



# Town of Cottesloe

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

**Tuesday, 27 June 2023**

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

Signed:

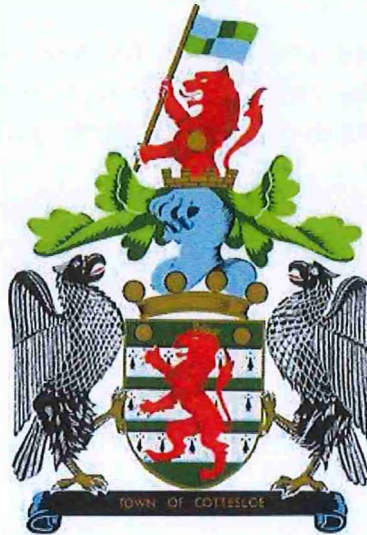
*Korvaie J*

Presiding Member

Date:

*25/7/23*

# TOWN OF COTTESLOE



## ORDINARY COUNCIL MEETING CONFIRMED MINUTES

ORDINARY COUNCIL MEETING  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre  
109 Broome Street, Cottesloe  
6:00 PM Tuesday, 27 June 2023

A stylized, handwritten signature in black ink, consisting of a large, sweeping loop followed by a smaller, more intricate flourish.

**WILLIAM MATTHEW SCOTT**  
Chief Executive Officer

6 July 2023

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

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

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

**2 DISCLAIMER**

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

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

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

The Presiding Member announced that there was a hearing at the WAPC with relation to the OBH. Most of the community will be aware of a Development Application for the OBH which was ultimately a decision from the WAPC and was approved with conditions. The Town did attend through the Mayor, CEO and the Coordinator, Statutory Planning to put forward the Town's position which was to object on various grounds including that it didn't comply with the height, bulk and scale and overshadowing provisions of the Town's planning scheme. We were not successful however we did get 20 extra parking bays and a percentage for Public Art.

**4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****Questions Taken on Notice at the Annual General Meeting of Electors – 17 May 2023**

Mr Thomas Jowett

Pg 59 Trade & Other Payables

Q1: Income in advance 2022 is \$344,675 could we account for the components of that?

| <b>Income in Advance</b>           |         |
|------------------------------------|---------|
| Building and Planning Applications | 112,108 |
| Event Bookings                     | 38,035  |
| Lease Hire                         | 18,881  |
| Grant Funding Eric Street          | 155,651 |

|     |                             |                |
|-----|-----------------------------|----------------|
| R1: | Grant Funding Waste Project | 20,000         |
|     | <b>Total</b>                | <b>344,675</b> |

Q2: Sundry creditors have increased by \$1.15m as a liability, it appears it has gone up from \$825,000 to \$1.987m, could we discuss the increase of \$1.1m and how that breaks down?

R2: This is mostly due to the timing of invoices received in late June 2022 and subsequently paid in 2023FY, and recognizing accrued expenses for the works completed in 2022FY, however associated invoices received and payment made in 2023FY.

A complete breakdown of changes to individual Sundry Creditors and Accrued Expenses would be impractical to list, however some material examples include:

- Invoice from Menchetti Consolidated Pty Ltd for reconstruction works (at the former Rotunda location) & Dune restoration of \$332k, received on 27/06/2022, payment was made in July payment run;
- Invoice from Classic Contractors Pty Ltd for Anderson Pavilion development of \$87k, received on 27/06/2022, payment was made in July payment run;
- Accrual expense journal processed in June 2022 for Foreshore Drainage June works of \$124k.

Furthermore there was an overall increase in operational Material and Contracts costs between the 20/21 and 21/22 of \$564k which would have a flow on effect on the final Sundry Creditor balance as at 21/22.

The increase in Sundry Creditors is more than offset by the increase in Cash and Cash Equivalents for the same period (positive increase of \$2.474m).

### Questions Taken on Notice at the Ordinary Council Meeting – 23 May 2023

Mr Thomas Jowett – 31 Eric Street, Cottesloe

#### General

In the annual report on pg 65, it lists \$1.22m in compensation for “key management personnel”?

Q1: Can the Town please clarify which roles fall under “key management personnel”?

- R1: Key Management Personnel includes:
- Chief Executive Officer
  - Director Corporate and Community Services

- Director Engineering Services
- Director Development and Regulatory Services
- Coordinator, Statutory Planning
- Manager of Planning
- Finance Manager
- Manager Projects and Assets

Q6: Can you please clarify the name of the \$68k grant which has been earmarked as given by the Department of Transport for the Eric Street bike path?

R6: The Department of Transport Western Australian Bicycle Network Grant  
Briony McManus – 57 Hawkstone Street, Cottesloe

Right of Way Policy

Q1: Which Covid restrictions precluded progress?

Q2: How did those restrictions preclude progress?

R1 & R2: The Resolution referred to in Report included progressing discussions and negotiations with landowners. At the time, the relevant landowners were acting as a group and it was difficult to hold in-person meetings of a group of people during this period due to various Covid Restrictions.

On reflection of the comment within the report, it should have been clarified and expanded by incorporating comments provided in the CEO Quarterly Reports on Outstanding Resolutions in relation to the matter. The Administration acknowledges this oversight.

Q3: Why was this authority not maintained as the authority and instruction was not maintained but incomplete and an action item on future agendas so it could be addressed?

R3: The outstanding resolution was reported to Council as part of the CEO Quarterly Report to Council, recorded in the relevant Ordinary Council Meeting Minutes between February 2021 and March 2023.

## 4.2 PUBLIC QUESTIONS

Joanne Gibson – 73 Hawkstone Street Cottesloe

Q1: Has the survey of ROW 20 been completed?

R1: The survey has been completed, it has identified encroachments on the laneway from properties on surrounding streets.



- Q2: Will it be available for viewing?
- R2: As it impacts people and property in the surrounding area that may not be aware of the issue it will not be released until we have had the opportunity to notify landholders which encroach into the Right of Way.
- Q3: Will it be submitted to Landgate?
- R3: Taken on notice, however the Mayor advised the only reason for taking it to Landgate would be possibly from adverse possession perspective. At this stage the Right of Way is freehold to the Town and effectively will be dealt with between the Town and the individual property owners that have been identified as encroaching.

Jeffrey Irvine – 69 Napier Street Cottesloe

- Q1: Does the CEO see that the east Cottesloe parking rules that have been imposed restricting parking is now pushing the parking across the railway line into west of Cottesloe?
- R1: The Town is aware that there has been some additional parking occurring on the western side of the railway. The focus has been to limit the excessive parking in east Cottesloe north of Eric Street particularly around North Cottesloe Primary School. The Town will continue to monitor the situation, and investigates additional measures if required.

Derek Humphry 69 Hawstone Street Cottesloe

- Q1: Will the Council confirm whether it approved construction of the brick wall built without set back and partially obstructing the ROW at the rear of Lot 509 on deposited plan 63639 between Florence Street and Hawkstone Street noting that the wall is constructed on an easement benefiting Hawkstone residents?
- R1: Taken on Notice, however the CEO advised that generally brick walls of this nature do not require planning approval, and a building permit may be issued if it meet the requirements of the building code.
- Q2: If the Council approved the construction, and given the Council has taken legal advice and secured a survey of the ROW will the proposed 10.1.11 Right of Way policy facilitate the Council acting to remove the wall from the easement and ensuring appropriate set backs are observed, and will the Council act accordingly?
- Q3: Alternatively if the Council did not approve the construction of the wall, and given the Council had taken legal advice, and secured a survey of the ROW will the proposed 10.1.11 Right of Way policy

facilitate the Council acting to remove the wall from the easement and ensuring appropriate set backs are observed and will the Council act accordingly?

R2&3: The Mayor advised that the policy applies to encroachments where there is no adverse possession right currently available to the encroaching landowners. If there is an adverse possession right, the Town will not be able to enforce removal of those encroachments.

## **5 PUBLIC STATEMENT TIME**

Nil

## **6 ATTENDANCE**

### **Elected Members**

Mayor Lorraine Young  
Cr Helen Sadler  
Cr Melissa Harkins  
Cr Kirsty Barrett  
Cr Paul MacFarlane  
Cr Chilla Bulbeck

### **Officers**

|                          |  |
|--------------------------|--|
| Mr William Matthew Scott | Chief Executive Officer                      |
| Mr Shane Collie          | Director Corporate and Community Services    |
| Ms Freya Ayliffe         | Director Development and Regulatory Services |
| Mr Shaun Kan             | Director Engineering Services                |
| Mr Ed Drewett            | Coordinator Statutory Planning               |
| Ms Jacquelyne Pilkington | Governance & Executive Office Coordinator    |

### **6.1 APOLOGIES**

Nil

### **Officers Apologies**

Mr Wayne Zimmermann      Manager of Planning

### **6.2 APPROVED LEAVE OF ABSENCE**

Cr Craig Masarei  
Cr Brad Wylynko  
Cr Richard Atkins

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

**OCM094/2023**

**Moved Mayor Young                      Seconded Cr MacFarlane**

**That Cr Harkins be granted a leave of absence from 22 August to 23 August 2023.**

**Carried 6/0**

**OCM095/2023**

**Moved Mayor Young                      Seconded Cr Harkins**

**That Cr MacFarlane be granted a leave of absence from 1 July to 16 July 2023.**

**Carried 6/0**

**7 DECLARATION OF INTERESTS**

Cr Harkins declared an IMPARTIALITY INTEREST in item 10.1.12 by virtue “as I live on the corner of Marmion Street.”

Cr MacFarlane declared an IMPARTIALITY INTEREST in item 10.1.12 by virtue “as I live on the corner of Hawkstone and Broome Streets.”

Cr Barrett declared an IMPARTIALITY INTEREST in item 10.1.11 by virtue “some of the affected residents are known to me.”

Cr MacFarlane declared an IMPARTIALITY INTEREST in item 10.1.11 by virtue “some of the affected residents are known to me.”

Cr Harkins declared an IMPARTIALITY INTEREST in item 10.1.11 by virtue “some of the affected residents are known to me.”

Mayor Young declared a PROXIMITY INTEREST in item 10.1.10 by virtue “I live on a road that is covered by the proposal, property owned by my husband.”

Mayor Young declared a IMPARTIALITY INTEREST in item 10.1.11 by virtue “some of the affected residents are known to me.”

**8 CONFIRMATION OF MINUTES**

**OCM096/2023**

**Moved Mayor Young                      Seconded Cr Bulbeck**

**That the Minutes of the Ordinary Meeting of Council held on Tuesday 23 May 2023 be confirmed as a true and accurate record.**

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck  
Against: Nil

**OCM097/2023**

Moved Mayor Young                      Seconded Cr Sadler

That the Minutes of the Special Meeting of Council held on Tuesday 30 May 2023  
be confirmed as a true and accurate record.

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck  
Against: Nil

**OCM098/2023**

Moved Mayor Young                      Seconded Cr MacFarlane

That the Minutes of the Special Meeting of Council held on Tuesday 6 June 2023  
be confirmed as a true and accurate record.

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck  
Against: Nil

**9 PRESENTATIONS****9.1 PETITIONS*****Section 9.4 - Procedure of Petitions***

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

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

Nil

**9.2 PRESENTATIONS**

Nil

**9.3 DEPUTATIONS**

Nil

**10 REPORTS****10.1 REPORTS OF OFFICERS****OCM099/2023****Moved Mayor Young****Seconded Cr Harkins****COUNCIL RESOLUTION**

**That Council adopts en-bloc the following Officer Recommendations contained in the Agenda for the Ordinary Council Meeting 27 June 2023:**

| <b>Item #</b>  | <b>Report Title</b>  |
|----------------|--|
| <b>10.1.1</b>  | <b>Notice of Intention to Levy Differential Rates</b>                                    |
| <b>10.1.3</b>  | <b>Receival of Annual Electors Meeting Minutes</b>                                       |
| <b>10.1.5</b>  | <b>Monthly Financial Statements for the period 1 July 2022 to 30 April 2023</b>          |
| <b>10.1.6</b>  | <b>Agreement – Dogs Refuge Home</b>  |
| <b>10.1.7</b>  | <b>Adoption of Draft Local Planning Policy – Developer Contributions for Public Art.</b> |
| <b>10.1.8</b>  | <b>Adoption of Draft Payment in Lie of Parking Plan</b>                                  |
| <b>10.1.12</b> | <b>Healthy Streets Project</b>   |
| <b>10.1.14</b> | <b>State Shark Fishing Restrictions</b>  |
| <b>10.2.1</b>  | <b>Receipt of Audit Committee Minutes</b>  |

**Carried 6/0****For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck****Against: Nil**

**CORPORATE AND COMMUNITY SERVICES****10.1.1 NOTICE OF INTENTION TO LEVY DIFFERENTIAL RATES**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/22117  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Council is being asked to consider adopting a differential rating structure to allow for Local Public Notice to be given of its intention to raise a differential rate for the 2023/24 financial year.

