

# TOWN OF COTTESLOE



## ORDINARY COUNCIL MEETING

# MINUTES

ORDINARY MEETING OF COUNCIL  
HELD IN THE  
Council Chambers, Cottesloe Civic Centre  
109 Broome Street, Cottesloe  
7:00 PM, Tuesday 27 September 2016

**MAT HUMFREY**  
Chief Executive Officer

7 October 2016

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## TABLE OF CONTENTS

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ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	3
2	DISCLAIMER .....	3
3	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....	3
4	PUBLIC QUESTION TIME .....	3
4.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	3
4.2	PUBLIC QUESTIONS .....	7
5	PUBLIC STATEMENT TIME.....	9
6	ATTENDANCE.....	10
6.1	APOLOGIES .....	11
6.2	APPROVED LEAVE OF ABSENCE .....	11
6.3	APPLICATIONS FOR LEAVE OF ABSENCE.....	11
7	DECLARATION OF INTERESTS .....	11
8	CONFIRMATION OF MINUTES.....	11
9	PRESENTATIONS .....	11
9.1	PETITIONS.....	11
9.2	PRESENTATIONS .....	11
9.3	DEPUTATIONS.....	11
10	REPORTS .....	13
10.1	REPORTS OF OFFICERS .....	13
	PLANNING.....	13
10.1.1	COTTESLOE BEACH HOTEL – EXTENDED TRADING HOURS APPLICATION	13
10.1.2	104 MARINE PARADE, COTTESLOE – COTTESLOE BEACH HOTEL – PROPOSED REPAIR AND RESTORATION TO FOYER	22
10.1.3	PLANNING APPLICATIONS DETERMINED UNDER DELEGATION	28
10.1.4	PROPOSED AMENDMENTS TO STATE PLANNING POLICY 3.1 - RESIDENTIAL DESIGN CODES	30
	ADMINISTRATION .....	34
10.1.5	REVIEW OF COUNCIL BRIEFING SESSIONS	34

---

10.1.6 RENEWAL OF CONTRACT SURF LIFE SAVING WESTERN AUSTRALIA – PROVISION OF LIFEGUARD SERVICES 42

10.1.7 EVENT APPLICATION – LADY LAWLEY COTTAGE FAMILY FUN DAY 45

10.1.8 ALCOHOL THINK AGAIN RUGBY WA BEACH 5’S - 2016 48

10.1.9 ALCOHOL THINK AGAIN BEACH VOLLEYBALL TOUR ROUND 3 - 2016 51

**FINANCE..... 54**

10.1.10 DONATION FOR 2016 ICEA CLASSIC 54

10.1.11 FINANCIAL STATEMENTS FOR THE MONTH ENDING 31 AUGUST 2016 56

**10.2 REPORT OF COMMITTEES..... 59**

**11 ELECTED MEMBERS’ MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN..... 59**

11.1 COUNCILLOR MOTION – LOCAL PLANNING SCHEME NO. 3 AMENDMENT NO. 5..... 59

11.2 CONFIDENTIAL COUNCILLOR MOTION – INDIANA TEA HOUSE..... 65

11.3 COUNCILLOR MOTION - LOCAL HOUSING STRATEGY..... 66

**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:..... 67**

12.1 ELECTED MEMBERS ..... 67

12.2 OFFICERS ..... 67

**13 MEETING CLOSED TO PUBLIC..... 67**

13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED .... 67

13.1.1 ANNUAL PERFORMANCE AND REMUNERATION REVIEW FOR THE CHIEF EXECUTIVE OFFICER 67

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC..... 71

**14 MEETING CLOSURE..... 72**

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

The Presiding Member announced the meeting opened at 7:03 PM.

**2 DISCLAIMER**

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

**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Mayor reminded those present the Garage Sale Trail is taking place on Saturday 22 October 2016 at the Cancer Wellness Centre, 80 Railway Street, Cottesloe. The Mayor encouraged the donation of household items and clothing, which can be dropped off at the Cancer Wellness Centre.

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

**4 PUBLIC QUESTION TIME****4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****QUESTIONS TAKEN ON NOTICE FROM 16 AUGUST 2016 COUNCIL MEETING**

Patricia Carmichael, 14/116 Marine Parade, Cottesloe Re. Proposed Mixed Use Development, 220 Marine Parade, Cottesloe

Q1: Will the Design Advisory Panel Cottesloe, comprised of local Cottesloe architects, be invited to make comment on the 220 Marine Parade proposal when put forward to Council?

A1: No, as Council's consideration does not involve the Design Advisory Panel.

Re. Prospective Metropolitan Region Scheme Amendment McCall Centre – Preliminary Comment

Q1: At what date did the Administration know about this report?

A1: 11 August 2016, being when it was received.

Q2: At what date was this report brought to Council?

A2: 23 August 2016, being the Council Meeting.

Q3: At what date will community advertising occur?

A3: This depends upon the Western Australian Planning Commission's response to Council's resolution, which is awaited.

Re. Town of Cottesloe Mission Statement and Town of Cottesloe Strategic Community Plan 2013 – 2023

- Q1: When submissions are received how much weight does Council give to the wording of this document “*Members of the community will continue to be engaged to shape the future for Cottesloe*”?
- Q2: When submissions are received how much weight does Council give to the wording in this document “*Effective community participation in decisions about the district and its future*”?
- Q3: In line with the Town of Cottesloe Missions Statement and its Strategic Community Plan 2013-2023, will Council consider all future submissions by Cottesloe residents in line with the wording of these strategic statements overriding submissions made by external parties?
- A1-3: Submissions from all sources warrant consideration on merit and in context, rather than submissions from local residents necessarily being accorded greater weight.

Jack Walsh, 35 Grant Street, Cottesloe – Re. Local Planning Scheme No. 3 – Amendment No. 5 and Local Development Plan No. 1 – Report Following Submissions

- Q1: Is the Manager Development Services aware that there has been a fatal accident at this locality?
- A1: An accident requiring hospitalisation has been reported (rather than a fatal accident being identified).
- Q2: Please can speakers state their address when they speak tonight?
- A2: (no answer necessary),

Peter Rattigan, 9 Grant Street, Cottesloe – Re. Indiana Tea House Litigation

- Q1: Is it correct that the Town has been unsuccessful in its ligation with Indiana Tea House?
- A1: No, there are several matters that are ongoing.
- Q2: What on earth was the litigation about?
- A2: The exercise of the first option contained within the lease and maintenance of the building.

Katina Law, 26 Ozone Parade, Cottesloe – Re. Proposed Mixed Use Development, 220 Marine Parade, Cottesloe

Q1: What information might have been missing from the Development Application when it was accepted by the Town of Cottesloe administration?

A1: Technical details regarding the Local Planning Scheme, Residential Design Codes and bushfire hazard.

Q2: Will the application be re-advertised once the detail required by the Town of Cottesloe is received?

A2: No, as the proposal has not been fundamentally changed.

Q3: Has the Joint Development Assessment Panel clock stopped ticking in terms of deemed refusal, given further information is required by the Town of Cottesloe?

A3: No, as the Responsible Authority Report and the Panel meeting are within the 90 day determination period.

Q4: Can objectors be advised when this information is received by the Town of Cottesloe so they can re-inspect the Development Application?

A4: No, as it was not received until 16 September 2016; however, the additional information is conveyed in the Responsible Authority Report and attachments.

Paul Kordic, 3A Napier Street, Cottesloe – Re. Proposed Mixed Use Development, 220 Marine Parade, Cottesloe

Q1: On what date did the Town of Cottesloe administration first become aware of the proposal to develop 220 Marine Parade?

A1: 14 April 2016.

Q2: On what date did the Town of Cottesloe administration first meet anyone in relation to this proposal?

A2: 17 February 2015.

Q3: On what date did Town of Cottesloe accept the Development Application for this proposal?

A3: 4 July 2016.

**QUESTIONS TAKEN ON NOTICE FROM CR PYVIS - EMAILED 21 SEPTEMBER 2016**

- Q1: Has Town of Cottesloe received advice from Landgate regarding Right of Way 64? If so, when was this received?
- Q2: When will Elected Members be provided with a copy of Right of Way 64 legal advice?
- Q3: When will a report on Right of Way 64 be brought to Council?
- Q4: Would you please advise when the transfer of Right of Way 72A from private ownership (Odette Holdings) to the Crown will be completed?
- Q5: Further to complaints from residents regarding the current poor condition of Right of Way 72A, when will Town of Cottesloe repair Right Way 72A to remediate this danger?
- Q6: What jobs/projects has Cardno undertaken for Town of Cottesloe over the past five years?
- Q7: Would Town of Cottesloe please list the dates of engagement and completion for jobs/projects undertaken by Cardno for Town of Cottesloe over the past five years?
- Q8: Would Town of Cottesloe please itemise the cost of jobs/projects undertaken by Cardno for Town of Cottesloe over the past five years?
- A: The Mayor took the questions on notice.

**QUESTIONS TAKEN ON NOTICE FROM CR BOULTER - EMAILED 21 SEPTEMBER 2016**

- Q1: What will be the process for introducing the Town of Cottesloe administration recommendations for the new Town of Cottesloe tree policy to Council and the community?
- Q2: What are the anticipated timings for this tree policy process?
- Q3: What will be the process for introducing the Town of Cottesloe administration recommendations for the Town of Cottesloe short stay accommodation policy to Council and the community?
- Q4: What are the anticipated timings for this short stay process?
- Q5: Has the Town of Cottesloe commenced the process for reviewing the Napoleon Street Trees by a botanist or similar as per Council resolution?



Q6: What are the anticipated timings for an updated report to Council about the Napoleon Street trees?

Q7: What will be the process for introducing the Town of Cottesloe administration recommendations for amendments to the Town of Cottesloe Communication and Consultation policy to Council and the community?

Q8: What are the anticipated timings for this Communication and Consultation policy review process?

A: The Mayor took the questions on notice.

#### **4.2 PUBLIC QUESTIONS**

Sasha Ivanovich, 3A Hubble Street, East Fremantle – Re. 11.1 Councillor Motion – Local Planning Scheme No. 3 Amendment No. 5

Q1: What kind of professional advice has Council received in making the decision to rescind its previous decision?

Q2: Why is it necessary to take the decision of rescinding?

A: The Mayor took the questions on notice.

Garry Baverstock, 38 Congdon Street, Cottesloe – Re. Local Planning Scheme No. 3 – Amendment No.5 and Local Development No. 1 – Report Following Submissions

Q1: How many submissions were wholly for the project?

Q2: How many submissions were wholly against the project?

Q3: How many submissions contained both positive and negative?

Q4: Why was it decided to group all submissions containing any objection together with the objections, thereby inflating the objection figures?

Q5: If the submissions that indicated both positive and negative were removed, what is the net result in numbers and percentages of the wholly positive and the wholly negative?

Q6: At the Special Council Meeting, Cr Boulter said 80% of the community are against the amendment, how did Cr Boulter arrive at this figure?

A: The Mayor took the questions on notice.

Jamie Atkinson, 84 Hawkstone Street, Cottesloe – Re. Behaviour of Members of the Public at the Special Council Meeting 20 September 2016

Q1: Is there a mechanism or policy in place whereby individuals can be banned from attending Council meetings or a fine imposed?

A: The Mayor took the question on notice.

Julia Hayes, 38 Congdon Street, Cottesloe – Re. Community Advocacy Groups

Q1: What due diligence does the Council undertake to verify that the Cottesloe Residents and Ratepayers Association is in fact is a bona fide association and not a guise for a group of 10 self-interested people?

Q2: What controls does the Council have in place to determine the validity of associations which it endorses on its website?

Q3: What legislation is in place that local councils must comply with, when endorsing such associations?

Q4: How many financial members were there at the end of the 2016 financial year?

Q5: How does the Council verify claims as to the number of members that are supposedly ratepayers?

Q6: Can the Chief Executive Officer implement controls to ensure that membership numbers are submitted to the Town of Cottesloe within 7 working days, at the end of each financial year, for every advocacy group appearing on the Town of Cottesloe website?

Q7: Can the Chief Executive Officer immediately remove the link to and the endorsement of the Cottesloe Resident and Ratepayers Association from the Town of Cottesloe website until all questions have been satisfactorily answered?

Q8: How can the Chief Executive Officer determine how many residents and ratepayers there are?

Q9: Can the Mayor confirm the level of influence brought to a Council decision by the Cottesloe Resident and Ratepayers Association via the three Councillors who enjoyed their lobbying support during the Council election period?

A: The Mayor took the questions on notice.

**5 PUBLIC STATEMENT TIME**Jane Wishaw, 5/20 Overton Gardens, Cottesloe – Re. 10.1.1 Cottesloe Beach Hotel – Extended Trading Hours Application

- Spoke in support for the Cottesloe Beach Hotel's application for extended trading hours.
- The presumption has been made that the venue will revert back to the way it was.
- The clientele, menu, drink prices, culture and ambiance have all changed for the better.
- Since the Prendiville Group took over the venue, the negative drinking culture has not been present.
- The Cottesloe Beach Hotel is an important part of the beach front and brings vibrancy to the area.

Shirley Scanlan, 20 Warnham Road, Cottesloe – Re. 10.1.1 Cottesloe Beach Hotel – Extended Trading Hours Application

- Spoke in support for the Cottesloe Beach Hotel's application for extended trading hours.
- The venue is fantastic.
- Queried the basis of the Officer Recommendation.

Laurie Scanlan, 20 Warnham Road, Cottesloe – Re. 10.1.1 Cottesloe Beach Hotel – Extended Trading Hours Application

- Spoke in support for the Cottesloe Beach Hotel's application for extended trading hours.
- The Cottesloe Beach Hotel has improved greatly under new management.
- As a nearby resident Mr Scanlan enjoys frequenting the venue.
- There is a need for extended trading hours, as the kitchen currently closes at 9:00 PM.

Michael Hauck, E/126 Broome Street, Cottesloe – Re. 10.1.1 Cottesloe Beach Hotel – Extended Trading Hours Application

- Spoke in support for the Cottesloe Beach Hotel's application for extended trading hours.
- Positive changes have been made to the Cottesloe Beach Hotel.

