft Planning Strategy not included in West-East Connectivity and why are Indiana developments not included as high-level objectives/deliverables, whereas Car Park 2 gets a mention?
- R13 "Sinking the Railway" is a very specific outcome, whereas the Council Plan provides Council the ability to consider other options and strategies to achieve West-East Connectivity. Indiana redevelopment is a proposal currently before Council, on which Council needs to respond to the proponent (the Lessee). Car Park 2 redevelopment is a Council initiative and is a project over which Council has control.

## 4.2 PUBLIC QUESTIONS

### 5 PUBLIC STATEMENT TIME

### 6 ATTENDANCE

#### Elected Members

Mayor Lorraine Young  
Cr Helen Sadler  
Cr Melissa Harkins  
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
Mr Paul Neilson	Manager Planning Services
Mr Ed Drewett	Coordinator, Statutory Planning
Ms Jacquelyne Pilkington	Governance & Executive Office Coordinator

**6.1 APOLOGIES****6.2 APPROVED LEAVE OF ABSENCE****6.3 APPLICATIONS FOR LEAVE OF ABSENCE****7 DECLARATION OF INTERESTS****8 CONFIRMATION OF MINUTES**

That the Minutes of the Ordinary Meeting of Council held on Tuesday 12 December 2023 be confirmed as a true and accurate record.

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

***Procedure of Petitions – Local Government (Meetings Procedure) Local Law 2021, Clause 6.11***

*(3) 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;*
- b) that the petition shall not be accepted;*
- c) that the petition be accepted and referred to the CEO for consideration and report; or*
- d) that the petition be accepted and dealt with by the full council.*

**9.2 PRESENTATIONS****9.3 DEPUTATIONS**

**10      REPORTS**

**10.1    REPORTS OF OFFICERS**

**COUNCIL RESOLUTION**

**That Council adopts the following en-bloc Officer Recommendations contained in the Agenda for the Ordinary Meeting of Council 27 February 2024:**

\_\_\_\_' \_\_\_\_' \_\_\_\_' \_\_\_\_' \_\_\_\_' \_\_\_\_' \_\_\_\_'

**CORPORATE AND COMMUNITY SERVICES****10.1.1 ACCEPTANCE OF THE 2022/2023 ANNUAL REPORT**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5061  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

The Town's 2022/23 Annual Financial Statements have been audited by auditors Ernst & Young, and signed off by the Office of the Auditor General (OAG). The Audit Committee met on 4 December 2023 and recommended that the Audit Report for the Town of Cottesloe be accepted. The Audit Report was subsequently accepted by Council on 12 December 2023 by virtue of adopting the Audit Committee meeting minutes of 4 December 2023.

The Annual Report, which incorporates the Annual Financial Statements and Audit Report has now been drafted and is submitted to Council for acceptance.

**OFFICER RECOMMENDATION IN BRIEF**

It is recommended that Council accept the 2022/23 Annual Report, incorporating the Annual Financial Statements and Audit Report and sets the date for the General Meeting of Electors.

**BACKGROUND**

The Town's 2022/23 Annual Financial Statements have now been audited and the Audit Report to the Mayor and Audit Committee has been received from the Office of the Auditor General (OAG). The documents that comprise the Annual Report are now complete and are presented for Council acceptance.

**OFFICER COMMENT**

The Annual Report for the Town of Cottesloe for 2022/23 if accepted at the present meeting 27 February 2024 sees the General Meeting of Electors being required to be held by 23 April 2024 at the latest (56 days) with a minimum of 14 days Notice required for the holding of the meeting.

It is recommended that the General Meeting of Electors be held on Wednesday 20 March 2024 at 6pm in the War Memorial Hall. The General Meeting of Electors is normally held on a Wednesday evening and this date satisfies the Legal time and notice requirements.

**ATTACHMENTS**

**10.1.1(a) Town of Cottesloe 2022/23 Annual Report [under separate cover]**

**CONSULTATION**

Office of the Auditor General

Ernst & Young

Audit Committee

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

**5.53. Annual Reports**

The local government is to prepare an annual report for each financial year that contains:

- a report from the mayor;
- a report from the CEO;
- an overview of the plan for the future of the district, including major initiatives that are proposed to commence or to continue in the next financial year;
- the financial report;
- payments made to prescribed employees;
- the auditor's report;
- Disability Services Act 1993 reports;
- register of complaints details (vis. number and how the complaints were dealt with);
- other details required by regulations or be prescribed.

**5.54. Acceptance of Annual Reports**

Subject to the Audit Report being available, the Annual Report is to be accepted (by absolute majority) by 31 December if it is received in time to reasonably do so (or no later than 2 months after the auditor's report becomes available).

**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.

**5.29. Convening Electors Meetings**

- (1) The CEO is to convene an electors' meeting by giving —
  - (a) at least 14 days' local public notice; and
  - (b) each council member at least 14 days' notice, of the date, time, place and purpose of the meeting.

**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**

There Annual Report is prepared within the Budget parameters set by Council.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Absolute Majority

**OFFICER RECOMMENDATION**

**That Council, by Absolute Majority:**

- 1. ACCEPTS the ANNUAL Report for the Town of Cottesloe for the year ended 30 June 2023.**
- 2. SETS the time and date of the General Meeting of Electors at 6pm, 20 March 2024 in the War Memorial Hall, and that the purpose of the meeting be - "to discuss the contents of the 2022/23 Annual Report (incorporating the 2022/23 Annual Financial Statements and Auditor's Report) and any other general business".**
- 3. NOTES that local public notice will be issued on 28 February 2024, to ensure the minimum 14 days notice of the General Meeting of Electors is provided.**



**10.1.2 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2023 TO 30 NOVEMBER 2023**

**Directorate:** Corporate and Community Services  
**Author(s):** Wayne Richards, Finance Consultant  
**Authoriser(s):** Shane Collie, Director Corporate and Community Services  
**File Reference:** D24/5208  
**Applicant(s):**  
**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 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 30 November 2023.

**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 30 November 2023 was \$9,676,694 as compared to \$10,022,785 this time last year.
- Operating revenue is more than the year to date budget by \$316,386 with a more detailed explanation of material variances provided at note 2, explanation of material variances, of the attached financial statements. Operating expenditure is \$2,593,317 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.

- The Capital Works Program is shown in note 13, details of capital acquisitions, of the attached financial statements.
- The balance of cash backed reserves was \$8,412,581 as at 30 November 2023 as shown in note 7, cash backed reserves, of the attached financial statements.

#### **.List of Accounts Paid for November 2023**

The list of accounts paid during November 2023 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:

- \$31,491.64 to the Department of Fire and Emergency for emergency service levies
- \$46,454.00 & \$42,993.00 to the Australian Taxation Office for payroll tax deductions
- \$37,196.45 & \$35,982.64 to Superchoice Services Pty Ltd for staff superannuation contributions
- \$26,996.82 to ManagedIT for information technology services
- \$81,632.34 to Solo Resource Recovery for waste collection/disposal expenses
- \$39,781.91 to the Town of Cambridge to transfer project funds
- \$34,837.98 & \$147,397.98 to Classic Contractors Pty Ltd for construction works at Anderson Pavilion
- \$151,604.36 to Local Government Insurance Services for insurance premiums
- \$49,233.80 & \$288,904.29 to the Shire of Peppermint Grove for library contributions
- \$35,711.78 to Surf Life Saving western Australia for lifeguard services
- \$25,584.35 to Hames Sharley (WA) Pty Ltd for consultancy on the Town's planning strategy
- \$65,865.36 to Orikan Australia Pty Ltd for infringements sensors
- \$37,037.13 to Western Metropolitan Regional Council for waste disposal expenses
- \$29,050.96 to Electricity Generation and Retail Corporation for electricity expenses
- \$147,107.79 & \$138,858.99 to Town of Cottesloe Staff for fortnightly payroll

#### **Investments and Loans**

Cash and investments are shown in note 4, cash and investments, of the attached financial statements. The Town has approximately 41% of funds invested with the National Australia Bank, 37% with the Commonwealth Bank of Australia and 22% 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 \$2,277,302 as at 30 November 2023.

**Rates, Sundry Debtors and Other Receivables**

Rates outstanding are shown on note 6, receivables, and shows a balance of \$3,639,124 outstanding as compared to \$3,081,009 this time last year.

Sundry debtors are shown on note 6, receivables, of the attached financial statements. The sundry debtors report shows that 10% or \$21,065 is older than 90 days. Infringement debtors are shown on note 6, receivables, and shows a balance of \$418,640 as at 30 November 2023.

**ATTACHMENTS**

**10.1.2(a) Monthly Financial Statements for the Period 1 July 2023 to 30 November 2023 [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

**OFFICER RECOMMENDATION**

**THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2023 to 30 November 2023 as submitted to the 27 February 2024 meeting of Council.**

**10.1.3 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2023 TO 31 DECEMBER 2023**

**Directorate:** Corporate and Community Services  
**Author(s):** Wayne Richards, Finance Consultant  
**Authoriser(s):** Shane Collie, Director Corporate and Community Services  
**File Reference:** D24/5165  
**Applicant(s):**  
**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 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 December 2023.

**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 December 2023 was \$8,676,154 as compared to \$7,933,612 this time last year.
- Operating revenue is more than the year to date budget by \$180,683 with a more detailed explanation of material variances provided at note 2, explanation of material variances, of the attached financial statements. Operating expenditure is \$1,327,018 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.

- The Capital Works Program is shown in note 13, details of capital acquisitions, of the attached financial statements.
- The balance of cash backed reserves was \$8,460,171 as at 31 December 2023 as shown in note 7, cash backed reserves, of the attached financial statements.

#### **List of Accounts Paid for 31 December 2023**

The list of accounts paid during 31 December 2023 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:

- \$55,587.00 & \$48,635.00 to the Australian Taxation Office for payroll tax deductions
- \$44,444.55 to Superchoice Services Pty Ltd for staff superannuation contributions
- \$43,673.34 to Hatch Pty Ltd for consultancy services relating to the Cottesloe Village Precinct Plan
- \$102,388.39 to Solo Resource Recovery for waste collection/disposal services
- \$29,351.96 to Town of Mosman Park for Depot waste services
- \$60,499.44 to Crayon Australia Pty Ltd for software licence expenses
- \$97,855.01 to Datacom Solutions (AU) Pty Ltd for software licence expenses
- \$561,704.91 to the Department of Fire and Emergency Services for emergency service levies collected on their behalf
- \$26,330.68 to ManagedIT for information technology services
- \$104,967.78 to Phase 3 Landscape Construction Pty Ltd for construction works at the new skate park
- \$95,800.11 to Classic Contractors for construction works at the Anderson Pavilion
- \$61,358.00 to FJ Fitzsimmons & Co for right of way works
- \$147,107.79 & \$138,858.99 to Town of Cottesloe Staff for fortnightly payroll

#### **Investments and Loans**

Cash and investments are shown in note 4, cash and investments, of the attached financial statements. The Town has approximately 50% of funds invested with the National Australia Bank, 27% with the Commonwealth Bank of Australia and 23% 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 December 2023.

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

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Rates outstanding are shown on note 6, receivables, and shows a balance of \$2,640,009 outstanding as compared to \$1,898,646 this time last year.

Sundry debtors are shown on note 6, receivables, of the attached financial statements. The sundry debtors report shows that 25% or \$48,414 is older than 90 days. Infringement debtors are shown on note 6, receivables, and shows a balance of \$455,471 as at 31 December 2023.

### **ATTACHMENTS**

**10.1.3(a) Monthly Financial Statements for the period 1 July 2023 to 31 December 2023 [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

**OFFICER RECOMMENDATION**

**THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2023 to 31 December 2023 as submitted to the 27 February 2024 meeting of Council.**



**10.1.4 DOGS AMENDMENT LOCAL LAW 2024**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5218  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

This report proposes the making of a new Town of Cottesloe Dogs Amendment Local Law 2024 pursuant to Section 3.12 (4) of the Local Government Act 1995.

**OFFICER RECOMMENDATION IN BRIEF**

For Council to adopt the Town of Cottesloe Dogs Amendment Local Law 2024.

**BACKGROUND**

The Town of Cottesloe Dogs Local Law 2023 was gazetted on 4 August 2023 and came into force as of 18 August 2023. The Local Law was submitted to the Joint Standing Committee for Delegated Legislation (JSCDL) as required with all Local Laws. The JSCDL by letter of 13 September 2023 raised some minor concerns with the Local Law and subsequently advised the Town that some changes were needed to the Local Law before the Committee would agree to formally pass the legislation.

The JSCDL sought an assurance that the sections of the Local Law would not be used where there were concerns raised and the Town provided that assurance. The amendments required to the Local Law were subsequently completed and Council resolved to advertise its intention to amend the principle Local Law at its meeting held on 24 October 2023.

The required 6 week advertising period for the Amendment Local Law concluded on 4 January 2024 and no submissions were received.

**OFFICER COMMENT**

The purpose of this report is to:

1. Note that no submissions were received on the proposed Town of Cottesloe Dogs Amendment Local Law 2024.
2. Give notice to the purpose and effect of the Town of Cottesloe Dogs Amendment Local Law 2024.
3. Make the Town of Cottesloe Dogs Amendment Local Law 2024.
4. Authorise the Local Law's Gazettal in the Government Gazette.