**OFFICER RECOMMENDATION IN BRIEF**

That Council advertise its intention to raise the following differential rate and minimum rate for the 2023/24 financial year as follows:-

- Differential Rate – Town Centre Commercial (GRV) – Rate in the dollar being 0.07721 with a minimum rate of \$1,341.

**BACKGROUND**

Council has historically funded the group known as ProCott, through the imposition of a differential rate on commercial properties in the Cottesloe Town Centre. ProCott, through an agreement with the Town are required to submit plans on how these funds will be used in the development and promotion of commercial activity within the Town Centre. To date, no other differential rate has been charged.

The town centre commercial properties category comprises all rateable land in the Cottesloe Town Centre that is zoned commercial in the Town of Cottesloe Town Planning Scheme. This rate in the dollar represents the general rate, plus the rate that is levied on behalf of ProCott – who use the funds in agreement with the Town – to promote and improve commercial activity within the Town Centre.

The differential rate is levied under the provisions of 6.33(1) (a) of the *Local Government Act 1995*.

While Council is able to adopt the differential rate with modifications, it is generally accepted practice that the differential rate imposed should not be materially different from that which was advertised.

**OFFICER COMMENT**

The differential rate applied to the properties in the Cottesloe Town Centre raised \$126,030 last year which was subsequently expended through Procott activities with reporting back to Council through Council representatives on Procott and formal financial statements ensuring

accountability for the expenditure. The amount anticipated to be raised through the differential rate for 2023/24 would be expected to be similar or slightly more depending on whether any interim rates are raised due to property sales.

The basis of the proposed rate in the dollar and minimum rate stems from Council's Long Term Financial Plan.

### **ATTACHMENTS**

Nil

### **CONSULTATION**

There has been consultation with senior staff and elected members at the first Budget workshop held on 16 May 2023.

### **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

Section 6.33 of the Local Government Act 1995 provides the following in relation to differential rates.

#### **6.33. *Differential general rates***

- (1) *A local government may impose differential general rates according to any, or a combination, of the following characteristics -*
  - (a) *the purpose for which the land is zoned, whether or not under a local planning scheme or improvement scheme in force under the Planning and Development Act 2005; or*
  - (b) *a purpose for which the land is held or used as determined by the local government; or*
  - (c) *whether or not the land is vacant land; or*
  - (d) *any other characteristic or combination of characteristics prescribed.*
- (2) *Regulations may -*
  - (a) *specify the characteristics under subsection (1) which a local government is to use; or*
  - (b) *limit the characteristics under subsection (1) which a local government is permitted to use.*

Section 6.36 of the *Local Government Act 1995* provides for the requirement to advertise the intention to raise a differential rate.

#### **6.36. *Local government to give notice of certain rates***

- (1) *Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6) (c) a local government is to give local public notice of its intention to do so.*

- (2) *A local government is required to ensure that a notice referred to in subsection (1) is published in sufficient time to allow compliance with the requirements specified in this section and section 6.2(1).*
- (3) *A notice referred to in subsection (1) -*
  - (a) *may be published within the period of 2 months preceding the commencement of the financial year to which the proposed rates are to apply on the basis of the local government's estimate of the budget deficiency; and*
  - (b) *is to contain -*
    - (i) *details of each rate or minimum payment the local government intends to impose; and*
    - (ii) *an invitation for submissions to be made by an elector or a ratepayer in respect of the proposed rate or minimum payment and any related matters within 21 days (or such longer period as is specified in the notice) of the notice; and*
    - (iii) *any further information in relation to the matters specified in subparagraphs (i) and (ii) which may be prescribed;*
  - and*
  - (c) *is to advise electors and ratepayers of the time and place where a document describing the objects of, and reasons for, each proposed rate and minimum payment may be inspected.*
- (4) *The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification.*

### **POLICY IMPLICATIONS**

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

### **STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

### **RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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



**VOTING REQUIREMENT**

Simple Majority

**OCM100/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Mayor Young                      Seconded Cr Harkins

THAT Council ADVERTISES its intention to raise the following Differential Rate for the 2023/24 financial year - Town Centre Commercial (GRV) – Rate in the dollar being 0.07721 with a minimum rate of \$1,341At this point in the meeting the En Bloc items were moved and resolved.

Carried by En Bloc Resolution 6/0

**10.1.3 RECEIVAL OF ANNUAL ELECTORS MEETING MINUTES**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/22257  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Following the Annual General Meeting of Electors, held on Wednesday, 9 March 2022 it is recommended that Council receive the unconfirmed minutes of the meeting, as attached.

**OFFICER RECOMMENDATION IN BRIEF**

The Unconfirmed Minutes of the Annual General Meeting of Electors held on Wednesday, 17 May 2023 relating to the 2021/22 financial year are submitted for receipt.

**BACKGROUND**

At its 26 April 2023 Ordinary Council Meeting, Council resolved to set the date of the Annual General Meeting of Electors to 6:00pm on Wednesday, 17 May 2023 in the War Memorial Hall.

The meeting was attended by 10 electors, 6 Councillors, 4 members of staff and 2 members of the media.

**OFFICER COMMENT**

There were 2 motions carried at the meeting as follows:

***“That the Meeting receives the 2021/2022 Annual Report for the Town of Cottesloe noting the query by Elector Greg Boland regarding development applications and clarifying as necessary.”***

**Administration Comment**

The query by Mr Boland will be responded to in due course. It was noted that the query related to the income received from Planning Fees.

***“Subject to the provisions of the Local Government Act, the Town of Cottesloe resolves to hold the Annual General Meeting of Electors no later than 31 December each year.”***

**Administration Comment**

The motion is fully supported and the Town has advocated for the earlier holding of Annual Electors meetings for some time. Generally third party issues have delayed the holding of meetings however every attempt will be made to hold forthcoming Annual Electors meeting prior to 31 December each year. This matter was also raised through the Audit Committee with a view consistent with the motion carried at the Annual Elector’s meeting.

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**ATTACHMENTS**

**10.1.3(a) AGM of Electors Unconfirmed Minutes [under separate cover]**

**CONSULTATION**

Nil.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

**5.27. Electors' general meetings**

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

**5.32. Minutes of electors' meetings**

*The CEO is to —*

- (a) cause minutes of the proceedings at an electors' meeting to be kept and preserved; and*
- (b) ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.*

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

**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

OCM101/2023

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Mayor Young

Seconded Cr Harkins

THAT Council RECEIVES the Unconfirmed Minutes of the Annual General Meeting of Electors for the 2021/22 financial year held on Wednesday, 17 May 2023, noting the Motions passed at the meeting and the Administration comments on the actions to be taken, inclusive of providing clarification of the planning fees received as noted in the CEO Report

Carried by En Bloc Resolution 6/0

**10.1.5 MONTHLY FINANCIAL STATEMENTS FOR THE PERIOD 1 JULY 2022 TO 30 APRIL 2023**

**Directorate:** Corporate and Community Services  
**Author(s):** Wayne Richards, Acting Finance Manager  
**Authoriser(s):** Shane Collie, Director Corporate and Community Services  
**File Reference:** D23/22811  
**Applicant(s):** Nil  
**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 2022 to 30 April 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 April 2023 was \$4,852,133 as compared to \$5,445,595 this time last year.
- Operating revenue is more than the year to date budget by \$29,396 with a more detailed explanation of material variances provided on page 19 (page 147 of the Attachments) of the attached financial statements. Operating expenditure is

\$2,176,062 less than year to date budget, with a more detailed analysis of material variances provided on page 19 (page 147 of the Attachments).

- The Capital Works Program is shown in detail on pages 33 to 34 (pages 161-162 of the Attachments) of the attached financial statements.
- The balance of cash backed reserves was \$8,365,377 as at 30 April 2023 as shown in note 7 on page 26 (page 154 of the Attachments) of the attached financial statements.

#### **List of Accounts Paid for April 2023**

The list of accounts paid during April 2023 is shown on pages 35 to 42 (pages 163-170 of the Attachments) of the attached financial statements.

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

- \$41,559.39 to the Australian Taxation Office for the monthly business activity statement
- \$25,551.18 to Coastline Mowers for a new all terrain buggy
- \$558,782.51 to the Department of Fire & Emergency Services for emergency service levies collected on their behalf by the Town
- \$35,711.87 & \$35,711.87 to Surf Life Saving WA for life saving services
- \$36,052.30 & \$37,193.79 to SuperChoice Services Pty Ltd for staff superannuation contributions
- \$89,781.18 Rico Enterprises Pty Ltd for waste collection/disposal charges
- \$64,239.12 to Classic Contractors Pty Ltd for the construction at Anderson Pavilion
- \$53,143.75 to Hames Sharley (WA) Pty Ltd for town planning services
- \$29,956.53 to McLeods Barristers and Solicitors for legal services
- \$46,103.88 to Electricity Generation and Retail for street lighting charges
- \$99,082.50 to the Office of the Auditor General for audit services
- \$180,449.72 to D B Cunningham Pty Ltd for Eric Street shared path works
- \$25,850.00 to Programmed Property Services Pty Ltd for painting works
- \$151,041.00 to the Shire of Peppermint Grove being contributions towards the combined library service
- \$44,088.31 to the Western Metropolitan Regional Council for waste disposal costs
- \$82,589.07 to Major Motors Pty Ltd for a new truck
- \$1,500,000.00 \$2,000,000.00 to the Commonwealth Bank of Australia for new term deposits
- \$138,007.24 & \$138,508.12 to Town of Cottesloe Staff for fortnightly payroll

**Investments and Loans**

Cash and investments are shown in note 4 on page 21 (page 149 of the Attachments) of the attached financial statements. The Town has approximately 32% of funds invested with the National Australia Bank, 44% with the Commonwealth Bank of Australia and 24% with Westpac Banking Corporation.

Information on borrowings is shown in note 10 on page 30 (page 30 of the Attachments) of the attached financial statements. The Town had total principal outstanding of \$2,460,557 as at 30 April 2023.

**Rates, Sundry Debtors and Other Receivables**

Rates outstanding are shown on note 6 on page 23 (page 151 of the Attachments) and show a balance of \$435,525 outstanding as compared to \$391,266 this time last year.

Sundry debtors are shown on note 6 on page 23 (page 151 of the Attachments) of the attached financial statements. The sundry debtors report shows that 17% or \$17,452 is older than 90 days. Infringement debtors are shown on note 6 on page 25 (page 153 of the Attachments) and were \$456,527 as at 30 April 2023.

**ATTACHMENTS**

**10.1.5(a) Monthly Financial Report 1 July 2022 to 30 April 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 *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM102/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Mayor Young                      Seconded Cr Harkins

**THAT Council RECEIVES the Monthly Financial Statements for the period 1 July 2022 to 30 April 2023 as submitted to the 27 June 2023 meeting of Council**

**Carried by En Bloc Resolution 6/0**



**10.1.6 AGREEMENT - DOGS REFUGE HOME**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/23155  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to confirm a further five year Agreement for the impounding of dogs seized or found wandering in the districts of the Town of Cottesloe and the Shire of Peppermint Grove.

**OFFICER RECOMMENDATION IN BRIEF**

That Council enter into a five year Agreement with Dogs Refuge Home (WA) Incorporated for the impounding of dogs seized or found wandering in the districts of the Town of Cottesloe and the Shire of Peppermint Grove.

**BACKGROUND**

Council has over the past five years been part of a successful arrangement for the impounding of dogs through the Dogs Refuge Home (WA) Incorporated located in Shenton Park. The not for profit organisation accepts dogs which have been impounded and seeks to re-home them.

**OFFICER COMMENT**

The arrangement works well for both parties and offers an optimal outcome in dealing with impounded dogs. The Town does not have to provide a built dog management facility (pound) nor have the supervision and maintenance responsibilities that come along with this.

Ranger staff have advised that there are no unresolved differences with the Dogs Refuge Home (WA) Incorporated and that the arrangement works well. The Shire of Peppermint Grove contribute to the cost on a reimbursement basis as part of the Ranger Services that the Town provided on a fee for service basis.

It is hence recommended that the arrangement continue for a further five years.