Tony Dichiera, 104 Marine Parade, Cottesloe – Re. 10.1.1 Cottesloe Beach Hotel – Extended Trading Hours Application

- The early closing hours were a condition that was inherited prior to the Prendiville Group's involvement with the Cottesloe Beach Hotel.
- The application is to operate under normal, suburban pub trading hours.

- Since 2012, the Beach Club has been an upmarket venue with a strong focus on dining, attracting a broad range of people.
- The venue is no longer associated with excessive drinking.
- The Prendiville Group has worked the venue's neighbours to address a range of issues.

Donnelle Hestelow, 17A Chamberlain Street, Cottesloe – Re. 10.1.1 Cottesloe Beach Hotel – Extended Trading Hours Application

- Spoke in support for the Cottesloe Beach Hotel's application for extended trading hours.

Jack Walsh, 35 Grant Street, Cottesloe – Re. 10.1.5 Review of Council Briefing Sessions

- Spoke against Council Briefing Sessions and requested a return to Committee meetings.
- Committee meetings allowed debate and not much more time is required to hold Committee Meetings, compared to Council Briefing Sessions.
- Elected Members should note staff advice and consider it against the community's expectations and make the final decision, that is the essence of good government.
- The concerns regarding the Committee structure listed in the Officer's Report are equally solved by Committees.

Jack Walsh, 35 Grant Street, Cottesloe – Re. 11.3 Councillor Motion – Local Housing Strategy

- Cottesloe already has a local housing strategy, in the form of Local Planning Scheme No. 3.
- Local Planning Scheme No. 3 provides more than adequately for future infill and housing choices.
- The intent of the motion is at odds with the Local Planning Scheme.

## 6 ATTENDANCE

### Present

Mayor Jo Dawkins  
Cr Philip Angers  
Cr Sandra Boulter  
Cr Rob Thomas  
Cr Mark Rodda  
Cr Katrina Downes  
Cr Sally Pyvis  
Cr Jay Birnbrauer

**Officers Present**

Mr Mat Humfrey	Chief Executive Officer
Mr Garry Bird	Manager Corporate & Community Services
Mr Rob Willis	A/Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Siobhan French	Governance Coordinator

**6.1 APOLOGIES**

Nil

**Officer Apologies**

Nil

**6.2 APPROVED LEAVE OF ABSENCE**

Cr Helen Burke

**6.3 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**7 DECLARATION OF INTERESTS**

The Chief Executive Officer declared an interest in item 13.1.1 as the matter directly relates to his conditions of employment.

**8 CONFIRMATION OF MINUTES**

**Moved Cr Angers, seconded Cr Rodda**

[Minutes 23 August 2016 Council.DOCX](#)

**The Minutes of the Ordinary meeting of Council held on Tuesday 23 August 2016 be confirmed.**

**Carried 6/2**

**For: Mayor Dawkins, Crs Angers, Thomas, Rodda, Downes & Birnbrauer  
Against: Crs Boulter & Pyvis**

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

Nil

**9.2 PRESENTATIONS**

Nil

**9.3 DEPUTATIONS**

Nil

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The Mayor advised that items 10.1.1, 10.1.2, 10.1.5, 10.1.6, 11.1, 11.2, 11.3 and 13.1.1 have been withdrawn. All other items were dealt with en bloc.

## 10 REPORTS

### 10.1 REPORTS OF OFFICERS

#### PLANNING

##### 10.1.1 COTTESLOE BEACH HOTEL – EXTENDED TRADING HOURS APPLICATION

**File Ref:** PUB/10  
**Attachments:** [Applicants Public Interest Assessment Submissions Supporting Proofs of Evidence Liquor Licensed Premises Policy Town s Letters of 12 December 2012 and 18 March 2013](#)  
**Responsible Officer:** **Mat Humfrey**  
**Chief Executive Officer**  
**Author:** **Andrew Jackson**  
**Manager Development Services**  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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#### SUMMARY

The Department of Racing Gaming and Liquor has publicly advertised and referred to the Town for comment a Liquor Control Act application by Cottlesloe Beach Hotel to extend certain trading hours.

The application is to vary the Hotel's liquor licence condition of 10pm closing every night for the redeveloped rear beer garden area (now named The Beach Club), to allow trading until 11.00pm Sundays to Tuesdays and midnight Wednesdays to Saturdays.

Pursuant to the Liquor Control Act the application is based on a Public Interest Assessment Submission which aims to justify the requested trading hours.

The advertising period is from 1 to 29 September 2016, within which comments/objections may be lodged with the Department. The application and submissions are then assessed by the Department and determined by the Director of Liquor Licensing.

#### BACKGROUND

##### Liquor Control Act

The Liquor Control Act fosters and regulates the liquor industry including hospitality and tourism. It embodies the concept of public interest in assessing liquor licence applications, with a focus on the minimisation of harm or ill health, impact on the amenity of a locality and impact on residents/workers in the vicinity. The Act limits objections to liquor applications to such grounds.

**Standard hours**

Under the Act the standard trading hours for a hotel liquor licence are Mondays to Saturdays 6am to midnight and Sundays 10am to midnight.

The Department may reduce or extend these hours in individual circumstances. In the case of Cottesloe Beach Hotel the licence has a condition limiting trading in the beer garden to 10pm, which reads:

*Liquor may not be sold or consumed in that part of the premises known as the beer garden after 10:00pm on any night, unless the beer garden is being used for a private function, arrangements for which have been made prior to that day.*

**Cottesloe beachfront**

There is a lengthy and varied history of liquor control for licensed premises along the Cottesloe beachfront. Over recent years a concerted effort by the Town, community, Department of Racing, Gaming and Liquor, Director of Liquor Licensing, WA Police and proprietors has successfully tamed the previous “beer barn” style of operation at the two beachfront hotels and the operation of functions at Indiana, significantly reducing amenity and anti-social impacts. The Town’s Hotels Meeting and Community Safety and Crime Prevention Committee have contributed to this positive change.

At the same time licensed premises have evolved to cater to a wider demographic, become more food-orientated and sophisticated, and small bars and other liquor reforms have resulted in the growth of generally smaller venues as popular alternatives to traditional large pubs.

Cottesloe Beach Hotel responded to this trend by redeveloping the old beer garden at the rear of the premises to create The Beach Club as a high quality alfresco drinking and eating facility. It is on this basis that the Hotel has applied for increased trading hours for this area.

**Previous application and actions**

In November 2012 the Hotel previously applied to the Department to extend the trading hours for The Beach Club, which opened in December 2012. The proposal was to remove the 10pm closing time restriction for all nights (ie more than the current proposal).

Council at its 10 December 2012 meeting considered this to be too soon and resolved to:

1. *Inform the Director of Liquor Licensing that no change in hours is warranted at this time;*
2. *Notify the surrounding residents of the application being made and to alert Council of any incidents if anti-social behaviour accordingly; and*
3. *Monitor complaints emanating from the re-opened premises.*

This matter became drawn-out due to the concerns of local residents and dealing with noise from the new beer garden, which had been closed for some two and a half years for redevelopment. Attached are copies of the Town’s objection letter of 12



December 2012 and further letter of 18 March 2013 to the Department, which reflected the situation from the Christmas period onwards when the reopened venue was attracting strong patronage.

In turn this led to several complaints to the Department under s117 of the Act specifically in relation to noise. Ultimately these complaints were dismissed firstly by the Director of Liquor Licensing and then the Liquor Commission on appeal.

Consequently, however, the Hotel withdrew its application to extend the trading hours at that stage. The Hotel subsequently liaised with the Town to undertake two phases of noise attenuation works to The Beach Club, with particular attention to the Warnham Road side.

### **Current application**

The current application comes after The Beach Club has been trading for over three and a half years, whereby the initial novelty of the venue has passed and the pattern of patronage has levelled-off.

The proposal, unlike the 2012 proposal, no longer seeks the full trading hours permissible of until midnight all week, but instead to extend trading by one hour (rather than two hours) for three nights a week from Sundays to Tuesdays, and by two hours (the maximum) for four nights a week from Wednesdays to Saturdays. This represents an additional 11 hours night trading per week.

### **STRATEGIC IMPLICATIONS**

Evolution of the Cottesloe beachfront mixed-use precinct including leisure and tourism facilities.

### **POLICY IMPLICATIONS**

In 2008 Council adopted the attached Liquor (Licensed Premises) Policy to assist in dealing with licensed premises. The Policy is applicable to commenting on Liquor Control Act application referrals. It identifies hours of operation of licensed premises as a key consideration, as follows:

*This is particularly relevant to hotel, tavern, nightclub and small bar licences, extended trading permits for on-going hours and liquor without a meal (restaurants or alfresco).*

*Late operating hours may contribute to irresponsible consumption of alcohol and lead to anti-social behaviour, particularly upon leaving licensed premises which in turn impacts on the amenity of others, including other patrons, residents and business operators and their customers.*

*When considering a proposal for premises which would be licensed or an extended trading permit, Council is unlikely to recommend support for those licensed premises which cause disturbance and inconvenience to residents or businesses located in the vicinity of licensed premises.*

*Council will consider opening and closing hours during the week and weekends having regard to the proximity of the licensed premises to residences and businesses and subject to consideration of the details and merits of each proposal.*

**STATUTORY ENVIRONMENT**

*Liquor Control Act 1988*

*Environmental Protection (Noise) Regulations 1997*

**FINANCIAL IMPLICATIONS**

Nil

**STAFFING IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

The complete advertising carried out by the Department of Racing, Gaming and Liquor and the Hotel includes:

- A Notice and large banner at the premises for 28 days.
- Distribution of the Notice to all businesses and residents within a 200 metre radius.
- Comments sought from the Town and WA Police.
- The Department's website.

The Town has also disseminated the proposal via a media release and placement of a Notice on its website and in The Post newspaper.

**STAFF COMMENT****Justification statement**

Attached is the applicant's Public Interest Assessment Submissions justification statement for the proposal, which is based on the framework of the Liquor Control Act as set-out in the document. In essence, the proposal is based on:

- The hospitality and tourism nature of the locality.
- The cessation of the old beer garden and its impacts.
- The decisions under s117 of the Act that noise complaints were not sustained.
- The appropriate operation of the Hotel and the upmarket style and tone of The Beach Club.
- Consumer demand and patron expectations.
- Submissions from local persons supporting the proposal.
- Legal points, having regard to tests of impacts.

**Observations**

The following observations about the main justification statement are made:

Paragraph 8 refers to people drinking on the beach, which in fact is banned under the Town's *Beaches and Beach Reserves Local Law 2012*.

Paragraph 9(d) refers to functions at the Civic Centre catering for several hundred people and generally finishing at midnight, when in fact the Civic Centre main hall has a capacity limit of 170 and most functions are smaller-scale; whilst the timing, capacity, location away from residences and management of outside events is sensitive to minimising noise and activity impacts.

Paragraph 9(c) refers to Il Lido and Blue Waters Café and that they trade until midnight, when in fact Blue Waters Café is now Hola on The Beach restaurant. Note: Il Lido and Hola have restaurant licences. Restaurant trading hours are unlimited; however, while they may trade late at some times during the year, they tend to close before midnight. Also, their capacities are much less than the Hotel's, they are predominantly enclosed premises and they have not had noise complaints.

The statement in several places describes that The Beach Club caters to family groups and an older demographic; however, that demographic is less likely to be in need of longer trading hours. By the same token, the wellbeing of families and older people in the locality is likely to be adversely affected by the proposal.

Paragraphs 62 and 64 refer to a *representative* sample of support from local persons; whose submissions were obtained by the applicant. This is really a very small sample of five residents from four dwellings and one proprietor. In comparison, the 200m radius from the Hotel contains approximately 272 dwellings and business premises lots and comprises of an even larger number of dwellings and businesses due to multiple units and tenancies. Further, compared to the district's population, number of families and number of dwellings as cited in the statement, these six submissions are a tiny proportion. Moreover, they are from local people only, not people outside Cottesloe or tourists whom the applicant says expect longer trading hours.

This analysis diminishes the applicant's claim at paragraph 80 onwards of convincing consumer evidence in support of the proposal. Also in this respect, the statement:

- Omits to inform that the remainder of the Hotel trades later; being the front Verandah Bar which is licensed to trade to midnight all week and serves food, and the Cott & Co licensed restaurant which trades to 11pm all week.
- Does not provide any tangible evidence of demand from tourists.
- Argues that the proposal would improve amenity, but does not examine impacts on amenity.

The statement says that The Beach Club attracts families (ie including children/teenagers) and tourists, whom it argues are amongst those demanding longer trading hours and whom the applicant desires to cater for. Yet paragraph 91 identifies those groups as typically at risk, which contradicts the claims in paragraphs 93 and 94 and elsewhere that the proposal would cause no risk.

The crime data presented shows that assault – which is often associated with alcohol – is the second-most common crime in Cottesloe, and has been essentially constant over the two years.

The argument at paragraph 107 onwards disputing offence, annoyance, disturbance and inconvenience does not acknowledge:

- The fact of ongoing complaints.
- The fact of the Environmental Protection (Noise) Regulations 1997 not being satisfied, as demonstrated by professional noise assessments.

The statement argues that The Beach Club is unique; but that in itself not a reason to support the proposal.

Whilst the statement describes the nature of the operation of the Hotel and The Beach Club, it does not discuss or forecast the possible implications of the proposal.

The solicited submissions of support attest to the serious impacts caused by the old beer garden and the noticeable reduction in impacts due to the new style venue. They also attest to the submitters being frequent patrons of The Beach Club, but disliking the traditional pub atmosphere of the front bar area, whereby they would like The Beach Club to stay open later. What these persons do not discuss is:

- The fact that the reduced impacts from the Hotel are a corollary of the 10pm closing time of The Beach Club.
- The fact that The Beach Club attracts regular patronage throughout the week and year, given the ambience, food service and weather protection offered, which renders noise and other impacts relatively continual.
- The likely increase in patronage and impacts arising from the proposed longer hours.
- That those impacts would affect residents and others who do not patronise the Hotel.
- The immediate proximity of the Hotel to numerous residential and commercial properties likely to be affected by the proposed longer trading hours.

