

TOWN OF COTTESLOE



WORKS AND CORPORATE SERVICES COMMITTEE

MINUTES

**MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, TUESDAY, 22 JULY 2008**

WORKS AND CORPORATE SERVICES COMMITTEE

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DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 7.02 pm.

RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**Present**

Cr Bryan Miller	Presiding Member
Mayor Kevin Morgan	
Cr Patricia Carmichael	
Cr Dan Cunningham	(until 8.33 pm)
Cr Victor Strzina	(joined at 7.16 pm)
Cr John Utting	(until 8.41 pm)
Cr Ian Woodhill	
Mr Stephen Tindale	Chief Executive Officer
Mr Graham Pattrick	Manager Corporate Services/Deputy CEO
Mr Geoff Trigg	Manager Engineering Services
Ms Jade Hankin	Sustainability Officer
Ms Ruth Levett	Principal Environmental Health Officer
Miss Kathryn Bradshaw	Executive Assistant

Observers

Cr Jo Dawkins	(until 8.33 pm)
Cr Greg Boland	

Apologies

Mr Geoff Trigg	Manager Engineering Services
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Leave of Absence (previously approved)

Nil

RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

PUBLIC QUESTION TIME

Nil

APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Woodhill, seconded Mayor Morgan

That Cr Cunningham's request for leave of absence from the August and September round of meetings be granted.

Carried 6/0

Moved Cr Woodhill, seconded Mayor Morgan

That Cr Carmichael's request for leave of absence from the August and possibly the September round of meetings be granted.

Carried 6/0

CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Mayor Morgan, seconded Cr Utting

The Minutes of the Ordinary Meeting of the Works and Corporate Services Committee held on Tuesday, 17 June 2008 be confirmed.

Carried 6/0

ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

PUBLIC STATEMENT TIME

Paul Callander, 22 Margaret Street – Item 2.2 Removal of Street Tree – Margaret Street

Mr Callander addressed the committee on behalf of other residents of Margaret Street and requested an update based on the petition that was presented to Council on 23 June. He stated he had read the June Council minutes and the report included in this Works and Corporate Services Committee meeting.

Mr Callander asked if they could be provided with an indication as to when the sign will be installed, as it was recorded in the minutes that it would be installed immediately. He also asked for an update on the mediation process between Mr Tindale, Chief Executive Officer and the owner of 2 Margaret Street and whether Council is going to prosecute to the full extent of the law.

Mr Tindale responded by advising that item 2.2 of the agenda addresses the matter and will be the subject of a Committee recommendation tonight. Mr Tindale further added that because legal action is pending he could not say any more and that it was likely that the meeting would be closed to the public when the agenda item came up.

PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

REPORTS OF COMMITTEES AND OFFICERS**1 ADMINISTRATION**

The agenda items were dealt with in the following order: Item 2.1, 1.4, 1.5, 1.1, 2.2 and then the balance in numerical order with items 3.1, 3.2, 3.3, and 3.4 being voted on en bloc.

1.1 NO. 91 MARINE PARADE – INDIANA'S REDEVELOPMENT PROPOSAL

File No: PRO/2414
Attachment(s): [Plan of Changes](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 17 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to grant consent to the lessor of Indiana's to proceed with a redevelopment proposal subject to certain conditions being met to improve the public amenity of the building.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At the May 2008 meeting of Council, it was resolved not to support a redevelopment proposal for Indiana's on the grounds that it did not sufficiently address the public domain and amenity expectations for the premises.

A revised and much reduced redevelopment proposal has now been submitted.

Development Proposal

The proposal consists mainly of internal works which includes partitions, a kitchen upgrade, a reconfigured bar area, the creation of a single level floor and bi-fold doors opening to the existing deck.

Externally, a relatively small increase in the cool-room and service/loading entry in the south west corner is proposed.

It is also proposed to extend the deck to cover the western half of the circular void above the lower kiosk and toilets level (see attachment).

All of this is within the current lease area and no increase in the number of patrons is proposed.

The applicant has suggested that in exchange for approval to the external works the lessee would upgrade the lower level toilets and then hand-over the cleaning of them to the Town.

Lease Conditions

Clause 16.1 of the lease agreement provides that "...the Lessee must not make any alteration or addition to or demolish any part of the Premises without the prior consent of the Lessor..."

Clause 16.2 provides that "... in giving consent to any alteration, the Lessor may impose any condition, including, but not limited to, a condition that ... requires the Lessee to carry out other work to or in the Premises as a consequence of the alteration, addition, demolition or installation requested by the Lessee; but in regard to the installation, alteration or addition of partitioning within the Premises, the consent of the Lessor may not be unreasonably withheld."

Clause 15.1 requires that the "...Lessee must at its own cost repair and maintain the whole of the Premises in good, clean and tenantable repair, order and condition to the satisfaction of the Lessor..."

Following the receipt of legal advice Council resolved at its May 2008 meeting to:-

Require the lessee, in conformity with clause 15.1 of the lease, to repair and maintain the toilets and immediate surrounds in good, clean and tenantable repair, order and condition to the satisfaction of the Environmental Health Officer with a minimum of a three times per day clean during the period from November 1st to March 31st and at least a once a day clean at all other times.

On the 8th July 2008 the Manager of Corporate Services dispatched the following correspondence to ITH (WA) Pty Ltd.

Your attention is drawn to the inadequacy of the maintenance of the public toilets forming part of the above premises.

Under the lease to your company, the toilets are required to be maintained by the lessee, but throughout your company's occupation of the premises, the toilets have not been maintained to the required standard of cleanliness. The Maintenance Schedule under the lease may only require the lessee to clean the public toilets daily however:

- (a) clause 15.1 of the lease requires the lessee to 'repair and maintain the whole of the Premises in good, clean and tenantable repair, order and condition to the satisfaction of the Lessor'; and
- (b) clause 15.2 provides -

'Without limiting the generality of clause 15.1, the Lessee must carry out the maintenance programme specified in the Maintenance Schedule' (my emphasis).

The Maintenance Schedule specifies particular work to be carried out daily, weekly, annually and at five year intervals. Cleaning of public toilets is listed under the daily requirements.

The Maintenance Schedule does nothing more than specify a minimum requirement. The base requirement is in clause 15.1. Accordingly, your company is required to keep the public toilets in a good and clean condition at all times.

To address public concerns the Town has supplemented the cleaning of the toilets by carrying out additional cleaning at its own costs. The Town is not prepared to continue to do this when ongoing lessee maintenance of the toilets in a good and clean condition is an obligation under the lease.

Your assistance in resolving this matter in an amicable way will be very much appreciated. If you wish to discuss the Town's requirements, please contact me on (08) 9285 5060.

Planning Process

In dealing with the development application (which has yet to be put before Council) the Town acts in relation to its planning powers as distinct from its powers as Lessor of the premises.

As the application is on land under a Metropolitan Region Scheme (MRS) reservation (for Parks and Recreation) the Western Australian Planning Commission (WAPC) is the determining authority. The Town's role is to refer the application to the WAPC and following assessment to provide a recommendation, including any conditions.

Before that, the Town as vestee/custodian of the reserved land has to consent to the making of the application which is achieved by the CEO signing Form 1.

The Form 1 should then also be signed by the Department of Land Information on behalf of the Crown, which the applicant arranges so that it can be submitted.

Referral by the Town of the proposal to the Heritage Council of WA (HCWA) is another step, due to the location of the premises in the Cottesloe Beach Precinct, which is interim-listed for State heritage purposes.

Advertising under Town Planning Scheme No. 2 does not directly apply to MRS applications, however, the Town's practice is to advertise in the normal manner in order to inform relevant parties and consider any feedback as part of its assessment and recommendation. Advertising in the public interest in accordance with Council's consultation policy is an alternative approach.