5. Give Local Public Notice, (after gazettal) of the making of the Local Law including the date upon which it is to come into operation.
6. Authorise the affixing of the Town's Common Seal to the Local Law.

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

**Purpose of the Local Law:**

To correct minor typographical matters within the Town of Cottesloe Dogs Local Law 2023.

**Effect of the Local Law:**

The effect of the Local Law is to ensure that all matters pertaining to dog control in the district are contemporary, industry standard and best practice ensuring the best outcome for the residents and visitors to the area.

There are no changes recommended to the proposed Local Law as advertised.

**ATTACHMENTS**

**10.1.4(a) Dogs Amendment Local Law 2024 [under separate cover]**

**CONSULTATION**

The formal consultation process is embedded in the legislation associated with the making of a Local Law. A formal 6 week advertising period has been undertaken in accordance with Section 3.12 (3) of the *Local Government Act 1995*.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

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

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

**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 and consist predominantly of officer time.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Absolute Majority

**OFFICER RECOMMENDATION**

**THAT Council:**

- 1. ADOPTS by Absolute Majority the Town of Cottesloe Dogs Amendment Local Law 2024 as attached to this Report;**
- 2. AUTHORISES the Local Law's gazettal in the Government Gazette;**
- 3. AUTHORISES the Local Public Notice advertisement, (after gazettal), of the making of the Local Law including the date upon which it is to come into operation; and**
- 4. AUTHORISES the Mayor and the Chief Executive Officer to affix the Town's Common Seal to the Town of Cottesloe Dogs Amendment Local Law 2024.**

**10.1.5 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:** D24/5233  
**Applicant(s):** Pro Realty Property Consultants on behalf of Waveconn  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider an application to lease a portion of Reserve 3235 (John Black Dune Park) for the purposes of a Temporary Communications Facility (Mobile Phone Tower) while the Ocean Beach Hotel is being redeveloped.

**OFFICER RECOMMENDATION IN BRIEF**

That Council in accordance with Section 3.35 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.

**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 Tower infrastructure.

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.

**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. 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). It is understood the Tennis Club have no issue in the power being accessed (at the Proponent's cost) and Council would also need to agree to this which if Lease Approval is given would form part of the condition of the Lease.

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.



Given the proposed Lease is considered a "Disposal" pursuant to Section 3.58 of the Local Government Act a formal process must be adhered to prior to entering into the Lease. This is described in the Statutory Implications area of this Report.

If approved Council's solicitor would be instructed to draw up a suitable Lease document. This document would contain clauses relevant and normal to similar leases of this nature including but not limited to the following:

- Term: 2 years with a two year option would be applicable (if the OBH Development takes longer than anticipated).
- Make Good Clause: To ensure the site is left in a same or better condition than present,
- CPI Rent Increase: To ensure that the Lease fee increases by CPI each year.

Additionally normal Planning Approval requirements would need to be met in the event that this matter proceeds.

### **ATTACHMENTS**

- 10.1.5(a) Temporary Telstra Tower - Lease Offer for Part Reserve 3235 (Lot 37) Napier Street [under separate cover]**
- 10.1.5(b) McGees Property Valuation - Redacted [under separate cover]**

### **CONSULTATION**

Consultation is 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

### **OFFICER RECOMMENDATION**

**THAT Council**

- 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.



**DEVELOPMENT AND REGULATORY SERVICES****10.1.6 DRAFT LOCAL PLANNING STRATEGY - ENDORSEMENT TO ADVERTISE**

<b>Directorate:</b>	<b>Development and Regulatory Services</b>
<b>Author(s):</b>	<b>Ed Drewett, Coordinator Statutory Planning</b>
<b>Authoriser(s):</b>	<b>Paul Neilson, Manager Planning Services</b>
<b>File Reference:</b>	<b>D24/5226</b>
<b>Applicant(s):</b>	<b>N/A</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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**SUMMARY**

The purpose of this report is to seek Council endorsement to advertise the draft Local Planning Strategy (LPS) in accordance with r.12 of the *Planning & Development (Local Planning Schemes) Regulations 2015*.

**OFFICER RECOMMENDATION IN BRIEF**

That the draft Local Planning Strategy be endorsed for advertising.

**BACKGROUND**

The draft LPS was presented to Council on 12 December 2023, whereby Council resolved to:

- 1) *DEFER further consideration of this item, pending a further workshop(s) to discuss infill implications; and*
- 2) *REQUEST the CEO to schedule an Elected Member Workshop(s) with the Town's Planning Consultant in early 2024 in relation to point 1.*
- 3) *REQUEST the CEO to communicate to WAPC that Council has deferred consideration of the matter so that further workshop(s) can be held with Hames Sharley in early 2024 so that elected members can be fully informed of the process and implications of the approach to infill as identified in the draft Local Planning Strategy.*

A workshop with Elected Members was held on 23 January 2024.

Following the workshop, Hames Sharley have recommended modifications to the draft LPS to further inform the approach to infill within the Town and WAPC requirements.

The modification of the draft LPS since last seen by the Council is discussed in the officer's report.

**OFFICER COMMENT**

The modified draft LPS is attached for reference and the key changes recommended by Hames Sharley are:

- Including a new column which states LPS objectives in Table 1;
- Including sub-themes in the overview;

- Reducing Planning Area A (Cottesloe Village and Station Precinct) to reflect the draft Precinct Structure Plan boundary;
- Including 400m catchment areas around the train stations to assist in defining Station Precincts;
- Removing references to 'Future Urban Investigation' Areas on the LPS map;
- Updating timeframes for Planning Areas A, B & C; and
- Updating text in Part 2 to reflect changes to Part 1.

If Council supports the draft LPS then it will be forwarded to the WAPC for certification and permission to advertise to the community. [There is then an opportunity for the Town's Officers to liaise with the Department of Planning, Lands & Heritage \(DPLH\) as part of its assessment of the draft strategy, prior to its recommendation to the WAPC for certification for advertising. It is intended that should there be any significant modifications proposed by the DPLH, that these modifications will be brought to Council for its consideration.](#)

The draft LPS is required to be advertised for 21 days, although a longer period may be approved by the WAPC. It is recommended that Council request the WAPC extend the advertising period to 35 days to provide a reasonable opportunity for stakeholders to comment on this important strategic planning document and help improve and refine it.

Following advertising, a summary of the submissions will be referred to Council to consider any matters raised and to make appropriate refinements and improvements before a final recommendation to the WAPC is made.

The timely progress of the LPS will assist the Town in providing the long-term planning direction and actions needed to manage land use change and development within the area, and it will provide the necessary strategic direction to enable commencement of a review of the Town's Local Planning Scheme No. 3 and draft Cottesloe Village Precinct Structure Plan.

### **ATTACHMENTS**

- 10.1.6(a)      Schedule of Modifications to draft LPS [under separate cover]**
- 10.1.6(b)      Draft Local Planning Strategy - February 2024 [under separate cover]**

### **CONSULTATION**

To commence after endorsement by the WAPC.

### **STATUTORY IMPLICATIONS**

This is prepared under the Planning and Development (Local Planning Schemes) Regulations 2015 which require a local planning strategy to be prepared in a manner and form prescribed by the Western Australian Planning Commission (WAPC).

This LPS preparation is also influenced by the Town of Cottesloe's 2008 Local Planning Strategy.

**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 2.3: Future population growth is planned to enhance community connectivity , economic prosperity as well as the built and natural environment.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**THAT Council**

- 1. Endorse the draft Local Planning Strategy dated 12 February 2024 for advertising.**
- 2. Requests the Chief Executive Officer to forward the draft Local Planning Strategy to the Western Australian Planning Commission (WAPC) for assessment with compliance with Regulation 11(2) of the *Planning & Development (Local Planning Schemes) Regulations 2015*.**
- 3. Instructs the Chief Executive Officer to refer any significant modifications proposed by the Department of Planning, Lands & Heritage (DPLH) to Council for consideration prior to the presentation of the draft Local Planning Strategy document to the WAPC for certification for advertising.**
- 4. Request the WAPC to extend the advertising period to 35 days to provide a reasonable opportunity for stakeholders to comment on this important strategic planning document and help improve and refine it.**
- 5. Delegate authority to the Chief Executive Officer to make modifications to the draft Local Planning Strategy as directed by the WAPC, prior to advertising.**
- 6. Note the process for WAPC lodgement, necessary amendments, public advertising and review of submissions provided in the Officer Comment.**

**10.1.7 PARKING SIGNAGE DETERMINATION - JOHN STREET**

**Directorate:** Development and Regulatory Services  
**Author(s):** Steve Cleaver, Director Development and Regulatory Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5232  
**Applicant(s):** Nil  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider a change from untimed parking for nine parking bays to two (2) hour parking (residential parking permits exempted).

**OFFICER RECOMMENDATION IN BRIEF**

That Council determines that the parking bays known as John Street southern side JOS047, JOS048, JOS049, JOS050 and Northern Side JOS001, JOS002, JOS003, JOS004, JOS005 have a 2 hour parking restriction with residential parking permits exempted.

**BACKGROUND**

In 2023 Council budgeted for and installed in ground parking sensors along with improved signage in John Street Cottesloe, resulting in improved compliance for parking. Clause 1.7 (5) (b) of the Towns Parking and Parking Facilities Local Law 2023 (Local Law) ratifies all existing parking signage. It was recently noted that nine parking bays that previous to the adoption of the Local Law did not have parking signage now have two (2) hour parking with residential parking permits exempted signage installed.

**OFFICER COMMENT**

This new signage requires a Council resolution or “determination” under the Town’s Parking and Parking Facilities Local Law 2023 Clause 1.10.

It is the Administration's recommendation that the parking bays be made consistent with the existing signage on John Street which is two hour (2P) residential parking permits exempted. It is open to Council to consider other forms of timed parking as the bays do front the Cottesloe Beach Hotel and the Seapines resort however variations in restrictions in one street can result in patrons becoming confused and breaching the signage. A 15 minute bay is provided on the street and shown in the attachment to cater for deliveries etc.

In ground sensors have been installed in preparation for implementation. Following Council’s determination enforcement will then be undertaken on the above mentioned bays.

**ATTACHMENTS**

**10.1.7(a) IntraMaps80 - John Street Parking [under separate cover]**

**CONSULTATION**

Nil

**STATUTORY IMPLICATIONS**

*Clause 1.10 Parking and Parking Facilities Local Law 2023.*

**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 1: Our Community - Connected, engaged and accessible.

Major Strategy 1.2: Providing accessible and inclusive community spaces and facilities.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**THAT Council**

- 1. Determines that nine parking bays on John Street Cottesloe and known as JOS047, JOS048, JOS049, JOS050 JOS001, JOS002, JOS003, JOS004, JOS005 and shown in the attachments have a two hour (2P) parking restriction with residential parking permits exempted.**
- 2. Instructs the Administration to install appropriate signage.**

## ENGINEERING SERVICES

**10.1.8 RESIDENTIAL AND RECREATIONAL VERGE PLAY EQUIPMENT - BASKETBALL HOOP -  
13 ANDREWS PLACE PROPOSAL**

Directorate: Engineering Services  
Author(s): Shaun Kan, Director Engineering Services  
Authoriser(s): William Matthew Scott, Chief Executive Officer  
File Reference: D24/5213  
Applicant(s): Matthew Watson (Property Owner)  
Author Disclosure of Interest: Nil

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**SUMMARY**

For Council to consider the attached proposal from the owner of 13 Andrews Place to extend their basketball concrete hardstand within private property by a metre width onto Council verge.

**OFFICER RECOMMENDATION IN BRIEF**

That Council REJECTs the attached proposal.