### **Implications of proposal**

The additional trading hours sought would have the following potential effects:

- More people are likely to be attracted to the Hotel and locality.
- This would involve The Beach Club, as well as the front bar and restaurant sections of the Hotel, which can trade until midnight and would be more likely to with The Beach Club opening longer.
- This may comprise more young people, who typically arrive at venues later and stay out later.
- Patrons would stay longer at the venue, consuming more alcohol.
- Patrons would leave the venue later, having consumed more alcohol.
- Noise and activity would increase and be generated for longer, including patrons moving between late night venues or leaving the Hotel and locality after midnight or remaining in the locality for a while.
- Anti-social impacts may be anticipated to increase.
- Complaints are likely to increase.

### Complaints and incidents

Over the years noise complaints have persisted in relation to both the Cottesloe Beach Hotel and the Ocean Beach Hotel, which is due to the nature and scale of these venues and the inevitable noise from large numbers of people, music, traffic, delivery/waste vehicles, etc.

The liquor control authorities appear to view such noise impacts as a norm.

With respect to The Beach Club it is noted that:

- The noise generated is despite the capacity of The Beach Club having been reduced by 30% from 1,200 to 840 patrons.
- Even with the acoustic windows closed, the noise emanating does not comply with the regulations.
- After 10pm the regulation noise levels drop by 5dB, recognising sleeping hours.
- The Town's 2014 noise survey of Warnham Road residents revealed eight negative responses to the existing noise.
- In 2015 the Town recorded two noise complaints from residents in the vicinity.
- More people in the vicinity may be aggrieved by noise from The Beach Club if it operates after 10pm.
- The physical orientation of The Beach Club overlooking Warnham Road, with its main entry/exit via that street, means that noise is readily experienced by residents opposite and nearby.

To the Town's knowledge and from Police reports, incidents of anti-social behaviour at the hotels have declined substantially, although sporadic incidents occur sufficient to raise concern and sometimes can be serious.

### CONCLUSION

Council's intent for the beachfront precinct is for harmony between the mix of residential and commercial uses incorporating a range of accommodation and leisure-related activities. The regional and local planning framework envisages increased residential and commercial development, including more hospitality venues hence licensed premises. The cumulative effects of such growth and change need to be well-managed.

The original condition of 10pm closing for the Hotel's beer garden imposed by the Director of Liquor Licencing was necessary to help quell the earlier severe impacts from the former beer-barn style venue and Sunday session social scene. The proposed removal of that condition creates the risk of a return to excessive impacts, notwithstanding the new style of operation.

In terms of acceptable trading hours it may be considered that:

- Trading to midnight on any night is too late, given the proximity of residences, the previous complaints and the after-midnight impacts of people leaving the premises and locality.
- Trading to 11pm on Fridays and Saturdays would be compatible with offering hospitality and customary weekend leisure times, and is likely to be tolerable.

- Trading to 11pm on other nights would be incompatible with residential quietude during weekday nights, whereby to 10pm remains preferable.
- Noise limitation after 10pm is vital, whereby controlling music and keeping closed the noise-attenuation glass panels at that time would be important.

In summary, Council may form the view that the proposed extended trading hours would not be in the public interest by virtue of:

- The potential for harm or ill health due to increased liquor consumption.
- The likely increased impact on amenity, especially noise.
- The likely increased offence, annoyance, disturbance and inconvenience of people working or residing in the vicinity.

This would trigger a corresponding increase in complaints to the Hotel and the Town. Therefore, Council may wish to object to the specific proposed hours. Council may also wish to recommend alternative hours on particular nights, having regard to the above.

### **ADDITIONAL INFORMATION FOLLOWING COUNCIL BRIEFING SESSION**

In comparison, the Ocean Beach Hotel is licensed to trade to midnight every night, but is also a source of complaints and some incidents.

If Council supports any extended hours for The Beach Club it may wish to recommend that the Director of Liquor Licensing consider placing conditions on the licence, such as:

- Background music volume reduction or cessation at 10pm.
- The noise-attenuating glass panels to Warnham Road being closed at 7pm as currently practiced and kept closed thereafter.
- Patrons being required to exit via the Marine Parade front doors rather than onto Warnham Road.
- Augmentation of CCTV to the inside and outside of the premises.

### **VOTING**

Simple Majority

### **OFFICER RECOMMENDATION**

THAT Council:

Request the administration to lodge a formal objection to the application with the Department of Racing, Gaming and Liquor, on the grounds that the proposed increase in trading hours for The Beach Club would not be in the public interest as it would exacerbate the impacts from the venue that have been reduced but not overcome, including that:

- i. the amenity, quiet and good order of the locality would be lessened; and
- ii. there would be undue offence, annoyance, disturbance and inconvenience to people residing or working in the vicinity.

**COUNCILLOR MOTION & COUNCIL RESOLUTION**

**Moved Mayor Dawkins, seconded Cr Downes**

**THAT Council not lodge a submission with the Department of Racing, Gaming and Liquor on the proposed change in trading hours for The Beach Club.**

**Carried 5/3**

**For: Mayor Dawkins, Crs Angers, Thomas, Rodda & Downes**

**Against: Crs Boulter, Pyvis & Birnbrauer**

**10.1.2 104 MARINE PARADE, COTTESLOE – COTTESLOE BEACH HOTEL –  
PROPOSED REPAIR AND RESTORATION TO FOYER**

**File Ref:** 3409  
**Attachments:** [Aerial](#)  
[Existing Foyer Photos](#)  
[Letter from architect 24 June 2016](#)  
[Letter from architect 30 August 2016](#)  
[Addendum re Heritage Fabric June 2016](#)  
[Advice from State Heritage Office Plan](#)

**Responsible Officer:** **Mat Humfrey**  
**Chief Executive Officer**

**Author:** **Andrew Jackson**  
**Manager Development Services**

**Proposed Meeting Date:** **27 September 2016**

**Author Disclosure of Interest:** **Nil**

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**SUMMARY**

This report presents an application for relatively minor yet important repair and restoration works to the Marine Parade foyer of the Hotel.

The application was initially intended to be processed under delegation; however, following queries regarding universal access it was called-up to Council for determination. Additional information has been obtained and assessment undertaken to ascertain the appropriate outcome.

**BACKGROUND**

Cottesloe Beach Hotel is heritage classified at the state and local levels. The original foyer has previously been unsympathetically altered and is now in need of repair. In particular, the non-original glass blocks have deteriorated and are to be replaced by proper weatherproof glazing. This is also an opportunity to remove the non-original planters and restore the original terrazzo flooring.

The application plan and photos of the foyer are attached to illustrate the proposal.

Also attached are the architect's application letter dated 24 June 2016 and accompanying "heritage addendum" document dated June 2016, which together establish the heritage suitability of the proposed works.

**STRATEGIC IMPLICATIONS**

The proposed works foster heritage.

**POLICY IMPLICATIONS**

State Planning Policy 3.5 Historic Heritage Conservation is the overarching policy guide and its objectives are to:

- *Conserve places and areas of historic heritage significance.*
-



- *Ensure that development does not adversely affect the significance of heritage places and areas.*
- *Ensure that heritage significance at both the State and local levels is given due weight in planning decision-making.*
- *Provide improved certainty to landowners and the community about the planning processes for heritage identification, conservation and protection.*

The development control principle of the Policy relevant to the proposal is that *Development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure, and should involve the least possible change to the significant fabric.*

Council's Disability Access and Inclusion Policy is focussed on the Town's properties and events rather than private property proposals, as follows:

Outcomes include: [That] *People with disabilities have the same opportunities as other people to access the [Town of] Cottesloe buildings, facilities and infrastructure.*

Policy points include: *That all building and planning applications be awarded only if the access and inclusion and universal standards are met in Council-owned buildings and all business extensions, upgrades and licenses.*

On this basis the Policy does not relate to the subject application.

Separate from this Policy, under the applicable legislation private properties may involve universal access requirements depending on their use, classification and development.

### **STATUTORY ENVIRONMENT**

- Local Planning Scheme No. 3
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Heritage of Western Australia Act 1990*
- *Disability Discrimination Act 1992 Disability (Access to Premises - Building) Standards 2010*

### **FINANCIAL IMPLICATIONS**

Nil

### **STAFFING IMPLICATIONS**

Nil

### **SUSTAINABILITY IMPLICATIONS**

Nil

### **CONSULTATION**

State Heritage Office

As required the application was referred to the Heritage Council of Western Australia. By letter dated 26 July 2016 attached the State Heritage Office advised that the

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application is supported. The Architect has mentioned that in preliminary consultation the State Heritage Office suggested removing the planters to reinstate the terrazzo floor, consistent with the Conservation Plan for the building.

Subsequent to the question regarding universal access being raised, the State Heritage Office has been consulted in this regard. The State Heritage Office has advised that there would need to be an actual application for universal access via the foyer in order for it to properly assess the impact on the heritage significance of the place, so it is not in a position to comment at present. It has also suggested that the southern (corner) entrance may be adaptable to universal access.

#### Applicant Architect

Subsequent to the query regarding universal access being raised, the Architect has submitted the attached detailed letter dated 30 August 2016. This reviews the statutory situation in relation to universal access, examines the feasibility of providing universal access via the foyer, and evaluates the heritage dimension as exempting the proposal from invoking universal access.

#### Principal Building Surveyor

The Principal Building Surveyor has reviewed the Architect's advice and concurs with the findings; noting that such repair/restoration works don't normally trigger disability access provision and that there is no change to the classification of the building or increase in its footprint.

### **STAFF COMMENT**

#### **Previous advice**

The previous advice to Elected Members from the Manager Development Services was as follows:

- The application is to remove the unsympathetic post-1985 glass blocks and planters from the foyer, then to install more suitable glazing and restore the flooring and general fabric.
- This is in accordance with the 2004 Conservation Plan for the building which identifies the foyer as of exceptional significance and that the modern alterations are inappropriate.
- The Heritage Council supports this positive improvement.
- Officers have considered the below in relation to the intent and scope of the application, and have consulted the architect as to the need for universal access at that entry and the feasibility/desirability of such heritage-wise.
- The Hotel currently has a universal ramp access via the entry to The Beach Club on Warnham Road, plus there is also an older ramp to the front Verandah Bar from Warnham Road.
- In addition, from John Street there is at-grade door access to the side bar space and to the rear function pavilion, if required.
- The architect examined whether universal access would be possible to the foyer and whether it would undesirably alter/destroy original building fabric, and has advised that:

- *A compliant ramp and hand rails would need to penetrate the existing heritage fabric on the eastern side of the foyer or provide a landing in front of that façade, reducing the foyer depth.*
- *Such a ramp could be accommodated but would extend in front of the stair landing and would provide access to the Verandah Bar level only.*
- *A stair lift instead (a non-preferred solution) would require substantial reconfiguration of the landing at the top, impacting on the significant fabric of the foyer.*
- *The foyer can be considered for an exemption from universal access due to the significance of the original 1937 core heritage fabric and the impact on the value of the place that the creation of a ramp etc would have.*
- *It is suggested that a sign could be put in the foyer giving directions to the Warnham Road main ramp.*
- Given this context it is assessed that the proposal can be considered apart from the provision of universal access, as relatively minor and worthy heritage works which do not constitute major alterations or additions.

### **Further advice**

The proposed works entail replacement of the glass blocks with double-glazed aluminium-framed windows, repairs to the terrazzo steps, removal of the cement planters and reinstatement of the terrazzo floor.

The 2004 Conservation Plan by Hocking Planning and Architecture identifies the foyer as being of exceptional significance, but further identifies the glass blocks and planters as being post-1985 alterations to the place. The conservation recommendations are to remove the glass blocks and cement planters.

The architect has provided a detailed report on the proposed works including photos showing the foyer in 1982 without the glass blocks, which were added as part of renovations to the hotel commenced in 1986.

The architect has advised that the replacement aluminium-framed glazing proposed is an effective response to the wind, rain and sun exposure. The frames will be a powder-coated to match with the building and visually recede into the masonry façade.

The glass blocks require urgent attention as they are breaking-up due to incorrect construction and weather exposure. This can be seen from inspection and the attached photos.

### **CONCLUSION**

Replacement of the glass blocks is essential, while removal of the non-authentic planters is a conservation objective, which in turn will achieve restoration of the terrazzo flooring. These improvements are individually desirable and collectively will enhance the heritage value, streetscape appearance and internal amenity of the building.

Prior to The Beach Club, the hotel existed for a long time without any universal access; during the 2012 redevelopment of the old beer garden to create The Beach

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Club a compliant and wide universal access ramp was provided at the main entry for all, whilst supplementary universal access to the premises is available as stated.

The nature of the foyer works is not seen as requiring augmentation of universal access to the building, as replacing glazing and restoring flooring do not constitute major alterations or additions. The architect has nonetheless thoroughly examined whether universal access could be incorporated into the foyer, but found that it would not be feasible and would compromise core heritage fabric.

## **VOTING**

Simple majority

## **OFFICER RECOMMENDATION**

### **Moved Cr Rodda, seconded Cr Thomas**

THAT Council GRANT planning approval for repair and restoration to the foyer of the Cottesloe Beach Hotel at 104 Marine Parade COTTESLOE (LOT: 39 D/P: 27736) as shown on the plans received on 4 July 2016, subject to the following conditions:

1. All construction work shall be carried out in accordance with the *Environmental Protection (Noise) Regulations 1997*, Regulation 13 - Construction sites.
2. The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town and any approval required under the relevant heritage classifications.
3. A full schedule of conservation works shall be submitted with the application for a Building Permit.
4. Signage shall be displayed in the foyer directing patrons to the universal access ramp off Warnham Road. This could be incorporated into the existing directional sign stand.

### Advice Note:

The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.