CONSULTATION

Nil

STAFF COMMENT

The CEO has indicated that he will not sign the Form 1 to be dispatched to the WAPC until Council has assessed the proposal in its role as Lessor of the premises and has reached an agreement with the Lessee on any conditions that might be imposed on the Lessor in relation to any requirement for additional work under Clause 16.2 of the lease agreement.

In relation to the development proposal, the following preliminary comments have been made by Council's planning staff.

- No objection is seen to the proposed internal alterations, subject to detailed plans being submitted.
- No objection is seen to the proposed bi-fold doors or the deck extension in itself, in order to allow better access to and use of deck, provided there is no increase in the approved number of patrons.
- No objection is made to the proposed small cool-room/service area addition as it would have minimal impact.
- The proposed extension to the deck area may be a concern if it is found to significantly affect the amenity (natural lighting and ventilation in particular) of the kiosk area below, depending on detailed design and other improvements which might be made to the lower level.

Overall, in-principle support is given to the upgrading of the premises internally, the enhancement of the building's relationship to the street and the increase in ancillary facilities.

However, some issues require closer examination.

Public Toilets

The Town of Cottesloe has put the Lessee on notice that responsibility for the cleanliness and maintenance of the toilets rests squarely with the Lessee.

Any proposed upgrade to the toilets would obviously be aimed at lessening the ongoing cleaning and maintenance requirement which is currently the Lessee's responsibility.

The question that begs itself is why should the Town of Cottesloe bear the future ongoing costs of cleaning and maintenance when under the requirements of the current lease agreement it is obviously in the best interests of the Lessee to upgrade the toilets in order to reduce the Lessee's ongoing costs under the existing lease arrangements?

Furthermore, as improved and well-maintained public toilets could only be the benefit of the Lessee's presence and operations, it is difficult to understand why the Lessee would resist taking the initiative to upgrade them and the responsibility for maintenance, in order to enhance the amenity of the overall premises, avoid complaints from any patron users of those facilities and in the interest of its long-term

establishment and any future proposals. Overcoming this ongoing problem and gaining the resultant goodwill with both Council and the community would surely be worth the relatively minor expenditure.

In order to remain consistent with Council's May resolution and the correspondence subsequently dispatched to the Lessee, it is recommended that Council require the Lessee to upgrade of the toilets as additional works provided for under Clause 16.2 of the lease agreement. Failing an agreement, consent from the Town of Cottesloe should be withheld for all but the internal partitioning works.

Partial Filling of the Void over the Kiosk Area

The partial filling of the void over the kiosk area will affect public amenity to some degree, depending on detailed design and treatments. In considering the principle of allowing the decking it should not be assumed that amenity will be "ruined", as the urban design of the existing lower level kiosk area already leaves a lot to be desired. Rather, it may be necessary to ensure that by careful attention to design aspects such as light, ventilation, security, legibility and ambience, the amenity of the kiosk may be acceptable or even improved.

Indeed, in addition to the upgrade of the public toilets, the Lessee could fairly easily upgrade this lower level area to the advantage of all, by way of materials, finishes, landscaping, lighting and signage. That would be a reasonable expectation of Council in exchange for its support to the proposal under the lease agreement and development application process. Ideally this should now be negotiated up-front and reflected in written commitments, amended plans and recommended conditions of planning approval.

Council's guidance is required in determining whether the magnitude of the potential loss of public amenity is sufficient to warrant community consultation under Council's *Community Consultation* policy.

In other words, is the loss of public amenity likely to be more than offset by the proposed improvements to the public toilets and/or the overall presentation of the building to the public.

If public consultation is to be undertaken, then it is recommended that it be undertaken sooner rather than later (i.e. not when considering the development application at a later date). This is because the WAPC is the determining authority for the development application and is less likely to be bound by public comment than perhaps the Council.

Two optional recommendations are made below. The first expedites development approval. The second requires community consultation to be undertaken.

VOTING

Simple Majority

OFFICER RECOMMENDATION 1

That Council:

- (1) Requires ITH (WA) Pty Ltd to upgrade the public toilets to the satisfaction of the Town of Cottesloe as an additional work under Clause 16.2 of the lease agreement.
- (2) Refuses to grant consent under Clause 16.2 in the event that no agreement can be reached on the upgrade of the public toilets.
- (3) Requires, subject to agreement being reached on the additional work, including supplementary detailed design of the proposed deck extension and complementary upgrading of the lower level kiosk area, to the Manager of Development Services to process the Development Application without further referral to Council.

OFFICER RECOMMENDATION 2

That Council:

- (1) Requires ITH (WA) Pty Ltd to upgrade the public toilets to the satisfaction of the Town of Cottesloe as an additional work under Clause 16.2 of the lease agreement.
- (2) Refuses to grant consent under Clause 16.2 in the event that no agreement can be reached on the upgrade of the public toilets.
- (3) Requires, subject to agreement being reached on the additional work, including supplementary detailed design of the proposed deck extension and complementary upgrading of the lower level kiosk area, the development proposal to be advertised for public comment under Council's *Community Consultation* policy.
- (4) Requires any community comments received to be referred back to Council as part of the Development Application process.

1.1 COMMITTEE RECOMMENDATION

Moved Cr Cunningham, seconded Cr Strzina

That Council:

- (1) **Requires ITH (WA) Pty Ltd to upgrade the public toilets to the satisfaction of the Town of Cottesloe as an additional work under Clause 16.2 of the lease agreement.**
- (2) **Refuses to grant consent under Clause 16.2 in the event that no agreement can be reached on the upgrade of the public toilets.**
- (3) **Requires, subject to agreement being reached on the additional work, including supplementary detailed design of the proposed deck extension and complementary upgrading of the lower level kiosk area, the development proposal to be simultaneously referred to the Design Advisory Panel and advertised for public comment under Council's *Community Consultation* policy.**

- (4) **Requires any comments received from the Design Advisory Panel and any community comments received to be referred back to Council as part of the Development Application process.**

Carried 7/0

1.2 VLAMINGH MEMORIAL

File No: SUB/212
Attachment(s): [Extract from 'Cottesloe - A Town of Distinction' - Pages 14 - 24](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 16 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to undertake community consultation on a proposed relocation of the Vlamingh Memorial to Cottesloe Beach.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

To be ascertained.

BACKGROUND

In May 2008 the CEO wrote to Niek van Zutphen, the Ambassador of the Kingdom of Netherlands as follows:

Further to our recent meeting, I write to confirm that the Kingdom of Netherlands would have no objection to a proposed relocation of the Vlamingh Memorial from its current position in South Cottesloe to the grassed terraces immediately above Cottesloe Beach.

As you will have discovered from our recently published history, 'Cottesloe – A Town of Distinction', Cottesloe Beach is a more likely landing point for Vlamingh's exploration party than the South Cottesloe site.

The grassed terraces above Cottesloe Beach are far superior in terms of overall appearance to the South Cottesloe site. There is also much better vehicle parking and Cottesloe Beach is also heavily visited by local, interstate and international visitors. It represents a first class opportunity to better acquaint people with our historic connection to the Netherlands.

While the exact landing point may never be known, I strongly believe that the proposed site presents a better opportunity to celebrate the arrival of Vlamingh's first landing party on the 5th January 1697.

The correspondence concluded with a request for the Ambassador's consideration of the proposal. The Ambassador's response is as follows:

I herewith confirm receipt of your letter dated the 6th May 2008 with regard to the proposed relocation of the Vlamingh Memorial from its current position to the grassed terraces immediately above Cottesloe Beach.

I have no objection to the above mentioned proposal as a matter of fact I wholeheartedly support the relocation of the memorial,

The 5th January 2009 would be an excellent opportunity to unveil the Vlamingh Memorial in its new location above Cottesloe Beach with perhaps a Dutch cultural event on the day to celebrate the occasion.