**BACKGROUND**

At the November 2023 Ordinary Council Meeting (OCM), Council considered 2 basketball verge play equipment applications and resolved as follows:

***OCM244/2023******THAT Council***

***1. DOES NOT EXEMPT the basketball hoops at the following locations as indicated on the diagrams within the officer's comment section:***

- a. 13 Andrews Place Verge; and***
- b. Right of Way 20 directly behind 44 Florence Street;***

***2. Subject to the APPROVAL of point one:***

- a. ALLOWS 7 calendar days for the residents to remove the basketball hoop; and***
- b. Should the basketball hoops not be removed within the 7 calendar days, APPROVES for this play equipment to be removed by the Town at the cost of the resident.***

***3. APPROVES the disclosure of the content of the legal advice received on the 27 November 2023 in the Minutes of the Meeting in relation to this resolution.***

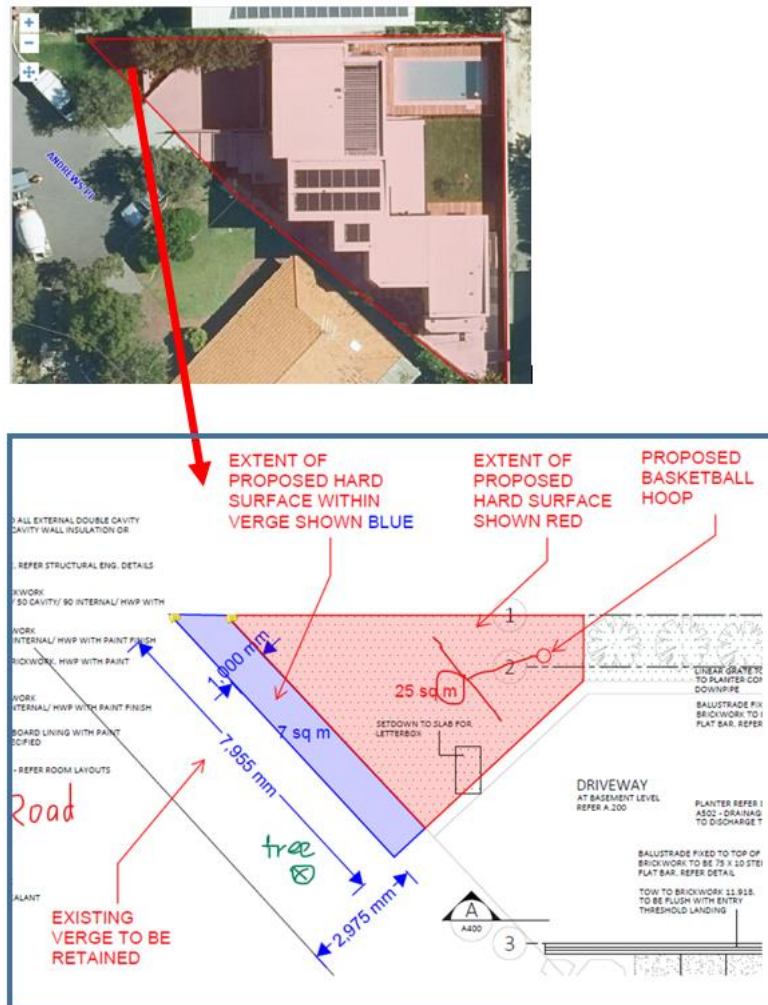
***Carried 6/3***

The above mentioned legal advice content is found under item 13.1.5 within the following link:

<https://www.cottesloe.wa.gov.au/council-meetings/ordinary-council-meeting/28-november-2023-ordinary-council-meeting/322/documents/unconfirmed-minutes.pdf>

A site visit conducted in December 2023 confirms that both play equipment have been removed.

The owner of 13 Andrews Place has since submitted a proposal to relocate the basketball hoop within their property boundary and have asked for a one-metre wide concrete hardstand within public land as part of this revised arrangement (below).



Attached is correspondence from the property owner to Council justifying their request (Attachment A). Attachment B, enclosed with the correspondence, is a petition from Andrews Place residents, supporting the 13 Andrews Place basketball hoop.

Given the nature of the November 2023 OCM Council resolution and in the interest of transparency, Council is asked to consider this application rather than for this to be determined administratively through the Residential Verge Policy:

<https://www.cottesloe.wa.gov.au/documents/1675/residential-verges-policy>

The facility sitting entirely in private property does not require any approval from the Local Government.

**OFFICER COMMENT**

**Backyard Basketball Court Approximate Dimensions**

The website link below suggests that a backyard basketball half court is normally 7 metres long by 4 to 5 metres wide (28m<sup>2</sup> to 35m<sup>2</sup>). This is mentioned under the section titled “How big is a basketball court”.

<https://www.msfsports.com.au/basketball-court-dimensions/>

**Basketball Half Court Approximate Dimensions within the Cottesloe District**

The approximate basketball half-court hardstand areas within Council’s public open spaces are as follows:

- Jasper Green – 76m<sup>2</sup>
- Harvey Field – 46m<sup>2</sup>



- Grant Marine Park – 36m<sup>2</sup>



**Options**

The following are options to address the issue:

**Option 1: Council REJECTs the application based on the provisions of its Residential Verge Policy:**



Council is to note that the Residential Verge Policy principle generally allows for verges to be landscaped.

Whilst the property owner's assertion of the 7m<sup>2</sup> basketball public land hardstand and the 15m<sup>2</sup> crossover is less than one third of the 90m<sup>2</sup> fronting verge is accurate, fundamentally the non-landscape use of the verge makes this request inconsistent with the:

- Residential Verge Policy; and
- Activities in Thoroughfares, Trading in Thoroughfares and Public Places Local Law 2001 (Part 2, Division 2 and Sub-Division 2 – Permissible Verge Treatments).

The Management Policy for Verge Play Equipment is not applicable to this request by virtue that the basketball hoop (play equipment) is located on private land and the one-metre strip into Council's verge is ancillary to its use.

**Option 2: Council APPROVES the one-metre wide proposal and clearly establishes that this DOES NOT set precedence; or**

**Option 3: Council APPROVES the proposal subject to the total hardstand area within private and public land is no more than 28m<sup>2</sup> (as per minimum recommended dimensions) and clearly establishes that this DOES NOT set precedence**

Section 2.7 (Role of Council) of the Local Government Act 1995 gives Council the responsibility of determining its own policies. To this end, it is open for Council to consider the merits of a matter and make decisions.

Option 3 is the more viable approach should Council decide to approve this application as this minimises the public land widening by reducing it by 400mm, which then makes the total hardstand area 28m<sup>2</sup>, consistent with the minimum backyard court size previously discussed.

Regardless of option 2 or 3, it is prudent for Council to establish that this does not set precedence and any future request is considered on its own merits. This fundamental avoids the risk of affecting street amenity, particularly when any similar future applications could request a significantly larger hardstand area within Council's verge.

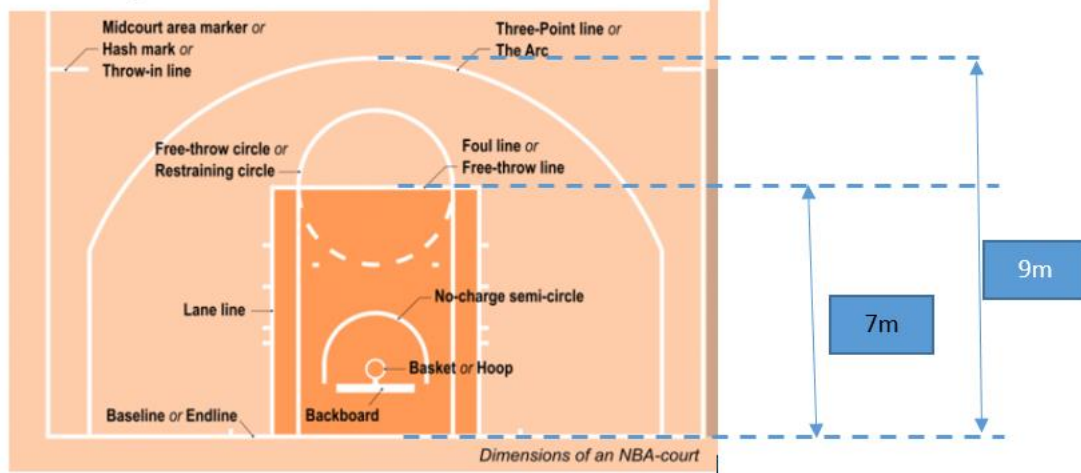
The owner is also required to enter into an agreement and comply with the requirements of the Uniform Local Provisions (1996) Regulation 17 (particularly but not limited to insurances and indemnities). It is uncertain whether insurance is attainable.

### **Preferred Option**

Option One, to REJECT the request, is the preferred approach for the following reasons:

- The Administration is bound by Council policies and the proposal is inconsistent with the Residential Verge Policy;
- The resident is able to maintain a 25m<sup>2</sup> play area without the one-metre wide extension into Council's verge. This is within reasonable variation from the 28m<sup>2</sup>. There may be the opportunity to re-orientate the basketball hoop within private land to achieve a 7 metre long court to accommodate the free throw line shown in the diagram, alternatively deploy a different hoop design that fits the 25m<sup>2</sup>;

In Australia, backyard half-courts generally start in size from about 7metres in height to fit the 'free-throw line' (or 9m to fit the 'three-point line') and 4 or 5 metres in width and upwards. Other popular sizes include; 9m x 5m, 10m x 7m and the FIBA 3x3 regulation sized 15m x 11m half court.



Notwithstanding these reasons, it is open for Council to amend the officer's recommendation to permit the application and is asked to be mindful of streetscape amenity and residual risk associated in doing so.

At the Agenda Forum, a query was raised on the future canopy growth for the trees on private property within the vicinity of the basketball hoop. It is the Administration's view that the tree has reached its maximum canopy and is unlikely to develop any further.

### **ATTACHMENTS**

- 10.1.8(a) Attachment A - Residential and Recreational Verge Play Equipment - Basketball Hoop - Email - 13 Andrews Place - Redacted [under separate cover]**
- 10.1.8(b) Attachment B - Petition - 13 Andrews Place - Basketball Hoop - 28 November 2023 [under separate cover]**
- 10.1.8(c) Attachment C - Combined Images - Cottesloe District Half Courts [under separate cover]**

### **CONSULTATION**

Attachment A and B - Resident of 13 Andrews Place.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Section 2.7- Role of Council*

*Local Government (Uniform Local Provisions) Regulations 1996*

*Regulation 17 - Private works on, over, or under public places — Sch. 9.1 cl. 8*

*Activities in Thoroughfares, Trading in Thoroughfares and Public Places Local Law 2001  
Part 2, Division 2 and Sub-Division 2 – Permissible Verge Treatments*

### **POLICY IMPLICATIONS**

Residential Verge Policy –

<https://www.cottesloe.wa.gov.au/documents/1675/residential-verges-policy>

Verge Play Equipment Management Policy –

<https://www.cottesloe.wa.gov.au/documents/11717/management-policy-for-play-equipment-on-street-verges-or-attached-to-street-trees-adopted-october-2023>

### **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. [The request is installed at the cost of the applicant.](#)

[Council is to note that whilst there may be resident request to install a court at the nearby park \(in lieu of the applicant's proposal\), it is asked to defer such a decision until the asset management and long term financial plan is adopted. This will at least allow the review of the Public Open Space Strategy \(an informing document\) to determine how the improvement at this park prioritises against the other similar areas within the district.](#)

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

Minor reduction in available green space should Council approve the resident's proposal.

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

**THAT Council REJECTS the attached 13 Andrews Place Owner Proposal.**

**10.1.9 HARVEY FIELD MEMORIAL BENCH REQUEST**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5234  
**Applicant(s):** Harvey-Arrow family  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider the installation of a memorial bench on Harvey Field for the Harvey-Arrow Family.

**OFFICER RECOMMENDATION IN BRIEF**

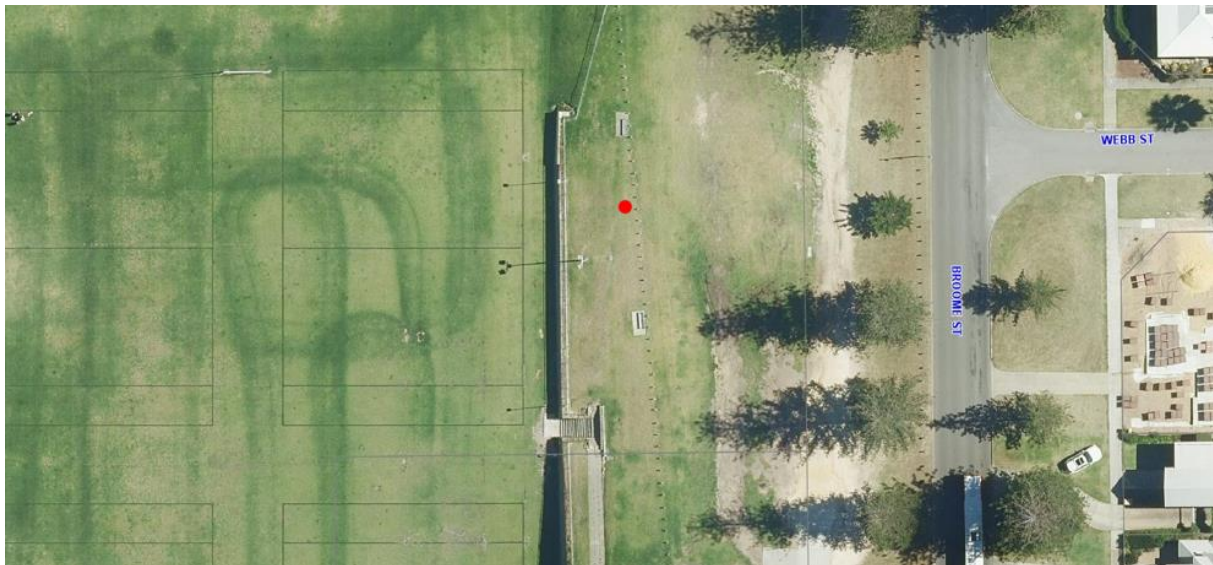
That Council APPROVES the request.

**BACKGROUND**

On 16 November 2023, following the passing of her mother (Ms Fleur Arrow (nee Harvey)), Ms Penelope (Penny) Arrow on behalf of the Harvey-Arrow family wrote to the Town requesting for the installation of a memorial bench in honour of several of her family members. This includes her mother, uncle, grandmother and grandfather.