## **AMENDMENT**

### **Moved Cr Boulter, seconded Cr Pyvis**

**That an advice note be added that reads "The Town of Cottesloe request the Cottesloe Beach Hotel to consider supplementary universal access when future changes are proposed for the premises."**

**Carried 8/0**

**COUNCIL RESOLUTION**

**THAT Council GRANT planning approval for repair and restoration to the foyer of the Cottesloe Beach Hotel at 104 Marine Parade COTTESLOE (LOT: 39 D/P: 27736) as shown on the plans received on 4 July 2016, subject to the following conditions:**

- 1. All construction work shall be carried out in accordance with the *Environmental Protection (Noise) Regulations 1997*, Regulation 13 - Construction sites.**
- 2. The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of the Town and any approval required under the relevant heritage classifications.**
- 3. A full schedule of conservation works shall be submitted with the application for a Building Permit.**
- 4. Signage shall be displayed in the foyer directing patrons to the universal access ramp off Warnham Road. This could be incorporated into the existing directional sign stand.**

**Advice Note:**

- 1. The owner/applicant is responsible for applying to the Town for a Building Permit and to obtain approval prior to undertaking construction of the development.**
- 2. The Town of Cottesloe request the Cottesloe Beach Hotel to consider supplementary universal access when future changes are proposed for the premises**

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 8/0**

**10.1.3 PLANNING APPLICATIONS DETERMINED UNDER DELEGATION**

**File Ref:** SUB/2040  
**Responsible Officer:** Mat Humfrey  
Chief Executive Officer  
**Author:** Andrew Jackson  
Manager Development Services  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

This report provides details of the planning applications determined by officers acting under delegation, for the month of August 2016.

**BACKGROUND**

Pursuant to Local Planning Scheme No. 3, Council has delegated its power to determine certain planning applications to the Chief Executive Officer and the Manager Development Services (or the Senior Planning Officer acting in his stead). This provides efficiency in processing applications, which occurs on a continual basis.

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

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

**STATUTORY ENVIRONMENT**

- *Planning & Development Act 2005*
- Local Planning Scheme No. 3
- Metropolitan Region Scheme

**FINANCIAL IMPLICATIONS**

Nil

**STAFFING IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

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**STAFF COMMENT**

During August 2016 the following planning applications were approved under delegation:

<b>Address</b>	<b>Description</b>	<b>Date Determined</b>
73 John Street	Fence	1 August 2016
86 Marine Parade	Residential strata	2 August 2016
56 & 56A Railway Street	Two x two-storey grouped dwellings	2 August 2016
7 Athelstan Road	Additions/alterations	3 August 2016
1 Geraldine Street	Fence and carport	3 August 2016
23 Brighton Street	Additions/alterations	8 August 2016
7 Kiln Lane	Two-storey dwelling	12 August 2016
6A Bird Street	Two-storey dwelling	12 August 2016
3 Griver Street	Carport	17 August 2016
16 Edward Street	Patio	22 August 2016
56 Eric Street	Removal of occupancy restriction	22 August 2016
39 Eric Street	Additions/alterations	26 August 2016
218 Broome Street	Two-storey dwelling and garage	26 August 2016
174 Broome Street	Storeroom	26 August 2016
12 Athelstan Road	Letterbox, planter box and retaining wall	26 August 2016
2A Webb Street	Additions/alterations	26 August 2016
42C Marine Parade	Patio	30 August 2016

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Dawkins, seconded Cr Downes

**THAT Council receive this report on the planning applications determined under delegation for the month of August 2016.**

**Carried 8/0**

**10.1.4 PROPOSED AMENDMENTS TO STATE PLANNING POLICY 3.1 -  
RESIDENTIAL DESIGN CODES**

**File Ref:** SUB/1823  
**Attachments:** [R Codes Proposed Amendments 2016](#)  
**Responsible Officer:** Andrew Jackson  
Manager Development Services  
**Author:** Ed Drewett  
Senior Planning Officer  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

The Western Australian Planning Commission is proposing changes to the Residential Design Codes to address issues identified by stakeholders, improve use and clarity, address anomalies and ensure alignment with the Planning and Development (Local Planning Schemes) Regulations 2015.

Substantive changes include:

- Removal of site area design principles
- Amended grouped and multiple dwelling definitions
- Reduce setback for walls with major openings for wall heights 3.5 metres or less from 1.5 metres to 1.2 metres
- Solar access applying to wall height greater than 3.5 metres
- Introduce a new streetscape appearance 'deemed-to-comply' clause
- Clarification of ancillary dwellings construction standards
- Clarification of driveway/crossover locations
- Reduce the minimum number of aged or dependent persons' dwellings in any single development from 5 to 2.

Comments are invited on the proposed amendments by Monday 10 October 2016.

**BACKGROUND**

The Residential Design Codes provide a comprehensive basis for the control of residential development in Western Australia.

The Codes are updated from time to time by the Western Australian Planning Commission to keep up-to-date with State Planning Policy and legislation. The last update was gazetted on 23 October 2015.

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Nil

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**STATUTORY ENVIRONMENT**

Directly affects assessment of development applications in the Town.

**FINANCIAL IMPLICATIONS**

Nil

**STAFFING IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

The proposed amendments to the Residential Design Codes are attached.

The key changes that are most likely to affect the Town, together with other suggested modifications, are discussed below:

- No. 9  
Notwithstanding this proposed modification to the Outbuildings application type column, the wording in the columns referring to '*Multiple dwellings (land coded less than R30)*' and '*Multiple dwelling (land coded R30 and above) mixed use development and activity centres*' should also be changed to refer to '*land coded less than R40*' and '*land coded R40 and above*' to reflect the current R-Codes.
- No. 11  
The proposed deletion of the design principles could result in the Western Australian Planning Commission approving new lots, survey strata lots or strata lots which are well below the current maximum 5% variation – a practice that appears to be becoming more frequent despite opposition by the Town.
- No. 12  
The word '*and*' should be changed to '*or*' in c2.4 'Projections greater than 1m and exceeding 20% of the building façade...'
- No. 24  
The proposed reduction to the minimum number of aged and dependent persons dwellings required in a single development from 5 to 2 under the deemed-to-comply requirements is a significant change as it will allow more developments to automatically qualify for up to a 1/3 reduction in the required site area for this type of development (ie: minimum 350m<sup>2</sup>, average 450m<sup>2</sup> required in R20 zone can be reduced to minimum 234m<sup>2</sup>, average 300m<sup>2</sup>). Although this seeks to remove barriers to facilitate this type of development it may also result in more infill development within the Town, which in turn may affect amenity, parking, traffic noise etc.

- No. 31

The proposed modification to the minimum boundary setback for walls with major openings that have a height of 3.5m or less from 1.5m to 1.2m is unlikely to be problematic providing that it allows sufficient light and ventilation to a habitable room as required under the Building Code of Australia.

## CONCLUSION

The proposed changes to the Residential Design Codes are important to the assessment of residential planning applications within the Town.

Local Planning Scheme No. 3 and the Planning and Development (Local Planning Schemes) Regulations 2015 will still remain relevant considerations when assessing residential developments.

Although most of the proposed changes are appropriate to correct anomalies and align with the Planning and Development (Local Planning Schemes) Regulations 2015 and National Construction Code, there are some changes highlighted in this report which have potential to have a more significant impact on residential development in the Town. Council should therefore be informed of these changes so that it may resolve whether to make comment during the submission period.

## VOTING

Simple Majority

## OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Dawkins, seconded Cr Downes

That Council **NOTES** the proposed changes to State Planning Policy 3.1 – Residential Design Codes and provides the following comments to the Western Australia Planning Commission:

- No. 9 – Part 3 Accompanying information:

To ensure that the wording in the columns referring to *‘Multiple dwellings (land coded less than R30)’* and *‘Multiple dwellings (land coded R30 and above) mixed use development and activity centres’* is consistent with the Residential Design Codes it should be modified to read:

*‘Multiple dwellings (land coded less than R40)’* and

*‘Multiple dwellings (land coded R40 and above)/mixed use development and activity centres’*

- No. 11 – clause 5.1.1 (P1.2, P1.3)

The deletion of P1.2 and P1.3 is not supported as they detail specific criteria that are required to be addressed by developers seeking a reduction to the minimum and/or average site area for a proposed subdivision. These criteria also assist Local Governments in providing

informed comment to the WAPC in response to subdivision proposals that do not comply with Table 1 of the R-Codes.

- **No. 12 – clause 5.1.2 (C2.4)**

For clarity, when calculating required setbacks for minor projections in front setback areas (ie: porch, balcony, verandah, chimney or the equivalent) that are not exempt from clause 5.1.2 C2.1iii, C2.4 should be modified to read:

*‘Projections greater than 1m or exceeding 20% of the building façade at any level are subject to an equivalent open area under clause 5.1.2 C2.1iii.*

- **No. 24 – clause 5.5.2 (C2.1ii)**

This modification is not supported as the resultant increased density will significantly impact on amenity due to issues such as increased parking, traffic and noise.

If the WAPC still decides to modify this clause then it should not include areas coded less than R40 and should read:

*A minimum number of two dwellings within any single development in areas coded R40 and above, and a minimum number of five dwellings within any single development in areas coded less than R40.*

- **No. 31 – Table 2b:**

The proposed modification to the minimum boundary setback for walls with major openings that have a height of 3.5m or less, from 1.5m to 1.2m, is acceptable, providing that it still enables sufficient light and ventilation to a habitable room, as required under the Building Code of Australia.

Carried 8/0

**ADMINISTRATION****10.1.5 REVIEW OF COUNCIL BRIEFING SESSIONS**

<b>File Ref:</b>	<b>SUB/2198</b>
<b>Attachments:</b>	<a href="#">Attachment 1 Extract from Minutes 14 December 2015 Ordinary Council Meeting</a> <a href="#">Attachment 2 DLG Operational Guidelines Council Forums</a> <a href="#">Attachment 3 Extract from Minutes April 26 2016 Ordinary Council Meeting</a>
<b>Responsible Officer:</b>	<b>Mat Humfrey</b> <b>Chief Executive Officer</b>
<b>Author:</b>	<b>Mat Humfrey</b> <b>Chief Executive Officer</b>
<b>Proposed Meeting Date:</b>	<b>27 September 2016</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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**SUMMARY**

At its Ordinary Council Meeting of December 2015, Council resolved to implement a trial of full Council Briefing Sessions, in place of the 3 standing committees. In April 2016, Council resolved to review the Briefing Sessions.

This report provides the requested review and recommends that Council proceed with the Briefing Sessions, with several minor amendments.

**BACKGROUND**

In November of 2015, the administration undertook a review of the committee structure, then in place for the Town of Cottesloe. A number of concerns were raised, including but not limited to;

- a. Elected Members were being asked to vote on issues within three days of receiving reports, two days of which were non business days;
- b. Committee recommendations were often being misreported as Council resolutions in the media;
- c. There were no formal and transparent mechanisms for Elected Members to ask questions of the administration staff or seek clarification on matters raised in officers' reports; and
- d. Significant time and resources were being deployed to manage three separate committees, which often comprised more than half of the Elected Members.

Officers had already undertaken surveys of the meeting structures of other local governments. This research was done by directly contacting local governments as well as contact with the Department of Local Government. Officers were aware of Department's Operational Guidelines on Council Forums at the time the original report was prepared in December 2015.

Council has now participated in 7 Full Council Briefing Sessions, since they were initiated in February 2016.

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**STRATEGIC IMPLICATIONS**

There are no strategic implications in the Officer's Recommendation.

**POLICY IMPLICATIONS**

There are no policy implications in the Officer's Recommendation.

Council may wish to consider amending its Code of Conduct Policy to specifically mention the briefing sessions or alternatively consider having a specific policy for briefing sessions at a later date.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government (Rules of Conduct) Regulations 2007*

*Town of Cottesloe Standing Orders Local Law 2012*

**FINANCIAL IMPLICATIONS**

The reduction in the number of meetings has resulted in a small decrease in cost to the Town. This is mainly reflected in catering and staff costs.

**STAFFING IMPLICATIONS**

The introduction of the Briefing Sessions has not resulted in any further staff requirements and has in fact reduced the workload of several staff members. These resources are now able to be applied to other tasks.

**SUSTAINABILITY IMPLICATIONS**

There has been a very small reduction in the printing of Agendas as a result of the transition to Briefing Sessions, however, the overall impact has been very small.

**CONSULTATION**

Elected Members

**STAFF COMMENT**

Council briefing sessions play an important role in the Council decision making process. To quote from the *Local Government Operational Guidelines Number 05 – Council Forums*;

*“For proper decision making, elected members must have the opportunity to gain maximum knowledge and understanding of any issue presented to the council on which they must vote... The complexity of many items means that elected members may need to be given information additional to the staff report and/or they may need the opportunity to ask questions of relevant staff members. Many local governments have determined that this can be achieved by the elected members convening as a body to become better informed on issues listed for council decision.”*

The Standing Orders provide the rules of debate for Council and Committee meetings. Much of their content provides guidance on how matters are to be decided, they are not intended to guide behaviour. The Standing Orders that guide decision making or require any kind of vote, are simply not able to be applied to a briefing session, as the Council cannot make any form of decision at this session. The

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Standing Orders relating to the keeping of order, quorums and general meeting procedures are able to be followed and should apply to Briefing Sessions.

As per all Council meetings, activities and functions, the Local Government (Rules of Conduct) Regulations apply to council briefing sessions. Elected Members should be particularly aware of Regulation 10, which states;

**10. Relations with local government employees**

- (1) *A person who is a council member must not —*
  - (a) *direct or attempt to direct a person who is a local government employee to do or not to do anything in the person’s capacity as a local government employee; or*
  - (b) *attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person’s capacity as a local government employee.*
- (2) *Subregulation (1) does not apply to anything that a council member does as part of the deliberations at a council or committee meeting.*
- (3) *If a person, in his or her capacity as a council member, is attending a council meeting, committee meeting or other organised event and members of the public are present, the person must not, either orally, in writing or by any other means —*
  - (a) *make a statement that a local government employee is incompetent or dishonest; or*
  - (b) *use offensive or objectionable expressions in reference to a local government employee.*
- (4) *Subregulation (3)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.*

As briefing sessions are not council or committee meetings, the exemption provided in subregulation 2 does not apply. Elected Members should proceed with caution when asking for additions to officers’ reports or for items to be included as attachments if they believe they are relevant. Directing, or attempting to direct staff to do so is simply not permitted.

While this may seem limiting, the decision making process of the Town has two separate and distinctive components. The first is the technical assessment provided by staff. This should include reference to the pertinent points required to make a decision only, should be concise and include a recommendation that is based on the technical assessment only. Elected Members should then note that advice and consider it against the community’s expectations and make the final decision.

The resolution of the Council in April stated that this review should have regard to “*Department of Local Government Guideline 5 for Council Forums.*” A copy of this guideline has been included in attachment 2. The Operational Guideline provides at section 7 a number of procedures that should be in place for Council Agenda Forums, which are listed in the table below, alongside the current procedure for the Council’s Briefing Session.