CONSULTATION

Council's *Community Consultation* policy would indicate that this is a site specific project that requires community consultation by way of an advertisement in a local newspaper at the very least.

STAFF COMMENT

Attached to this report is an extract from the recently published history of the town 'Cottesloe – A Town of Distinction'. The history casts considerable doubt on the exact location of Vlamingh's landing.

From the history, it does seem that the Old Cable Station site would seem to be the least likely contender as a landing point and it is perhaps worth noting that the settlers attached to Governor Stirling's premature settlement of Garden Island are reported to have eventually found their way inland from the beaches at Cottesloe and Swanbourne.

For any landing party, the avoidance of reefs is much preferred and Cottesloe and Swanbourne Beaches would seem to be better candidates for Vlamingh's landing party in that regard.

As an aside, it is understood that the existing Vlamingh Memorial sits on top of a World War II fortification which once housed a duplicate cable station as a back up facility to the Old Cable Station across the road in the event that it was destroyed by aerial bombardment. The Vlamingh Memorial's location on top of the fortification is somewhat convenient in terms of giving legitimacy to an unnatural lump in the beach landscape.

Regardless of the exact location of Vlamingh's landing, the most important consideration is the actual celebration of the landing rather than the identification of the exact site of the landing. Cottesloe Beach is a better proposition in that regard.

In the author's experience, which involves a daily commute to and from work along Curtin Avenue, very few motorists stop on Curtin Avenue to look at the Vlamingh Memorial (in fact none that I can recall). Pedestrians and cyclists using the dual use pathway are more likely to stop but once they have done so, there is little reason to do so again.

In order to test whether there is any strong sentiment for retaining the Vlamingh Memorial in its current location; it is recommended that community consultation be undertaken on a proposed relocation of the memorial to Cottesloe Beach.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council undertake community consultation on a proposed relocation of the Vlamingh Memorial to Cottesloe Beach.

1.2 COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council undertake community consultation on:

- (1) the proposed removal of the existing Vlamingh Memorial obelisk and tourist directional sign; and**
- (2) if the removal is supported, whether the Town should install a new Vlamingh Memorial plaque at Cottesloe Beach.**

Carried 5/0

1.3 SIGNS IN NO 2 CARPARK

File No: SUB/198
Attachment(s): [Photos of No 2 Car Park](#)
[Letter from Council of Owners Regency Views](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 9 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A report is presented outlining the action taken to address the issue of too many signs in the No 2 Car Park. A recommendation is made to accept this report.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

A request was made at the June meeting of Council to examine the level of signage at the Number 2 Car Park and a report was requested to provide ways to rationalise the signage to improve the amenity of the location.

The introduction of the three hour limit in the No 2 Car Park was approved by Council on 17 December 2007. It was introduced as part of Council's wider strategy in controlling the anti-social behaviour that is prevalent during the summer months, especially on weekends. The parking in No 1 Car Park was also extended to a three hour limit anytime from the prior 8 AM – 6 PM. The signs were installed in early January 2008 and have been operational since that date.

CONSULTATION

Nil

STAFF COMMENT

The incidences of anti-social behaviour have been dramatically reduced and this has been largely attributable to the introduction of the 3 hour parking restriction in both car parks. Prior to the introduction of the 3 hour limit in No 2 Car Park, the Rangers observed that hotel patrons would congregate in the car park. They continued to consume alcohol, party on and generally create a disturbance to well after midnight. This had effect of disturbing the quiet amenity of the nearby residents. This also led

to a large amount of broken glass, empty alcohol containers and other litter being left behind for council workers to clean up the following day. The Works Supervisor indicates that there has been a noticeable reduction in rubbish to clean up since the 3 hour limit was introduced.

The Rangers have reported that before the 3 hour limit was introduced, No 2 Car Parks was still relatively full at 9pm on busy Sunday evenings during the summer months. It is noted that since the change, there is less than 50% occupancy at 9.00pm in the car park even on extremely busy nights. As a consequence this has had the corresponding effect of reducing the amount of anti-social behaviour and demonstrates that the three hour time limit is effective.

It is a recognised fact that the summer season commences at the beginning of October and concludes at the end of the following April, essentially this is for a period of 7 months and incorporates the summer holidays for schools and higher education institutions. It has been noted by the Rangers that on most weekends with fine weather that No 2 car Park is usually filled to capacity by mid afternoon and the 3 hour restriction has the effect of self regulating and managing the car park usage. The Rangers essentially enforce the 3 hour limits on Sunday evenings during the summer season in conjunction with the 9.00pm lock out from both hotels as a means to help control anti social behaviour.

When the 3 hour limit was posted in early January 2008, it was decided as a temporary measure to introduce other regulatory signs such as "No Stopping" as a means to demonstrate to motorists that there had been a change in parking regulations.

Recently, 16 signs have been removed. The reliance on 'No Stopping' signage has reverted back to the standard yellow painted lines on the car park surface.

When the signage for the 3 hour limit was installed it was done so in such a manner to comply with the legal requirements of Australian Standards in relation to parking sign installation. It is a requirement that the motorist be informed of where the restricted time zones start and cease, otherwise any enforcement would have no legal standing if those signs were not compliant with the required standards.

Prior to the installation of the additional signage, there were already 4 signs on the verge between Bryan Way and No 2 Car Park and continuing up to the John Black Dune Park. The Council has a policy and obligation to preserve this reserve from vehicle access and damage. It should be noted that these signs need to be in place as there is no other way of informing the motoring public of the "No Stopping" restrictions applicable to the road and verge.

The 3 large blue and white signs placed at the entry points to the car park are there to inform motorists that in the first instance there had been a change to the parking times in the car park. The primary function of those signs is to inform the motoring public that there is a 3 hour restriction in that car park that is in effect for 24 hours a day.

A comparison was made to the parking signage in No 1 Car Park, the major difference between the two car parks is in the manner the way they have been designed and constructed. No 1 Car Park has a smaller capacity (137 bays as opposed to 353 bays) and has no medians, trees and light poles installed within the car park area as it is the case with No 2 Car Park. No1 Car Park has a continuous and un-interrupted 3 hour zone, whereas in No2 Car Park the parking zones are allocated in packets of bays separated by medians and internal access roads.

On previous occasions the Rangers often noted that many visitors to the beach front commented on the lack of parking during the summer period and referred to the car parks being full. With the introduction of the 3 hour limit there has now been a more significant increase in the rate of vehicle turn over and parking opportunities for the public.

Initially when the 3 hour limit was introduced, the Rangers managed the parking for the first 2 weeks by cautioning motorists that there had been a change to the parking restrictions. Following that introduction period, infringements were issued and as the summer season progressed the number of infringements issued declined to 5 or 6 for each Sunday night. This demonstrated that most of the public were aware of the 3 hour limit and did indeed adhere to those restrictions.

The council provided for a permit system to the employees of the hotels and all other business establishment so those staff are exempted from the 3 hour limit. This was done in consultation with those business proprietors in order to alleviate any unfair impost to them or their staff. The overall comment from all those consulted is that the 3 hour limit is a welcome change to the parking management strategy of the Town. Some have even passed on the comment that they feel that it has enhanced their business growth.

Comments noted from the Police, council depot staff and residents in the nearby vicinity all reflect that there has been a significant and noticeable reduction in anti social behaviour, litter and hoon driving.

With the removal of 16 signs, most of which were concentrated in two small areas, one of which was at the northern end near Bryan Way and the other around the central access road from Marine Parade. There is now a more open aspect to the car park and those remaining signs are the minimum amount left to comply with the required standards and spread around the large arena of No 2 Car Park.

