

TOWN OF COTTESLOE



WORKS AND CORPORATE SERVICES COMMITTEE

MINUTES

**MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
6.00 PM, TUESDAY, 8 DECEMBER 2015**

MAT HUMFREY
Chief Executive Officer

10 December 2015

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WORKS AND CORPORATE SERVICES COMMITTEE

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Presiding Member announced the meeting opened at 6:03 PM.

2 DISCLAIMER**3 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

4 PUBLIC QUESTION TIME**4.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Ruth O'Boyle, 105 Curtin Avenue, Cottesloe – Re. Pedestrian Crossings and Mosman Park and Cottesloe Train Stations

Q1: Does Council have any plans to install pedestrian crossings across Curtin Avenue, near the Mosman Park and Cottesloe Train Stations?

A1: The Town is working with Main Roads to investigate pedestrian crossing needs and solutions for Curtin Avenue, and to establish a plan for funding any required upgrades.

4.2 PUBLIC QUESTIONS

Patricia Carmichael, 14-116 Marine Parade, Cottesloe – Re. 12.2.1 Final Adoption – Business Plan for the Redevelopment of the Indiana Tea House

Q1: Will the Design Advisory Panel be invited to provide input into the design for the proposed redevelopment of Indiana Tea House ?

The Presiding Member took the question on notice.

5 PUBLIC STATEMENT TIME

Yvonne Hart, 26 Mann Street, Cottesloe – Re. 12.2.1 Final Adoption – Business Plan for the Redevelopment of the Indiana Tea House

Ms Hart referred to the staff comment section of report 12.2.1 which reads "*The consideration of the Business Plan is the latest step in reaching a permanent solution to the issue of public facilities on Cottesloe Beach.*" Ms Hart commented that Cottesloe ratepayers have always wanted clean toilets and expressed surprise at the extensive nature of the Business Plan. Ms Hart continued by expressing thanks for the cleaning of the toilets and stated that the community will no longer be embarrassed by the state of the ablution facilities.

Ms Hart stated that she was impressed with the option for the toilets to be redeveloped without a large scale redevelopment. Ms Hart also stated that she

was impressed that the lessee will be able to keep kiosk space, as it is an important part of Indiana Tea House.

In reference to the staff comment that "*Council may also wish to consider what it charges and when it permits events at the beach as a way of increasing the income that can be attained from it.*" Ms Hart commented that Cottesloe Council is known for its generosity and perhaps it is time for Council to consider generating an income from the beach.

Ms Hart concluded by imploring Committee to not vote for the Officer Recommendation and to consider SOS's alternative option.

Philip Barron, 5/31 Claremont Crescent, Claremont – Re. 10.1.2 Cottesloe Tennis Club – Request for Self Supporting Loan, Council Grant and Extension of Lease

Mr Barron addressed Committee and advised that he is the new President of the Cottesloe Tennis Club ('Club'). Mr Barron advised that the Club is seeking an extension of its current lease and a self-supporting loan.

Mr Barron provided background information on the need for a loan and lease extension, mentioning that the Club has a very active social group and one of the largest junior clubs in the State. Mr Barron explained that Club has identified the need to increase the number of hard courts from six to 10 and in order to increase the number of courts, a loan is required.

Mr Barron advised that the project has been costed at approximately \$700,000. The Club has reserves of \$320,000 and sought approval from its members for a loan of \$420,000. The members voted 79/21 in favour of proceeding with the application for the loan. Mr Barron stated that the Club has robust finances and approving the loan will result in an enhanced facility and increased access to courts.

Laurie Scanlan, 20 Warnham Road, Cottesloe – Re. 12.2.2 Final Adoption – Business Plan for the Redevelopment of the Indiana Tea House

Mr Scanlan advised that Cottesloe Ratepayers Association, aware of his past involvement with Indiana Tea House, approached him to provide an alternative plan for the redevelopment of the building.

Mr Scanlan distributed the alternative plan and explained the salient points of including; a 100% increase in the number of male toilets; an increase in the number of female toilets to 11; a 200% increase in the number of showers and an increase in bench space. In addition, Mr Scanlan highlighted the unisex universal access toilets, which would enable careers of a different gender to assist users of the ablution facilities. Mr Scanlan added that he estimates his plan will cost between \$400,000 to \$500,000 to implement.

Mr Scanlan criticised the advertised concept plan, in particular, the plan for a kiosk to be level with Marine Parade. Mr Scanlan stated that the current

terraced area between Marine Parade and the Indiana Tea House Building should remain as is, as it is a well used public space.

Patricia Carmichael, 14-116 Marine Parade, Cottesloe – Re. 12.2.2 Final Adoption – Business Plan for the Redevelopment of the Indiana Tea House

Ms Carmichael stated that the lack of attendance and the Indiana Teahouse Redevelopment Information Evening was due to late notice, which she believed to be about a week. Ms Carmichael advised that she has spoken to several people, who had no idea that the Information Evening was on and many people are busy on Wednesday nights.