Operational Guideline Recommendation	Current Practice
Dates and times for forums should be set well in advance where practical;	The dates, times and locations for the Briefing Sessions were set in December 2015 for the entire calendar year.
The CEO will ensure timely written notice and the agenda for each forum is provided to all members;	The notice and agenda for the briefing sessions are distributed the Friday before the Briefing Session, as per the requirements for Council meetings.
Forum papers should be distributed to members at least three days prior to the meeting.	The Agenda for the Briefing Sessions are distributed 4 days prior to the forum.
The mayor/president or designated elected member is to be the presiding member at all forums	The Mayor presides at Briefing Sessions.
Elected members, employees, consultants and other participants shall disclose their financial and conflicts of interest in matters to be discussed.	This requirement is acknowledged in the Briefing Session principles and the Town's Code of Conduct.
Interests are to be disclosed in accordance with the provisions of the Act as they apply to ordinary council meetings. Persons disclosing a financial interest will not participate in that part of a forum relating to their interest and leave the meeting room;	This requirement is acknowledged in the briefing session principles and the Town's Code of Conduct.
There is to be no opportunity for a person with an interest to request that they continue in the forum	This matter has not yet been raised in a Briefing Session.
A record should be kept of all forums. As no decisions will be made, the record need only be a general record of items covered but should record disclosures of interest with appropriate departures and returns.	The Town keeps a record of the briefing sessions, which included attendees, a summary of public questions and public statements, the items covered and a summary of questions asked and responses given.
Agenda forums should be open to the public unless the forum is being briefed on a matter for which a formal council meeting may be closed;	Briefing sessions are open to the public and the Agenda is made available to the public prior to forum.
Items to be addressed will be limited to matters listed on the forthcoming agenda or completed and scheduled to be listed within the next two meetings (or period deemed appropriate);	The only items listed for discussion at the briefing session are those items to be presented to the Ordinary Council Meeting the following week.
Briefings will only be given by staff or consultants for the purpose of ensuring that elected members and the public are more fully informed;	Staff only provide briefings on items listed for debate at the next Council Meeting. The purpose is for clarification of any technical matter and provision of additional information in answer to queries.
All questions and discussions will be	The discussion at briefing sessions is

Operational Guideline Recommendation	Current Practice
directed through the chair. There will be no debate style discussion as this needs to take place in the ordinary meeting of council when the issue is set for decision.	strictly kept to a question and answer format.

As can be seen from the above table, the Operational Guidelines from the Department are complied with. Officers had read and were aware of the Operational Guidelines at the time the Briefing Sessions were recommended to Council. The Council Briefing Principles provide guidance to Elected Members in accordance with the operational guidelines and the Rules of Conduct regulations.

Overall, the Briefing Sessions have been successful. The impost on the administration is less than that of the committees previously in place and the information provided at Briefing Sessions has contributed to the decision making process.

At the beginning of each briefing session agenda, officers have placed a document entitled Council Briefing Principles. This document was put together by officers having referred to the Local Government Operational Guidelines 05 – Council Forums and having referenced similar documents from other local governments. It outlines how officers will present information to the briefing session, how the briefing session relates to the ordinary council meeting agenda and notes any obligations Elected Members have. While it is not considered necessary to formally adopt this document, as it only outlines existing laws or Council decisions, should Council wish to adopt it, it would not be inappropriate.

During the course of 2016, several common requests have been made regarding Briefing Sessions. These include the recording of the sessions, inclusions of statements and questions asked in the ordinary Council agenda as well as questions regarding the level of detail recorded in the Briefing Session notes.

Council has resolved to record all Council meetings and the Briefing Sessions, only for the purpose of checking the Minutes of each. While there are technically no Minutes of the Briefing Session, the recording can be used to check the accuracy of the notes taken, particularly so if any interests or other declarations are made.

Through examination of the Standing Orders, the Chief Executive Officer has decided that where possible, questions asked by members of the public at briefing sessions will be taken as questions of which notice has been received in the Council Agenda.

With regards to statements made at the briefing session, the current standing orders do not provide any mechanism to include in the Agenda of the Council meeting any statement received in advance from any person. If Council were of the mind to allow statements made at the briefing session to be included in the Council Agenda, then a change to the Town of Cottesloe Standing Orders Local Law would be required.



Council should be mindful of several issues when considering whether or not to include statements from members of the public in its Agenda. The first is that Council would need to consider procedural fairness in allowing statements on Agenda items. Public Statement Time is limited to 15 minutes and there can be situations where everyone who wishes to make a statement is not afforded the opportunity to do so. If this extended to having statements recorded in the Agenda, there should be a corresponding procedure to ensure all parties are provided with equal access to such a privilege.

The second issue that would need thorough investigation is the appropriateness of such statements being included in the Agenda. The Agenda is a publication of the Town, and as such the Town is legally responsible for it. If a person was to make a statement that could be considered defamatory or discriminatory, there is a risk the Town could be held liable to the extent that it prints such statements.

The issue of the level of detail recorded for such questions and statements has also been raised. The Local Government (Administration) Regulations state at Regulation 11(e) that the Minutes should include “a summary of each question raised by members of the public at the meeting and a summary of the response to the question.” Therefore having verbatim recording of questions and answers provided would be contrary to the Regulations. The Act and Regulations are silent on public statement time, as they are not a required component of Council meetings. The requirement for public statement time is found in the Town of Cottesloe Standing Orders Local Law. The Standing Orders do not provide how statements are to be recorded in the Minutes. There being no requirement to record the statements verbatim, the established practice is that a summary of the statement be provided, in the same way the Regulations provide for public questions to be recorded.

At this stage the officers believe that the briefing sessions have been an improvement to the decision making process of the Town and have resulted in efficiencies being realised. This being the case, the recommendation is that the Briefing Sessions remain in place for the remainder of the year, as originally resolved by Council.

## **VOTING**

Simple Majority

## **OFFICER RECOMMENDATION**

### **Moved Cr Rodda, seconded Cr Angers**

THAT Council note the report provided on the Council Briefing Sessions as requested at the April 2016 Council meeting.

**AMENDMENT****Moved Cr Boulter, seconded Cr Pyvis***Note: The Mayor determined to vote on each point of the amendment separately.***AMENDMENT POINT ONE****That a point be added that reads “That the record of the Briefing Session be published on the Council website before the upcoming Council meeting.”****Lost 2/6****For: Crs Boulter & Pyvis****Against: Mayor Dawkins, Crs Angers, Thomas, Rodda, Downes & Birnbrauer****AMENDMENT POINT TWO****That a point be added the reads “That Council adopt rules and processes that are in line with the Department of Local Government and Communities Operational Guidelines Number 5 - Council Forums for Briefing Sessions.****Equality 4/4****For: Crs Boulter, Pyvis, Thomas & Birnbrauer****Against: Mayor Dawkins, Crs Angers, Rodda & Downes****Mayor Dawkins exercised the casting vote to maintain the status quo****Lost 4/5****AMENDMENT POINT THREE****That a point be added that reads “That the Chief Executive Officer bring back a draft set of Briefing Session Rules and Processes to the October Council *meeting in line with* the Department of Local Government and Communities Operational Guidelines Operational Guidelines Number 5 - Council Forums for Briefing Sessions.”****Equality 4/4****For: Crs Boulter, Pyvis, Thomas & Birnbrauer****Against: Mayor Dawkins, Crs Angers, Rodda & Downes****Mayor Dawkins exercised the casting vote to maintain the status quo****Lost 4/5****AMENDMENT POINT FOUR****That a point be added that reads “That the Briefing Session be renamed Agenda Forum.”****Carried 5/3****For: Crs Boulter, Thomas, Downes, Pyvis & Birnbrauer****Against: Mayor Dawkins, Crs Angers & Rodda**

**COUNCIL RESOLUTION**

1. That Council note the report provided on the Council Briefing Sessions as requested at the April 2016 Council meeting; and
2. That the Briefing Session be renamed Agenda Forum.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

**Carried 6/2**

**For: Mayor Dawkins, Crs Angers, Thomas, Rodda, Downes & Birnbrauer  
Against: Crs Boulter & Pyvis**

**10.1.6 RENEWAL OF CONTRACT SURF LIFE SAVING WESTERN AUSTRALIA –  
PROVISION OF LIFEGUARD SERVICES**

**File Ref:** SUB/115  
**Attachments:** [SLSWA Proposal](#)  
[SLSWA Lifeguard Activity Report 2015 2016](#)  
**Responsible Officer:** Mat Humfrey  
Chief Executive Officer  
**Author:** Garry Bird  
Manager Corporate & Community Services  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

To consider a proposal from Surf Life Saving Western Australia Inc. to provide lifeguard services at Cottesloe Beach for a three year period commencing 2016/17.

**BACKGROUND**

The previous three year contract with Surf Life Saving Western Australia Inc. expired on 30 April 2016.

**STRATEGIC IMPLICATIONS**

Priority Area 1 – Protecting and enhancing the well being of residents and visitors.

The renewal of the contract with Surf Life Saving Western Australia Inc. is in keeping with this stated strategic priority.

**POLICY IMPLICATIONS**

Council Policy – Beach

Section 3 of the Policy has specific relevance to the renewal of the contract for the provision of lifeguard services as follows;

*“Safety is always a factor that should be considered in natural environments such as the beach. Safe swimming areas are set up and patrolled by the Cottesloe and North Cottesloe Surf Life Saving Clubs and Council’s life saving contractor during the main beach-going months. Council has instituted annual beach safety audits to ensure that signage and other safety measures are noted for inclusion in the works plans.”*

Council Policy – Purchasing

These policy implications are addressed in greater detail in the Statutory Implications section of this Report.

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government (Functions and General) Regulations 1996*

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Section 3.57 of the *Local Government Act 1995* and the Town of Cottesloe Purchasing policy requires tenders to be publicly invited for all purchases/contracts that exceed \$150,000 in value, unless any of the various exemptions apply.

Regulation 11 (f) states that a tender does not have to be publicly invited if;

*“the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier”*

Staff have made enquiries with other local authorities who provide lifeguard services on the beachfront and all of these use Surf Life Saving Western Australia Inc. The City of Wanneroo and the Shire of Broome recently tendered this service and both only received the one submission from Surf Life Saving Western Australia Inc

No other alternatives are known to exist for beach lifeguard services, which require a different qualification than pool life guards.

As such, no public tenders have been invited.

### FINANCIAL IMPLICATIONS

The 2016/17 Budget provides an allocation of \$207,360 for the provision of this service. Actual expenditure for 2015/16 was \$198,893.

The proposal from Surf Life Saving Western Australia Inc. for the three year term of the Agreement contains the following costs;

Year	Season Dates	Cost
2016/17	1 October to 30 April	\$205,935.35
2017/18	1 October to 30 April	\$215,987.61
2018/19	1 October to 30 April	\$218,650.96

The above scenario includes funding received from the State Government to Surf Life Saving WA Inc. for shark mitigation, which has been confirmed for 2016/17 but not beyond that date. If this funding was continued for the three year term of the Agreement, the costs would be as follows;

Year	Season Dates	Cost
2016/17	1 October to 30 April	\$205,935.35
2017/18	1 October to 30 April	\$204,355.40
2018/19	1 October to 30 April	\$206,825.31

The cost is higher in Year 1 due to equipment purchases required to provide the service, which is not required in Years 2 and 3.

In addition to the continuation of the existing service, Surf Life Saving Western Australia Inc. has raised resourcing issues around the Sculpture by the Sea exhibition in March each year. The volume of people attracted to the beach to view this event strains the existing resources provided during the times and a cost to provide additional services during this period has been received as follows;

Year	Event Dates	Cost
2016/17	3 March to 19 March	\$2,661.12
2017/18	3 March to 19 March	\$2,740.95
2018/19	3 March to 19 March	\$2,823.17

### STAFFING IMPLICATIONS

There are no staffing implications arising from the Officer's Recommendation.

### SUSTAINABILITY IMPLICATIONS

There are no sustainability implications arising from the Officer's Recommendation.

### CONSULTATION

Surf Life Saving Western Australia Inc.  
Cottesloe Surf Club Inc.

### STAFF COMMENT

There can be little doubt that the provision of lifeguards at one of Western Australia's most popular beaches during the peak summer season is a valuable service provided by the Town to ensure the safety of local residents and visitors to Cottesloe Beach.

This can be evidenced by the statistics contained in the 2015/16 Lifeguard Activity Report attached, which in summary shows that the lifeguards provided by Surf Life Saving Western Australia Inc. undertook the following during the 2015/16 season;

- 4,295 preventative actions.
- 15 rescues.
- 67 major first aids.
- 1,752 minor first aids.
- 4,295 local government ordinance control (local laws)

### VOTING

Simple Majority

### OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Rodda, seconded Cr Angers

**THAT Council accept the proposal from Surf Life Saving Western Australia for:**

- 1. The provision of lifeguard services for the period 1 October to 30 April for a three year period commencing 2016/17, and**
- 2. The provision of additional lifeguard services for the Sculpture by the Sea exhibition in March each year, for a period of two weeks, for a three year period commencing 2016/17.**

**Carried 7/1**

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

**Against: Cr Boulter**

**10.1.7 EVENT APPLICATION – LADY LAWLEY COTTAGE FAMILY FUN DAY**

**File Ref:** SUB/2094  
**Attachments:** [Event Application Lady Lawley Cottage](#)  
[Event Site Plan Lady Lawley Cottage Family Fun Day](#)  
**Responsible Officer:** Mat Humfrey  
Chief Executive Officer  
**Author:** Garry Bird  
Manager Corporate & Community Services  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Lady Lawley Cottage is seeking approval to hold a Family Fun Day for children with disabilities at the Cottesloe Civic Centre on Sunday 9 October 2016, from 10.00am to 2.00pm. The event raises funds to support Lady Lawley Cottage.

**BACKGROUND**

Lady Lawley Cottage is an Australian Red Cross service supporting children and young adults with a range of disabilities, including more complex behavioural and/or medical issues. This support includes in-home support, day, overnight and short residential stays that allow parents or carers to take a break and engage in community activities.