The Council is at all times aware of the sensitivity of the impact that anti social behaviour has on the residents and strives to combat the increasing incidents of crime. The introduction of the 3 hour limit has demonstrated a significant decrease of reported anti social incidents and this has been confirmed by the Western Australian Police Service. Regular meetings with the Police, Council Rangers and Managers, hotel representatives and concerned residents have all indicated that there are decreasing anti social incidents. To that effect, Council has determined that the 3 hour restriction has a positive effect on the community and as such the time limit will remain in No2 Car Park.

VOTING

Simple majority

1.3 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council accept the report.

Carried 5/0

1.4 ASSIGNMENT OF WASTE AND RECYCLING CONTRACT

File No: SUB/568
Attachment(s): [Deed of Assignment](#)
Author: Ms Ruth Levett
Author Disclosure of Interest: Nil
Report Date: 14 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the Mayor and CEO to sign and execute a Deed of Assignment for the Waste and Recyclables Contract from Trum Pty Ltd to Transpacific Cleanaway Pty Ltd.

STATUTORY ENVIRONMENT

Providing the Council is satisfied it has met the provisions of the Collection of Waste and Recyclables Contract Part VI, Section 23 Assignment and Subcontracting and Part VII, Section 33 Bank Guarantee, the contract may be assigned.

The requirement under the *Local Government Act 1995* (Section 3.57) to publicly invite tenders was satisfied in 1998 and is not required for the purpose of assigning the contract where the contract contains assignment provisions.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

An assignment of the contract does not permit a review of charges and therefore there are no financial implications associated with the current collection rates charged in assigning the contract.

It has been agreed that all reasonable legal costs associated with the assignment of the contract are to be borne by the assignee, Transpacific Cleanaway Pty Ltd.

BACKGROUND

Transpacific Industries Group Ltd, parent company of Transpacific Cleanaway Pty Ltd, recently announced that, effective of 30th May 2008, they acquired the business and assets of Trum Pty Ltd trading as Roads & Robinson Rubbish & Recycling who currently provide the waste and recycling collection service for the Town of Cottesloe. Accordingly Transpacific Industries Group Ltd is seeking the assignment of the waste and recyclables contract.

The contract contains provision for the assignment of the contract and Transpacific have provided a draft Deed of Assignment for consideration. A copy of the Deed is attached. Comment from the Town's legal representatives, Mcleods Barristers &

Solicitors, has been sought and subject to minor modification, they have advised that they “see no reason why the Town should not execute the Deed of Assignment”.

CONSULTATION

Nil.

STAFF COMMENT

With regard to the comments from McLeods, the following matters have been raised and resolved:

- (a) *The expiry of the extended term of contract should be 29 November 2008 not 30 November 2008.*

The contract has been extended for a period of five (5) years from the 30 November 2003 and will therefore expire on 29 November 2008. This date will be corrected on the Deed of Assignment.

- (b) *Under clause 7.7 each party is required to bear their own legal costs in relation to the Deed. It is usual in a situation such as this where the principal of a contract bears no responsibility for an assignment of the contract and only agrees to consent to it, for the assignor or assignee to cover any legal costs that the principal incurs as a consequence of the assignment. Accordingly, it is recommended that the Town request that clause 7.7 be changed to provide for either the assignee or the assignor to pay for the Town's reasonable legal costs in regard to the assignment.*

Transpacific have confirmed in writing that they will meet all reasonable legal costs incurred by Council in relation to the assignment of the contract and clause 7 7 will be amended to reflect this.

- (c) *Depending on what the Town's usual processes are in executing documents of this kind, you may require the execution clause to be changed to provide for the affixing of the Town's seal.*

It is standard practice to affix the Town's seal to the original contract. It is not necessary to affix the seal to the Deed of Assignment.

In addition to these matters, the inclusion of the Recycling Company of WA Pty Ltd on the Deed of Assignment when it has since been liquidated, is questioned.

The Town of Cottesloe entered into a contract with Trum Pty Ltd trading as Roads & Robinson Rubbish & Recycling and the Recycling Company of WA Pty Ltd in 1998 who together traded as WasteLess. In 2005 the Recycling Company of WA Pty Ltd was liquidated and advice was sought on the implications for the contract.

The Town was advised that under the original contract, Trum Pty Ltd and Recycling Company of WA Pty Ltd had joint and several obligations to perform the contract. Accordingly, Trum Pty Ltd remained bound by the contract and entitled to its benefit

despite the liquidation of Recycling Company of WA Pty Ltd. Therefore, consent to assign under the contract was not necessary.

Transpacific have agreed that as the Recycling Company of WA Pty Ltd no longer exists they cannot be a signatory or indeed a party to the Deed of Assignment and a revised Deed of Assignment has now been prepared.

Section 8 of the Deed of Assignment refers to the Bank Guarantee of \$50,000 currently held by Council as security for the performance of the contract. Transpacific Cleanaway Pty Ltd has confirmed in the Deed that a replacement bank guarantee will be provided on the same terms upon execution of the Deed.

The sale of the business from Trum Pty Ltd to Transpacific Cleanaway Pty Ltd will not affect the service delivery in any way and it is proposed that the trading name will continue as Roads & Robinson Rubbish & Recycling until the expiry of the contract in November 2008.

It is therefore recommended that Council supports the Deed of Assignment with the agreed amendments outlined in this report.

VOTING

Simple Majority

1.4 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council:

- (1) Supports the assignment of the existing Collection of Waste & Recyclables Contract from Trum Pty Ltd to Transpacific Cleanaway Pty Ltd in accordance with Clause 23 of the contract; and**
- (2) Authorises the Mayor and the Chief Executive Officer to sign and execute the amended Deed of Assignment.**

Carried 7/0

1.5 BOKASHI BUCKET PROMOTION

File No: SUB/368
Attachment(s): [The Bokashi Bucket Brochure](#)
Author: Ms Ruth Levett
Author Disclosure of Interest: Nil
Report Date: 16 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of the report is to propose the use of Bokashi Buckets as an additional means of home composting for residents and to recommend the purchase of a bulk lot of bins for sale through the Council. It is also recommended that a new charge for Bokashi Buckets is introduced.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Funds have been allocated in the 2008-2009 budget for promotional initiatives. It is proposed that these funds be used for the initial purchase of the buckets. The income received from the sale of the buckets will cover this expenditure.

The cost of \$75.00 inc. GST will be added to Fees and Charges in the budget for the purchase of a Bokashi bucket starter kit and \$10.00 for a 3kg bag of Eco Bokashi.

BACKGROUND

Due to the environmental impact of organic waste in landfills investigation was undertaken into the potential to further reduce the amount of organic waste from the waste stream and to find a practical and convenient alternative to the garden compost system. The Bokashi Bucket is a small portable composting system that can compost all food waste including meats.

A quotation for the supply and delivery of Bokashi Buckets has been obtained and the cost for a starter kit consisting of 1 x 20 litre Bokashi Bucket and 1kg of Eco Bokashi powder will be \$75.00 including GST. The cost of a 3kg bag of Eco Bokashi powder is \$10.00 including GST.

An initial purchase of one pallet load of 96 buckets will be \$7,200 with a possible slight variation for the increase in cost of fuel. A minimal supply of Eco Bokashi will be purchased as it can be delivered with the pellet at no extra cost for transporting.

CONSULTATION

Nil.

STAFF COMMENT

The Bokashi Bucket is a revolutionary fermentation process that turns kitchen waste into a rich soil conditioner. It is a practical and convenient alternative to the garden compost system. The Bokashi system employs microorganisms to anaerobically break down food scraps without the use of heat. A brochure is attached for information.

The Bokashi system requires a 20 litre specially designed bucket that can be stored in the home or office kitchen. Fermented grain/powder containing microbes is sprinkled over the food scraps to commence the fermentation process. After approximately two weeks in the anaerobic environment the compressed food waste will have been broken down sufficiently to be added directly to the garden or to an outdoor compost facility. There are no odours associated with the Bokashi Bucket.