Penny's grandfather, Mr Cecil Leonard Harvey was a former Cottesloe Mayor (1961 to 1974).

A copy of the letter is attached and proposed location highlighted in red.



A Council decision is required as the Town's Foreshore Memorial Policy is limited to its Foreshore area, effectively the section west of Marine Parade between Curtin Avenue and North Street.

**OFFICER COMMENT**

Council is to note that the applicant has confirmed that their intent is to place a number of names on the plaque comprising of:

- Cecil Harvey – former Mayor (applicant’s grand father);
- Constance Harvey - former Mayor’s Wife;
- Fleur Arrow – former Mayor’s daughter
- Richard Harvey - former Mayor’s son

The applicant has also indicated that she is open for the Town to approve the wording on the plaque.

Notwithstanding the above, the request would be administratively rejected had the location been the Foreshore as it only met one requirement under section 3.1 (Approval Conditions) of the Foreshore Memorial Policy (below).

*3.1 (a) (i) - Made a significant contribution to the Cottesloe Community. For example, individuals pivotal in the establishment or continuation of a Cottesloe Community organisation, with over ten years service at the organisation.*

However as this policy is not applicable, a Council decision is required. It may also wish for this to ask the Chief Executive Officer to amend the Foreshore Memorial Policy to incorporate similar requests outside the Foreshore area.

Using the existing Foreshore Memorial Policy principles as a guide and the openness of the applicant to collaborate with the Town on the wording, the recommendation is for Council to APPROVE only the mention of Mayor Harvey on the plaque by virtue that Harvey Field was named after the then Mayor Harvey.

**ATTACHMENTS**

**10.1.9(a) Town of Cottesloe letter - 16 November 2023 - Application for Harvey memorial bench Redacted - Harvey Arrows Family [under separate cover]**

**CONSULTATION**

No consultation is required

**STATUTORY IMPLICATIONS**

*Local Government Act 1995 Section 2.7 – Role of Council*

**POLICY IMPLICATIONS**

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

A Council decision is required because there are no applicable policies.

**STRATEGIC IMPLICATIONS**

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

Priority Area 1: Our Community - Connected, engaged and accessible.

Major Strategy 1.2: Providing accessible and inclusive community spaces and facilities.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

The applicant is responsible for the cost of the bench and plaque. The maintenance cost is negligible and is covered by the Town through Parks preservation budget.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**THAT Council**

1. **APPROVES** the request **for only the former Mayor Harvey mentioned on the memorial plaque**, SUBJECT to the applicant bearing the full cost of a standard Town of Cottesloe bench, plaque and any other elements required;
2. **REQUESTS** the Chief Executive Officer to amend the Foreshore Memorial Bench Policy to incorporate parameters for the Administration to determine similar future request; and
3. **NOTES** that the bench, following its installation, will be administered to the requirements of the Foreshore Memorial Policy **and that the conditions detailed within this existing policy will be specified in the letter of approval to the applicant.**

**10.1.10 LADY LAWLEY COTTAGE VERGE PARKING PROPOSAL**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5235  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

**SUMMARY**

For Council to consider the verge parking proposal for the Lady Lawley Cottage located at 8 Gibney Street.

**OFFICER RECOMMENDATION IN BRIEF**

That Council APPROVES the attached proposal (Attachment B).

**BACKGROUND**

There are currently 15 formal bays (including 1 ACROD bay) and an informal verge parking area for Lady Lawley Cottage (8 Gibney Street) as per diagram 1.



**Diagram 1: Current Verge Parking Configuration**

In October 2023, the Town approved the redevelopment of Lady Lawley Cottage for Rocky Bay to provide child clinical services (Attachment A) Since then Hames Sharley Planning Consultants on behalf of Rocky Bay submitted a parking plan (Attachment B) and an initial letter (Attachment C) for Council’s consideration. The letter provides responses to information needed for Council consultation in February 2024.

A Council decision is required because the:

- residential verge policy applies only to residential and commercial verges
- Lady Lawley Cottage is considered a not for profit community service establishment (not covered by the policy)

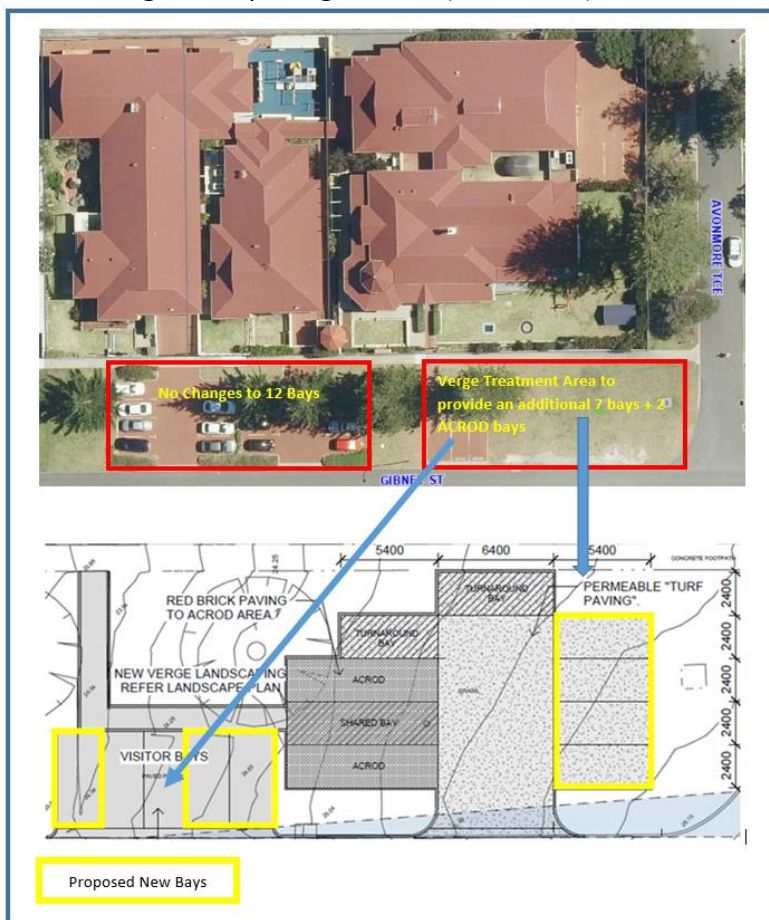
**OFFICER COMMENT**

**Parking Proposal Summary**

The attached parking plan (Attachment B) is summarised as follows (refer to diagram 2):

- An increase in the total number of car bays from 14 to 21 (excluding ACROD bays) through an extension to the east and expansion to the existing
- The existing 8 (most western red asphalt parking area) of the 21 are for accommodation purposes and the remaining 13 are for visitor use
- Relocation of its existing non-standard ACROD bay and installation of 1 such new bay (total 2 ACROD Bays)

The additional 7 bays (highlighted in yellow) are a mix of hardstand (asphalt and brick) and reinforced grassed paving surface (see below).



**Diagram 2: Proposed Verge Parking Changes**



**Residential Verge Policy Benchmarking and Relevance**

Council is to note that this proposal does not comply with the residential verge policy if this was for a residential redevelopment because more than one third of the verge is hardstand (compared Diagram 2 with Photograph 1) and the proposal increases parking capacity with the relocation of the ACROD bay.

However, given that this is not a residential development, the policy is not applicable.

**Council Consultation**

The following is additional information requested during consultation:

- Increase in activity or intensity of the development that justifies an increase in parking;
- Users of the parking bays;
- Comparison of existing demand and supply of bays at this location
- Alternative solution to resolve parking demand and supply challenges without implementing the proposal, such as timed parking or exclusive bay use by the Cottage; and
- The sufficiency of on street parking to manage the demand without the proposal.

The correspondence with the proponent within Attachment D provides responses to the matters above.

The applicant is in the view that the:

- expansion of the site to provide overnight respite accommodation, day respite services, clinical and therapy sessions will generate that increase in activity that warrants this additional parking;
- Currently there is no pressure on parking and their expressed view above suggests that the expansion of the site may create that pressure;
- Should there be pressure, it is unlikely that this is addressable in any other way and the safety of patients is compromised without the ACROD bay relocation;
- There is available on street parking for staff.

It is important that Council peruses correspondence in Attachment D that provides further information on the 4 points above.

The current Administration is unaware of other similar approvals.

**Preferred Option**

In addition to the information within Attachment D, Council is to note that:

- The parking proposal within Attachment C provides a number of aerial views showing the current demand based on the previous land use. Whilst it does show available capacity, this is inconclusive without a detailed parking study and may not accurately reflect the same outcome based on future land use (Attachment A);
- The current on street parking is sufficient but whether this supply remains in the future depends on any future redevelopment for the WA Institute for Deaf Education; and

- The proponents requests for exclusive use of the area shown in the parking proposal (Attachment B).

Balancing the information provided by the proponent and during Council consultation, the preferred option is to approve the proposal (Attachment B) based on the following reasons:

- This is a not for profit organisation that provides a community service;
- The additional standard parking bays are required to cater for the expansion of the facility and vehicles are already informally parking there (Photograph 1); and



**Photograph 1: Existing Verge Parking on Turf Areas**

- The relocation and upgrade of the ACROD bay are consistent with the principles of Council's Disability Access and Inclusion Policy:
  - (a) Desired Outcomes
    - (i) People with disabilities have the same opportunities as other people to access the services of, and any events organised by, the Town of Cottesloe;
    - (ii) People with disabilities have the same opportunities as other people to access the Cottesloe buildings, facilities and infrastructure;
    - (iii) People with disabilities receive the same level and quality of service from the staff of the Town of Cottesloe;
  - (b) Policy Fundamentals
    - (i) That all building and planning applications be awarded only if the access and inclusion and universal standards are met in Council owned buildings and all business extensions, upgrades and licenses; and
    - (ii) The Town recognises that people from culturally and linguistically diverse backgrounds and those with disabilities are valued and contributing members of the community who make a variety of contributions to local social, economic and cultural life.
    - (iii) That the Town promotes awareness of the importance of community inclusion in all aspects of the Town's management.

The relocation, upgrade and additional ACROD bays meet the above requirements. Council accepting the officer's recommendation sets exemplary precedence in all future

redevelopments by ensuring that both the building and ancillary parking facilities considers Universal Access requirements (fundamentals of b (i)).

Council is to note that the proposed ACROD bays are compliant with standards and its unique design is to accommodate the longer type of vehicles used for transporting patients. A standard bay is normally 5.4 metres long and 2.4 metres wide. To this end, the current ACRODs are non-compliant.

Should there be a change in use of the development, it is open at that time for Council to reconsider any future proposal from the new occupier so that an appropriate lease can then be entered into with them.

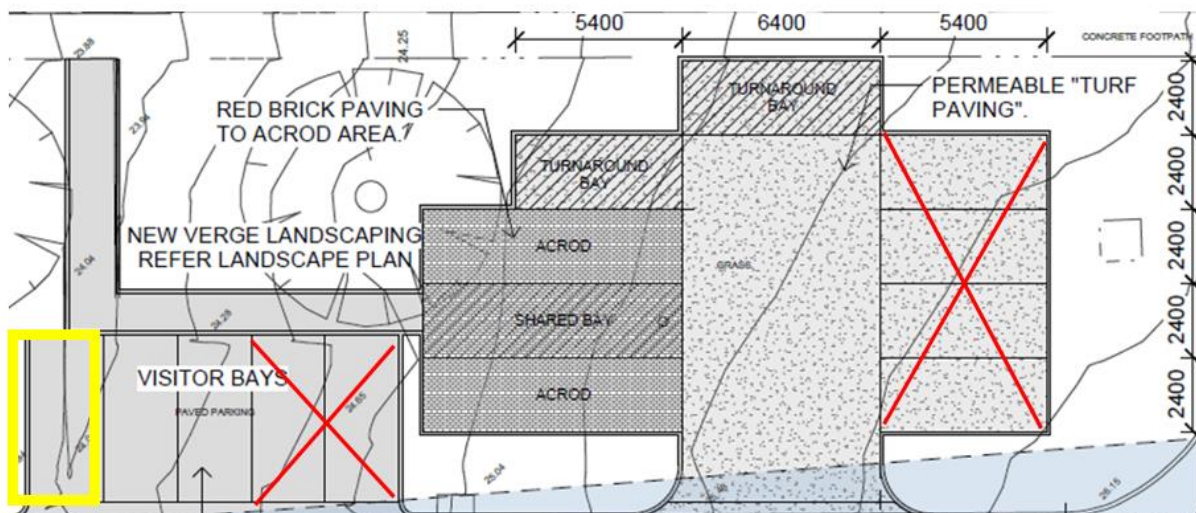
### Alternative Solution

Alternatively, Council can amend the officer's recommendation to approve only the:

- 2 ACROD bays on the verge;
- Conversion of the non-compliant ACROD bay into a standard parking bay

This alternative option (diagram 3):

- minimises green space reduction;
- only involves the addition of one bay (where the ACROD bay current is);and
- the removal of the 4 new bays proposed within the verge area.