It is hoped that this event will be the first of an annual occurrence held at the Cottesloe Civic Centre. Previously the event has been held at Kids Wonderland in Osborne Park. As Lady Lawley Cottage is located in Cottesloe, organisers are keen to hold the event in the local area. The event is being organised in conjunction with the John Curtin Leadership Academy, a Curtin University program which develops leadership skills as students work on a community project for a not-for-profit organisation. Staff from Lady Lawley Cottage and the students from Curtin University are eager to host an event that will engage clients and their families.

The event will be by invitation only. Tickets will be available from TicketBrite at no charge to control numbers and to provide information about the event. Organisers expect approximately 300 people to attend including parents and carers. Attendees are encouraged to bring a picnic but any money raised from the sale of food or drinks and payment for activities will be used to cover the cost of the event.

A map has been provided by organisers of the proposed layout on the Main Lawn of the Civic Centre. The Superhero theme will be evident in games, a bouncy castle, a petting zoo, a silent disco, a photo booth, African drumming and other entertainment. Small marquees will be erected for some of these activities to have shade. It is proposed that stalls will sell popcorn, fairy floss and sausage sizzles for those who do not bring lunch and some chairs and tables will be provided. Any food and beverage stalls would comply with the regulations of the *Food Act 2008*. The main point of entry will be from the stairs on Napier Street. Accessibility requirements dictate that there also be access from the south east corner of the Main Lawn. Organisers will

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provide information regarding parking with ticket sales. It will be recommended that attendees park on Napier Street or in Napier Street Carpark Two and will be made aware of time limitations.

All equipment and infrastructure will be set up from 8:00am and packed down from 3.00pm on the same day as the event. Three disabled portable toilets will be hired for the event.

Red Cross management will open the event at 10.00am but it is not expected that there will be announcements and music, if played will be kept to a minimum throughout the event.

During the event volunteers will assist attendees and clean up after the completion of the event. A roster will be circulated to ensure the Civic Centre is left in the clean and tidy condition that it is found.

### **STRATEGIC IMPLICATIONS**

There are no strategic implications arising from the Officer Recommendation.

### **POLICY IMPLICATIONS**

Event Classification Policy – This event appears to be in compliance with the Town of Cottesloe’s Event Classification Policy as a Charitable Event.

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*  
*Environmental Protection (Noise) Regulations 1997*  
*Health (Public Buildings) Regulations 1992*

### **FINANCIAL IMPLICATIONS**

It is recommended to waive hire fees for this event under the Schedule of Fees and Charges as it is classified as a charitable event.

### **STAFFING IMPLICATIONS**

There are no staffing implications arising from the Officer Recommendation.

### **SUSTAINABILITY IMPLICATIONS**

Adequate arrangements are made for rubbish collection and removal, including provisions for recycling.

### **CONSULTATION**

Lady Lawley Cottage  
Town of Cottesloe Staff

Noise limitations will be put into place and there will be minimal use of audio equipment, however, it is recommended that neighbouring properties be advised of the event taking place (if approved) and provide a mechanism for them to provide feedback if required.



**STAFF COMMENT**

Public Liability Insurance Certificates for the petting zoo and bouncy castle will be provided prior to the event.

As the event's main purpose is to fundraise for a charitable organisation and there will be little impact of neighbouring residents the event is recommended for approval.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Dawkins, seconded Cr Downes

**THAT Council approve the application to hold Australian Red Cross Lady Lawley Cottage – Family Fun Day at the Cottesloe Civic Centre on Sunday 9 October 2016 from 10.00am to 2.00pm, subject to the following conditions:**

1. Adequate arrangements are made for rubbish removal and collection, including the provision for recycling;
2. Compliance with the *Environmental Protection (Noise) Regulations 1997*;
3. Compliance with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
4. Class this event as a “Charitable Event” and charge no fee;
5. Any additional applicable fees are to be paid prior to the event, including fees to cover additional costs of cleaning the public toilets and Ranger services (if required);
6. Provision of ‘certificates of currency’ to certify that organisers have adequate public liability and event insurance, to the satisfaction of the Chief Executive Officer, prior to the event;
7. Provision of an ‘event management plan’ and ‘risk assessment document’, to the satisfaction of the Chief Executive Officer, prior to the event;
8. No vehicle activity at the Civic Centre before 8.30am and after 6.00pm on Sunday 9 October 2016;
9. Neighbouring properties to the Cottesloe Civic Centre are notified of the event taking place, and provided with a mechanism to provide feedback about the event, if required;
10. No balloons to be used at the event; and
11. Earth Carers ‘H2O to Go’ water station facilities to be investigated for use at the event.

Carried 8/0

**10.1.8 ALCOHOL THINK AGAIN RUGBY WA BEACH 5'S - 2016**

**File Ref:** SUB/2091  
**Attachments:** [Event Application Form](#)  
[Map of Event Space](#)  
**Responsible Officer:** Mat Humfrey  
Chief Executive Officer  
**Author:** Garry Bird  
Manager Corporate & Community Services  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Rugby WA is seeking approval to host the Alcohol, Think Again Rugby WA Beach 5's event at Cottesloe Beach on Saturday 5 November 2016, from 8.00am to 5.00pm.

**BACKGROUND**

The Alcohol, Think Again Rugby WA Beach 5's event is a one day 5-a-side beach rugby tournament. The event was held in Cottesloe in 2015 for the first time.

The event has two participation categories for competitors: Open Men; Open Women.

Competition game rules are modified to suit the beach environment and its reduced-size playing field, for example line outs and scrums are not permitted.

The beach set up will include two beach rugby fields to the south of Indiana Restaurant. A Draft Map of the event space has been included with this report. The tournament is expected to run from 10.00am to 4.00pm.

Organisers are expecting approximately 250 competitors, which make up approximately 25 teams in total. Members of the local community are encouraged to participate in the event, either as a competitor or spectator.

Rugby WA's objectives for conducting the Alcohol, Think Again Beach 5's event at Cottesloe Beach are:

1. To provide a high quality tournament as part of the Rugby W.A. Sevens Summer Series.
2. To introduce and promote rugby to the local community.
3. To actively provide a promotion tool for recruitment to the game for the local rugby club. (In this case, Cottesloe Rugby Union Football Club.)
4. To conduct a safe and enjoyable event for all.

Brief announcements will be made on a PA system at intervals during the event, and background music will be played to provide some additional atmosphere for spectators.

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This year, major event sponsor 'Healthways' will promote their 'Alcohol, Think Again' messages in a low key platform by way of onsite items rather than product giveaways. These will be in the form of beach umbrellas, deck chairs, mesh banners, and a few announcements over the PA system during the event.

Organisers have indicated that they will invite Cottesloe Rugby Union Football Club members to be a part of the event, in order to assist with promotion of rugby to the local sporting community.

Organisers will provide additional bins to cater for the additional number of patrons attending the event.

Last year's event, held on 14 November 2015 was successful, and no major issues were brought to the attention of the Council.

### **STRATEGIC IMPLICATIONS**

There are no strategic implications arising from the Officer Recommendation.

### **POLICY IMPLICATIONS**

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

### **STATUTORY ENVIRONMENT**

*Local Government Act 1995*

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

### **FINANCIAL IMPLICATIONS**

Rugby WA will pay \$500 in hire fees for the one day event.

### **STAFFING IMPLICATIONS**

There are no staffing implications arising from the Officer Recommendation.

### **SUSTAINABILITY IMPLICATIONS**

Adequate arrangements are made for rubbish collection and removal, including the provision for recycling.

### **CONSULTATION**

A letter of support for the event has been provided by Cottesloe Surf Life Saving Club.

Officers contacted Cottesloe Surf Life Saving Club to provide feedback on the previous year's Beach Rugby event. It was advised that the 2015 event was overall a positive experience for the Club with no issues brought to their attention.

**STAFF COMMENT**

A draft operational plan has been provided. A draft map of the event space and a letter of support for the event from Cottesloe Surf Life Saving Club have also been provided.

As the objectives of the event are to engage the local community in rugby and to provide a promotional tool for recruitment to the game for Cottesloe Rugby Union Football Club, and due to the success of last year's event, the Officer Recommendation is to approve the application.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Dawkins, seconded Cr Downes

**THAT Council approve the application to hold the Alcohol, Think Again Rugby WA Beach 5's event at Cottesloe Beach, on Saturday 5 November 2016, from 8.00am to 5.00pm, subject to the following conditions:**

1. Adequate arrangements for rubbish collection and removal, including the provision for recycling;
2. Class this event as a "Community" event and charge the fee of \$550 (including GST) per day, and a bond of \$1,000, to be paid prior to the event commencing;
3. The event complies with the *Environmental Protection (Noise) Regulations 1997*;
4. The event complies with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
5. Compliance with additional relevant sections of the Beach Policy;
6. The event complies with the Town's *Beaches and Beach Reserves Local Law 2012*;
7. Provision of 'certificates of currency' to certify that organisers have adequate public liability and event insurance, provided prior to the event;
8. All signage to be approved by the Chief Executive Officer one month prior to the event;
9. No balloons to be used during the event; and
10. Earth Carers 'H2O to Go' Water Station facilities are investigated for use at the event.

Carried 8/0

**10.1.9 ALCOHOL THINK AGAIN BEACH VOLLEYBALL TOUR ROUND 3 - 2016**

**File Ref:** SUB/2091  
**Attachments:** [Event Application Form](#)  
[Map](#)  
**Responsible Officer:** Mat Humfrey  
Chief Executive Officer  
**Author:** Garry Bird  
Manager Corporate & Community Services  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Volleyball WA is seeking approval to host the Alcohol, Think Again Beach Volleyball Tour Round 3 at Cottesloe Beach on Saturday 10 December and Sunday 11 December 2016, from 6.00am to 5.00pm.

**BACKGROUND**

The *Alcohol, Think Again Beach Volleyball Tour* is Western Australia's Premier Beach Volleyball competition. The Beach Tour events season runs from November to March each year at various local West Australian beach venues. The event has been held at Cottesloe in 2014 and 2015, and this year organisers have again chosen Cottesloe Beach as a venue for their Round 3 event.

Participants include Beginners, Juniors and Elite players, competing in a single set double elimination format, with two divisions for each gender. Organisers are expecting approximately 200 competitors over the two day event. Members of the local community are encouraged to participate in the event, either as a competitor or spectator.

The competition beach set up will include four beach volleyball courts to the south of Indiana. A draft map of the event space is included with this report. The Town has also received a comprehensive Risk Management Plan from the organisers.

Brief announcements will be made on a PA system at intervals during both event days, and background music will be played to provide some additional atmosphere for spectators.

Last year's event held on 12 December and 13 December 2015 was successful, and no major issues were brought to the attention of the Council.

**STRATEGIC IMPLICATIONS**

There are no strategic implications arising from the Officer Recommendation.

**POLICY IMPLICATIONS**

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

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**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

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

**FINANCIAL IMPLICATIONS**

Volleyball WA will pay \$1,000 in hire fees for the two day event.

**STAFFING IMPLICATIONS**

There are no staffing implications arising from the Officer Recommendation.

**SUSTAINABILITY IMPLICATIONS**

Adequate arrangements are made for rubbish collection and removal, including the provision for recycling.

**CONSULTATION**

A letter of support for the event has been received from Cottesloe Surf Life Saving Club.

Officers contacted Cottesloe Surf Life Saving Club to provide feedback on the previous year's Beach Volleyball event. It was advised that the 2015 event was overall a positive experience for the Club, with no issues brought to their attention.

**STAFF COMMENT**

A comprehensive Risk Management Plan and a draft map of the event space have been provided. A letter of support for the event from Cottesloe Surf Life Saving Club has also been provided.

Due to the success of last year's event, the Officer Recommendation is to approve this event.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Dawkins, seconded Cr Downes**

**THAT Council approve the application to hold the Alcohol, Think Again Beach Volleyball Tour Round 3 at Cottesloe Beach, on Saturday 10 December and Sunday 11 December 2016, from 6.00am to 5.00pm, subject to the following conditions:**

- 1. Adequate arrangements for rubbish collection and removal, including the provision for recycling;**
- 2. Class this event as a "Community" event and charge the fee of \$550 (including GST) per day, and a bond of \$1,000, to be paid prior to the event commencing;**

3. The event complies with the *Environmental Protection (Noise) Regulations 1997*;
4. The event complies with the requirements for sanitary facilities, access and egress, first aid and emergency response as per the *Health (Public Buildings) Regulations 1992*;
5. Compliance with additional relevant sections of the Beach Policy;
6. The event complies with the Town's *Beaches and Beach Reserves Local Law 2012*;
7. Provision of 'certificates of currency' to certify that organisers have adequate public liability and event insurance, provided prior to the event;
8. All signage to be approved by the Chief Executive Officer one month prior to the event;
9. No balloons to be used during the event; and
10. Earth Carers 'H2O to Go' Water station facilities are investigated for use at the event.

Carried 8/0

**FINANCE****10.1.10 DONATION FOR 2016 ICEA CLASSIC**

**File Ref:** SUB/1915  
**Attachments:** [Letter from ICEA](#)  
[Budgeted Donations Table](#)  
[Donations Policy](#)  
**Responsible Officer:** Mat Humfrey  
Chief Executive Officer  
**Author:** Garry Bird  
Manager Corporate & Community Services  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

Council is being asked to consider a request from ICEA for a grant of \$5,000 to assist with the cost of the 2016 ICEA Classic.

**BACKGROUND**

Each year Council makes a series of grants/donations to community groups as a part of its budget adoption process. This year \$36,500 of the \$40,000 available was allocated to community groups. The list of allocations can be found in the attachment Budgeted Donations.

ICEA have written to Council, requesting a \$5,000 donation. As outlined in the letter attached, this donation would cover the cost of the Welcome to the Country ceremony and Cultural Tours conducted on the day as well as the cost of having two young Indigenous dance groups perform.

In previous years, Town of Cottesloe has contributed \$5,000 to the event as ICEA have submitted an application for a Community Donation. Due to a change in staff at ICEA, ICEA did not submit an application this year.

**STRATEGIC IMPLICATIONS**

There are no strategic implications arising from the Officer Recommendation.