The benefits of the Bokashi Bucket are:

- Food scraps are converted to a useful product
- Nutrients are returned to the soil
- Promotes healthy plant and vegetable growth
- Adds to water retention capacity of soil
- Reduces watering requirements
- Eliminates the need for chemical or inorganic fertilisers
- Reduces methane gas production by diverting from landfill
- Easy and user friendly to manage in the home or office

The Western Metropolitan Regional Council is about to embark on the trial of the Anaeco Dicom facility at Brockway Transfer Station where the Town's general waste will be converted to compost. The promotion of Bokashi Buckets will not impact adversely on the trial. It is estimated that only a minimal percentage of household food waste will be diverted from this process. No commercial food waste will be diverted and there is greater benefit to the resident to return food waste to the garden.

The Bokashi Bucket has been trialled by the Earth Carers who have been promoting the use of the buckets for some time. However, the bins are currently sold only from shops such as the Environment Centre or on the internet for between \$90.00 and \$99.00. It is proposed to launch the promotion of the Bokashi Buckets during the Living Smart Program being delivered to the Cottesloe community in August/September 2008. The Living Smart Program covers a range of topics including energy, water, transport, organic gardening and waste and is an ideal time to introduce the Bokashi Bucket promotion. It is proposed to make the buckets available at a wholesale price to residents for the first twelve months of the promotion. Depending on the success of the promotion further consideration can be given to continuing the offer.

It is recommended that the Bokashi Bucket promotion is supported with a review of the promotion after twelve months and that a charge of \$75.00 inc. GST for a Bokashi starter kit and \$10.00 for a 3kg bag of Eco Bokashi be added to fees and charges schedule of the budget.

VOTING

Simple Majority

1.5 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Cunningham

That Council:

- (1) Supports the promotion of Bokashi Buckets to the community with a review of the promotion in twelve months time;**
- (2) The Administration be authorised to purchase the Bokashi Buckets and Eco Bokashi powder and offer for sale to residents on a cost recovery basis;**
- (3) A charge for the Bokashi Bucket starter kit of \$75.00 including GST and 3kg Eco Bokashi powder of \$10.00 including GST be added to the Fees and Charges schedule of the 2008/2009 budget.**

Carried 7/0

Ms Levett left the meeting at 7.26 pm and did not return.

1.6 COTTESLOE RUGBY CLUB LEASE RENEWAL

File No: PUB/1
Attachment(s): [Rugby Club Lease](#)
[Aerial View of Site](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 30 June 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the Mayor and CEO to sign a lease agreement between the Town of Cottesloe and the Cottesloe Rugby Club (Inc.)

STATUTORY ENVIRONMENT

Section 3.58 of the *Local Government Act 1995* applies.

3.58. Disposing of property

(1) In this section -

dispose ~ includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property ~ includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to -

(a) the highest bidder at public auction; or

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property -

(a) it gives local public notice of the proposed disposition -

(i) describing the property concerned;

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include -

(a) the names of all other parties concerned;

(b) the consideration to be received by the local government for the disposition; and

(c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.

(5) This section does not apply to -

(a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;

(b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;

(c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or

(d) any other disposition that is excluded by regulations from the application of this section.

Regulation 30 of the *Local Government (Functions and General) Regulations 1996* says;

30. Dispositions of property to which section 3.58 of Act does not apply

(1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

(2) A disposition of land is an exempt disposition if -

(a) the land is disposed of to an owner of adjoining land (in this paragraph called **the transferee**) and -

(i) its market value is less than \$5 000; and

(ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;

(b) the land is disposed of to a body, whether incorporated or not -

(i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and

(ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;

(c) the land is disposed of to -

(i) the Crown in right of the State or the Commonwealth;

(ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or

(iii) another local government or a regional local government;

(d) it is the leasing of land to an employee of the local government for use as the employee's residence;

(e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;

(f) it is the leasing of land to a medical practitioner (as defined in section 3 of the *Medical Act 1894*) to be used for carrying on his or her medical practice; or

(g) it is the leasing of residential property to a person.

(2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been

(a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;

(b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or

(c) the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including

(i) the names of all other parties concerned;

(ii) the consideration to be received by the local government for the disposition; and

(iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.

(2b) Details (*see section 3.58(4) of the Act*) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.

(3) A disposition of property other than land is an exempt disposition if

(a) its market value is less than \$20 000; or

(b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.

In accordance with Regulation 30 (2) (b) Council may deal directly with the Cottesloe Rugby Club on this matter without the restrictions of Section 3.58 of the Local Government Act.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The new arrangement will result in rates revenue being approximately \$1,237pa less than the rent paid.

BACKGROUND

When this matter was put before the October 2006 meeting a map was tabled showing the area that was proposed to be leased to the Rugby Club. It was felt that it might be prudent to keep the lease at 5 or 10 years so that Council could retain flexibility over the freehold land into the future. It was also proposed that the lease be confined to the club house and car park and that a separate fee be charged for ground hire.

Concerns were also raised by Council members in relation to the differences in the wording of similar clauses for both the Rugby Club lease and the Tennis Club lease which was also being considered at the time. The differences were to be checked with Council's legal advisers.

As a result a decision was made to defer any further consideration of the leases to allow staff to consider and report back on:

- (1) The consistency of clauses within both leases;
- (2) A reduced term and area for the Rugby Club;
- (3) A ground rental for the Rugby Club;
- (4) An exemption for sporting clubs from FESA Levy; and
- (5) The inclusion of a requirement within the leases requiring the clubs to provide Council with a copy of their annual audited financial statements.

These matters are addressed below:

The consistency of clauses within both leases;

Both leases were prepared by McLeods.

There are additional clauses in the Cottesloe Rugby Club lease in section 7 Insurance (7.6 Settlement of Claim and 7.7 Lessor as Attorney) and section 22 Assignment, subletting and charging (22.2 Lessor's consent to assignment and subletting; 22.3 Consents of assignee supplementary; and, 22.5 Costs for assigning and subletting).

The only other significant difference between the tennis club and the rugby club leases is that the rates bill for the tennis club is discounted by an amount of 80% which ensured that their rates bill didn't exceed their previous rental.

There is consistency between the two lease agreements in that changes in lease income derived from the two clubs will now be driven by changes in the value of the land as determined by the Valuer General from time to time.

A reduced term and area for the Rugby Club;

This was discussed with the CEO and the Manager Corporate Services. It was felt that in the absence of any specific plans for the land, it would be difficult to justify any significant change to existing lease arrangements. The development potential of the land was not identified by Council when settling its *Future Plan*.

A ground rental for the Rugby Club;

As part of the change the club will not be charged a ground rental as they did in the past. The rates bill calculation is now based on the value of the whole of the land and replaces the ground rental that the club have paid historically. This avoids any change to arbitrarily derived fees and the conflict that can occur from time to time.

An exemption for sporting clubs from FESA Levy;

This has been investigated by the Rates Officer and it is not possible to gain an exemption for sporting clubs (or any non-profit body) from the FESA levy. This is a State Government decision and out of the Town's jurisdiction.

The inclusion of a requirement within the leases requiring the clubs to provide Council with a copy of their annual audited financial statements.

An amendment has been made to the lease so that a clause requesting the annual financial statements from the club is included.

CONSULTATION

During the previous process to determine the treatment for the tennis club lease contact was also made with several other local governments including Mosman Park, Peppermint Grove, Claremont, Subiaco, Cambridge and Vincent to determine how they treated their sporting club leases.

The Manager of Corporate Services had several meetings with Michael Gallagher, President of the Cottesloe Rugby Club. He has reviewed the document and was happy with the lease.

STAFF COMMENT

The application of full rates to the rugby club would result in a decrease from \$4,404 in rent for the clubhouse and field to \$3,167 in rates (excluding ESL) for 2007/2008.