**Diagram 3: Alternative Verge Parking Approval**

The additional bays crossed out in diagram 3 is reconsidered after the development is complete and a detailed parking study done by the proponent to determine whether the extra bays are required.

This alternative option may cause disruption at that time and incur additional costs resulting from the loss of economies of scale.

Regardless, any Council approval (partial or the full proposal) requires the proponent to enter into a lease agreement or equivalent as they have requested for exclusive use of this parking facility. Any executed instrument must meet the requirements of Regulation 17 within the Uniform Local Provisions (1996).

Whilst any entered lease can have a maximum 21 year duration, it is open for Council to authorise any agreement to be limited to 5 years. Council can then review that lease to determine whether it should be renewed.

### **ATTACHMENTS**

- 10.1.10(a) Lady Lawley Cottage - Attachment A - Approved Redevelopment Plans [under separate cover]
- 10.1.10(b) Lady Lawley Cottage - Attachment B - Verge Parking Proposal [under separate cover]
- 10.1.10(c) Lady Lawley Cottage - Attachment C - Letter - Rocky Bay Parking Application [under separate cover]
- 10.1.10(d) Lady Lawley Cottage - Attachment D - Hames Sharley - Email Correspondence [under separate cover]
- 10.1.10(e) Lady Lawley House - Car Park Revised Landscape Report 9 February 2024 [under separate cover]

### **CONSULTATION**

Elected Members

Rocky Bay through their Planning Consultants

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Section 2.7 – Role of Council*

*Uniform Local Provisions (1996)*

*Regulation 17 – Public works on, under and above public land*

### **POLICY IMPLICATIONS**

This is not covered by the residential verge policy –

<https://www.cottesloe.wa.gov.au/documents/1675/residential-verges-policy>

The officer's recommendation is consistent with the Disability Access Policy -

<https://www.cottesloe.wa.gov.au/documents/960/disability-access-and-inclusion-policy>

### **STRATEGIC IMPLICATIONS**

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

Priority Area 1: Our Community - Connected, engaged and accessible.

Major Strategy 1.2: Providing accessible and inclusive community spaces and facilities.

**RESOURCE IMPLICATIONS**

The construction and maintenance is at the cost of Rocky Bay.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

The officer's recommendation reduces green space.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**THAT Council APPROVES the attached Proposal and its exclusive use subject to:**

- 1. The execution of a lease agreement or equivalent with, and at the cost of Rocky Bay that meets the requirements of Regulation 17 within the Uniform Local Provisions (1996) with Rocky Bay for the exclusive use of the bays shown within Attachment B;**
- 2. The construction and maintenance of the facilities within the parking proposal including all turfed areas are the responsibility of Rocky Bay and this needs to be preserved to the satisfaction of the Town;**
- 3. SUBJECT to point 1, the Town reserves the right to carry out the maintenance at the cost of Rocky Bay should the elements mentioned in point 1 not be preserved to the satisfaction of the Town; and**
- 4. SUBJECT to the APPROVAL of the proposal, AUTHORISE the Chief Executive Officer to execute the instrument of agreement mentioned in point 1.**

**10.1.11 PARKING RESTRICTION REQUESTS**

**Directorate:** Engineering Services  
**Author(s):** Tin Oo May, Project Engineer  
**Authoriser(s):** Shaun Kan, Director Engineering Services  
**File Reference:** D24/5274  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** NIL

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**SUMMARY**

For Council to consider residents' request for the installation of yellow lines at the following locations:

- Deane Street (between Avonmore Terrace and Broome Street)
- John Street (between Marine Parade and Broome Street)
- Grant Street (between Lyons Street and Marmion Street)

**OFFICER RECOMMENDATION IN BRIEF**

That Council

1. APPROVES proposed 'no stopping' yellow line parking restrictions on Deane Street and John Street, and
2. REJECTs the Grant Street request.

**BACKGROUND**

The Town has received a number of residents' requests (Attached) to implement parking restrictions at locations mentioned within the summary section of the report.

Council is asked to consider the officer's comments to determine the merits of the officer's recommendation.

**OFFICER COMMENT****Deane Street (between Avonmore Terrace and Broome Street)**

The narrow section of Deane Street is 190 metre long and being only 4.3 metre wide, is under the 5.5 metre width specified under the Australian Standard for a local access road.

The resident of 17 Deane Street has requested for yellow lines along the street as vehicles parking along this narrow road section is affecting crossover sight lines, obstructing property access and damaging verges.

Whilst this may be the case, the problem is only temporary due to construction activities from a development along the street (Photo 1).



*Photo 1: Vehicles Parked along Deane St (Left) & Vehicle Blocking 17 Deane St Driveway (Right)*

Council can address this short-term problem through compliance because the Parking and Parking Facilities Local Law Section 4.2 (1) (c) requires a parked vehicle to provide at least 3 metres of the width from the opposite boundary of the carriageway. This legislation allows the Administration to apply discretion before issuing infringements.

Furthermore, traffic engineering principles also suggest that parked vehicles provide a form of traffic calming measures. Considering the need to share the road space with other forms of road users, sight distance issues from concealed driveways and the lower speed needed for the construction works, there is merit to not install yellow lines to ensure parking slows vehicles down.

Notwithstanding the above, it is recognised that the 17 Deane Street crossover layout can be visually mistaken as a footpath and it would not be unusual for vehicles to unknowingly park across it.

For the above reasons, Council is asked to consider approving yellow lines only at 17 Deane Street crossover as per Figure 1 to prevent the obstruction of their access and manage the parking restriction requests for the other parts of the street through compliance.

To avoid precedence, any future request for parking restrictions across crossovers are assessed based on individual circumstances.



Figure 1: Proposed Yellow Lines (Deane Street)

### John Street (between Marine Parade and Broome Street)

The current parking arrangements permits vehicle-parking kerb sections which are under the minimum parking bay width of 6 metres (refer to Figure 3). This is occurring between driveways and indented parking bays that is resulting in the following safety issues:

- impacting sight distance for vehicles in embayment and requiring them to manoeuvre onto the path of oncoming traffic when exiting (refer to Figure 2);
- obstructing driveways;
- over-parked vehicles at the longer section outside Lot 46 obstructing their crossover where 3 vehicles (18 metres) are parking in this 15 metres section that only has length for 2 vehicles (12 metres)

Given these issues, it is reasonable for Council to approve the parking restrictions shown in Figure 3 comprising of:

- yellow lines at kerb sections under 6 metres; and
- 2 marked on road car bays along the 15 metre kerb section outside Lot 46.

Consideration was given to installing motorcycle bays along the shorter sections of kerb to optimise parking. However, engineering investigations have found that this does create clearance safety issues when vehicles exit from adjacent parking bays (Figure 2). The swipe path analysis shows these vehicles manoeuvring into the path of oncoming traffic.

Whilst the fundamentals of parked vehicles providing traffic-calming effects may be argued, the safety implications associated with exiting vehicles attempting to manoeuvre (or reverse) around partially obstructed driveways whilst overcoming secondary sight distance challenges outweighs the benefits of such traffic engineering parking principles.

For the same reason, compliance solutions without introducing restrictions in this case is not feasible.



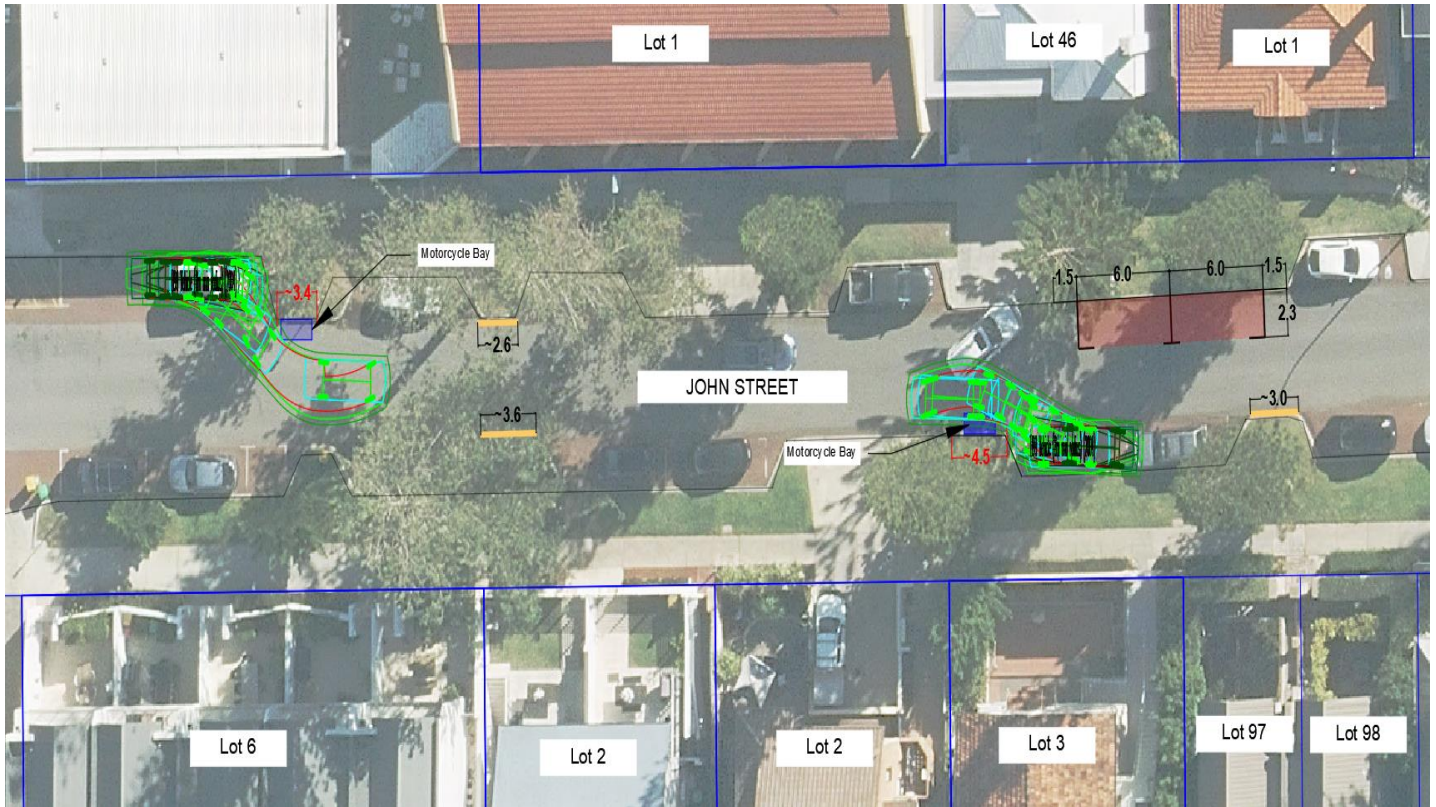


Figure 2: Swept Path Analysis – B99 Standard Vehicle (John Street)

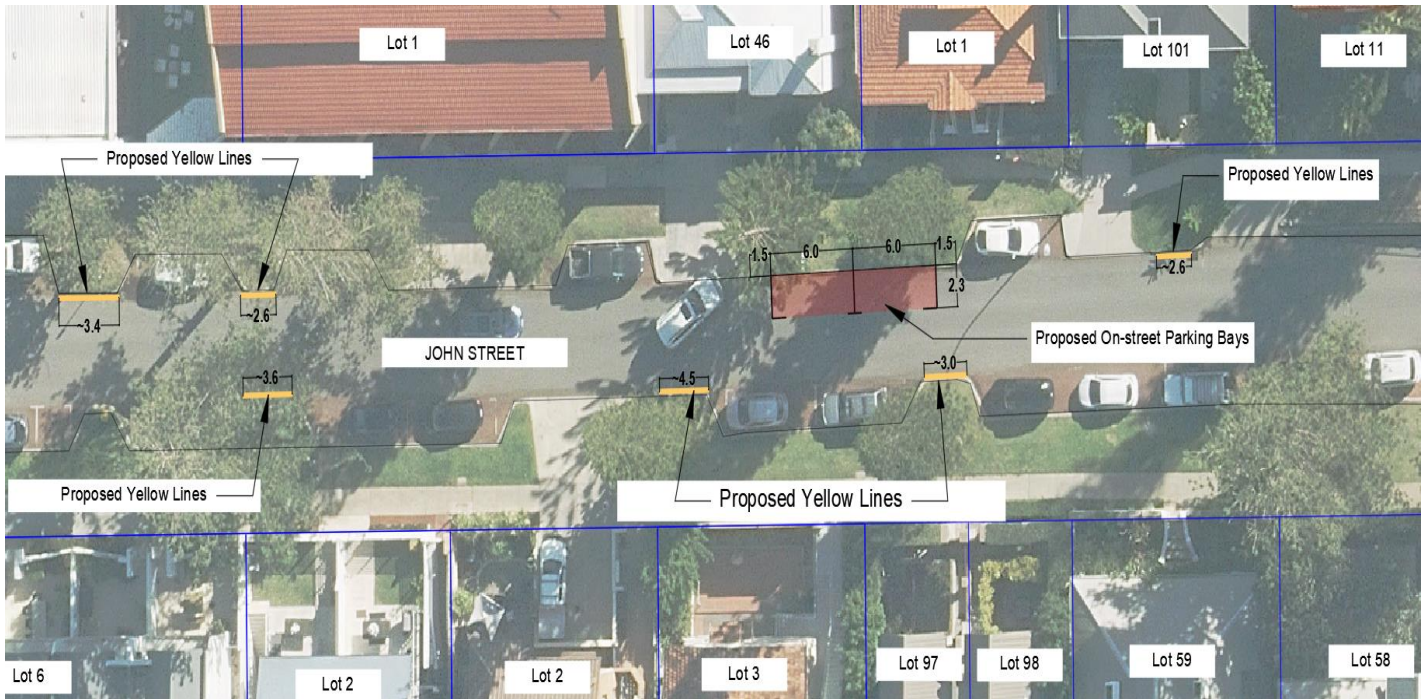


Figure 3: Proposed Parking Restrictions (John Street)

**Grant Street (between Lyons Street and Marmion Street)**

The resident of 46 Grant Street has requested parking restrictions (Figure 4) in front of their property as vehicles parked along the street are affecting sight distance when exiting their driveway (Photo 2).