**ATTACHMENTS**

**10.1.6(a) Dog Refuge Home Agreement [under separate cover]**

**CONSULTATION**

Town Rangers.

Dogs Refuge Home (WA) Incorporated.

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**STATUTORY IMPLICATIONS**

The *Dog Act 1976* bestows upon Council a range of responsibilities in respect of dog control. The impounding of dogs is one such responsibility.

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

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

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

**RESOURCE IMPLICATIONS**

As part of the Agreement the Town pays a fee for the service. This fee increases by 3% each year:

|         |          |
|---------|----------|
| 2018/19 | \$9,100  |
| 2019/20 | \$9,373  |
| 2020/21 | \$9,654  |
| 2021/22 | \$9,945  |
| 2022/23 | \$10,243 |

And for 2023/24 the fee would be \$10,550 and is budgeted accordingly.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM103/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Harkins**

**THAT Council enter into a new five year Agreement with Dogs Refuge Home (WA) Incorporated for impounding of dogs seized or found wandering in the districts of the Town of Cottesloe and the Shire of Peppermint consistent with the present Agreement in place commencing at a fee of \$10,550 for 2023/24 increasing by 3% each year.**

**Carried by En Bloc Resolution 6/0**

**DEVELOPMENT AND REGULATORY SERVICES****10.1.7 ADOPTION OF DRAFT LOCAL PLANNING POLICY - DEVELOPER CONTRIBUTIONS FOR PUBLIC ART**

**Directorate:** Development and Regulatory Services  
**Author(s):** Sonya Hayes, Planning Officer  
**Authoriser(s):** Freya Ayliffe, Director Development and Regulatory Services  
**File Reference:** D23/22161  
**Applicant(s):** N/A  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider adopting the Developer Contributions for Public Art planning policy, following advertising.

**OFFICER RECOMMENDATION IN BRIEF**

That Council adopts the Developer Contributions for Public Art planning policy, pursuant to Schedule 2, Part 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with modification.

**BACKGROUND**

In light of recent development pressures within the Town, particularly along parts of the Cottesloe Beach Foreshore and in the Town Centre, a draft planning policy for Developer Contributions for Public Art was prepared and adopted for the purpose of advertising by Council at its meeting on 28 March 2023.

**OFFICER COMMENT**

The Developer Contributions for Public Art planning policy requires developers of prescribed developments to provide a public art contribution to a minimum value of 1% of the development cost.

The public art contribution can be satisfied by providing public art within the development site or payment (cash-in-lieu) to the Town's Community Art Fund for the future provision of public art by the Town.

One public submission was received during the advertising period. In light of the submission received, some modifications that provide further clarity in the application of the policy are proposed. In addition, some queries and comments were raised by an Elected Member which have also been considered and addressed.

The following table summarises the submission received and outlines proposed modifications to the draft policy.

| Clause                            | Submission  | Comment  |
|-----------------------------------|---|--|
| Artist definition                 | Too restrictive. Should also include designer.  | No modifications are proposed.<br><br>Public art is to be undertaken by an artist rather than a graphic designer. The policy aims to support artists and the art industry.   |
| Prescribed development definition | Fourth point to include development anywhere within the Town boundaries.  | No modifications are proposed.<br><br>The fourth point is an exclusion to the policy.  |
| Public art definition             | Include 'new site specific commission'.   | No modifications are proposed.<br><br>Cash-in-lieu payment may be accepted which does not need to be site-specific.  |
|                                   | Third point is too restrictive. A work may be purely decorative.  | Modification proposed.<br><br>To provide some flexibility, the requirement for public art to be reflective of the local history, culture and/or community has been modified to read public art <i>should, where possible, have regard to</i> the local history, culture and/or community |
|                                   | Add - 'but does not include: pre-existing artworks or parts or additions thereof.   | No modifications are proposed.<br><br>The policy requires the works as a new commission, including where integrated with existing structures.  |
| 1.1 & 1.2                         | Add - Developers are free to increase the percentage to achieve a greater impact, to suit scale and location or the complexities of the design. | Modification proposed (clause 1.1)<br><br>Replace <i>at least 1%</i> with <i>a minimum value of 1%</i> .   |
|                                   | What if the developer does not expend the full amount?  | Modification proposed (clause 4.1)<br><br>To require evidence that the condition has been satisfied.   |
| 3.2                               | Add - Supply 360 deg 'views analysis elevations'.   | Modification proposed (clause 3.2(c))<br><br>360 degree view changed to "3D perspective" for better terminology clarification.   |
| 3.4                               | What is the Town's concept approval process?  | No modifications are proposed.<br><br>Clause 3.2 (b) already requires the applicant to demonstrate how the proposal meets the requirements of the policy, which is to be submitted for the Town's approval.  |

|         |  |  |
|---------|--|--|
| 4.3     | Remove in the vicinity of the development.   | No modifications are proposed.<br><br>Clause 4.3 already provides the option for larger or more comprehensive public art projects to provided elsewhere in the Town.   |
|         | Any such artwork will be incorporated into the Town Public Art collection and the Developer will have no ownership, influence or further responsibility.   | No modifications are proposed.<br><br>It may not be appropriate to include reference to copyright in the planning policy as it could possibly be challenged by an artist and may not be enforceable. The Town could request permission to reproduce images of artworks when the documentation is received prior to issue of a building permit. |
| 5       | This needs to be clear whether this applies to both options.<br><br>Option 1 Approval process needs clarification.   | Modification proposed (new clause 4.5)<br><br>Clarification provided that only cash-in-lieu contributions will be required to have regard to the other Council policies.   |
| General | Add:<br><br>The Town is committed to promoting Public Art within the Town and its own Collection. All commissioned artworks under Option 1 or 2 will be included in the ToC Public Art database.<br><br>Depending on location, the artworks may also be included in cultural or public art walks or events promoted by the Town. | No modifications are proposed.<br><br>This policy is requiring art through the development approval process and is not promoting art generally.  |
|         | No reference to sustainability.  | No modifications are proposed.<br><br>This does not appear relevant to the policy.   |
|         | Include a requirement to acknowledge Town of Cottesloe in Option 1 information plaques.  | No modifications are proposed.<br><br>Reference to the Town is not necessary on information plaques.   |
|         | Suitable visuals and documentation lodged with the Grove Library for local archive.  | No modifications are proposed.<br><br>This may be provided on a voluntary basis by the artist.   |

In addition to the above, further modifications to improve clarity in the application of the policy are proposed as follows:

- Public realm modified to public domain

*Reason: public domain is a more contemporary expression, as referenced in the Department of Planning, Lands and Heritage's Design Review Guide.*

- Public art definition to exclude 'off-the-shelf productions'

*Reason: to ensure off-the-shelf productions are not used for public art.*

- 4.1: include “, or any deficit below the 1% in the amount expended by the developer/land owner in fulfilling Option 1 above,”

*Reason: if the public art contribution is a combination of public art within the development site and cash-in-lieu, as per clause 2.2, the value of cash-in-lieu will be less than 1%.*

- 4.6: remove 'in accordance with the Town's Public Art Strategy and Acquisition of Public Artwork Policy'.

*Reason: This has been clarified in clause 4.5.*

### **ATTACHMENTS**

- 10.1.7(a) Draft Local Planning Policy - Development Contributions for Public Art Policy - June 2023 for adoption (clean copy, modifications not shown) [under separate cover]**
- 10.1.7(b) Draft Local Planning Policy - Development Contributions for Public Art Policy - June 2023 for adoption (including changes tracked) [under separate cover]**
- 10.1.7(c) Public Submission Received During Advertising [under separate cover]**

### **CONSULTATION**

Schedule 2, Part 2, Division 2 – Local Planning Policies of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the requirements for preparing local planning policies. In particular, clause 4 states:

1. (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —*
  - (a) *publish in accordance with clause 87 the proposed policy and a notice giving details of —*
    - (i) *the subject and nature of the proposed policy; and*
    - (ii) *the objectives of the proposed policy; and*
    - (iii) *how the proposed policy is made available to the public in accordance with clause 87; and*
    - (iv) *the manner and form in which submissions may be made; and*
    - (v) *the period for making submissions and the last day of that period;*
  - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*

- (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
2. (2) *The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).*
3. (3) *After the expiry of the period within which submissions may be made, the local government must —*
4. (a) *review the proposed policy in the light of any submissions made; and*
5. (b) *resolve to —*
- (i) *proceed with the policy without modification; or*
- (ii) *proceed with the policy with modification; or*
- (iii) *not to proceed with the policy.*

The policy was advertised between 22 April 2023 and 15 May 2023 (23 days) as follows:

- notice in the local (Post) newspaper,
- notice, copy of the Policy and electronic submission form on the Town's website,
- notice and copy of the Policy at the front counter of the Town's Administration Office, and
- notice on the Town's Facebook page and email database.

One submission was received during the advertising period, as discussed in the Officer comment above.

If Council decides to adopt the policy, the Town will publish a notice in the local (Post) newspaper to that effect.

### **STATUTORY IMPLICATIONS**

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

*Town of Cottesloe Local Planning Scheme No. 3*

### **POLICY IMPLICATIONS**

This policy will apply to development applications for prescribed development with a development cost of \$2 million or greater.

If Council decides not to adopt the policy, the Town will not be able to impose a requirement to provide public art (or cash-in-lieu of public art) without the agreement of developers.

### **STRATEGIC IMPLICATIONS**

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

Priority Area 4: Managing Development

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM104/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Harkins**

**THAT Council adopts the Developer Contributions for Public Art local planning policy, pursuant to Schedule 2, Part 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with modification**

**Carried by En Bloc Resolution 6/0**



**10.1.8 ADOPTION OF DRAFT PAYMENT IN LIEU OF PARKING PLAN**

**Directorate:** Development and Regulatory Services  
**Author(s):** Sonya Hayes, Planning Officer  
**Authoriser(s):** Freya Ayliffe, Director Development and Regulatory Services  
**File Reference:** D23/22209  
**Applicant(s):** N/A  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider adopting the Payment in Lieu of Parking Plan, following advertising.

**OFFICER RECOMMENDATION IN BRIEF**

That Council:

1. adopts the Payment in Lieu of Parking Plan in accordance with Section 77K of the *Planning and Development (Local Planning Schemes) Regulations 2015*, without modification; and
2. revokes Local Planning Policy No. 1 – Parking Matters.

**BACKGROUND**

The State Government's Action Plan for Planning Reform called for a consistent policy with practical criteria, basic benchmarks and fair methodology for considering the use of cash in lieu of car parking in established town centres, retail/café corridors and other commercial and mixed-use centres.

The Payment in Lieu of Parking Plan (the Plan) has been created under Schedule 2, Part 9A of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and has been prepared in the Manner and Form approved by the Western Australian Planning Commission (WAPC).

The Regulations require all Councils to prepare a Payment in Lieu of Parking Plan, as existing cash-in-lieu of parking provisions (Local Planning Policy No. 1 – Parking Matters) will become redundant on 1 July 2023.

**OFFICER COMMENT**

Payment in lieu (also called cash-in-lieu) for car parking refers to a payment made "in lieu" of providing the minimum number of on-site car parking spaces specified in the planning framework. Local Governments can use the funds generated from payments in lieu for either:

- public parking infrastructure

- other transport infrastructure
- ancillary or incidental purposes

Where ancillary or incidental items are proposed they are identified in the Plan.

The Plan includes two areas, being the foreshore precinct and the town centre.

No submissions on the Plan were received during the advertising period. No modifications to the Plan are proposed at this stage. However, the Plan will be reviewed when further infrastructure planning has been undertaken.

The Town's current cash-in-lieu of parking requirements, contained in clause 5.8.3 of *Local Planning Scheme No. 3* and *Local Planning Policy No. 1 – Parking Matters* will be superseded by the Plan.

### **ATTACHMENTS**

**10.1.8(a) Draft Payment in Lieu of Parking Plan for adoption [under separate cover]**

### **CONSULTATION**

Clause 77K of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the requirements for advertising the Plan.

The Plan was advertised between 13 May 2023 and 6 June 2023 (24 days) as follows:

- notice in the local (Post) newspaper;
- notice, copy of the Plan and electronic submission form on the Town's website;
- notice and copy of the Plan at the front counter of the Town's Administration Office; and
- notice on the Town's Facebook page and email database.

No submissions were received during the advertising period.

If Council decides to adopt the Plan, the Town will publish a notice in the local (Post) newspaper to that effect.

### **STATUTORY IMPLICATIONS**

*Local Planning Policy No. 1 – Parking Matters* (adopted 15 December 2014)

### **POLICY IMPLICATIONS**

This policy will apply to non-residential development applications within the foreshore precinct and town centre where a parking shortfall is proposed.