It is important to note that other local governments in the region treat individual clubs based on their unique circumstances. The best example is the Town of Vincent where each club has a negotiated arrangement based on a combination of the level of council financial involvement in ground maintenance, historical agreements and type of premises.

The committee of the rugby club is satisfied with the proposed lease ([copy enclosed](#)) as it provides long term security and does not have an adverse impact on the finances of the club. The term of the lease has been set at 21 years.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council authorise the Mayor and CEO to sign the proposed lease agreement for a period of 21 years between the Town of Cottesloe and the Cottesloe Rugby Club (Inc.).

1.6 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Carmichael, seconded Cr Strzina

That Council authorise the Mayor and CEO to sign the proposed lease agreement for a period of 21 years between the Town of Cottesloe and the Cottesloe Rugby Club (Inc.) subject to the lease plan being amended to exclude Harvey Field.

Carried 3/2

2 ENGINEERING

2.1 NATURAL AREAS MANAGEMENT PLAN

File No: SUB/620
Attachment(s): [Draft Natural Areas Management Plan](#)
Author: Ms Jade Hankin
Author Disclosure of Interest: Nil
Report Date: 1 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A draft report entitled 'Cottesloe Natural Areas Management Plan' has been prepared by Ecoscape Consulting for the Town of Cottesloe. As part of the process to finalise and implement the report, a four week public review period is required to give the community and relevant stakeholders an opportunity to comment on the content of report.

It is recommended that Council receive the draft management plan and release it for a four week public comment period.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

The adoption of the final management plan may have implications for various Council policies such as Residential Verges, Street Trees and Streetscape. These will be addressed as the plan is implemented.

STRATEGIC IMPLICATIONS

One of the dynamic priorities contained within Council's Future Plan is to develop a District Environmental Management Plan.

FINANCIAL IMPLICATIONS

Council has allocated \$25,000 in the 2008/2009 budget for the implementation of priority works identified in the management plan.

Applications for external grant funding to match this amount are currently being prepared in order to increase the quantity and scope of works planned.

BACKGROUND

In November 2007 expressions of interest were sought to obtain the services of an environmental consultancy to develop a Natural Areas Management Plan (NAMP) for the Town of Cottesloe.

The overarching aim of the NAMP was as follows:

To identify those areas in the Town of Cottesloe that are to be managed as natural areas and to provide guidelines and priorities for their management with a view to protecting, preserving and enhancing local biodiversity.

In December 2007, after expressions of interests were sought and assessed, Ecoscape Consulting Pty Ltd was engaged by the Town of Cottesloe to prepare a NAMP for the district.

In January 2008, a steering committee was formed consisting of the Ecoscape project team, several Town of Cottesloe staff and several members of Cottesloe Coastcare Association (CCA) to coordinate progress of the management plan.

Several stages were completed to reach the formulation of a draft management plan.

These included Ecoscape staff working together with CCA to map all natural areas utilising the vast amount of knowledge CCA members have of the local vegetation.

A workshop was also held with relevant stakeholders including Town of Cottesloe staff members, CCA members, coastal officers and local residents to establish goals and objectives for future natural areas management and to determine priority areas for future works within the region.

The draft NAMP produced covers an assessment of the social and physical environment; a management framework; prioritisation and strategies for existing and potential natural areas; and comprehensive guidelines for implementation of works with projected cost analysis within Cottesloe. These were the requirements specified and agreed upon within the initial brief.

CONSULTATION

A review of the draft plan has been undertaken by Town of Cottesloe staff and CCA to ensure there are no major omissions in the report. Minor alterations were made and both parties expressed willingness to release the report for a four week public comment period.

A four week public comment period is required to obtain the views and opinions of the community and relevant stakeholders on the content of the NAMP.

STAFF COMMENT

The finalisation of the management plan and the implementation of recommendations outlined within it will need to be considered in line with the climate change scenarios outlined in the report *Vulnerability of the Cottesloe Foreshore to the Potential Impacts of Climate Change* produced for the Town of Cottesloe by consultants Coastal Zone Management in June 2008.

After the four week public review period Ecoscape will be required to address concerns raised on issues deemed significant (in conjunction with Town of Cottesloe staff) and ensure all requirements are met.

A final report will then be submitted to Council for final adoption.

VOTING

Simple Majority

2.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Cunningham, seconded Cr Carmichael

That Council receive the draft 'Cottesloe Natural Areas Management Plan' and release it for a four week public comment period.

Carried 6/0

Ms Hankin left the meeting at 7.16 pm and did not return.

Cr Strzina joined the meeting at 7.16 pm.

2.2 REMOVAL OF STREET TREE – MARGARET STREET

File No: PRO/2223
Attachment(s): [Letter from McLeods Barristers & Solicitors](#)
[Deed of Settlement](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 16 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to sign a Deed of Settlement relating to the removal of a street tree on the verge at 2 Margaret Street.

STATUTORY ENVIRONMENT

Legal advice on the range of options available to Council in terms of prosecuting an action for the removal of a street tree was tabled at last month's Council meeting.

A copy is attached and the advice remains unaltered.

There was a suggestion that the Town's *Local Government Property Local Law* could provide a further alternative in dealing with this matter. The Property Local Law only provides for offences in regard to 'local government property' which is defined in clause 1.2 of the *Local Government Property Local Law*. The definition excludes a thoroughfare and so it cannot be used in this situation.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The proposed settlement will offset, to a large degree, the expense of legal advice received on this matter while at the same time conferring a benefit on the Town of Cottesloe.

BACKGROUND

A last month's Council meeting Cr Boland presented a petition signed by 66 petitioners regarding the illegal removal of a street tree at 2 Margaret Street.

The text of the petition was as follows:

We the undersigned hereby petition the Town of Cottesloe in respect of the illegal removal of a mature Rottneist Island Tea Tree at 2 Margaret Street, Cottesloe. We would like to have the resident responsible for the illegal removal of the tree prosecuted to the fullest extent of the law by the Cottesloe Town Council. We would also like a sign erected on the front of 2 Margaret St (similar to the sign on Hamersley St) erected to state "Destruction of Community tree. This tree has been cut down to

obtain views. This sign will remain until the replaced tree has grown to the height of the original tree”.

At the same meeting and in response to the petition Council passed the following resolution:

That Council:

- (1) Immediately install a suitably worded sign on the verge.
- (2) Authorise the CEO to mediate a solution with the tree removalist and the tree removalist's client requiring;
 - the recovery of costs associated with the replacement of the tree with the largest available Rottnest Island Tea Tree, and
 - compensation of \$5,000.
- (3) Remove the sign once the replacement tree has been planted.
- (4) In light of any mediated solution, Council give further consideration to prosecuting to the fullest extent possible.

CONSULTATION

The CEO has had several discussions with the owners of 2 Margaret Street.

STAFF COMMENT

A photograph of the proposed sign was circulated by email to all elected members on 24th June 2008. Several Councillors expressed support for the proposed sign with one Councillor advising that residents of Margaret Street and/or the petitioners should be informed of what was being proposed.

Enquiries were then made as to the cost of supply for the sign. The Swan River Trust indicated that it would be in the order of \$3,700.

In the meantime the owners of 2 Margaret Street indicated their willingness to meet the cost of obtaining and planting a replacement tree. As a result, a decision was made to hold off on obtaining and installing the sign.

Following further discussions with the owners, a Deed of Settlement has now been prepared and is attached for Council's consideration. It fulfils the intent and spirit of Council's June 2008 resolution.

The Deed of Settlement is to remain confidential until such time as it is executed.

Its premature release may adversely affect any legal proceedings that the Council might contemplate in the event that the deed is not executed.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council authorise the Mayor and CEO to execute the Deed of Settlement with the owners of 2 Margaret Street, Cottesloe relating to the removal/damage to a tree on the street verge.

Mr Tindale left the meeting at 8.32 pm.