*Photo 2: Vehicles Parked along Grant Street*

The current parking shown in Photo 2 is contrary to the Parking and Parking Facilities Local Law section 4.5 (f) that prohibits parking on a footpath as it partially obstructs a pedestrian pathway by reducing the available width under 1.2 metres which is the minimum Australian Standard requirements for disability access. This can be addressed through compliance measures. It is not an offence if the vehicles were parking off the footpath provided it met the 3 metre clearance as required by the Parking Local Law.

Given the reason above and Council previously rejecting a number of sight distance related yellow line request (Wentworth Street and Napier Street) the recommendation is to not introduce parking restrictions.



*Figure 4: Requested 'No Stopping' Signage on Grant Street*

**ATTACHMENTS**

**10.1.11(a) Combined Attachments - Email Incoming - Residents' Parking Restriction Request [under separate cover]**

**CONSULTATION**

Elected Members

Ranger Services are supportive of the officer's recommendation.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Section 2.7 – Role of Council*

*Parking and Parking Facilities Local Law (2023)*

*Only Council can introduce restrictions*

*Section 4.2 (1) – Parking a Vehicle on a Carriageway*

*Section 4.5 (2f) – General Prohibitions on Parking*

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

Priority Area 1: Our Community - Connected, engaged and accessible.

Major Strategy 1.2: Providing accessible and inclusive community spaces and facilities.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**THAT Council:**

- 1. APPROVES the proposed 'no stopping' yellow line marking parking restrictions on Deane Street as shown in Figure 1;**
- 2. APPROVES the proposed 'no stopping' yellow line marking parking restrictions on John Street as shown in Figure 3; and**
- 3. REJECTS the 46 Grant Street resident's request.**

**10.1.12 MARINE PARADE MRRG PROJECT CONCEPT**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5288  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider a preferred concept for the Marine Parade MRRG Project between Curtin Avenue and Warton Street including a raised plateau near Dutch Inn Playground at Princes Street for traffic calming and an at grade pedestrian crossing.

**OFFICER RECOMMENDATION IN BRIEF**

That Council:

- ADOPTS the preferred Concept Option B that involves road resurfacing along Marine Parade from Curtin Avenue to Warton Street and the construction of a raised plateau as shown in the plan;
- NOTES that the proposed removal of the 16 parking bays to accommodate the future Marine Parade Shared Path (PSP) Upgrade footprint and the offset parking is carried out only after a Department of Transport grant is received for the Marine Parade Principal Shared Path Upgrade between Curtin Avenue and Forrest Street; and
- APPROVE a \$25,000 budget amendment for a new capital project to construct a raised plateau near Dutch Inn Playground at Princes Street for traffic calming and an at grade pedestrian crossing, NOTING that a Road Safety Council grant application is made to fund this project.

**BACKGROUND**

At the October 2023 OCM, Council approved a budget amendment of \$289,470 for the Marine Parade Road Resurfacing Project, noting that two-thirds of this is funded through a Metropolitan Regional Roads Group (MRRG) Grant that is a Main Roads Pavement Rehabilitation Fund.

Given the future PSP falls within the MRRG project site, there was consideration for the removal of 16 existing street parking bays on the western side near Warton Street to cater for the future PSP footprint. Attached designs also suggest number of parking offset options to compensate for the lost bays.



Photo 1: Marine Parade adjacent to Warton Street (Left) and adjacent MacArthur Street (Right)

The PSP Project (Curtin Avenue to Forrest Street) is currently pending State Government funding. If successful, the detail design and construction are normally funded over 2 consecutive years (50 percent contribution of total costs).

The project scope (parking offset options and resurfacing extent) were discussed with the Active Transport Working Group where the following feedback was provided. Meeting notes are in Attachment A:

- provided feedback on the proposed parking changes
- suggested on-road cyclist safety improvements and traffic calming

Elected members were also consulted on these matters.

These elements are further discussed in the officer’s comments.

**OFFICER COMMENT**

**Offset Parking Options**

Parking Amendment Options (Attachment B) to compensate 16 lost bays are summarised as follows:

Description	Option 1	Option 2	Option 3	Option 4
<b>A</b> Other Parking Bay Loss (Bays Removed) to Create Offset Bays	4	15	19	0
<b>B</b> Bays Loss Due to PSP	16			
<b>C=A+B</b> Total Bay Loss	20	31	35	16
<b>D</b> Offset Bay Gain (Bays Created)	10	28	38	0
<b>E</b> Removal of 3 bays at Curtin Living for Option 3 (Double Count)	0	0	3	0
<b>D-C-E</b> Net Effect	<b>-10</b>	<b>-3</b>	<b>0</b>	<b>-16</b>

**Table 1: Summary of Options**

- Option 1: 7 new bays south of the Dutch Inn and 3 outside the Curtin Living Redevelopment. 4 parallel bays will be lost at the Dutch Inn playground to create the extra 7 bays (net loss of 10 bays).

- Option 2: 25 new angled bays on the western side between MacArthur Street and Sydney Street plus the 3 outside Curtin Living. 15 parallel bays will be lost in this option to create the 25 new bays (net loss of 3 bays).
- Option 3: Option 1 and 2 combined (no net loss)
- Option 4: Accept the 16 bay loss by not creating any bays

Council is to note that the 16 bays (item B) lost is inevitable in all options as this is required to create the footprint needed for the future PSP through a narrow section. For this reason, the total bays loss for options 1 and 2 (item C) does not equate to that of option 3 (option 1 and 2 combined).

Similarly, 3 bays are subtracted from option 3 to avoid double counting the 3 parking bays allowed fronting Curtin Living along Marine Parade in options 1 and 2 (item E).

#### **Active Transport Working Group Comments (Meeting Notes Attachment A)**

- Recognises that Foreshore parking is a premium (high demand given Cottesloe's premier beach location) and supports preferred parking offset option 3 where there is no net loss to bays;
- Suggested alternative parking offset and path alignment designs (Attachment C); and
- Consider implementing measures such as removing medians and speed reducing plateaus to improve on-road cyclist and pedestrian safety.

#### **Engineering Investigations Summary (ATWG Feedback)**

Investigation outcomes from the Working Group's suggestions are as follows:

- The Attachment C alternatives are beyond the budget quantum and purpose that requires further public consultation. There are also safety implications with the median removals;
- The traffic survey results below show that speeding is not a problem in this Marine Parade section (posted speed 50km/h) and the raised plateau including the raised intersections (traffic calming devices) at MacArthur Street and Warton Street is unlikely to be beneficial:
  - (a) 52km/h 85<sup>th</sup> percentile – indicates that 85% of vehicles are traveling within 52km/h
  - (b) 45km/h average speed – median speed for all vehicles
- As an alternative approach, the posted speed is reduced to 40km/h and then consider traffic calming devices should surveys show exceedance of the new speed limit. For consistency, this should be done for the length south of Forrest Street;
- Traffic and parking lane dimensions and the offset from the road edge line meet current standards (below). The current offset between parking bay and road edge is 0.8m.

Site Measurements	Dimensions	Standards
Western Parking Lane	3 m	2.8m to 3.1m including the 0.8m buffer
Eastern Parking Lane	3 m	
Western Traffic Lane (Northbound)	3.3 m	3m
Eastern Traffic lane (Southbound)	3.3 m	
Centre Median	1 m	

**Table 2: Site Measurements & Standards Requirement Comparison**

- Removing the centre medians could result in U-turns at unsafe locations to access parking bays, wider traffic lane widths could make speeding an issue and no provision for pedestrian refuges.

### Design Options

The following three options are developed from the rationalisation of the ATWG feedback with indicative costings:

- Option A – Road resurfacing, removal of 16 bays, and introduction of parking offset option 3 to provide zero net loss (Attachment D)
- Option B – Road resurfacing, removal of 16 bays, and introduction of parking offset option 3 to provide zero net loss and the construction of a raised plateau (Attachment E)
- Option C – Resurfacing only without any parking changes nor plateaus

Description	Option A	Option B	Option C
Road Resurfacing Works	\$289,470	\$289,470	\$289,470
Parking Bays Modification Works	\$100,000	\$100,000	\$0
Raised (Plateau) Pedestrian Crossings	\$0	\$16,000	\$0
Total	\$389,470	\$405,470	\$289,470

**Table 3: Indicative Costing**

For comparison, the approximate cost of the ATWG concept is \$930,000 whereby Council needs to contribute \$640,530 for the additional road work (red asphalt and raised intersections) and offset parking construction costs. This excludes future increased asset renewal and maintenance cost for the red asphalt (30 percent more), additional drainage (raised intersections) and increased in carpark area.

Council is to note that the location of the raised plateau in option B does not require the removal of bays and is best position to reduce vehicle speed as they enter Marine Parade from Curtin Avenue. The wide radius kerb at the entry roundabout from the south and vehicles accelerating through traffic gaps from the north does inevitably result in them speeding onto Marine Parade.



**Consultation with Elected Members**

Elected members were consulted on the matters discussed with the ATWG and the 3 different options developed after (A, B and C). Their views are summarized as follows:

- Medians are not sufficiently wide as pedestrian refuges, difficult to transverse and their existence creates an environment where vehicles are unable to overtake cyclist safety;
- Preference is to create a lower speed environment through raised plateau infrastructure solutions before reducing posted speeds;
- No raised plateau traffic calming measures between Curtin Living (Gibney Street) to Forrest Street intersection and another possible location is near Dutch Inn Playground (Princes Street);
- Green space is reduced from angled parking bays offset solutions;
- Undertaking the parking changes with the MRRG works is likely pre-mature and there is preference for this to occur as part of the PSP construction with community consultation.

At the Agenda Forum, further considerations were requested for the Dutch Inn plateau:

- [Align this with the path just north of the playground; and](#)
- [Designate this as a pedestrian crossing \(wombat crossing\).](#)

**Investigation of Elected Member Feedback**

Council is to note that whilst the median width may be narrow, they are sufficient to provide the needed refuge and is a safer solution compared to pedestrians waiting at grade with traffic. Without these barriers, there is also the risk of vehicles overtaking cyclist colliding into a waiting pedestrian.

The intermittent location of these medians allows vehicles to pass cyclist safely in sections where they do not exist. For sections that contain medians, it is an offence under the Road Traffic Code (2000) to overtake a cyclist when a minimum of 1 metre separation is unachievable.

Given these reasons, it is open for Council to introduce the following solutions to address the remaining matters:

- Install 1.5 metre gaps in the exiting median (Curtin Avenue to Warton Street) to improve pedestrian safety;
- Implement the parking changes and offsets as part of the PSP Upgrade Project in consultation with the community; and
- Raised plateaus near Curtin Avenue and another one near Dutch Inn prior to create a lower speed environment before reducing posted speeds, noting that changes to speed zones is the more cost effective solution in comparison to new infrastructure, subject to Main Roads approving associated signs and lines.

[Shifting the Dutch Inn plateau is not possible due to the proximity of crossovers further north of the proposed location. Other than this being an unideal location to cross, the raised plateau near driveways will create design challenges and possibly non-compliant levels.](#)

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A wombat crossing design requires Main Roads approval and as such would require significantly more time to complete this endorsement process.

### **Preferred Option**

Consideration of elected member's feedback makes Option B (Attachment E) the preferred, noting that a \$25,000 budget amendment is required for the construction of the Dutch Inn Playground raised plateau and associated street lighting (if required), subject to Main Roads approval of signs and lines.

The intent is to source the additional funding for the Dutch Inn works through a Road Safety Council Grant before utilizing funds from the Infrastructure Reserve. Surplus either at the mid-year budget review or the end of this financial year is then used to replenish this reserve.

The grant application takes approximately 3 to 4 months to submit and determine. Given this the Dutch Inn works are more than likely to occur next financial year.

Council is to note that:

- The MRRG resurfacing fund must be spent before 30 June 2024 otherwise the grant is lost and the Town is then responsible for the entire pavement renewal works along this section. The cost impact is equivalent to the MRRG contribution. The deteriorating road pavement condition warrants for this renewal works to occur; and
- The parking changes (offset bays and the removal of existing) is deferred until the shared path funding is approved and these works will be considered by Council at that time before including in any PSP design for public consultation before construction.