**POLICY IMPLICATIONS**

The Town's Donations Policy outlines assessment criteria that would support this application. A brief assessment is included below:

- ICEA are an eligible group for a donation as they have a visible presence within Cottesloe or with in the Western Suburbs;
- The ICEA Classic is an event that is free of charge to Cottesloe residents to attend.

**STATUTORY ENVIRONMENT**

Section 6.8 of the *Local Government Act 1995* Applies. This section states:

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**6.8. Expenditure from municipal fund not included in annual budget**

- (1) *A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure —*
- (a) *is incurred in a financial year before the adoption of the annual budget by the local government; or*
  - (b) *is authorised in advance by resolution\*;* or
  - (c) *is authorised in advance by the mayor or president in an emergency.*

*\* Absolute majority required.*

As an allowance has been made in the annual budget for donations of which \$3,500 is remaining. Should Council decide to contribute more than \$3,500 a budget amendment would be required.

**FINANCIAL IMPLICATIONS**

As part of the adoption of the 2016/2017 budget, \$40,000 was allocated for donations to community groups. There is \$3,500 currently remaining. The Officer Recommendation is to contribute \$2,500 to ICEA. Should the recommendation be approved \$1,000 would remain.

**STAFFING IMPLICATIONS**

There are no staffing implications arising from the Officer Recommendation.

**SUSTAINABILITY IMPLICATIONS**

There are no sustainability implications arising from the Officer Recommendation.

**CONSULTATION**

ICEA  
Town of Cottesloe Staff

**STAFF COMMENT**

The application being made by ICEA is supported by staff in this instance; however, it is recommended that an allocation of \$2,500 be provided to ICEA

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Dawkins, seconded Cr Downes**

**THAT Council, approve an allocation for \$2,500 to ICEA as a donation (to be included in the Donations List) for the 2016/17 financial year.**

**Carried 8/0**

**10.1.11 FINANCIAL STATEMENTS FOR THE MONTH ENDING 31 AUGUST 2016**

**File Ref:** SUB/2256  
**Attachments:** [Financial Statements](#)  
**Responsible Officer:** Garry Bird  
Manager Corporate & Community Services  
**Author:** Wayne Richards  
Finance Manager  
**Proposed Meeting Date:** 27 September 2016  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

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

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

**BACKGROUND**

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

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

**STRATEGIC IMPLICATIONS**

Nil

**POLICY IMPLICATIONS**

Town of Cottesloe Investment Policy

**STATUTORY ENVIRONMENT**

*Local Government Act 1995*

*Local Government (Financial Management) Regulations 1996*

**FINANCIAL IMPLICATIONS**

Resource requirements are in accordance with existing budgetary allocation.

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**STAFFING IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

Nil

**STAFF COMMENT**

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

- The net current funding position as at 31-08-2016 is \$8,933,202 and is in line with previous financial years as shown on pages 2 and 22 of the attached Financial Statements.
- Rates receivable as at 31-08-2016 stood at \$5,097,220 of which \$179,494 relates to deferred rates.
- Operating revenue is more than year to date budget by \$57,910 and operating expenditure is \$188,395 less than year to date budget. A more detailed explanation of material variances is provided on page 21 of the attached Financial Statements and it should be noted that depreciation expenses have not been posted for the month.
- Expenditure on capital works is \$295,858 as compared to a year to date budget of \$899,951 with a full capital works program listing shown on pages 33 to 36. As at 31-08-16 the year to date expenditure for capital works was 6.7% of the total.
- Whilst Salaries and Wages are not reported specifically, they do represent the majority proportion of employee costs which are listed on the Statement of Financial Activity (By Nature and Type) on page 7 of the attached Statements. As at 31-08-2016 Employee Costs were \$38,889 less than year to date forecasts.

A breakdown of reserve funds is shown in note 9 on page 27 with the balance of reserve funds at \$10,764,422 as at 31-08-2016.

**List of Accounts for August 2016**

The List of Accounts paid during August 2016 is shown on pages 37 to 42 of the attached Financial Statements. The following significant payments are brought to Council's attention:-

- \$82,072.76 to Jackson McDonald for legal services
- \$33,467.94 & \$49,193.10 to Colgan Industries for the restoration works on the Lesser Hall
- \$33,000.00 to Craig Slater for legal services
- \$168,014.28 to the Shire of Peppermint Grove for library services
- \$35,200.00 to Cardno for works relating to the Cottesloe Foreshore Redevelopment

- \$41,650.22 to Shine Community Services being Council's contribution towards the service
- \$83,570.81 & \$92,444.16 to Town of Cottesloe staff for fortnightly payroll
- \$300,000.00 for transfers to the Town's investment account with National Australia Bank
- \$900,000.00, \$900,000.00 & \$900,000.00 for transfers to term deposits held with the Commonwealth Bank of Australia
- \$700,000.00 for transfers to term deposits held with National Australia Bank

**Investments and Loans**

Cash and investments are shown in Note 4 on page 23 of the attached Financial Statements. Council has approximately 41% of funds invested with National Australia Bank, 25% with Bankwest, 24% with the Commonwealth Bank of Australia and 10% with Westpac Banking Corporation.

Information on borrowings is shown in Note 10 on page 30 of the attached Financial Statements. As at 31-08-2016 the Town had \$5,093,359 of borrowings outstanding.

**Rates, Sundry Debtors and Other Receivables**

Rating information is shown in Note 9 on page 29 of the attached Financial Statements. As displayed on page 2, rates receivable is trending in line with the previous year.

Sundry debtors are shown on Note 6, pages 25 and 26 of the attached Financial Statements with 11% or \$13,446 older than 90 days. Outstanding infringements are summarised on page 26 of the attached Financial Statements. As at 31-08-2016 the total outstanding value of infringements was \$353,212 with the majority of this over ninety days old. The final stage of the transition to account for infringements on the Authority software platform is to send a file of outstanding infringements off to Fines Enforcement for recovery. This process is expected to be completed shortly.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

**Moved Mayor Dawkins, seconded Cr Downes**

**THAT Council receive the Financial Statements for the period ending 31 August 2016 as attached.**

**Carried 8/0**

**10.2 REPORT OF COMMITTEES**

Nil

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

**Moved Cr Boulter, seconded Cr Rodda**

**In accordance with Standing Order 15.10 that Council discuss the matter behind closed doors.**

**Carried 8/0**

*Members of the public and the media were requested to leave the meeting at 8:30 PM.*

*Cr Downes left the meeting at 8:30 PM.*

*Cr Downes returned to the meeting at 8:32 PM.*

*A/Manager Engineering Services left the meeting at 8:33 PM.*

*A/Manager Engineering Services returned to the meeting at 8:33 PM.*

**11.1 COUNCILLOR MOTION – LOCAL PLANNING SCHEME NO. 3 AMENDMENT NO. 5**

The following motion has been proposed by Cr Boulter:

1. Refuse the application for: *Proposed Amendment No. 5 1. Amend the Town of Cottesloe Local Planning Scheme No. 3 to introduce particular development controls for Lots 24 and 25 Railway Street on the corner of Congdon Street, Cottesloe, by: a) amending the Scheme Map to change the residential density code from R20 to R60; and b) amending the Scheme Text to insert in Schedule 12: Special Provisions a description of the subject land, a description of land use, and special provisions including reference to Development Plan No. 1 and specification of the maximum number of multiple dwellings, the uses and the building height permitted.*
  2. Requires responses to all inquiries to the Town of Cottesloe administration from the Western Australian Planning Commission or other statutory body regarding this proposed scheme amendment be brought to Council for debate and decision.
  3. Requires the Town of Cottesloe administration to send a letter as a matter of priority to the Western Australian Planning Commission:
    - a. advising the Western Australian Planning Commission of Council's refusal of the Scheme Amendment at its Council meeting 27 September 2016;
    - b. enclosing the text and rationale for the Revocation Motion passed by absolute majority at the Special Council Meeting 20 September 2016;
    - c. enclosing the proposed Scheme Amendment as submitted (not amended as proposed by the Officer Recommendation to the Special Council meeting 20 September 2016);
-

- d. enclosing copies of all the submissions received on the scheme amendment;
- e. enclosing a copy of the Town of Cottesloe administration argument to the Western Australian Planning Commission for retaining the R20 zone in the Local Planning Scheme No. 3; and
- f. requesting a formal response to Council from the Western Australian Planning Commission as to how it will process the proposed Scheme Amendment, if at all, having regard to Council's Revocation Motion 20 September 2016.

### **COUNCILLOR MOTION**

**Moved Cr Boulter, seconded Cr Pyvis**

*Note: The Mayor determined to vote on each point of the Councillor Motion separately.*

**THAT Council:**

### **COUNCILLOR MOTION POINT ONE**

**In the event that the Western Australian Planning Commission cannot recognise as effective the Council resolution 20 September 2016 to revoke the decision to initiate scheme amendment No 5, that Council does not support Proposed Amendment No. 5, to amend the Town of Cottesloe Local Planning Scheme No. 3 to introduce particular development controls for Lots 24 and 25 Railway Street on the corner of Congdon Street, Cottesloe, by: a) amending the Scheme Map to change the residential density code from R20 to R60; and b) amending the Scheme Text to insert in Schedule 12: Special Provisions a description of the subject land, a description of land use, and special provisions including reference to Development Plan No. 1 and specification of the maximum number of multiple dwellings, the uses and the building height permitted, for the reasons outlined.**

**Carried 5/3**

**For: Crs Boulter, Thomas, Downes, Pyvis & Birnbrauer**

**Against: Mayor Dawkins, Crs Angers & Rodda**

### **COUNCILLOR MOTION POINT TWO**

**Require any responses to an inquiry that requires professional opinion or analysis to the Town of Cottesloe administration from the Western Australian Planning Commission or other statutory body regarding this proposed scheme amendment be brought to Council for debate and decision.**

**Equality 4/4**

**For: Crs Boulter, Thomas, Downes & Pyvis**

**Against: Mayor Dawkins, Crs Angers, Rodda & Birnbrauer**

**The Mayor exercised her right to maintain the status quo**

**Lost 4/5**

**COUNCILLOR MOTION POINT THREE**

Requires the Town of Cottesloe administration to send a letter as a matter of priority to the Western Australian Planning Commission:

- a. advising the Western Australian Planning Commission of Council's refusal of the Scheme Amendment at its Council meeting 27 September 2016;
- b. enclosing the text and rationale for the Revocation Motion passed by absolute majority at the Special Council Meeting 20 September 2016;
- c. enclosing the proposed Scheme Amendment as submitted (not amended as proposed by the Officer Recommendation to the Special Council meeting 20 September 2016);
- d. enclosing copies of all the submissions received on the scheme amendment;
- e. enclosing a copy of the Town of Cottesloe administration argument to the Western Australian Planning Commission for retaining the R20 zone in the Local Planning Scheme No. 3; and
- f. requesting a formal response to Council from the Western Australian Planning Commission as to how it will process the proposed Scheme Amendment, if at all, having regard to Council's Revocation Motion 20 September 2016.

Carried 8/0

**COUNCIL RESOLUTION (CONSOLIDATED)**

THAT Council:

1. In the event that the Western Australian Planning Commission cannot recognise as effective the Council resolution 20 September 2016 to revoke the decision to initiate scheme amendment No 5, that Council does not support Proposed Amendment No. 5, to amend the Town of Cottesloe Local Planning Scheme No. 3 to introduce particular development controls for Lots 24 and 25 Railway Street on the corner of Congdon Street, Cottesloe, by: a) amending the Scheme Map to change the residential density code from R20 to R60; and b) amending the Scheme Text to insert in Schedule 12: Special Provisions a description of the subject land, a description of land use, and special provisions including reference to Development Plan No. 1 and specification of the maximum number of multiple dwellings, the uses and the building height permitted, for the reasons outlined.
2. Requires the Town of Cottesloe administration to send a letter as a matter of priority to the Western Australian Planning Commission:
  - a. advising the Western Australian Planning Commission of Council's refusal of the Scheme Amendment at its Council meeting 27 September 2016;
  - b. enclosing the text and rationale for the Revocation Motion passed by absolute majority at the Special Council Meeting 20 September 2016;

- c. enclosing the proposed Scheme Amendment as submitted (not amended as proposed by the Officer Recommendation to the Special Council meeting 20 September 2016);
- d. enclosing copies of all the submissions received on the scheme amendment;
- e. enclosing a copy of the Town of Cottesloe administration argument to the Western Australian Planning Commission for retaining the R20 zone in the Local Planning Scheme No. 3; and
- f. requesting a formal response to Council from the Western Australian Planning Commission as to how it will process the proposed Scheme Amendment, if at all, having regard to Council's Revocation Motion 20 September 2016.

### COUNCILLOR RATIONALE

1. Town of Cottesloe Strategic Plan does not support the scheme amendment no.5 for the following reasons:
  - The primary Town of Cottesloe strategy document is the Town of Cottesloe Strategic Community Plan 2013-2023 (the Strategy), which was advertised to the community in 2016 and was re-adopted in 2016 (with some amendments) by Council, in response to community submissions.
  - The Mission Statement for the Town of Cottesloe Strategy is, "*To preserve and improve Cottesloe's natural and built environment and beach lifestyle by using sustainable strategies. Members of the community will continue to be engaged to shape the future of Cottesloe and strengthen Council's leadership*".
  - Sustainable Strategies are articulated in the Strategy to have four interconnected principles of sustainability, with the first principle being *Sustainable development: To embrace and integrate sustainable development principles including social, economic, environmental and cultural aspects when planning for the district.*
  - And then the Strategy provides that to ensure sustainable principles are incorporated into major strategies, Council will use its policy making role to set out criteria that will assist the Council to make decisions...
  - The Strategy's Priority Area 2 notes that properly planned redevelopment will result in greater connectivity between east and west Cottesloe. In particular, the road and rail cutoffs between the beach... and the town centre [ie the Napoleon/Station Streets Cottesloe Village] and notes that *...the town centre could benefit from mixed use development, new housing, local open space and general improvement to the overall railway precinct.*
  - The Strategy's Priority Area 4 : Managing Development provides that *... care must be taken that the pressure for denser development does not destroy the ...green leafy neighbourhoods and unduly affect the amenity and ambience enjoyed by residents...*



- Cottesloe's further direction is stated at page 16 ... **to be committed to using a policy driven approach to manage development pressures.**

Accordingly, the Strategy does not support the proposed Scheme Amendment No.5.