2.2 COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Carmichael

That Council authorise the Mayor and CEO to execute the Deed of Settlement (as amended by the Works and Corporate Services Committee) with the owners of 2 Margaret Street, Cottesloe relating to the removal/damage to a tree on the street verge.

Carried 5/1

Cr Dawkins and Cr Cunningham left the meeting at 8.33 pm and did not return.

Mr Tindale returned to the meeting at 8.35 pm.

Cr Utting left the meeting at 8.41 pm and did not return.

2.3 LITTLE MARINE PARADE - SAND DUNE RECLAMATION

File No: SUB/472
Attachment(s): [Photo of exotic garden](#)
[Aerial view of location](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 16 July, 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to poll residents along Little Marine Parade on a proposal to remove an exotic garden that sits in the middle of remnant dune vegetation immediately opposite No. 180 Little Marine Parade.

STATUTORY ENVIRONMENT

The whole of the sand dune between Marine Parade and Little Marine Parade comprises part of a road reserve whose care, control and management is vested in the Town of Cottesloe.

POLICY IMPLICATIONS

Council's Policy on *Residential Verges* has some bearing on the matter. It is reproduced in full below.

RESIDENTIAL VERGES

(1) OBJECTIVE

1. To develop an attractive and safe streetscape.
2. To discourage verge parking wherever alternatives exist.
3. To encourage owners and occupiers of premises to maintain their street verges.
4. To ensure that verge treatments comply with the Local Law relating to thoroughfares.
5. To ensure that verge developments are not hazardous to pedestrians, cyclists or motorists.
6. To encourage alternatives for verge treatments which remove or reduce the use of bore water, fertilisers, weedicides, pesticides and non-absorbent materials.
7. To encourage the use of indigenous plant species.

(2) PRINCIPLE:

1. The road reserve area is under the control of the Town of Cottesloe but owners and occupiers are encouraged to maintain street verges.
2. All developments on street verges must be safe at all times for the general public when using the road verge for normal, legal activities.
3. The Town of Cottesloe plus a range of Service Authorities will impact on the road reserve from time to time with infrastructure construction and maintenance activities.
4. With the reducing availability of mains water and bore water supplies, Council supports alternatives to reticulated verge lawns, particularly the use of indigenous plant species.

(3) ISSUES:

- (a) All verges are affected by intermittent construction activities, to improve paths, drainage and roads, as well as for the maintenance of public services e.g.; power, water, communications and sewer lines.
- (b) Landscape designs for the road verge must have compliance standards to ensure 'extreme' or dangerous treatments do not occur.
- (c) If plants larger than semi-prostrate species are to be planted, then the general maximum height allowed is 600mm, unless on a 40 metres wide road reserve where the maximum height is 1.5 metres, apart from street trees.
- (d) Verge treatments undertaken by owners or occupants do not include street trees. All street trees are installed and maintained by the Town of Cottesloe.
- (e) A permit is not needed for a grass lawn area.
- (f) Verge treatments are not approved for the purpose of providing extra parking space on the verge.
- (g) All verge treatments must comply with Council's Local Law "Activities on Thoroughfares and Trading in Thoroughfares and Public Places."
- (h) The construction of tree houses, tree swings and the installation of play structures is not considered appropriate within the road reserve due to safety issues.

(4) POLICY:**The Town's Responsibilities**

- 1. Inspection
Each verge development will be inspected by Engineering Services from time to time, to ensure that the development has been carried out in accordance with the foregoing Council Policy.
- 2. Breach
If any verge development does not comply with this policy, then the breach may be made good by the Town and the costs recovered from the owner or occupier.
- 3. Fees
The Town will not charge a fee for the inspection of verge developments.

The Owner's Responsibilities

- 1. Accept all costs involved in the construction of the verge development.
- 2. Keep the verge treatment in a safe and tidy condition.
- 3. Accept all liability in respect of damages to persons or property as a result of a verge development.
- 4. Accept that the verge remains a public space and may be traversed by the public as and when required.

5. Water or maintain the verge in such a manner as to not cause a nuisance to other people.
6. Accept that the improvements automatically become the property of the Town of Cottesloe.
7. Contact the Perth One Call System (Dial Before You Dig) on 1100 and locate all underground services prior to undertaking any works within the verge area and take all care to ensure that no damage is caused to underground services.

Species Selection

The Town of Cottesloe encourages the use of planting of native and in particular indigenous plants (plants naturally occurring within the Town of Cottesloe) within verge areas. Owners are free however to choose the species of plants planted within their verge and are not restricted to native or indigenous plants. All species of plants whether native or exotic must comply with the aforementioned clauses and be suitable for the location in which they are planted.

Procedure

No permit is required from Council for planting lawn on verges.

A permit is required for all other works in the verge such as garden beds, shrubs, kerbing, paving, retaining walls, pipelines and below ground reticulation systems. This shall be obtained by the owner/occupier submitting an application in writing with a sketch plan that shows the details of the proposal.

Landscape Design

Landscape designs must comply with the following conditions:

- i) Comply with the Local Law relating to Thoroughfares.
- ii) Provide adequate access to the letterbox for mail delivery.
- iii) Provide unobstructed pedestrian access to existing signs, water meter, telecom pit and manhole covers.
- iv) Where there is a bus stop, provide clear access of at least 1.2 metres wide around the bus stop, and between the footpath and the bus stop.
- v) Pathways through verge plants may be constructed of any solid material such as tree rings and stepping stones, providing they do not protrude above kerb level and are laid flush with the surrounding ground.
- vi) Height and placement of plants must not obstruct slight distance for pedestrians and road users.
- vii) On 20 metre wide road reserves, no plant shall exceed 600 mm in height. The same applies to intersections for sight clearance. On 40 metre wide road reserves, plants shall not exceed 600 mm in height 2 metres from the kerb line and from the property boundary. On these very wide road reserves plants are allowed up to 1.5 metres high in the centre of the verge width, ramping down to 600 mm high 2 metres from the kerb line and property boundary.

- viii) Paving of generally only one third of the residential verge area, including the crossover, is permitted. Verges adjacent to approved commercial premises may exceed this providing the area is broken up with landscaping to adjacent areas or around approved street trees. All brick paving must have a header course on all edges.
- ix) Retaining walls, rocks and sleepers are permitted only in special circumstances where difficult site conditions prevail.
- x) All garden kerbing shall be flush with the ground surface unless around garden beds.
- xi) Bollards, star iron pickets, stakes, spikes or other objects that could cause injury to the public are not permitted.
- xii) Materials that may cause a hazard to the public are not permitted. This includes loose gravel and pea gravel. Rocks and earth mounding are permitted in garden beds.
- xiii) Plants must not present a hazard to pedestrians e.g.; cactus, and will not include species classified as declared weeds by the Department of Agriculture's "Agriculture and Related Resources Protection Act (1976).
- xiv) Any polythene or impervious layer laid beneath the surface must be pierced with sufficient number of holes to ensure adequate drainage without runoff.
- xv) In new developments where verges are grassed, provision is to be made for the reticulation to be connected to the domestic water supply on completion of the dwelling. No valves or controllers for reticulation are permitted in the verge.
- xvi) No fixed structures including those attached to trees e.g. cubby/tree houses, swings etc shall be permitted within the verge area.
- xvii) Lighting or electrical cabling must be of low voltage (e.g. 12 volt) with all transformers, power supply and switching located within the adjacent property and not within the verge. Lighting must not cause a nuisance to neighbouring properties.
- xviii) Council staff shall maintain a list of species suitable for use in the Town of Cottesloe, which can be considered for verge treatments. This list shall be modified as species prove to be unsuitable or when new species have a proven success rate.
- ixx) Council staff can provide advice regarding verge developments using native and indigenous plants, particularly where reticulated lawn areas are being replaced with non-lawn, non reticulated or low water use species.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

A resident of Little Marine Parade has written to Council as follows:

I recently phoned your offices about the sand dune between Little Marine Parade and Marine Parade, noting that a sign had been erected by Council on the dune reading "protect dune vegetation" and was requested to write to you outlining my thoughts.