If the Council decides not to adopt the Plan, the Town will not be able to require cash-in-lieu of parking after 1 July 2023.

**STRATEGIC IMPLICATIONS**

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

Priority Area 4: Managing Development

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM105/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young**

**Seconded Cr Harkins**

**THAT Council:**

- 1. adopts the Payment in Lieu of Parking Plan in accordance with Section 77K of the *Planning and Development (Local Planning Schemes) Regulations 2015*, without modification; and**
- 2. revokes Local Planning Policy No. 1 – Parking Matters**

**Carried by En Bloc Resolution 6/0**

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**ENGINEERING SERVICES****10.1.12 HEALTHY STREETS PROJECT**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/22614  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Council to consider adopting Main Roads Western Australia (MRWA) proposal for Marmion Street and Broome Street between Forrest Street and Grant Street as trial projects for the State Government's Healthy Streets Program.

Stakeholder consultation will occur and such results presented to Council for the project scope to be approved before any design occurs.

**OFFICER RECOMMENDATION IN BRIEF**

That Council supports the Healthy Street trial program

**BACKGROUND**

The Healthy Streets Program, funded through MRWA's Low Cost Urban Solutions budget, is a human-centred program that embeds public health in transport, public spaces and planning that focuses on the following ten principles in improving corridors towards achieving the program principles:

The 10 Healthy Streets Indicators

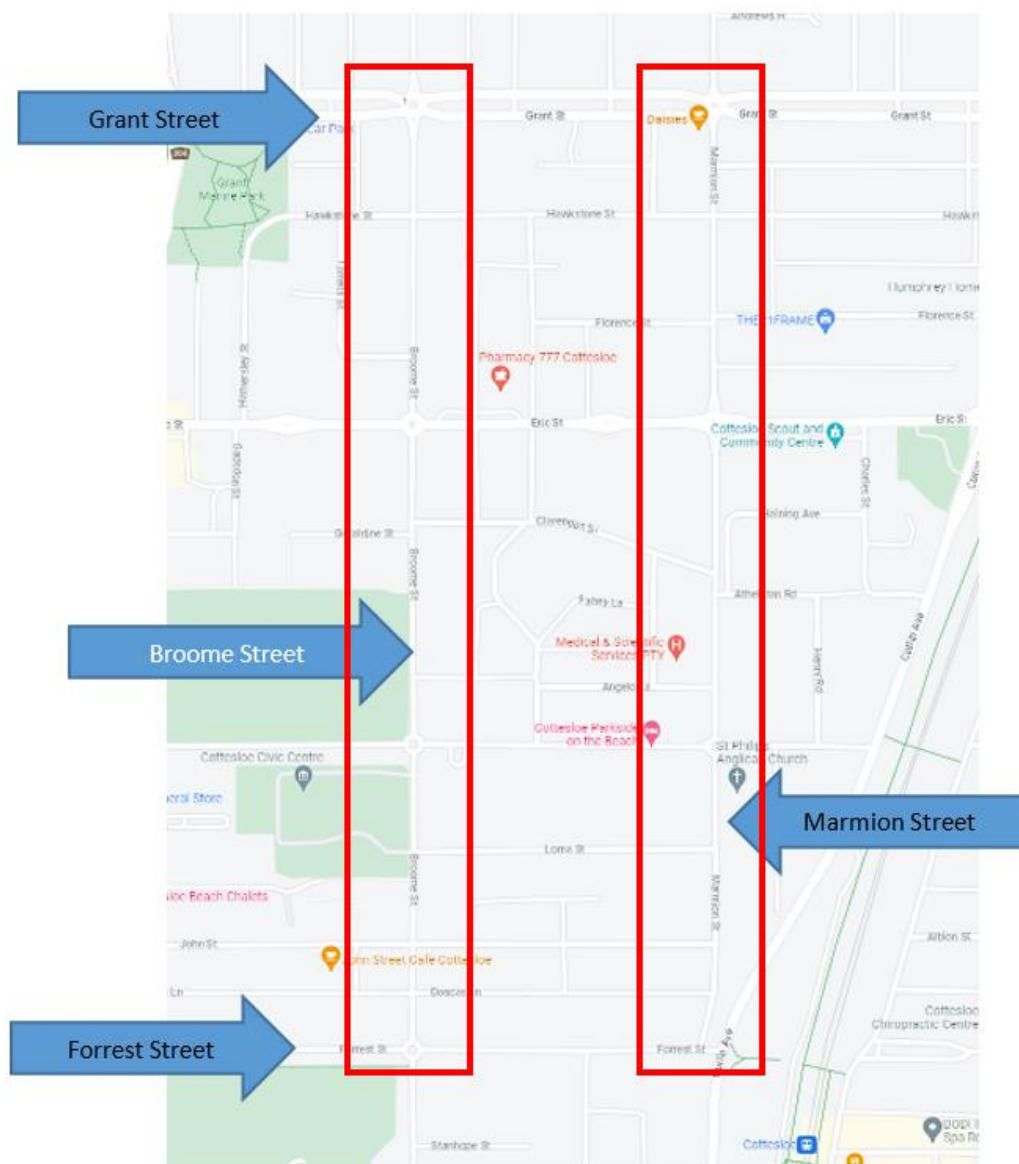


Further information can be found at the following link:

<https://taylorburrellbarnett.com.au/2021/11/healthy-streets-indicators-wa/>

In 2022, MRWA identified Broome Street and Marmion Street, between Forrest Street and Grant Street, Cottesloe as a trial routes for its Healthy Streets Program. Outcomes from investigative works to date suggest opportunity to:

- Reduce vehicle speeds through Local Area Traffic Management;
- Improve the walking environment and its safety through installation of wider and illuminated paths including traffic slowing devices at intersection crossing points;
- Provide safe cycle facilities such as bi-directional bike lanes and narrowing of streets to reduce vehicle volumes including the diversion of buses; and
- Improve street aesthetics to make active transport modes more appealing through non-traditional path materials and different streetscape enhancements



Stakeholder consultation is needed to scope the improvement works.

Given that this project is not within the current Corporate Business Plan, Council endorsement is needed for resource allocation to progress the initiative. Such implications, the program parameters and a proposed project pathway are discussed in subsequent sections of this report.

Given that no scope has been determine, it will be difficult for any benefits to cost assessment to be carried out. The earliest that this can be determined would only be after public consultation, when the Administration is in a position to make a recommendation based on feedback received.

### **OFFICER COMMENT**

The following provides further detail on possible solutions, subject to stakeholder consultation and engagement. A consultant contracted for this element will be briefed on the funding parameters so as that feedback received is balanced and objective.

It also includes information on elemental funding by the program and also a project pathway for Council to consider.

### **Heath Street Project Solutions**

This covers elements such as, but not limited to, deflection treatments on approaches to roundabouts and raised plateaus at intersection mid-blocks or at pedestrian crossing points at intersections to reduce traffic speed. Depending on extent, the construction of each device are in the order of \$10,000 to \$50,000.



Diagram A – Mid-Block Raised Plateau – Marine Parade



Diagram B – Roundabout Approach Deflection Treatment – Broome Street



Diagram C – Roundabout Raised Pedestrian Plateau Treatment





Diagram D – Road Narrowing Treatment Option



Diagram E – Slow Points – Eric Street



Diagram F – Continuous Footpath Raised Plateau Treatments



It needs to be stressed that at this early stage, no determinations have been made on what treatments (on and off street) are needed, and the above examples are provided to illustrate only a sample of possible outcomes. Community engagement and consultation, especially with residents on Marmion Street and Broome Street, need to occur prior to any recommendations to fund any specific treatment can be made.

### **Healthy Street Project Funding**

Council is responsible for financing the public consultation phase needed to develop a concept to further progress onto detail design and construction. This consultation is estimated to cost \$10,000 and will cover resources for the stakeholder engagement process (resident workshops and surveys) including providing a summary outcome report. The extent and method will be a Council decision with results used to develop a concept.

The Healthy Street Project funded by the Low Cost Urban Road Safety Program will then remunerate the detail design and construction of the road treatment options mentioned in this report. It will not fund footpath widening and lighting solutions. Other road treatments not mentioned may be funded through the program. This will be further discussed with State Government at the time when the stakeholder engagement plan (to be approved by Council) is developed so as to ensure a well informed consultation and decision making process.

### **Project Pathway**

Subject to Council's endorsement, the following is the suggested pathway to progress the project:

- Stage 1: Formal position adopted by Council to proceed with the Healthy Streets trial program for the mentioned roads (June 2023 OCM)
- Stage 2: Subject to Council adopting the 2023/2024 budget, a media release (in partnership with Main Roads) will then occur administratively. This is then followed by (or can run concurrently) a public consultation and stakeholder engagement plan including all informing reports and documents being developed with and endorsed by Council (August 2023 OCM)
- Stage 3: Public consultation and Council endorsement of concept principles based on the stakeholder engagement outcomes (November 2023)
- Stage 4: Preparation of concepts using information obtained from stage 3 and Council endorsement of such drawings for engagement (March 2024)
- Stage 4: Public consultation to determine a preferred solution and Council approval of such a concept to progress onto detail design and construction (May 2024)
- Stage 5: detail design and construction (subject to Main Roads funding approval and Council adopting the 2024/2025 budget) (July 2024 to June 2025)

### **ATTACHMENTS**

Nil

**CONSULTATION**

It is envisaged that, subject to Council approval, the consultation process will involve resident workshops and surveys to determine aspirations. A detailed Community Engagement Plan will be developed in collaboration with and approved by Council prior to any consultation occurring (as per suggested pathway).

Subject to Council supporting the trial, a joint media release with Main Roads will occur, providing a summary report of all the investigative works completed to date.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995 Section 2.7 (2a) – oversee the allocation of the local government's finances and resources*

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

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

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

**RESOURCE IMPLICATIONS**

There is currently no budget to progress the project. Council is to note that the Local Government is responsible of all public consultation cost. A \$10,000 budget will be included in 2023/2024 for Council's consideration.

The Healthy Streets Program (funded through the Low Cost Urban Safety Program) will generally fund the cost for detail design consultants and the construction of selected road treatments. The funding arrangement will be finalised with State Government following Council supporting the trial and provided in any documentation that is put out for public consultation.

Depending on the consultation feedback received, Council can then decide whether to proceed with the program.

Based on preliminary discussions, the Town has been made aware that the Healthy Streets budget will not pay for footpath and lighting works.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

The implementation of this program will encourage the use of active transport modes of travel and thereby improving environmental and sustainability outcomes.

**VOTING REQUIREMENT**

Simple Majority

**OCM106/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young**

**Seconded Cr Harkins**

**THAT Council:**

- 1. SUPPORTS the participation in the Healthy Streets Trial Program for Broome Street and Marmion Street between Forrest Street and Grant Street ; and**
- 2. Subject to point one:**
  - a. NOTES the pathway within the officer's comment section of the report; and**
  - b. CONSIDERATION of \$10,000 to be included in the 2023/2024 budget with the media release in partnership with Main Roads and the follow on public consultation occurring only if this budget item is adopted.**

**Carried by En Bloc Resolution 6/0**

**EXECUTIVE SERVICES****10.1.14 STATE SHARK FISHING RESTRICTIONS**

**Directorate:** Executive Services  
**Author(s):** William Matthew Scott, Chief Executive Officer  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/23138  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider recent correspondence from the Minister for Fisheries regarding Shark Fishing.

**OFFICER RECOMMENDATION IN BRIEF**

That Council support the Minister for Fisheries position that fishing activities should be regulated under State-based legislation, and should this occur, consider repealing current local laws in relation to fishing activities, subject to no further impact on Cottesloe Beach's Fish Habitat Protection Area status.

**BACKGROUND**

On 11 May 2023, the Minister for Fisheries, the Hon. Don Punch MLA, issued a letter to Mayor Young to discuss the issue of shark fishing on popular Perth beaches and in the Swan and Canning Rivers. In the letter the Minister raised the matter of a recent ban on the use of wire trace at Port and Leighton beaches and whether this ban should be extended to other beaches from Two Rocks to the Dawesville Cut, incorporating the Swan and Canning Rivers.

Within the letter the Minister advises a strong preference for State-based legislation, supported by expert advice from the Department of Primary Industries and Regional Development (DPIRD), to regulate fishing activities. If this occurred there would be little to no reason for Local Governments to maintain current local laws that attempt to also regulate [fishing] activities.