**Town of Cottesloe Policy does not support the scheme amendment no.5 for the following reasons:**

1. Council had adopted important planning policies to guide the Town of Cottesloe strategic direction to be used for the policy driven approach to development pressures, as anticipated by the Strategy.
2. Council has adopted a Local Planning Strategy and Local Planning Policy Design Guidelines for the Railway Street Local Centre, which are planning policies as anticipated by the Town of Cottesloe Strategic Community Plan 2013-2023 to be relied on;
3. the Local Planning Strategy (LPS) at page 2 sets *the strategic outlook for [Cottesloe]... the rationale for scheme proposals*; and which include at page 12, cl.4.5 *Consider undeveloped Government owned land for higher density development provided there is both public support and benefit for the Cottesloe community*; and cl 4.6 to *Retain the predominantly two-storey height limit of existing residential areas*; and at page 14 Transit orientated development on ... *railway lands associated with the Town Centre [ie the Napoleon/Station Sts Town Centre]...that addresses transport efficiency, east-west connectivity, housing supply density, built form and urban amenity*; and at page 15 Residential zone ...*retention of extensive areas of R20 and R30 code density*; and finally at the map on page 24 and LPS strategies and action ...recommended to be addressed at page 39, the recommended strategy ... to, *protect and enhance the residential amenity, character and streetscape quality of residential precincts*;
4. the Town of Cottesloe Local Planning Policy Design Guidelines at page 14 for the Railway Street Local Centre provides that, *These two areas [Dawson and Commercial sites] have no particular relation to one another and can be treated independently, both of each other and of the Swanbourne Centre on the opposite side of the railway line, with which there is no discernible interaction*;
5. diminishing the R20 amenity in Cottesloe is inconsistent with the Town of Cottesloe strategies and planning policies;
6. the importance of the R20 precincts are articulated in the Strategy and the LPS (and implemented in LPS3);
7. nothing I have read or seen yet gives me any reason to depart from these carefully set out Town of Cottesloe planning strategies and policies, which include protection of the remaining Cottesloe R20 precincts;
8. this amendment will set an undesirable precedent that could lead to a significant reduction in the percentage of remaining R20 precincts in Cottesloe (especially in the precinct referred to by some as "Claremont Hill");
9. the Local Planning Scheme No 3 (LPS3) implements the statutory protection of the R20 precincts and identifies the places for infill (not this residential

precinct) as articulated in the strategic direction of and planning policies for Cottesloe, and requires Council at clause 1.6 to:

- a. *facilitate implementation of the State Planning Strategy, which the Town of Cottesloe Local Planning Strategy clearly does in relation to protection of the remaining R20 areas and promotion of infill development on transport corridors (being clearly articulated to be have been decided on State Planning Policy grounds should be around the Cottesloe Village); and*
- b. *promote the Local Planning Strategy; and*

10. while, technically it is not under LPS3 that a scheme amendment is made, LPS3 does statutorily implement the strategic expectations of the community as articulated in Town of Cottesloe Strategic Community Plan 2013-2023 and the Town of Cottesloe Local Planning Strategy.

### **STAFF COMMENT**

The premise of the motion is that the revocation motion sets aside the scheme amendment process. As this decision is without any precedent, we have sought urgent legal advice from Mr Julius Skinner. The advice has been distributed as a confidential attachment.

Following the formal consideration the Town has 21 days to provide all of the information that has been referred to in the motion – it is standard procedure. That is the Council's decisions, the submissions and a raft of other documentation is normally provided. The motion, by requiring it to be sent, does provide some certainty to officer's to proceed as normal, given that the revocation motion passed is a first.

Council should be mindful of the legal opinion provided. As the Town does not have any ability to control the Western Australian Planning Commission's consideration of the matter

The rationale makes reference to the reports provided by the administration and the delegated authority of officers. In reference to the officer's reports, the administration is required to present any proposal it receives. The reports need to cover the technical aspects required and provide an objective analysis of the proposal. If officers present a report that responds to a political position or any perceived community position, it could have an adverse impact on the process. If the proponent is able to show that the assessment provided by officers is unfair, it can result in the decision made by the Council being considered skewed by the Western Australian Planning Commission and the Minister. Further, it is the role of the Council to gauge the views of the community and make the final decision, taking into account the technical assessment AND the community's expectations. If the officers provide a report that correlates to the community's expectations only, the decision making process will be distorted.

At this stage, officers have no delegations to consider or deal with scheme amendment proposals. As has been the case with this scheme amendment proposal, all decisions are required to be made by the Council, not staff.

*A/Manager Engineering Services left the meeting at 8:52 PM.*

*A/Manager Engineering Services returned to the meeting at 8:54 PM.*

**11.2 CONFIDENTIAL COUNCILLOR MOTION – INDIANA TEA HOUSE**

*Cr Boulter advised that on the basis of questions answered by the Chief Executive Officer, she wished to withdraw the motion.*

**Moved Mayor Dawkins, seconded Cr Boulter**

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

**Carried 8/0**

*Members of the public and the media were invited to return to the meeting at 9:03 PM.*

**11.3 COUNCILLOR MOTION - LOCAL HOUSING STRATEGY**

The following motion has been proposed by Mayor Dawkins:

**Moved Mayor Dawkins, seconded Cr Rodda**

**THAT Council appoint Cr \_\_\_\_\_, Cr \_\_\_\_\_ and Cr \_\_\_\_\_ to a committee, to be named the “Local Housing Strategy Committee” to guide the development of a Local Housing Strategy for the Town of Cottesloe and ask that the Chief Executive Officer develop a charter for the committee to be presented to the next Council meeting for consideration.**

**Lost 0/8**

**COUNCILLOR RATIONALE**

It has become apparent that there is a need for a Local Housing Strategy in the Town of Cottesloe. There is a general encouragement from State Government, Curtin University and other planning authorities and experts in the State to increase density in the Western Suburbs and other inner suburbs, in an effort to curb the general urban sprawl. As opportunities occur for developers and/or private residents, it will benefit us as Council and Administration to have a strategy in place to look at this issues strategically as and when they come to Council.

**STAFF COMMENT**

One of the strongest themes that came through in the submissions on the proposed Scheme Amendment No. 5 was that ad hoc rezoning should not be supported. A large number of submitters believed that any form of rezoning consideration should only occur in accordance with the strategies and schemes that the Town has in place.

A second theme that presented was that the community should be consulted prior to any scheme amendment being considered. Taking this one step further, ideally the community should be consulted prior to any proposal being received. This would provide clarity to anyone who intends submitting a proposal and to Council who are required to make all decisions on scheme amendment proposals.

Forming a committee is seen as an efficient way of assessing the development of a housing strategy. The only other alternative is for officers to draft such a strategy and then present to Council for consideration. A committee allows for greater involvement in the development of the strategy for elected members.

The development of a housing strategy could also provide grounds to defer consideration of any further rezoning proposals until the process is completed.

**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:****12.1 ELECTED MEMBERS**

Nil

**12.2 OFFICERS**

Nil

**13 MEETING CLOSED TO PUBLIC****13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

**Moved Mayor Dawkins, seconded Cr Rodda**

**In accordance with Standing Order 15.10 that Council discuss the matter behind closed doors.**

**Carried 8/0**

*Cr Rodda left the meeting at 9:30 PM.*

*Cr Birnbrauer left the meeting at 9:30 PM.*

*Members of the public and the media were requested to leave the meeting at 9:31 PM and did not return.*

*The Chief Executive declared an interest in item 13.1.1 as it directly relates to his conditions of employment.*

*The Chief Executive Officer, Manager Corporate & Community Services, Manager Development Services and A/Manager Engineering Services left the meeting at 9:32 PM.*

*The Governance Coordinator left the meeting at 9:33 PM.*

*Cr Rodda returned to the meeting at 9:34 PM.*

*Cr Birnbrauer returned to the meeting at 9:35 PM.*

**13.1.1 ANNUAL PERFORMANCE AND REMUNERATION REVIEW FOR THE CHIEF EXECUTIVE OFFICER**

**File Ref:** SUB/2192  
**Attachments:** [CONFIDENTIAL Report - CEO Performance Review](#)  
**Responsible Officer:** Mat Humfrey  
Chief Executive Officer  
**Author:** Mat Humfrey  
Chief Executive Officer  
**Proposed Meeting Date:** 27 September 2016

**Author Disclosure of Interest:** The Chief Executive Officer declared an interest in this matter as it directly relates to his performance review.

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## **SUMMARY**

This report recommends that Council notes and endorses the recommendations of the Chief Executive Officer's Contract and Performance Review Panel as per the attached confidential report.

## **BACKGROUND**

In June 2016 Council resolved as follows;

*THAT Council by absolute majority:*

1. *Appoint Mr John Phillips to prepare a report on the Chief Executive Officer's performance for the period 08 June 2015 to 08 June 2016 as per the proposal attached; and*
2. *Appoint all Elected Members to the Chief Executive Officer's Performance Review Committee.*

Council engaged the services of Mr John Phillips (JCP Consulting) to facilitate the Chief Executive Officer's performance and remuneration review process.

The appraisal process included the use of a questionnaire based on the agreed Key Result Areas and Key Performance Indicators adopted by Council in June 2015. All Elected Members were provided with an assessment questionnaire and an opportunity to meet individually with Mr Phillips and provide feedback on Mr Humfrey's performance. Mr Humfrey also provided a detailed self assessment report. Comments were aggregated, summarised and presented in Mr Phillips' Feedback Report for use at the Chief Executive Officer's Performance Review Committee Meeting on 30 August 2016.

## **STRATEGIC IMPLICATIONS**

The achievement of Council's strategic priorities are directly related to the performance of the Chief Executive Officer.

## **POLICY IMPLICATIONS**

None Known.

## **STATUTORY ENVIRONMENT**

*Local Government Act 1995.*

The Review is to be conducted in accordance with sections 5.38 and 5.39(3) (b) and Regulation 18D of the Local Government Act 1995, which requires that:

- The performance of the Chief Executive Officer be reviewed at least once a year;
- The Chief Executive Officer will have a written contract of employment, which shall include performance criteria for the purpose of conducting a review. and,

- A Local Government is to consider each review on the performance of the Chief Executive Officer carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

### **5.23. MEETINGS GENERALLY OPEN TO THE PUBLIC**

- (1) *Subject to subsection (2), the following are to be open to members of the public —*
  - (a) *all council meetings; and*
  - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
  - (a) *a matter affecting an employee or employees;*
  - (b) *the personal affairs of any person;*
  - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
  - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
  - (e) *a matter that if disclosed, would reveal —*
    - (i) *a trade secret;*
    - (ii) *information that has a commercial value to a person; or*
    - (iii) *information about the business, professional, commercial or financial affairs of a person,**where the trade secret or information is held by, or is about, a person other than the local government;*
  - (f) *a matter that if disclosed, could be reasonably expected to —*
    - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
    - (ii) *endanger the security of the local government's property; or*
    - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
  - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
  - (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

**FINANCIAL IMPLICATIONS**

Any proposed increase in salary will have an impact on Council's budget. Provision has been made in the Council budget for performance related pay increases.

**STAFFING IMPLICATIONS**

Review of the Chief Executive Officer's performance, remuneration and employment is a function of Council in accordance with *Local Government Act 1995*.

**SUSTAINABILITY IMPLICATIONS**

Nil

**CONSULTATION**

- Mr John Phillips (JCP Consulting)
- Chief Executive Officer's Performance Review Committee

**STAFF COMMENT**

Nil

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

THAT Council endorse the recommendations contained in the attached confidential report.

*Note: The Mayor determined to put and vote on each recommendation individually.*

**Moved Mayor Dawkins, seconded Cr Rodda**

**THAT Council:**

**RECOMMENDATION ONE**

**Notes that the Chief Executive Officer's annual appraisal for 2015/16 has been undertaken, with an overall rating of 'meets expectations'.**

**Carried 6/2**

**For: Mayor Dawkins, Crs Angers, Thomas, Rodda, Downes & Birnbrauer  
Against: Crs Boulter & Pyvis**

**RECOMMENDATION TWO**

**Schedules the next review of the Chief Executive Officer's performance to be conducted by 8 June 2017.**

**Carried 6/2**

**For: Mayor Dawkins, Crs Angers, Rodda, Downes, Thomas & Birnbrauer  
Against: Crs Boulter & Pyvis**



**RECOMMENDATION THREE**

Endorses the Key Result Areas for the 2016/2017 appraisal period.

**AMENDMENT TO RECOMMENDATION THREE**

Moved Cr Boulter, seconded Cr Pyvis

That the words “with a view to enabling redevelopment of the facility” be removed from Key Result Area two (2).

Lost 3/5

For: Crs Boulter, Thomas & Pyvis

Against: Mayor Dawkins, Crs Angers, Rodda, Downes & Birnbrauer

Endorses the Key Result Areas for the 2016/2017 appraisal period.

**THE AMENDED SUBSTANTIVE MOTION WAS PUT**

Carried 5/3

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

Against: Crs Boulter, Thomas & Pyvis

**RECOMMENDATION FOUR**

Approves a 2.5% increase in the Chief Executive Officer’s annual total reward package from \$195,000 to \$199,875 per annum, effective from 8 June 2016.

Carried 8/0

**COUNCIL RESOLUTION (CONSOLIDATED)**

THAT Council:

1. Notes that the Chief Executive Officer’s annual appraisal for 2015/16 has been undertaken, with an overall rating of ‘meets expectations’.
2. Schedules the next review of the CEO’s performance to be conducted by 8 June 2017.
3. Endorses the Key Result Areas for the 2016/2017 appraisal period.
4. Approves a 2.5% increase in the Chief Executive Officer’s annual total reward package from \$195,000 to \$199,875 per annum, effective from 8 June 2016.

*The Chief Executive Officer, Manager Corporate & Community Services, Manager Development Services, A/Manager Engineering Services and Governance Coordinator returned to the meeting at 10:11 PM.*

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

As there were no members of the public or media present the Council resolution was not read aloud.

**14 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 10:12 PM.

CONFIRMED MINUTES OF 27 September 2016 PAGES 1 – 72 INCLUSIVE.

PRESIDING MEMBER:

POSITION:

.....

DATE: ..... / ..... / .....