Ms Carmichael declared that she found it unbelievable that 14 people who provided submissions on the Business Plan made no comment and questioned how such feedback could be used for decision making purposes. Ms Carmichael added that she was not criticising those who did not make comments and she understood that many people are busy.

Ms Carmichael commented that all the lessees have failed to comply with the terms of the lease and even though she believed it to be a peppercorn rent that has been charged by the Town, the Town has not made the lessees comply with the terms of the lease.

Ms Carmichael concluded by stating that she is not anti-development but she believes that the cost of the project is unjustified at this point in time.

Greg Boland, 2b Sydney Street, Cottesloe – Re. 12.2.2 Final Adoption – Business Plan for the Redevelopment of the Indiana Tea House

Mr Boland advised that he felt the need to address Committee as he is mentioned in the report and wanted to ensure that he was accurately represented.

Mr Boland praised the alternative plan provided by Laurie Scanlan and emphasised the need for the toilets to be back in public hands.

Mr Boland stated that he believed the Town's current concept plan goes against the Beach Policy, as the Policy states that buildings west of Marine Parade are limited to their current footprint and any building replacement should be subject to public review. Mr Boland commented that he believed Council is getting ahead of itself by not conducting a public review.

Mr Boland stated that he is bitterly disappointed that the Business Plan did not go into the background of the bad decision made by Council, by entering into the current lease agreement. Mr Boland concluded by stating that for a fairly modest amount the problem with the toilet facilities could be resolved.

6 ATTENDANCE**Present**

Cr Philip Angers	Presiding Member
Mayor Jo Dawkins	
Cr Mark Rodda	
Cr Rob Thomas	
Cr Sally Pyvis	
Cr Sandra Boulter	
Cr Katrina Downes	Observer

Officers Present

Mr Mat Humfrey	Chief Executive Officer
Mr Garry Bird	Manager Corporate & Community Services
Mr Doug Elkins	Manager Engineering Services
Ms Siobhan French	Administration and Governance Officer

Gallery

Media (1)
Members of the Public (8)

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

Mayor Dawkins declared an impartiality interest in item 10.1.2 due to being a member of the Cottesloe Tennis Club.

Cr Rodda declared an impartiality interest in item 13.1.1 due to knowing the current lessees of the Cafe and Kiosk at North Cottesloe Beach (Barchetta).

Cr Angers declared an impartiality interest in item 13.1.1 due to knowing the current lessees of the Cafe and Kiosk at North Cottesloe Beach (Barchetta).

8 CONFIRMATION OF MINUTES

Moved Cr Angers, seconded Cr Rodda

[Minutes November 17 2015 Works and Corporate Services Committee.docx](#)

The Minutes of the Ordinary meeting of the Works and Corporate Services Committee, held on 17 November 2015 be confirmed.

Carried 6/0

9 PRESENTATIONS**9.1 PETITIONS**

Nil

9.2 PRESENTATIONS

Nil

9.3 DEPUTATIONS

Nil

The Presiding Member considered the reports as per the published order of the agenda.

10 REPORTS

10.1 ADMINISTRATION

10.1.1 AMENDMENT TO BEACHES AND BEACH RESERVE LOCAL LAW 2012 – RESTRICTIONS ON THE USE OF WATERCRAFT

File Ref: SUB/207-02
Attachments: [Cottesloe Kite Surfing Map](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

Following concerns raised by Councillors in regards to the kite surfing activities along the Cottesloe beach foreshore, it is proposed to use powers conferred on Council by the Town of Cottesloe *Beaches and Beach Reserves Local Law 2012* ('the Local Law') to further restrict these activities to certain areas and prohibit them in the main swimming and recreational areas.

A map depicting the area where sailing craft and sailboards would be permitted to set up and launch from the beach is attached.

BACKGROUND

The Town of Cottesloe Local Law currently prohibits the use of watercraft (as defined in the Local Law) within the town boundary and extending 200 metres out to sea, with exceptions as specified including:

8.1 Restrictions on the use of watercraft

Watercraft are prohibited within defined area with the following exceptions -

- a) surf life saving craft, used in their capacity as training and competition boats of a Life Saving Club, at both Cottesloe Beach and North Cottesloe Beach;*
- b) surf life saving boats being used for water rescue by a Surf Life Saving Club or authorised person;*
- c) subject to clause 4.2 surf skis may be used -
 - (i) at Cottesloe Beach and North Cottesloe Beach only for the purposes of entering and leaving the beach to a distance of one hundred metres seaward from the low water mark as measured at ordinary spring tides; and*
 - (ii) At other beaches where safe to do so;**
- d) sailing craft and sail boards south of the Cottesloe Groyne and north of the northern boundary of the North Cottesloe Surf Saving Club building; and*
- e) any watercraft taking part in an event authorised by the local government in accordance with these local laws.*

As a result of a recent incident at the “Beach Street Playground ” where a beach goer was accidentally hit by a windsurfer, officers received emails expressing concern about kite surfers and windsurfers being so close to a playground, officers were requested to examine how this situation could be remedied.