The Minister's letter concludes in requesting the Town's views on his proposal.

**OFFICER COMMENT**

Recreational fishing is already regulated on a State-wide basis, via the Department of Primary Industries and Regional Development. Despite these regulations, some local governments, including the Town of Cottesloe have introduced further local fishing regulations, via individual local laws, to deal with local fishing matters. Under the Town of Cottesloe's Beaches and Beach Reserve Local Law 2012, Clause 7.1 currently restricts certain fishing activities, being -

***"7.1 Certain fishing activities prohibited***

*Within the defined area no person shall at any time -*

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- (a) fish for sharks by any means;*
- (b) use blood as a lure for the purpose of attracting marine life;*
- (c) clean fish, or leave or deposit fish offal or bait and associated material, except in the bins provided for that purpose; or*
- (d) use or be in possession of a device such as a spear gun, gidgee, Hawaiian sling or other like device.”*

Though this prohibition has been in place since 2012, it is very difficult to enforce and/or successfully prosecute offenders under this clause. Unless the Town’s Rangers are present when a shark is caught and landed, fishing tackle (other than those items identified in subclause (d)) could be used to target other recreational fish species. Likewise the Local Law is difficult to apply to anglers fishing from a boat, adjacent to the shore, but outside the Town’s jurisdiction. According to the Town’s Ranger Service, there has not been an infringement issued under this clause in the last 5 years. The Ranger Service has also advised there has been little evidence of shark fishing occurring within the district during the same period.

Council would also be aware of the Cottesloe Fish Habitat Protection Area (FHPA), which is limestone shelf, located 1.5km offshore from the beach, commonly known as Cottesloe Fringing Bank. The FHPA is managed by DPIRD, which have placed restrictions on recreational fishing in this area via State Legislation.

In regards to a ban on the use of wire trace (to stop shark fishing), this was considered by Council in July 2019 (<https://www.cottesloe.wa.gov.au/council-meetings/ordinary-council-meeting/23-july-2019-ordinary-council-meeting/253/documents/confirmed-minutes-ordinary-council-meeting-23-july-2019.pdf>), when it was proposed to introduce a Local Law to ban the use of wire traces. Council resolved to put the terms of the proposed draft law out for public consultation. A total of 50 submissions were received, with 42 opposed. A detailed submission was received from RecFish WA, outlining that the ban would have limited effect, would produce unintended consequences and would result in jurisdictional confusion. Its preference was for the matter to be dealt with at State level, where input from the then Department of Fisheries (now incorporated into DPIRD) could inform an effective, consistent approach.

In November 2019 Council resolved to not proceed with the ban and instead considered alternative approaches such as increased surveillance and patrols (including midnight patrols), which as mentioned above has resulted in no infringements or prosecutions.

Given the above, it seems reasonable for Council to support the Minister’s position for State-based legislation to regulate fishing activity, subject to the continued protection of the existing FHPA and the opportunity to consider and comment on any legislation that may impact on the continued enjoyment of the Cottesloe Beaches (which includes recreational fishing).

## **ATTACHMENTS**

**10.1.14(a) Letter to Mayor Lorraine Young [under separate cover]**

**CONSULTATION**

Nil

**STATUTORY IMPLICATIONS**

Beach Reserve Local Law 2012

Clause 7.1 Certain fishing activities prohibited

**POLICY IMPLICATIONS**

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

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Simple Majority

**OCM107/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Mayor Young

Seconded Cr Harkins

**THAT Council:**

1. **SUPPORT** the current position from the Minister for Fisheries for the regulation of all fishing activities (including Shark Fishing) to occur under appropriate State-based legislation, as outlined in his letter to Mayor Young, dated 11 May 2023, subject to the Cottesloe Beach status as a Fish Habitat Protection Area not being impacted or otherwise jeopardised by any future State-based legislation;
2. **ADVISE** the Minister for Fisheries of Council's preparedness to consider repealing its own Local Law relating to Shark Fishing activities, subject to an opportunity to consider future State-base legislation on the matter; and
3. **REQUEST** the Chief Executive Officer (CEO) to advise the Minister for Fisheries of this

resolution

Carried by En Bloc Resolution 6/0

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

**10.2.1 RECEIPT OF AUDIT COMMITTEE MINUTES**

**Attachments: 10.2.1(a) Unconfirmed Minutes - Audit Committee - 12 June 2023  
[under separate cover]**

**OCM108/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Mayor Young                      Seconded Cr Harkins**

**THAT Council RECEIVES the attached Unconfirmed Minutes of the Audit Committee Meeting held on 12 June 2023 and ADOPTS the recommendations contained within.**

**Carried by En Bloc Resolution 6/0**



OCM109/2023

**COUNCILLOR MOTION**

Moved Mayor Young

Seconded Cr Bulbeck

*The order of items 10.1.10 and 10.1.11 were moved for the convenience of the members of the gallery.*

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck

Against: Nil

Mayor Young left the meeting at 6.35 pm.

**10.1.10 EXTENSION OF TEMPORARY PARKING RESTRICTIONS - EAST COTTESLOE, NORTH OF ERIC STREET****Directorate:****Author(s):** Freya Ayliffe, Director Development and Regulatory Services**Authoriser(s):** Freya Ayliffe, Director Development and Regulatory Services

William Matthew Scott, Chief Executive Officer

**File Reference:** D23/24283**Applicant(s):****Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to approve the extension of temporary parking restrictions to be applied to East Cottesloe, north of Eric Street to Parry Street, including the railway reserve, to Stirling Highway.

**OFFICER RECOMMENDATION IN BRIEF**

It is recommended that Council approve the extension of the temporary parking restrictions in East Cottesloe, north of Eric Street, including the railway reserve, to Stirling Highway.

The restrictions being;

1. Authorised Vehicles Only 7am – 5pm Monday to Saturday.
2. Two hour parking all other vehicles while restrictions apply.

**BACKGROUND**

At the May 2021 Ordinary Council Meeting (OCM), Council resolved to authorise the CEO to investigate alternative parking arrangements for residents and their visitors in East Cottesloe. This was a result of the anticipated increase in vehicles from a large development

occurring in the Town of Claremont, located at 1 Airlie Street, Claremont (the Grove). The temporary restrictions were, and still are required to address the significant increase in non-residential/trades vehicles and reduce any potential adverse impact to residents.

After several meeting with neighbouring Councils, the developer and builder, the Administration sought approval from Council to authorise the CEO to administer *Part 4, 4.1 (5) of the Parking and Parking Facilities Local Law 2009* restricting parking in the designated area. *Part 4, 4.1 (5)* states –

*A person shall not, without the prior permission of the local government, the CEO, or an Authorised Person, park a vehicle in an area designated by a sign stating 'Authorised Vehicles Only'.*

This approach was recommended by McLeods Barristers and Solicitors and further supported by Council at the October 2021 OCM.

Accordingly, appropriate signage was erected, relevant permits issued to residents within the area and enforcement of the temporary restrictions commenced soon after.

The temporary restrictions have been well received by the majority of residents in the area, with some residents requesting the restrictions remain in place permanently. Further, the restrictions have been effective as non-residential/trades vehicles are no longer parking in the area and/or on people's verges. However, as there are currently no parking restrictions in East Cottesloe, north of Eric Street, there has been a significant influx of non-residential/trade's vehicles parking in this area, particularly along the railway reserve (refer below photo's).



The Town has received numerous complaints in relation to the increase in vehicles, including from the Primary School.

There are currently 380 contractors on site, at the peak of construction it is anticipated there will be 680 contractors, which is scheduled for June/July. The Town has been advised that the development will finish in December 2023.

**OFFICER COMMENT**

Since the temporary restrictions have been implemented the Town has adopted the *Parking and Parking Facilities Local Law 2023*, as a result Council is required to approve the extension of the temporary parking restrictions to East Cottesloe, north of Eric Street.

The temporary restrictions will be an extension of what is currently in place in East Cottesloe, south of Eric Street and will be removed as soon as the development has been completed, which is expected to be December 2023.

It should be noted that should Council not support the extension of the temporary parking restrictions, the Town will not have any means of enforcement to prevent non-residential/trades vehicles parking in the area.

The Town's Rangers have been actively liaising with the primary school to ensure they will not be impacted by the temporary restrictions. Permits will be given to all staff to allow them to park, in the area without any restrictions.

Furthermore, on review of the new Parking Local Law, in particular clause 1.10 which indicates that only Council by resolution can impose restrictions (temporary or permanent), it is recommended that Council formally resolve to implement the extension of the temporary parking restrictions, which will be the area north of Eric Street to Parry Street, including the railway reserve to Stirling Highway.

**ATTACHMENTS**

Nil

**CONSULTATION**

Elected Members

North Cottesloe Primary School

Cancer Wellness Centre

Residents within the area (letters sent)

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

*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 *Strategic Community Plan 2013 – 2023*.

Priority Area 6: Providing open and accountable local governance

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

### **RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation. The Town's Rangers and Compliance Officers will be required to monitor and enforce the temporary parking restrictions.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

THAT Council:

1. Approve the extension of temporary parking restrictions to be applied to East Cottesloe, north of Eric Street to Parry Street, including the railway reserve;

**OCM109/2023**

**Moved Cr Barrett**

**Seconded Cr Harkins**

### **COUNCILLOR MOTION**

THAT Council:

1. Approve the extension of temporary parking restrictions to be applied to the parking areas adjacent to North Cottesloe Primary school on Eric Street and Railway Street.
2. Request Administration to undertake a survey of Cottesloe Residents in order to ascertain support for the extension of temporary parking restrictions to be applied to the whole area of East Cottesloe, north of Eric Street to Parry Street, including the Railway reserve.
3. Request Administration to urgently speak with Claremont Council and the Developer outlining the significant impact the Development is having on our Community and request the Developer make a plan to utilise onsite parking as they previously indicated they would do.

**Lost 2/3**

**For: Crs Harkins and Barrett**

**Against: Crs Sadler, MacFarlane and Bulbeck**

**FORESHADOWED MOTION – CR MACFARLANE**

Officer Recommendation.

**OCM1101/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr MacFarlane**

**Seconded Cr Harkins**

**THAT Council:**

- 1. Approve the extension of temporary parking restrictions to be applied to East Cottesloe, north of Eric Street to Parry Street, including the railway reserve;**

**Carried 4/1**

**For: Crs Sadler, Harkins, MacFarlane and Bulbeck**

**Against: Crs Barrett**

Mayor Young returned to the meeting at 6:50 pm.

**10.1.11 RIGHT OF WAY POLICY**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/22556  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to reconsider the attached updated Right of Way (ROW) Policy that adopts a position on the management of any unauthorised encroachments.

**OFFICER RECOMMENDATION IN BRIEF**

For Council to adopt the attached revised Right of Way Policy.

**BACKGROUND**

Council at the May 2023 Ordinary Council Meeting, deferred this item for further discussion at an Elected Member's Workshop. This was completed in June 2023.

The policy was last reviewed and adopted by Council in June 2020. The revisions were predominantly the abolishment of the ROW contribution scheme and amending laneways that were exempted from this policy. At the same meeting, Council also considered the ROW 20 encroachments and authorised the Chief Executive Officer (CEO) to negotiate with landowners to address the matter either through a land sale or adverse possession.

At the February Special Council Meeting (SCM) and March Ordinary Council Meeting (OCM) 2023, Council, considered legal advice and resolved not to further action 36 and 38 Florence Street adverse possession application. The CEO was also instructed to:

- Seek further legal and technical advice to manage and potentially prevent any further claims for adverse possession for any remaining portions of ROW 20 (20A, 20B or 20D);
- To continue to progress the transfer of any and all remaining ROWs currently in the name to the Town of Cottesloe to the Crown;
- Undertake physical surveys and inspections as part of preventative and transfer; and
- Review Policy Pol/59 Right of Way and present the reviewed policy to a future Council Meeting for consideration, by the May 2023 OCM.

Accordingly, the current ROW Policy has been updated to provide a Council position on the recent matters.

**OFFICER COMMENT**

Attached is the modified ROW Policy, revised based on the following principles:

- Based on the recent SCMs, it appears that Council does not have any appetite for any encroachments onto its laneways;

- Its position is further reinforced by the Doscas Lane item where Council did not support State owned land containing unauthorised structures to be amalgamated with private property;
- State Government's legislation does not permit adverse possession on Crown land (Limitations Act, 2005);
- Previous legal advice relating to Council's obligations towards protecting resident's easement rights has been taken into consideration when drafting these changes.