Should Council wish to proceed with the wombat crossing design at Dutch Inn, it may wish to amend the officer's recommendation to reflect this and defer any grant application until the design is approved by Main Roads. It is the Administration's view from previous experience that a State Government endorsement is unlikely.

### **ATTACHMENTS**

- 10.1.12(a) Notes - Active Transport Working Group Meeting - 18 October 2023 - Attachment A [under separate cover]**
- 10.1.12(b) Marine Parade MRRG Project - Attachment B - Parking Offset Options [under separate cover]**
- 10.1.12(c) Marine Parade MRRG Project -Attachment C - Active Transport Working Group Alternative Design [under separate cover]**
- 10.1.12(d) Marine Parade MRRG Project - Attachment D - Project Design Option A [under separate cover]**
- 10.1.12(e) Marine Parade MRRG Project - Attachment E - Project Design Option B [under separate cover]**

### **CONSULTATION**

Elected Members

Active Transport Working Group

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*Section 2.7 – Role of Council; and*

*Section 6.8 - Expenditure from municipal fund not included in annual budget*

### **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 2.1: Town infrastructure is well planned, effectively managed and supports our community, whilst protecting and promoting our unique heritage and character

The pavement renewal is consistent with Council's Asset Management Plan.

### **RESOURCE IMPLICATIONS**

#### **Marine Parade Resurfacing and Raised Plateau**

The road resurfacing works between Curtin Avenue and Warton Street is funded through the MRRG Grant. Council is to note that a lighting assessment is carried out for this location as part of the detail design to determine whether additional street lighting is needed. A budget amendment is requested should this be the case.

#### **Dutch Inn Raised Plateau**

A grant application through the Road Safety Council will be submitted for the raised plateau at Dutch Inn (\$25,000). Similarly, a lighting assessment is needed to determine whether additional street lighting is needed. The contingency arrangement is for these works to be funded through the Infrastructure Reserve. Budget surplus at mid-year review or the end of the financial year is then used to replenish the reserve.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

The eventual offset parking on the western side of Marine Parade reduces green space. This is only done when the PSP contribution from the Department of Transport is approved.

### **VOTING REQUIREMENT**

Absolute Majority

**OFFICER RECOMMENDATION**

**THAT Council by absolute majority APPROVES Preferred Option B as shown in Attachment E subject to the following:**

- 1. A Grant Application for \$25,000 is made through the Road Safety Council for the construction of the raised plateau at Dutch Inn;**
- 2. Should the Grant Application in Point 1 be unsuccessful, the funds be source through the Infrastructure Reserve, NOTING that this reserved will be replenish using surpluses either from the mid-year budget review or the end of the financial year;**
- 3. Resurfacing works along Marine Parade between Curtin Avenue and Warton Street partially funded through the Metropolitan Region Roads Group (MRRG) is completed before 30 June 2024, noting the deteriorating pavement condition renewal is consistent with Council's approved February 2023 Asset Management Plan;**
- 4. NOTES that the:**
  - a. Removal of the 16 parking bays and the construction of the offset bays on the western side of Marine Parade shown in Attachment E is only considered by Council after the Department of Transport contribution is received for the Marine Parade Shared Path Upgrade (Curtin Avenue to Forrest Street);**
  - b. Raised plateaus mentioned shown in Option B (Attachment E) close to Curtin Avenue is subject to Main Roads approving the signs and lines required; and**
  - c. A budget amendment will be requested for installation of additional street lighting for the raised plateau mentioned in point 4b should this be identified as a requirement during the detail design.**

**EXECUTIVE SERVICES****10.1.13 QUARTERLY INFORMATION BULLETIN**

**Directorate:** Executive Services  
**Author(s):** William Matthew Scott, Chief Executive Officer  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5089  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

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

**OFFICER RECOMMENDATION IN BRIEF**

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

**BACKGROUND**

This report is consistent with the Town's 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.

**OFFICER COMMENT**

Elected Members should be aware that the Council Plan deliverables do not currently have a priority rating. Deliverable priorities will be considered by Council at a future meeting. In the interim all deliverables have been commented on.

**ATTACHMENTS**

**10.1.13(a) Quarterly Information Bulletin - December 2023 [under separate cover]**

**CONSULTATION**

Nil

**STATUTORY IMPLICATIONS**

Local Government Act 1995

5.41 Functions of CEO

**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

**OFFICER RECOMMENDATION**

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

**10.1.14 DONATION - PUBLIC ART "SANDBAR"**

**Directorate:** Executive Services  
**Author(s):** William Matthew Scott, Chief Executive Officer  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D24/5964  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

That Council considers the donation of the public art piece "Sandbar", by Artist James Rogers from Hancock Prospecting and Roy Hill.

**OFFICER RECOMMENDATION IN BRIEF**

That Council provides in principle support to accept the donation of the public art piece "Sandbar", subject to further investigation by the Town's Administration.

**BACKGROUND**

In late 2023 the Town of Cottesloe was contacted by the organiser of the Sculpture by the Sea, Mr David Handley, as to whether there may be interest in Town accepting a donation of the 2023 Sculpture by the Sea Acquisitive Award "Sandbar" by artist James Rogers. The Acquisitive Award is jointly sponsored by Hancock Prospecting Group and Roy Hill, to the value of \$60,000.



Since receiving the initial request, Mr Handley has confirmed Hancock Prospecting and Roy Hill will also fund the transportation and installation of the artwork.

At this stage Mr Handley is seeking only in principle support from Council to accept the donation, understanding there are several considerations Council may wish to explore prior to making a final commitment.

**OFFICER COMMENT**

Currently, the Town has very little information, other than what has been published about the artwork. Council’s Policy POL/51 Acquisition of Public Art, Clause 3.1 Public Art Works Selection Criteria is very specific on what needs to be considered, regardless if the Artwork is being acquired (purchased) or donated. Below is information provided by both the artist and Mr Handley in response to the Town’s Policy.

<b>Criteria</b>	<b>Response</b>
<p>The artworks truly reflects the history and cultural heritage of the Town, its people and places, and the broader Western Australian community.</p> <ul style="list-style-type: none"> <li>- Represents significant periods, occasions, and urban initiatives in the evolution of the Town and its place in Western Australian society.</li> <li>- Enhance the environment and contribute to the culture of the community and community life.</li> <li>- Reflect Cottesloe’s cultural heritage expressed through contemporary art forms.</li> </ul>	<p>The sculpture, titled ‘Sandbar’ by James Rogers, represents significant periods, occasions, and urban initiatives in the evolution of the Town and its place in WA society as a sculpture in Sculpture by the Sea, Cottesloe that has been a significant occasion and urban initiative in Cottesloe annually for three weeks each year during the period from 2005 – 2024.</p> <p>James Rogers is one of the leading sculptors in Australia. The sculpture represents excellence in Australian and international sculpture. It was selected from 71 sculptures by artists from every Australian State and Territory and 12 countries around the world by the award panel comprised of: Michael Le Grand, Artist and former Head of Sculpture, Australian National University; Harry Pannekoek, Artist (Perth); and Soula Veyradier, Manager Gallery &amp; Programs, School of Art and Design, North Metropolitan TAFE. A sculpture of this quality will enhance the environment of Cottesloe and will contribute to the culture of the community and community life of Cottesloe by adding to and enhancing the standing of the Town of Cottesloe collection.</p>



	The sculpture, as its title ‘Sandbar’ suggests, represents the movement of sand under the water. This reflects Cottesloe’s cultural heritage through contemporary sculptural form.
Design - excellence in quality and, execution based on conceptual rationale and innovation.	The sculpture, made of painted steel, is excellent in quality and execution. Its conceptual rationale reflecting the sandbars of Cottesloe is innovative and brilliantly executed as evidenced by the reputations of the award panel. The piece is 230 cm x 270 cm x 130 cm made of painted steel.
Feasibility – affordability and long-term cultural and financial value including investment potential.	The sculpture is offered as a gift to the Town of Cottesloe by Hancock Prospecting and Roy Hill, with these companies offering to pay the installation costs in full. As a sculpture by one of Australia’s leading sculptors, the artwork represents a significant financial benefit to the Town of Cottesloe with a market value of \$65,000.
Location – appropriateness of the work to the chosen site including integration with landscaping and architecture, with no adverse environmental impacts.	To be determined.
Conservation – durability, robustness, and ongoing maintenance requirements.	The sculpture is very robust and does not need any maintenance except for occasionally brushing off dirt and leaves. If in many years to come the sculpture does start to deteriorate the Town of Cottesloe will be able to de-accession the sculpture as it wishes after first offering it to Hancock Prospecting/Roy Hill and then our organisation first, and if neither wishes to accept the sculpture, the Town of Cottesloe can dispose of the sculpture as it wishes. Please find attached the artist’s signed Maintenance Guide and Guarantee in which the sculpture is guaranteed for 10 years when it is located in a coastal environment.
Useful life – ephemeral or permanent.	Permanent, with a guarantee of 10 years.
Public Safety – ensuring there is no unacceptable level of risk associated with any public art proposal.	There is no risk to the public from the sculpture. It was exhibited for three weeks in the public space of the Sculpture by the

	Sea, Cottesloe exhibition in 2023 and in a prime location past which almost all of the 250,000+ visitors walked and there were no issues.
Interaction – encourages audience participation.	The sculpture invites the public to walk around it and to touch it.
Are not a duplicate of existing holdings.	No
Are not a commercial print or reproduction.	No, the piece is original

The response provided seems to meet the Policy criteria for Council to consider accepting the donation, noting that both location and future maintenance costs have yet to be determined. The Artist has provided a maintenance guide (attached) which will need to be considered from an asset management perspective, however, an initial review suggests marginal ongoing costs for the current design life of 10 years. [The Town's Engineering Department have subsequently considered the art work, the material used, nature of construction, the design life, including options available for Council to remove and return the art works should it create a financial burden and have determined the Asset Management implications are extremely low.](#)

To determine location, Mr Handley, has suggested that a working group, comprised of himself, the artist, and a representative of the Administration be arranged to investigate possible locations for the piece. Noting that the final location would need to be determined by Council, it has been proposed in the Officer Recommendation that this working group identify three (3) possible locations for Council's consideration.

Prior to undertaking the above, the Administration seeks an "in principle" decision from Council, which will determine whether further work on the proposal should be undertaken.

### **ATTACHMENTS**

**10.1.14(a) Sculptures by the Sea - Gift [under separate cover]**

**10.1.14(b) Artist James Rogers MGAG C23 [under separate cover]**

### **CONSULTATION**

Mr David Handley, Sculpture by the Sea.

### **STATUTORY IMPLICATIONS**

Nil

### **POLICY IMPLICATIONS**

Policy POL/51 Acquisition of Public Artworks.

**STRATEGIC IMPLICATIONS**

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

Priority Area 1: Our Community - Connected, engaged and accessible.

Major Strategy 1.1: Supporting an active, healthy and inclusive community culture, our residents enjoy access to a range of social, cultural and recreation activities.

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

At this stage, there are no perceived sustainability implications arising from the officer's recommendation.

**VOTING REQUIREMENT**

Simple Majority

**OFFICER RECOMMENDATION**

**THAT Council:**

1. **PROVIDE** In Principle support to accept the donation of the public art piece "Sandbar" (the artwork), by Artist James Rogers, from Hancock Prospecting and Roy Hill;
2. **INSTRUCT** the Chief Executive Officer (CEO) to:
  - a. Form a working party of James Rogers (Artist), David Handley (Sculpture by the Sea), and the CEO to identify three (3) possible locations for the artwork's installation;
  - b. Provide a future report to Council to consider a formal donation acceptance and determine where it should be installed.

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

Nil

**11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****11.1 COUNCILLOR MOTION - PROTECTION OF MATURE TREES**

The following motion has been proposed by Cr Mason

**COUNCILLOR MOTION**

**THAT the CEO urgently develops a local planning policy for consideration by Council which**

- 1. aims to limit the removal of significant trees on private property;**
- 2. identifies that the removal of a significant tree constitutes ‘works’ under the Planning and Development Act 2005, and therefore requires development approval; and**
- 3. is inclusive of provisions that specify exemptions;**

**COUNCILLOR RATIONALE**

Over 80% of Perth’s tree canopy loss occurs on private land, according to WALGA canopy data included in its State Budget submission.

In 2023, WALGA highlighted that “less than 20 per cent of Perth is covered by tree canopy” and the number is declining. Cottesloe can play an important role in improving Perth’s tree canopy, which is currently the worst in the nation according to a Nearmap analysis from 2021.

The scope of this LPP can work alongside prospective infill targets whilst recognising that trees are essential to our community’s health, environment and economy.

Protecting Cottesloe’s tree canopy helps to deliver on our mission of a liveable community. It also provides a range of benefits, including (but not limited to):

- Mitigating the urban heat island effect;
- Mitigating and adapting to the effects of climate change;
- Enhancing and supporting biodiversity; and
- Maintaining Cottesloe’s character.