The above dune currently has a mixture of remnant dune vegetation and exotic species. A large section of it has been taken over by an adjacent resident and planted with exotic plants, some of which are noxious. In addition there has been construction of paths, seating, walls, sculptures and other features in this area.

In my view the dune should be returned as close to its natural vegetation as possible, in line with the treatment of the dunes on the coastal side of Marine Parade and in the park area on the south side of Grant Street. The re-vegetation of this park area was a commendable project.

I also have concerns about the current use and state of the area of the dune referred to above. The 'facilities' in this area have not been constructed nor are they maintained by Council and appear, to me, to be potentially dangerous. It is clearly difficult for Council to exercise its 'duty of care' in such circumstances.

This area is used by young people at night (as it is not visible from Marine Parade) and I am concerned about anti-social incidents that may occur very close to the adjacent housing and what state this may leave it in (broken glass and other dangerous items) and the potential impact on children and other.

In summary, I would say that the dune has the potential to be returned to its natural condition and present a beautiful vista to both local residents and visitors. I would urge Council to take action in this regard.

CONSULTATION

Nil

STAFF COMMENT

Technically the verge in question does not fall within the ambit of the *Residential Verges* policy since this particular verge does not adjoin a residential property. However it is arguable that the spirit and intent of the policy should apply in this situation. The verge is part of a road reserve whose care, control and management is vested in the Town of Cottesloe and it is open to Council to remove and re-establish the area to its natural state or a modified form without community consultation – particularly since the existing works are unapproved.

However the developments that have occurred are largely out of sight and have not provoked any recent community debate – at least not in the last six years. It is more than likely that some of the residents of Little Marine Parade and surrounding streets will have a real attachment to the garden.

It should also be noted that Sabrina Hahn and Garry Heady judged the garden to be the Town of Cottesloe's Community Centenary Award winner in the *2007 Cottesloe Great Garden Awards Competition*.

Two nomination forms were received for the garden. The first described it as "It's the Secret Garden and is popular with parents and their children, many having morning teas and lunch there." The second described it as "A lovely garden that Don and Norma have created and maintain that the public like to sit in and children love to play in."

Special comment was made by the judges in relation to the garden's imaginative, waterwise and functional design. To sum up the judges said *"This is one of the best community waterwise gardens we have ever seen. A true garden for playing"*.

Rather than act with a heavy hand, it is recommended that Council undertake a poll of the residents of Little Marine Parade to see whether there is majority support for the retention of the garden. If there, is then Council could revisit the matter with a view to putting some basic controls in place to protect the surrounding amenity and safety of the area while ensuring that the park retains its essential quirkiness.

If the majority view is that it should go, then Council may want to authorise the CEO to remove the garden and re-establish the natural vegetation without further reference to Council.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Undertake a poll of the residents of Little Marine Parade to see whether there is majority support for the retention of the Little Marine Parade garden.
- (2) Authorise the CEO to remove the garden and in the event that there is no majority support and reinstate the area as near as possible to its original natural condition.
- (3) Represent the matter to Council in the event that there is majority support for the retention of the garden.

2.3 COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council take no further action on this matter and advise the petitioner of same.

Carried 5/0

3 FINANCE**3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 JUNE 2008**

File No: SUB/137
Attachment(s): [Financial Statements](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 June 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 June 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$687,481 as at 30 June 2008. Operating Revenue is ahead of budget by \$170,919 (2.21%). Operating Expenditure is \$234,441 (2.85%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 30 June 2008 is shown on page 7 and 8.

The main causes of the lower than anticipated expenditure are: COMMUNITY AMENITIES - lower than budgeted expenditure on contractors in the area of sanitation (\$30,772) and legal, consultant and contractor expenses for Town Planning be lower than forecast (\$237,915).

The Capital Works Program is listed on pages 17 & 18 and shows total expenditure of \$3,422,809 compared to YTD budget of \$5,972,363. The main difference is the postponement of the Civic Centre extension until the 2008/2009 financial year.

VOTING

Simple Majority

3.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 June 2008, as submitted to the 22 July 2008 meeting of the Works and Corporate Services Committee.

Carried 5/0

3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 30 JUNE 2008

File No: SUB/150 & SUB/151
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 June 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 June 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Schedule of Investments and Schedule of Loans are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 13 of the Financial Statements shows that \$2,505,049.89 was invested as at 30 June, 2008

Reserve Funds make up \$2,496,955.79 of the total invested and are restricted funds. Approximately 67% of the funds are invested with the National Australia Bank, 23% with Home Building Society and 10% with BankWest.

The Schedule of Loans on page 14 shows a balance of \$220,384.02 as at 30 June, 2008. There is \$142,456.50 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

3.2 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 June 2008, as submitted to the 22 July 2008 meeting of the Works and Corporate Services Committee.

Carried 5/0

3.3 ACCOUNTS FOR THE PERIOD ENDING 30 JUNE 2008

File No: SUB/144
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 June 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 30 June 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 9 of the Financial Statements:

- \$46,612.50 to Street Furniture Australia for new public rubbish bins
- \$12,893.38 to Synergy for
- \$32,453.23 to WA Local Govt Super Fund for staff deductions
- \$19,966.12 to Coda Studio for Station Street strategic project
- \$14,967.27 to WA Local Govt Super Fund for staff deductions
- \$10,461.69 to BCITF for payment of levies collected
- \$15,133.22 to WA Local Govt Super Fund for staff deductions
- \$11,935.00 to UHY Norton for interim audit & financial management review
- \$17,200.00 to K J Morgan for elected member expenses for 2008
- \$80,418.14 to FESA for 4th quarter levy payment
- \$32,526.34 to B&N Waste for green waste collected in May 2008
- \$27,840.51 to WA Treasury Corporation for loan repayment No 89
- \$15,578.20 to Digital Mapping Solutions for Access Program renewal

- \$11,545.74 to WMRC for disposal and tipping fees
- \$43,276.06 to Trum P/L for waste collection
- \$10,285.00 to ID Consulting for census upgrade & id final payment
- \$62,287.50 to Street Furniture Australia for rubbish bins enclosures
- \$22,000.00 to New England Education & Research for WESROC report
- \$12,421.23 to WA Bluemetal/WA premix for rail ballast for Forrst Street
- \$19,508.87 to Roads 2000 for traffic control Curtin Ave
- \$10,296.00 to Civica for annual licence fees for 2008
- \$119,272.96 for staff payroll for June 2008

VOTING

Simple Majority

3.3 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council receive the List of Accounts for the period ending 30 June 2008, as submitted to the 22 July 2008 meeting of the Works and Corporate Services Committee.

Carried 5/0

3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD ENDING 30 JUNE 2008

File No: SUB/145
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 June 2008
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 June 2008, to Council.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement under the *Local Government Act 1995*.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 15 of the Financial Statements shows a balance of \$285,560.16 of which \$179,078.16 relates to the current month. The balance of aged debt greater than 30 days stood at \$106,482.00 of which \$96,410.50 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

Property Debtors are shown in the Rates and Charges analysis on page 16 of the Financial Statements and show a balance of \$252,683.38. Of this amount \$224,176.22 and \$14,164.06 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$30,909 in 2008 compared to \$194,351 last year.

VOTING

Simple Majority

3.4 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council:

- (1) **Receive and endorse the Property Debtors Report for the period ending 30 June 2008; and**
- (2) **Receive the Sundry Debtors Report for the period ending 30 June 2008.**

Carried 5/0

ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING

Nil

MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 9.09 pm.

CONFIRMED: PRESIDING OFFICER _____ *DATE: .../.../...*