The attached revised ROW Policy contains the following amendments:

- Policy purpose, Paragraph 1.2 has been updated to reflect providing an unobstructed public thoroughfare;
- Policy requirements, Paragraph 3.2, a new section, has been introduced to address encroachments and unauthorised use. Such information is no longer in Paragraph 3.1, Ownership that has been amended to only focus on removing all encroachments and transferring Council owned ROWs to the Crown.

It will not be unreasonable for Council to adopt the initial position for all encroachments to be removed because this is required before any municipal owned laneways can be transferred to the Crown. Adverse possession within Council owned ROWs is dealt with separately under the Lands Administration Act (1997) which also needs to be completed prior to any transfer to the Crown.

The attached revised ROW Policy has the above changes demarcated.

Should Council accept the policy, the Town will, at the completion of the ROW surveys mentioned in the 21 February 2023 Special Council Meeting (<https://www.cottesloe.wa.gov.au/council-meetings/special-council-meeting/21-february-2023-special-council-meeting/325/documents/confirmed-minutes.pdf>) give encroaching property owners an initial 30 days to remove such encroachments.

Depending on the response from owners following this initial period, the Town will then determine on a case by case basis what further action is required to achieve compliance with the policy.

Given resource limitations and the unknown complexities associated with each encroachment, it will be very difficult to predict the time needed to consider individual circumstances. The Administration will prioritise the cases based on the duration of encroachments to optimise the protection of Council land against adverse possession claims. This would mean that encroachments closer to the 12 year mark (qualification criteria to adverse possession) will take precedence over those that are further from this benchmark.

## **ATTACHMENTS**

**10.1.11(a) Right of Way Policy - Draft - Adopted OCM 23 June 2020 - Revised June 2023**  
**[under separate cover]**

## **CONSULTATION**

Hawkstone Street residents

Mcleods solicitors

Department of Lands

### **STATUTORY IMPLICATIONS**

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

*Land Administration Act (1997) Section 58 - Activities on Thoroughfares and Trading in Thoroughfares and Public Places*

*Limitations Act (2005) Section 76 – No Action by Adverse Possession Against the Crown*

### **POLICY IMPLICATIONS**

The current policy Pol/59 has been updated to include Council's position in the management of all forms of encroachments.

### **STRATEGIC IMPLICATIONS**

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

Priority Area 5: Providing sustainable infrastructure and community amenities

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

### **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. ADOPTS the proposed changes to the Policy Pol/59 (as attached)

**OCM112/2023**

### **COUNCILLOR AMENDMENT**

Moved Mayor Young

Seconded Cr Bulbeck

That Council;



2. REQUESTS the CEO to bring a Report to Council at least quarterly on progress in carrying out Council's resolution SCM 009/2023 (21 February 2023) dealing with Florence St ROW encroachments and the transfer to the Crown of all ROW's currently in the name of the Town; and
3. REQUESTS the CEO to include in his Quarterly Report to Council all complaints to the Town regarding ROW encroachments, pending the transfer to the Crown of all ROW's currently in the name of the Town.

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck

Against: Nil

OCM113/2023

**SUBSTANTIVE MOTION**

Moved Mayor Young

Seconded Cr Bulbeck

That Council:

1. ADOPTS the proposed changes to the Policy Pol/59 as attached;
2. REQUESTS the CEO to bring a Report to Council at least quarterly on progress in carrying out Council's resolution SCM 009/2023 (21 February 2023) dealing with Florence St ROW encroachments and the transfer to the Crown of all ROW's currently in the name of the Town; and
3. REQUESTS the CEO to include in his Quarterly Report to Council all complaints to the Town regarding ROW encroachments, pending the transfer to the Crown of all ROW's currently in the name of the Town.

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck

Against: Nil

Rationale:

- i. The Florence St ROW issue is a complicated legacy issue. It was raised as far back as 2001 (with mention in the April 2005 Minutes that it may have been raised in 1997). It has spanned a period of at least 24 years during which the Town has had 5 changes in CEO, 6 changes in Mayor, 5 changes in relevant Managers and Council itself has changed composition many times.
- ii. Council has passed several resolutions over the period, aimed at finalising the matter by clarifying ownership – but the matter has not been able to be

satisfactorily resolved, undoubtedly in part due to the changes mentioned above.

- iii. Time is critical in relation to the establishment of Adverse Possession claims and it is important that the matter now be tackled and resolved as quickly as possible.
- iv. Given the history, Council has a responsibility to ensure that the matter is now progressed to final resolution by taking oversight to. The history of the matter requires that Council now adopt a role in oversight to ensure that is achieved.
- v. Requiring a regular and specific report to be formally considered by Council is an appropriate oversight action in the circumstances and will also provide the opportunity for impacted residents to follow progress on the matter.
- vi. Until all ROW's currently in the Town's name are finally transferred to the Crown (after which no Adverse Possession claims can be made) it is appropriate for Council to retain some oversight on the handling of complaints about ROW encroachments, by asking for inclusion of details of complaints received, and how they are dealt with, in the CEO's quarterly report.
- vii. This will allow Council the opportunity to ensure that appropriate action is taken in relation to complaints, consistent with the Policy, to ensure that ROW's remain open for community use. It will also reassure the community that there is a process for complaints to be brought to Council's attention.

Cr MacFarlane left the meeting at 6:58 pm.

Cr MacFarlane returned to the meeting at 6:59 pm

**10.1.2 TOWN OF COTTESLOE DOGS LOCAL LAW 2023**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/22215  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

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

**OFFICER RECOMMENDATION IN BRIEF**

That Council adopts by Absolute Majority the Town of Cottesloe Dogs Local Law 2023, arranges for the gazettal and publication of the Local Law and authorises the Mayor and the Chief Executive Officer to affix the Town's Common Seal to the Local Law.

The proposed Local Law has some recommended minor amendments based on feedback received from the Department of Local Government, however these amendments are not considered to be significantly different to the draft Local Law as advertised.

**BACKGROUND**

The Town of Cottesloe currently has a Dogs Local Law as published in the Government Gazette on 26 July 2011. Changes in legislation over the past decade has seen the Local Law become outdated and not reflective of the industry standard, which is based on the WA Local Government Association (WALGA) Model.

Section 3.5 of the Local Government Act 1995 provides the power for local governments to make local laws and prescribes all matters that are required or permitted to be prescribed by a Local Law, or are necessary or convenient for it to perform any of its functions.

The Town of Cottesloe Dogs Local Law regulates the control of dogs within the district and is to be read in conjunction with the Dog Act 1976 and Dog Regulations 2013.

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

- The proposed Local Law was examined by the Administration, including Ranger Services and Regulatory Services officers.
  - The Western Australian Local Government Association (WALGA) Model Local Law was combined with the Town's existing Local Law and amendments made where required.
  - A new draft of the Local Law based on the WALGA model was prepared, while retaining those sections that are relevant and specific to the Town of Cottesloe.
  - The draft Local Law was also provided to the Department of Local Government for comment (as statutorily required).
  - Legal advice was sought on a few changes to the Local Law.
-

**OFFICER COMMENT**

The purpose of this report is to formally make the new Dogs Local Law relating to the control of dogs in the Town of Cottesloe. Up to date and relevant Local Laws are an important cornerstone of good governance and the Town has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

Council members discussed the proposed new Local Law at its Elected Member Workshop held on 7 February 2023 and adopted a draft Local Law for the purposes of advertising at its meeting held on 28 February 2023.

The repeal and replacement of this Local Law will result in more contemporary dog controls being in place and more efficient and effective local government by removing an outdated Local Law from the public record.

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

**Purpose:**

**To provide for the regulation and control of dogs within the local government district of the Town of Cottesloe.**

**Effect:**

**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.**

The draft new Local Law will result in an outcome that is not substantially different to that in place at the moment. The key changes are as follows:

1. The removal of dogs prohibited and dog exercise areas from the Local Law. These matters are now regulated pursuant to the Dog Act 1976 and can be amended by Council resolution rather than by amending a Local Law. Council resolved in February 2023 to retain the areas currently subject to restriction or as exercise areas as they currently are. There is no need to make any further decision on this as it has already been done. Local Public Notice will still need to be provided and this will be undertaken in conjunction with the gazettal of the new Local Law so there will be a coincidence of the removal of the old legislation and the introduction of the new legislation.
2. Penalties in the main for offences relating to Dogs are now contained within the Dog Regulations 2013 and have been removed from the advertised draft Local Law.

**ATTACHMENTS**

- 10.1.2(a) Dogs Local Law 2023 [under separate cover]**
- 10.1.2(b) Comment - Dogs Local Law - Anne Casson [under separate cover]**
- 10.1.2(c) Dept of Local Government - Comments on proposed Dog Local Law [under separate cover]**

**CONSULTATION**

The Development and Regulatory Services Directorate, specifically Ranger Services, have been consulted on the proposed new Dogs Local Law.

The formal consultation process leading up to the making of the Local Law has concluded. This consisted of Local Public Notice for a minimum period of 6 weeks which commenced on 1 March 2023 and concluded on 28 April 2023. During this period two submissions were received.

**Submission 1**

This submission seeks the Town's assistance in providing an exemption for foster dogs and allow people to temporarily home these dogs. The submission states that the animal shelters in Perth are currently full due to the ongoing rental crisis and cost of living and people in Cottesloe may be among the few able to help.

**Officer Comment**

It is not stated what the submission is seeking an exemption for. It could be speculated that the submitter wishes an exemption from Dog Registration Fees, or a relaxing of the restrictions on the number of dogs being kept at any property, which is currently 2.

Either of these proposals could not be supported as it would create two sets of rules for dog control. The ability is presently there to foster dogs, however they need to be Registered and microchipped like any other dog (after the age of 3 months). Likewise any relaxation on the restrictions on the number of dogs on a property has significant potential to cause neighbourhood disturbance and exacerbate the effort required to look after the dog(s).

**Submission 2**

This submission was provided by the Department of Local Government on 18 April 2023. The submission is set out as follows:

**1. Clause 3.1 – Potential for “Double Punishment”**

Clause 3.1(1)(f) provides that a person must comply with the Town's Fencing Local Law. A failure to comply with this paragraph will be an offence with a penalty of up to \$5,000.

However, compliance with the Town's Fencing Local Law is already mandatory and enforceable via the fines imposed under the Fencing Local Law.

Accordingly, the existence of paragraph (f) creates the potential for “double punishment”, since a person who breaches the Fencing Local Law can potentially be fined under both clause 3.1(1)(f) of the Dogs Local Law and under the Fencing Local Law itself.

It is suggested paragraph (f) be deleted, since it appears unnecessary and is potentially inconsistent with the fencing local law.

**Officer Comment**

This is agreed with and paragraph (f) has been removed from the draft Dogs Local Law.

**2. Clause 3.2 – Penalties for Dangerous Dogs – Enforcement**

Clause 3.2 provides that the penalty for keeping excessive numbers of dogs is \$10,000 where the offence involves a dangerous dog. If the Town is ever required to enforce this clause, it should keep in mind that this specific penalty is actually provided under section 26 of the *Dog Act 1976*.

It is not possible for a local law to impose a penalty of higher than \$5,000 and accordingly, any prosecution or fine will need to occur under the applicable section of the Dog Act rather than the local law itself.

#### Officer Comment

This Clause has been amended to reference the Dog Act provisions for offences by Dangerous Dogs.

### **3. Clause 4.1 – Places where dogs are prohibited**

It is suggested that subclause (2) and (3) be deleted.

As a result of amendments to the *Dog Act 1976*, the creation of dog prohibited areas can now occur via council resolution. However, this amendment also resulted in the corresponding head of power being deleted from section 49 of the Act, meaning local laws are no longer able to deal with this issue in any detail.

The removal of subclause (3) is unlikely to cause any issues, as an exemption for assistance dogs is already provided generally by section 8 of the Act.

#### Officer Comment

This is agreed with and subclauses (2) and (3) of Clause 4.1 have been removed from the draft Dogs Local Law.

### **4. Minor edits**

The following minor edits are suggested:

- Due to the local law's length, a contents page would be advisable.

#### Officer Comment

A contents page is included.

- **Clause 1.4:**
  - Realign the definitions for *infringement notice* and *notice of withdrawal*.
  - Remove the capital from “*Public*”.

Officer Comment

“*infringement notice*” has been placed before “*local government*” to be consistent with the alphabetical naming convention. “*Public*” does not appear with a capital.

- **Clause 3.1(1)(f):** It is suggested this paragraph be deleted as it appears to be unnecessary.

Officer Comment

This has already been removed.