Under the existing planning framework, development approval is not required for the removal of large canopy trees from private property and therefore land can be entirely cleared prior to lodging a development application.

Evidence of this was reported recently by local media when Council was unable to prevent the recent removal of a mature lilac tree on private land.

**OFFICER COMMENT****Background**

The matter of tree canopy cover across the Perth Metropolitan Area has emerged over recent years in urban planning. The loss of urban trees has implications for amenity and can cause higher temperatures in urban areas due to the 'urban heat island' effect.

Impacts on tree canopy come from multiple sources in both public and private domains. These include land and urban infill but also many other sources such as the removal of street trees from new and modified road networks, the provision of underground services in streets and management of trees under power lines. There is also the capacity of state and local authorities to protect and maintain street trees and trees in parks and reserves (the public domain). This includes authorities establishing baseline data and inventories to guide and create public tree planting programs and related strategies with local communities.

As detailed further below, the Towns draft Local Planning Strategy has focused the Town's attention towards programs of reviewing baseline information and retaining and promoting trees and vegetation in the public domain.

The notice of motion seeks to introduce a Local Planning Policy (LPP) into the Towns Planning Scheme 3 as provided for within Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. LPPs are matters for which Local Government and Development Assessment Panels should have 'due regard' when making a determination under a Local Planning Scheme.

In this case, a fundamental assumption being proposed in support of the policy preparation is that the removal of a tree worthy of retention constitutes works under the definition of development in the *Planning and Development Act 2005*, and the policy may stipulate how trees should be addressed when considering development proposals.

Town Officers are aware that the Western Australian Local Government Association (WALGA) has been considering opportunities to address the reduction in tree canopy on private land across Perth within the planning framework. It is progressing this work. The City's of Nedlands and South Perth have unsuccessfully sought to amend their local planning schemes to introduce the protection of significant trees as part of development. The Western Australian Planning Commission (WAPC), and Minister for Planning; Lands; Housing; Homelessness (Minister) were unsupportive. Some local governments are considering alternatives and the City of Kalamunda has introduced a LPP to seek to address tree canopy and biodiversity loss. Its premise is similar to the assumptions made in the notice of motion as to the interpretation of what constitutes works and development.

At the recent Agenda Forum, City of Kalamunda's Local Planning Policy 33 – Tree Retention (LPP 33) available at: <https://www.kalamunda.wa.gov.au/building-development/planning/regulations/policies>, was raised as possible option Council could use

as the basis for its own Local Planning Policy, should the Motion on Notice be successfully resolved. On initial review, it would seem that LPP 33 would have very limited application, as it does not remove existing exemptions provided under legislation and regulations such as the Planning and Development (Local Planning Schemes) Regulations 2015. These state legislative exemptions (development approval not required) include the erection, installation or alterations of structures such as a boundary fence, patio, garage, or swimming pool. It is assumed the reason for this limited application is to remove or reduce possible conflicts between the planning policy and higher order legislation.

The intent of the notice of motion then is in line with the wider sentiment to seek to retain tree canopy across metropolitan areas and particularly for outer metropolitan local governments, prevent biodiversity loss.

While Town Officers appreciate this intent, officers are not however in favour of the introduction of a LPP for the Town (at least not at present). The reasons are outlined below.

#### **1: Strategic Direction.**

Enhancing the District's tree canopy is a strategy with the "Our Town" objective within the recently adopted Council Plan 2023-2033. In addressing this objective, the Town's draft Local Planning Strategy considers tree canopy loss as part of its scope and has focused on reviewing current town strategies and studies and promoting tree retention, tree gain and vegetation planting on public land where significant gains can be achieved

The Town's draft Local Planning Strategy, Part 2.3.2 (ii) identifies the tree canopy issue and includes an action on retaining existing trees and planting new trees where there are gaps in streetscapes and to increase the tree canopy in key public activity areas. These include the Cottesloe Village District Centre, along the railway, the foreshore and the long term cycle network and other pedestrian focused streets. This a short term 1-5 years action.

The Draft Local Planning Strategy Part 2.3.2 (iii) refers to the planning direction of more planting of trees and native vegetation including monitoring and reviewing existing Residential Verge and Street Tree Policies over the medium term. The City's draft Heritage Strategy also refers to the creation of a significant tree register and associated policy.

These actions will require significant resourcing and are seen as opportunities for shorter-medium term gains to increase tree canopy that are within the Towns ability to achieve.

It should be borne in mind that the Local Planning Strategy once adopted, forms the basis for the new Town Planning Scheme No 4. The new scheme provides the opportunity to consider either scheme provisions or policies addressing tree canopy if Council determines it has merit. In the interim, some of the uncertainties and concerns detailed below may be better known.

Furthermore the Draft Local Planning Strategy is yet to be formally advertised for community comment. Therefore, it is uncertain whether the community will be supportive of the overall strategic direction, yet alone this very specific aspect within it.

Council has previously given very clear direction and priority for the Administration to develop a new and contemporary Local Planning Scheme to better manage a variety of significant planning relating issues currently impacting on the District. Resolving to effectively urgently redirect resources to develop Local Planning Policy on one very specific issue may delay progressing the new Town Planning Scheme (and the Cottesloe Village Precinct Structure Plan), resulting in the continuation of the Town being unable to effectively influence planning decisions by state agencies, such as the Western Australian Planning Commission (WAPC) or Joint Development Assessment Panels (JDAP).

## **2. Uncertainty as to the best approaches and the practical and legal implications.**

As note above, and, while WALGA is progressing options, there is no clear planning direction or consensus as yet as to how best to approach tree retention on private property as part of development.

Town Officers have concerns about the implications of progressing a LPP in the Cottesloe context. These include;

- The strength of the legal proposition being made that the removal of a tree worthy of retention constitutes 'works' under the definition of development under the *Planning and Development Act 2005* (Part 1 s.4 Terms used). How it may apply, and, to what extent has this view been tested at the State Administrative Tribunal (SAT). While this interpretation remain untested there is the potential for disputes and litigation in the interim ([see legal position further below](#)).
- The implications of a LPP on the deemed-to-comply provisions of State Planning Policy 7.3 Residential Design Codes (Volume 1), in which, provided development meets certain criteria, is permitted 'as-of-right'. The use of a LPP and any relationship with the Codes is not clear and raises concerns about its application and legal ramifications.
- Impacts on flexibility for land use for landowners and any unintended consequences which may emerge in applying the policy to proponents and the community. These are difficult to foresee and it may be prudent to understand impacts of such LPP's in other local government areas prior to adopting a policy in the Cottesloe context.
- Enforcing tree retention policies will require well resourced monitoring and compliance mechanisms. The Town may face challenges in ensuring compliance, particularly if resources are limited.



Note that the Town has no control on subdivision applications which are determined by the WAPC and often result in clearance of trees on private property before development applications are lodged with the Town.

### **3 Existing opportunities for retaining mature trees and tree canopy.**

When considering planning applications, it is important to note that Town Officers do consider mature trees on new development sites and will seek to retain trees wherever possible as part of negotiations with applicants. In this respect, many trees have been successfully retained through this process.

Further, there have been changes over time to Western Australia's planning framework recognising that retaining trees on private land is important. While the current R-Codes don't require the retention of trees on private property, the R-codes (Volumes 1 & 2) require all new developments to provide at least 1 new tree on the private land. Retention of existing trees are also encouraged for grouped & multiple dwellings. Residential Design Codes (R-Codes) Volume 1 for low-density (single house) development in mid 2021 included additional deemed-to-comply requirements relating to minimum tree provision. The R-Codes Volume 2, which guide high density (apartment) development, also make provision for retention of existing vegetation and tree planting to increase canopy.

Other tree retention options such as Significant Tree Registers, Tree Preservation Orders are available to the Town to consider for the protection of mature trees. In addition, many mature trees and vegetation form important components of heritage places and the Heritage Act 2018 seeks to recognise and protect trees as part of places of cultural heritage value for the community.

### **4 Green Infrastructure Strategy**

Council considered the Green Infrastructure Strategy in July 2023 for community consultation, which focused on a range of objectives including tree canopy cover, improving natural habitat and biodiversity conservation, greening areas of significance and community involvement. A range of management and operating plans at various stages of completion and review were included in the actions to meet these objectives including the Street Tree Policy, Natural Areas Management Plan and Street Tree Masterplan, prior to advertising the Green Infrastructure Strategy for community comment (OCM 154/2023).

This strategy is a key step towards a greener Town and improved tree canopy cover. The Green Infrastructure Strategy, once advertised, will provide the community an opportunity to comment on how green infrastructure is achieved into the future. By resolving to introduce a Local Planning Policy now, will effectively predetermine an outcome to be implemented, prior to any community discussion on the Town's long term strategy on this issue.

### **5 Recent State Government and WAPC Initiatives**

Related to its decision not to support the Cities of Nedlands and South Perth scheme amendments detailed above, it was recently announced that the WAPC is set to develop a 'whole of government' urban greening strategy to grow canopy and greenspaces across Perth. The Minister for Planning advised the strategy would take an 'incentive based approach rather than a punitive approach' with grant funding available. More detail about this initiative is expected to be available over coming months.

## 6 Legal Position

Below is a summary of the current legal position associated with this matter.

The removal of a tree is an activity that falls within the definition of 'works'. Whether or not the works involved in removing a single tree in an urban area amount to a development that requires approval is a matter of fact and degree and is therefore inherently uncertain. A range of factors (for example, but not limited to, the size and location of the tree) are potentially relevant to whether the removal of a tree requires approval.

There is clear authority that the removal of multiple trees can amount to development that requires approval. However, there is no authority that deals with whether and when removing a single tree will be a development.

Clause 61 of the deemed provisions does not exempt the removal of a tree from the requirement to obtain development approval. Clause 61 also permits a local government to specify in a local planning policy particular works that do not require approval. Therefore, if a local government wishes to regulate the removal of trees it is possible to remove the uncertainty about when approval is needed by adopting a local planning policy that specifies the circumstances in which approval is required to remove a tree.

The City of Kalamunda has adopted a local planning policy with respect to tree retention in which the draft Medium Density Codes definition of 'Significant existing tree' forms the basis for the regulation of tree removal and other tree damaging activities. To date no SAT case has considered the provisions of that policy.

## Conclusion

For the reasons detailed above, it is recommended that the Notice of Motion not be supported. The Administration however does support the matter being reconsidered once the Town has:

1. An approved Local Planning Strategy;
2. An endorsed Greening Infrastructure Strategy;
3. Appropriate provisions related to the retention of trees are incorporated in the new Town Planning Scheme; and
4. There is a better understanding on the legal position in relation to the existing state planning framework and interpretation of relevant legislation.

**Legal implications****Planning and Development Act 2005**

Section 4 Terms used

**development** means the development or use of any land,

including —

(a) any demolition, erection, construction, alteration of or addition to any building or structure on the land;

(b) the carrying out on the land of any excavation or other works;

(c) in the case of a place to which a protection order made under the *Heritage Act 2018* Part 4 Division 1 applies, any act or thing that —

(i) is likely to change the character of that place or the external appearance of any building; or

(ii) would constitute an irreversible alteration of the fabric of any building;

**Planning and Development (Local Planning Schemes) Regulations 2015**

Schedule 2

cl. 3. Local planning policies

(1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.

(2) A local planning policy —

(a) may apply generally or in respect of a particular class or classes of matters specified in the policy; and

(b) may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.

(3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.

(4) The local government may amend or repeal a local planning policy.

(5) In making a determination under this Scheme the local government must have regard to each relevant local planning policy to the extent that the policy is consistent with this Scheme.

cl. 60. Requirement for development approval

A person must not commence or carry out any works on, or use, land in the Scheme area unless —

(a) the person has obtained the development approval of the local government under Part 8; or

(b) development approval is not required for the development under clause 61.

cl. 61. Development for which development approval not required

(1) Development approval is not required for works if —

(g) any other use specified in a local planning policy or local development plan that applies to the development as a use that does not require development approval;

**Policy Implications**

Nil

**Resource Implications**

Should Council determine to proceed with the notice of motion, considerable officer resource and time will be required to comprehensively address the above matters as well as obtain legal advice. No estimate on total cost to implement the motion on notice has been determined.

**Other**

Further advice will be provided if requested at the meeting.

**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****MOTION FOR BEHIND CLOSED DOORS**

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

**13.1.1 RIGHT OF WAY (ROW) 20 ENCROACHMENTS - LOCAL GOVERNMENT ACT (1995) SECTION 3.25 NOTICE**

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.

**13.1.2 WALGA ENERGY SUSTAINABILITY AND RENEWABLE PROJECT - MEMORANDUM OF UNDERSTANDING STAGE 2**

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.

**13.1.3 PARKING AND PARKING FACILITES AMENDMENT LOCAL LAW 2024**

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (f(i)) as it contains information relating to a matter that if disclosed, could be reasonably expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law.

The report pertains to correspondence from the Joint Standing Committee on Delegated Legislation (JSCDL), who conferred privileged and confidential status on the correspondence in accordance with their powers under the *Parliamentary Priveleges Act 1891*

**MOTION FOR RETURN FROM BEHIND CLOSED DOORS**

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.

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

**14 MEETING CLOSURE**