- Several clauses in the local law are coloured differently. The Department presumes this colouring is to indicate changes as compared to the local law intending to be repealed.

Officer Comment

This has been amended.

- **Clause 5.2:** This offence imposes a maximum penalty of \$5,000. Dog excrement offences are relatively minor and the Town should ensure that the maximum penalty of \$5,000 reflects the Town’s intentions.

Officer Comment

It is agreed that this is too high and that the industry standard should apply. The WALGA Model Local Law has a maximum penalty (at court) of \$1,000 and a modified penalty of \$100 being the industry standard 10%. The current Local Law has a modified penalty of \$250.

- **Schedule 1** – In column one change “5.1(2)” to “5.2(2)”.

Officer Comment

This has been corrected.

**STATUTORY IMPLICATIONS**

*Local Government Act 1995*

**3.5. Legislative power of local governments**

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

**3.12. Procedure for making local laws**

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
- (2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to —
  - (a) give local public notice stating that —
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

- (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
- (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

*[(3a) deleted]*

- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.

*\* Absolute majority required.*

- (5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the *Gazette* the local government is to give local public notice —
  - (a) stating the title of the local law; and
  - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (c) advising that the local law is published on the local government's official website and that copies of the local law may be inspected at or obtained from the local government's office.



- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them
- (8) In this section —  
***making*** in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

*Dog Act 1976*

### **31. Control of dogs in certain public places**

- (3A) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.
- (3C) At least 28 days before specifying a place to be —
- (a) a place where dogs are prohibited at all times or at a time specified under subsection (2B); or
  - (b) a dog exercise area under subsection (3A); or
  - (c) a rural leashing area under subsection (3B),
- a local government must give local public notice as defined in the *Local Government Act 1995* section 1.7 of its intention to so specify.

### **POLICY IMPLICATIONS**

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

### **STRATEGIC IMPLICATIONS**

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

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

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

### **RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

### **VOTING REQUIREMENT**

Absolute Majority

OCM114/2023

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Sadler

Seconded Mayor Young

THAT Council:

1. **MAKES** the Town of Cottesloe Dogs Local Law 2023 incorporating the changes recommended by the Department of Local Government as highlighted and 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 Local Law.

Carried by Absolute Majority 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck

Against: Nil

**10.1.4 DELEGATIONS REGISTER UPDATE**

**Directorate:** Corporate and Community Services  
**Author(s):** Shane Collie, Director Corporate and Community Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/22654  
**Applicant(s):** Internal  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Council is being asked to endorse the reviewed Delegations Register.

**OFFICER RECOMMENDATION IN BRIEF**

It is recommended that Council adopt the reviewed Delegations Register to ensure compliance with Section 5.46 (2) of the *Local Government Act 1995* and enabling all of the Town's Delegations to be contemporary, industry best practice and up to date with all relevant legislation.

**BACKGROUND**

Delegations allow the Chief Executive Officer (and other appropriate staff) to make decisions on behalf of Council in certain circumstances. This allows for the more efficient operation of the Town and improves the level of services that the Town is able to offer residents.

The Delegations Register contains all such delegations made to the Chief Executive Officer and where the Chief Executive Officer has then on-delegated to other staff. The Register also contains any limits on the types of decisions that can be made under the Delegation, but importantly, it does not set out what decision has to be made (which would be contained in the appropriate policies).

The Delegations Register must be reviewed at least once every financial year and is generally reviewed in May. The Register was last adopted by Council at the May 2022 Ordinary Council Meeting. To ensure all Delegations are in place for the new financial year the review of Delegations should occur prior to the commencement of that timeframe which also fits the 12 month Review period.

The latest Delegations Register is attached.

**OFFICER COMMENT**

The Delegations Register references the WA Local Government Association (WALGA) guidelines and templates. This free service assists in ensuring that not only is compliance achieved with the review but industry best practice is followed.

The current Delegation Register has only a few minor changes recommended to some position titles that have been changed. The remainder of the Register is unchanged. Following the introduction of the new Local Government Amendment Legislation the next Review may have some more comprehensive changes depending on the final content of the legislative changes.

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The position Titles that require amending are –

- Principal Building Surveyor to – Manager of Building and Compliance
- Compliance Officer to Building Compliance Officer and Regulatory Compliance Officer.

Formal letters to officers involved in implementing and enforcing Council's Delegations will be updated (reaffirmed again) once the Delegations Register is adopted by Council.

The Delegations Register only refers to decisions that are made under delegation, it does not contain all of the authorities that staff have. For example, the Local Government Act itself enables staff to undertake a range of functions and authorises them to do so. Sections of the Act provide that the Chief Executive Officer is responsible for the day to day administration of a local government, and many sections of the Act (and other legislation) empower "Authorised Officers" to undertake certain functions and make prescribed decisions. As these powers are not provided to Council in the first instance, there is no requirement for them to be recorded in the Delegations Register.

It is normal practice to update the list of Authorised Officers and ensure that Primary/Annual Returns of Officers who have Delegated Authority are updated and this will occur following the adoption of the Delegations Register.

At Council's Agenda Forum held on 20 June 2023 there was discussion on the status of Event Approvals in particular larger Events. This matter is not dealt with by a specific Delegation however is guided by Council Policy "Event Conditions" as adopted on 15 December 2020. The Policy provides authority to the Chief Executive Officer events subject to a variety of conditions. In practice this is undertaken through the Corporate Services area by the Town's Events Officer. Some Event Applications are still brought to Council if they are considered of significant public interest or of a scale that is believed to justify a full Council decision.

It is proposed that this be formalised in order that there can be no ambiguity on which Events are approved at the Administration level and which are approved at the Council level. While this matter does not impact this present Delegations Review a Report will be undertaken in the near future reviewing the current Event Condition Policy in order that greater clarity and transparency are achieved in the Event Approval process.

## **ATTACHMENTS**

**10.1.4(a) Delegation Authority Register [under separate cover]**

## **CONSULTATION**

Executive Staff.

## **STATUTORY IMPLICATIONS**

*Local Government Act 1995*

Sections 5.42, 5.43, 5.44 and 5.46 of the *Local Government Act 1995* (the Act) regulate the ability of a local government to delegate the exercise of its powers or discharge its duties under the Act.

**POLICY IMPLICATIONS**

There are no Policy implications relevant to an unchanged review of Council's Delegations Register.

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

**VOTING REQUIREMENT**

Absolute Majority.

**OCM115/2023**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

**Moved Cr Sadler**

**Seconded Cr MacFarlane**

**That Council by Absolute Majority APPROVES the Delegations made to the Chief Executive Officer in the attached Delegations Register for 2023/24 noting minor position Titles to be amended where they appear as follows:**

- **Principal Building Surveyor to Manager of Building and Compliance**
- **Compliance Officer to Building Compliance Officer and Regulatory Compliance Officer**

**Carried by Absolute Majority 6/0**

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

**Against: Nil**

**10.1.9 ADOPTION OF DRAFT LOCAL PLANNING POLICY - ADVERTISING SIGNAGE**

**Directorate:** Development and Regulatory Services  
**Author(s):** Sonya Hayes, Planning Officer  
**Authoriser(s):** Freya Ayliffe, Director Development and Regulatory Services  
**File Reference:** D23/22235  
**Applicant(s):** N/A  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider adopting the Advertising Signage planning policy, following advertising.

**OFFICER RECOMMENDATION IN BRIEF**

That Council adopts the Advertising Signage planning policy, pursuant to Schedule 2, Part 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, without modification.

**BACKGROUND**

The Advertising Signage planning policy was prepared to provide clarity on the Town's expectations in respect to appropriate advertising signs from a planning perspective, rather than being reliant on the Town's outdated *Signs, Hoardings and Billposting* Local Law.

The draft policy was adopted for advertising at the Council meeting held on 26 April 2023.

**OFFICER COMMENT**

The Advertising Signage planning policy defines advertising signage that is exempt from development approval and provides guidelines for signage that requires development approval.

The Advertising Signage policy only applies to zoned land and local reserves under Local Planning Scheme No. 3 (LPS 3). It does not apply to land reserved under the Metropolitan Region Scheme (MRS) as these will be determined by the Western Australian Planning Commission (WAPC) and are dealt with under *WAPC Policy 5.4 – Advertising on Reserved Land*. MRS reserves include Harvey Field, John Black Dune Park, Cottesloe Tennis Club, Seaview Golf Club and the Foreshore.

No submissions on the draft policy were received during the advertising period and no modifications to the draft policy are proposed.

**ATTACHMENTS**

- 10.1.9(a) Draft Local Planning Policy - Advertising Signage for adoption [under separate cover]**

**CONSULTATION**

Schedule 2, Part 2, Division 2 – Local Planning Policies of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out the requirements for preparing local planning policies. In particular, clause 4 states:

- (1) *If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —*
  - (a) *publish in accordance with clause 87 the proposed policy and a notice giving details of —*
    - (i) *the subject and nature of the proposed policy; and*
    - (ii) *the objectives of the proposed policy; and*
    - (iii) *how the proposed policy is made available to the public in accordance with clause 87; and*
    - (iv) *the manner and form in which submissions may be made; and*
    - (v) *the period for making submissions and the last day of that period;*
  - (b) *if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;*
  - (c) *give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.*
- (2) *The period for making submissions specified in a notice under subclause (1)(a)(v) must not be less than the period of 21 days after the day on which the notice is first published under subclause (1)(a).*
- (3) *After the expiry of the period within which submissions may be made, the local government must —*
  - (a) *review the proposed policy in the light of any submissions made; and*
  - (b) *resolve to —*
    - (i) *proceed with the policy without modification; or*
    - (ii) *proceed with the policy with modification; or*
    - (iii) *not to proceed with the policy.*

The policy was advertised between 13 May 2023 and 6 June 2023 (24 days) as follows:

- notice in the local (Post) newspaper,
- notice, copy of the Policy and electronic submission form on the Town’s website,

- notice and copy of the Policy at the front counter of the Town's Administration Office, and
- notice on the Town's Facebook page and email database.

No submissions were received during the advertising period.

If Council decides to adopt the policy, the Town will publish a notice in the local (Post) newspaper to that effect.

### **STATUTORY IMPLICATIONS**

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

*Town of Cottesloe Local Planning Scheme No. 3*

*Signs, Hoardings and Billposting* Local Law.

### **POLICY IMPLICATIONS**

This policy will apply to zoned land and local reserves under LPS 3.

### **STRATEGIC IMPLICATIONS**

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

Priority Area 4: Managing Development

### **RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

### **ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

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

### **VOTING REQUIREMENT**

Simple Majority

### **OFFICER RECOMMENDATION**

THAT Council adopts the Advertising Signage local planning policy, pursuant to Schedule 2, Part 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, without modification

**OCM11116/2023**

### **COUNCILLOR MOTION**

Moved Cr Sadler

Seconded Cr Bulbeck

**THAT COUNCIL DEFER adoption of the Advertising Signage Local Planning Policy to a**



workshop to be held in July 2023.

Lost 1/5

For: Crs Sadler

Against: Mayor Young, Crs Harkins, Barrett, MacFarlane and Bulbeck

**FORESHADOWED MOTION – CR MACFARLANE AND CR BARRETT**

Officers Recommendation.

**OCM1127/2023**

**FORESHADOWED MOTION**

Moved Cr MacFarlane

Seconded Cr Barrett

THAT Council adopts the Advertising Signage local planning policy, pursuant to Schedule 2, Part 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, without modification.

Carried 5/1

For: Mayor Young, Crs Harkins, Barrett, MacFarlane and Bulbeck

Against: Crs Sadler

**10.1.13 MANAGEMENT PROTOCOL FOR PLAY EQUIPMENT ON STREET VERGES OR ATTACHED TO STREET TREES**

**Directorate:** Engineering Services  
**Author(s):** Shaun Kan, Director Engineering Services  
**Authoriser(s):** William Matthew Scott, Chief Executive Officer  
**File Reference:** D23/24089  
**Applicant(s):**  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

For Council to consider adopting the attached management protocol

**OFFICER RECOMMENDATION IN BRIEF**

That Council notes its various resolutions and adopts the attached management protocol

**BACKGROUND**

A Taskforce was established in July 2021 to develop a Management Protocol to administer verge play equipment. Its work was completed in February 2023 and approved application package sent in May 2023.

There were recent concerns relating to the authenticity of the Council approved letters and policy sent to verge play equipment owners. Letters have been verified to be correct.

As there were a number of revisions to the current Management Protocol since July 2021, Council is asked to consider its previous resolutions to adopt the final version (attached).

This will provide clarity on any ambiguity.

The author has summarised these resolutions and changes made to the version that was enclosed with the February 2023 Ordinary Council Meeting.

**OFFICER COMMENT**

The process leading up to the February 2023 Council resolution adopting an application package is summarised as follows:

July 2021 - the Task Force was formed;

September 2021 - a pathway was established in consultation with LGIS and WALG;

April 2022 – The Taskforce recommended that Council adopt an interim protocol (<https://www.cottesloe.wa.gov.au/council-meetings/ordinary-council-meeting/24-may-2022-ordinary-council-meeting/302/documents/10113-combined-attachments-task-force-on-residential-and-recreational-verge-uses.pdf>);

- 1. ADOPTS the existing interim protocol for play equipment on street verges subject to the deletion of point 12 requiring the owner to obtain insurance***
  - 2. ASK the committee to refer the protocol to LGIS for their support and advice on the criteria***
-

**3. REQUEST the Administration write to the Minister seeking his assistance to promote verge play equipment specifically referencing Regulation 17 (8)(b) asking for an amendment**

**4. Upon APPROVAL the Administration will implement the interim permit system to the appropriate residents using the attached letters**

May 2022 – Council consider the Taskforce April 2022 recommendation and deferred the matter, pending further investigations;

**Resolution OCM68/2022**

**1. NOTES the minutes from the Taskforce on Residential and Recreational Verge Uses;**

**2. NOTES the legal and insurer's advice enclosed as a Confidential Attachment;**

**3. DEFERS consideration of the matter at the May 2022 Ordinary Council Meeting; and**

**4. Subject to the ACCEPTANCE of point two, refers the matter back to the Task Force on Residential and Recreational Verge Uses for it to consider the advice mentioned in point one.**

**Carried 9/0**

9 June 2022 – The Taskforce recommended that Council adopts the existing protocol ([Minutes of Task Force on Residential and Recreational Verge Uses - Thursday, 9 June 2022 \(cottesloe.wa.gov.au\)](https://www.cottesloe.wa.gov.au/minutes-of-task-force-on-residential-and-recreational-verge-uses-thursday-9-june-2022))

**1. ADOPTS the existing protocol as recommended by LGIS for play equipment on street verges subject to the deletion of the point requiring the owner to obtain insurance.**

**2. REQUESTS the Administration write to the Minister seeking his assistance to promote verge play equipment specifically referencing Regulation 17 (8)(b) asking for an amendment.**

**3. Upon approval will IMPLEMENT the permit/licence system to the appropriate residents using the attached letters.**

**4. The recommended fees, \$300/application and \$100/annum per permit issued.**

**Carried 3/0**

28 June 2022 - Council accepted a final management protocol;

**Resolution OCM087/2022**

**THAT Council by ABSOLUTE MAJORITY:**

**1. ADOPTS the recommendation of the Taskforce on Residential and Recreational Verge Uses at its meeting of 9 June 2022 (as above);**

**2. APPROVES the residential verge policy change mentioned in the policy implication section of this report;**

**3. THANKS the Task Force for Residential and Recreational Verge Uses for their service and invaluable contribution towards finalising the management protocol; and**

**4. APPROVES the extension of the Taskforce until 13 December 2022 being the December Ordinary Council meeting.**

September 2022 - The first batch of letters were sent to residents asking them to apply for a permit where one applicant has indicated concerns pertaining to Town's indemnity within verges;

1 December 2022 – Taskforce made the following Council recommendation ([https://www.cottesloe.wa.gov.au/Profiles/cottesloe/Assets/ClientData/Signed\\_Minutes - Task Force on Residential and Recreational Verge Uses - 1 December 2022.pdf](https://www.cottesloe.wa.gov.au/Profiles/cottesloe/Assets/ClientData/Signed_Minutes_-_Task_Force_on_Residential_and_Recreational_Verge_Uses_-_1_December_2022.pdf)) :

**1. REQUESTS the CEO to;**

- a. Review the letters and application forms sent to residents since June 2022;**
- b. To provide an audit of the play equipment identified on verges and report back to the Taskforce the responses received or not received by residents;**
- c. To review the permit application and accompanying letters following legal advice received by the Taskforce; and**
- d. To reconvene the Taskforce as soon as possible (subject to point 2).**

**2. RECOMMENDS to Council to extend the term of the taskforce until such time as it has considered the revised application and letters;**

13 December 2022 - Council considered legal advice around indemnity and accepted the Taskforce December recommendation

**Resolution OCM195/2022**

**That Council:**

- 1. ADOPT the Minutes of the Task Force on Residential and Recreational Verge Uses Meeting of the 1 December 2022;**
- 2. ENDORSES the Resolution(s) of the Task Force on Residential and Recreational VergeUses Meeting of the 1 December 2022; and**
- 3. EXTENDS the term of the Task Force on Residential and Recreational Verge Uses (the Task Force) until such time as the Task Force is satisfied with the revised application form and covering letters.**

22 February 2023 – Taskforce considered the new application package with the following recommendation to Council ([https://www.cottesloe.wa.gov.au/Profiles/cottesloe/Assets/ClientData/Residential and Recreational Verge Task Force Meeting Minutes - 22 February 2023.pdf](https://www.cottesloe.wa.gov.au/Profiles/cottesloe/Assets/ClientData/Residential_and_Recreational_Verge_Task_Force_Meeting_Minutes_-_22_February_2023.pdf)) :

- 1. NOTES the legal advice provided;**
- 2. ACCEPTS the attached Letter C as the follow up letter to residents with non-exempted verge play equipment that have yet to make an application subject to such items still on the verge, noting that the application form including protocol will be enclosed;**
- 3. Accepts Letter D as the future first letter to residents that are required to make an application for a permit, noting that the application form including the protocol will be enclosed;**

- 4. ACCEPTS the attached application form (Application Form V3);**
- 5. ACCEPTS the amended permit as per point 7 (Confidential Attachment 4) for issue, noting that this reflects legal advice previously received for the 1 December 2022 Task Force Meeting;**
- 6. Permit document will be amended to include protocol and the original application**
- 7. The protocol will be amended to exempt basketball hoops (fixed and mobile)**
- 8. A letter similar to letter D be sent to those residents with exempt equipment on their adjacent verge, attaching the protocol to maintain their exemption and explaining their responsibilities.**
- 9. Subject to point two to nine, ACCEPTS the pathway mentioned within the Officer's Comment section of the report, including the Letter identified in point 9; and**
- 10. NOTES;**
  - a. The administration will follow up the regulation 17 letter to Minister Carey**
  - b. The permit application fee includes the first annual fee**

28 February 2023 – Council accepted the attached application package;

***Resolution OCM024/2023***

***THAT Council***

- 1. ADOPT the Minutes of the Task Force on Residential and Recreational Verge Uses Meeting of the 22 February 2023;***
- 2. ENDORSES the Resolution(s) of the Task Force on Residential and Recreational Verge Uses Meeting of the 22 February 2023; and***
- 3. Subject to points one and two, THANKS the Task Force for Residential and Recreational Verge Uses for their service and invaluable contribution towards finalising the management protocol and other associated documentation.***

May 2023 – Letters within the attached package have been sent to residents with verge play equipment; and

June 2023 – There were concerns raised on authenticity of the attached package approved by Council.

A final Management Protocol with the changes demarcated is enclosed for adoption. This considers the above and in particular the LGIS advice provided to both Council and the Task Force in June 2022.

Whilst the insurance clause is within the current management protocol, applicants were not asked for this to be provided. Council is asked to refer to LGIS and legal advice previously provided in June 2022.

**ATTACHMENTS**

- 10.1.13(a) Management Protocol For Play Equipment On Street Verges Or Attached To Street Trees - Updated June 2023 [under separate cover]**

**CONSULTATION**

The following stakeholders were consulted during the process:

Task Force on Residential and Recreational Verge Uses;

LGIS;

McLeod's Solicitors; and

WALGA

**STATUTORY IMPLICATIONS**

Local Government Act 1995

Local Government (Uniform Provisions) Regulations 1996 – the \$1.00/m2/month as required by legislation has not been levied at this point in time.

The Local Government (Uniform Local Provisions) Regulations 1996 regulate Private works on, over, or under public places.

Regulation 17 (8) specifically outlines the obligation to obtain insurance, and reads:

A person who constructs anything in accordance with permission granted under this regulation must —

(a) maintain it; and

(b) obtain from an insurance company approved by the local government an insurance policy, in the joint names of the local government and the person, indemnifying the local government against any claim for damages which may arise in, or out of, its construction, maintenance or use.

Council at the June 2022 OCM resolved to adopt the Task Force recommendation and exempt the requirement for residents to provide insurance, as they are unable to obtain one reasonably. Instead, this risk mitigated through clauses indemnifying the Town within approval documents attached and an inspection regime at different stages of the application process.

**POLICY IMPLICATIONS**

The Management Protocol for Play Equipment on Street Verges or Attached to Street Trees.

**STRATEGIC IMPLICATIONS**

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

Priority Area 6: Providing open and accountable local governance

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

**RESOURCE IMPLICATIONS**

Resource requirements are in accordance with the existing budgetary allocation.

This will be monitored and considered in the 2023/2024 budget development.

**ENVIRONMENTAL SUSTAINABILITY IMPLICATIONS**

Reduction in available green space with play equipment occupying the verge and possible damage to verge trees continues to be a risk.

**VOTING REQUIREMENT**

Simple Majority

OCM1138/2023

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Barrett

Seconded Cr Harkins

THAT Council:

1. NOTES its resolutions since July 2021; and
2. ADOPTS the attached final Management Protocol for Residential and Recreational Verge Uses.
3. INSTRUCT the Chief Executive Officer (CEO) to issue the final Management Protocol for Residential and Recreational Verge Uses (as per point 2) to residents identified having verge play equipment.

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck

Against: Nil

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

Nil

**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY****12.2 ELECTED MEMBERS****12.2.1 OCEAN BEACH HOTEL REDEVELOPMENT – 140 MARINE PDE  
COTTESLOE**

OCM114/2023

Moved Mayor Young

Seconded Cr Sadler

That Council ACCEPTS the late item

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck

Against: Nil

OCM11520/2023

**COUNCIL RESOLUTION**

Moved Mayor Young

Seconded Cr Barrett

That Council:

- 1) INSTRUCT the Chief Executive Officer to seek urgent legal advice on the options available to seek a judicial review of the recent WAPC decision relating to the Ocean Beach Hotel Redevelopment – 140 Marine Parade, Cottesloe, subject to the receipt of the WAPC minutes relating to the decision; and
- 2) CONSIDER the legal advice received (as per point 1) at a Special Council Meeting, at a date and time called by the Mayor, or no later than the July'23 Ordinary Council Meeting.

Carried 6/0

For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck

Against: Nil

**12.3 OFFICERS**



**13 MEETING CLOSED TO PUBLIC****13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED****OCM116/2023****MOTION FOR BEHIND CLOSED DOORS****Moved Mayor Young                      Seconded Cr Barrett**

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

**Carried 6/0****For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck****Against: Nil**

*The public and members of the media were requested to leave the meeting at 7:35 pm*

**13.1.1 CAR PARK NO.2 STRATEGY**

This item is considered confidential in accordance with the *Local Government Act 1995* section 5.23(2) (e(ii)) as it contains information relating to a matter that if disclosed, would reveal information that has a commercial value to a person.

**OCM1172/2023****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION****Moved Cr Barrett                      Seconded Cr MacFarlane****THAT Council:**

- 1. ADOPT the attached Town of Cottesloe Car Park No.2 Strategy;**
- 2. CONSIDER in the 2023/24 Annual Budget Deliberations, a budget provision to implement the Town of Cottesloe Car Park No.2 Strategy; and**
- 3. PUBLISH the attached "Town of Cottesloe Car Park No.2 Strategy" on the Town's Website.**

**Carried 6/0****For: Mayor Young, Crs Sadler, Harkins, Barrett, MacFarlane and Bulbeck****Against: Nil****OCM1183/2023****MOTION FOR RETURN FROM BEHIND CLOSED DOORS****Moved Mayor Young                      Seconded Cr MacFarlane**

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

**Carried 6/0**

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

**Against: Nil**

*The public and members of the media were requested to return to the meeting at 7:40 pm.*

### **13.1 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC**

#### **13.1.1 CAR PARK NO.2 STRATEGY**

As no members of the public returned to the meeting the resolution for item 13.1.1 was not read out.

### **14 MEETING CLOSURE**

The Presiding Member announced the closure of the meeting at 7:41 pm.