An amendment to the existing Local Law is the most suitable mechanism to control these activities and the following amendment to 8.1 (d) of the Local Law is suggested for consideration;

- 8.1 (d) sailing craft and sail boards between Rosendo Street and Princes Street.

In consultation with representatives from Kite Surfing Western Australia, the area north of the North Cottesloe Surf Club is recommended to be removed from the permitted areas as in practice it is not an area recommended by the Association due to the large numbers of other beach users present in this area.

In order to effect this amendment, statewide public notice is required to inform of Council’s intention to amend the Local Law and public submissions invited.

STRATEGIC IMPLICATIONS

Priority Area 3 – Enhancing Beach Access and Foreshore

Major Strategy 3.2 – Continue to improve access to beach facilities.

Adoption of the proposed amendment to the Local Law would be in keeping with this stated strategic objective by ensuring windsurfers, kite surfers etc have continued access to their preferred location on Cottesloe beaches for set up and launching of their craft while ensuring other recreation assets such as playgrounds are safe and free from potential obstacles.

POLICY IMPLICATIONS

There are no direct implications arising from the Town of Cottesloe Beach Policy.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

Town of Cottesloe Local Government Beaches and Beach Reserves Local Law 2012

The *Local Government Act 1995* specifies the process to amend a local law is the same as which a new local law is introduced. This process is as follows;

3.12. Procedure for making local laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to —*

- (a) give *Statewide public notice* stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;and
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
 - (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
 - (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
 - * Absolute majority required.
 - (5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
 - (6) After the local law has been published in the Gazette the local government is to give local public notice —
 - (a) stating the title of the local law; and
 - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
 - (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
 - (8) In this section —

making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.
-

The above provision requires the presiding officer of the meeting where the amendment is being considered to give notice to the meeting of the purpose and effect of the proposed amendment. In order to satisfy this requirement, the following Statement of Purpose and Effect is provided.

Amendment to Town of Cottesloe Beaches and Beach Reserves Local Law 2012 - Section 8.1 Restrictions on the use of watercraft

Purpose To improve safety of all beach users by restricting the area to set up and launch sailing craft and sailboards to the area between Rosendo Street and Princes Street.

Effect Users of sailing craft and sailboards will be permitted to use this area for set up, beach launch or use of their watercraft in the water but not permitted to use all other beach foreshores.

FINANCIAL IMPLICATIONS

The Local Law prescribes a \$100 penalty for use of a watercraft in a prohibited area however income to be received is expected to be minimal, with Council Rangers undertaking an education first approach with those who may use their craft in a prohibited area.

STAFFING IMPLICATIONS

Rangers will ensure compliance with the amendment if adopted by Council, which will be done as part of their regular patrols and as such there will be no major staffing implications.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Town of Cottesloe Staff
Kite Suring Association of Western Australia Inc

The Kite Surfing Association of Western Australia Inc (KSAWA) have been consulted about the potential amendment to the Local Law and are supportive of Council's efforts to better define areas that are considered both safe for kitesurfers, windsurfers etc. and create minimal interruption for other beach users. In practice, KSAWAA Inc recommend on their website the area designated on the attached map as a set up and beach access point due to the wide grass road verge and wider sand dune system that provides a safety buffer from the road if someone was to lose control of their craft.

STAFF COMMENT

Nil

VOTING

Simple Majority

COMMITTEE DISCUSSION

Committee discussed meeting the needs of different user groups and potential alternatives to the officer recommendation at length. Committee decided to amend the officer recommendation to better delineate the areas where kite surfers and windsurfers can set up their equipment and safely access the ocean.

OFFICER RECOMMENDATION

Prior to considering the following recommendation, the Presiding Member read the following statement to the Meeting;

The Purpose and Effect of the proposed amendment to the Beaches and Beach Reserves Local Law 2012 is as follows;

Purpose To improve safety of all beach users by restricting the area to set up and launch sailing craft and sailboards to the area between Rosendo Street and Princes Street.

Effect Users of sailing craft and sailboards will be permitted to use this area for set up, beach launch or use of their watercraft in the water but not permitted to use all other beach foreshores.

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council, with respect to the proposed amendment to the Town of Cottesloe *Beaches and Beach Reserves Local Law 2012*:

1. Advertise the following proposed amendment for a period of not less than 42 days invite public submission in regards to the proposal.
 - 8.1 (d) sailing craft and sail boards between Rosendo Street and Princes Street.
2. Invite public submission in regards to the proposed amendment and consider at a Meeting of Council after the specified closing date for submissions.

AMENDMENT**Moved Mayor Dawkins, seconded Cr Angers**

That the words “Princes Street” be removed from point one (1) and replaced with the “South Cottesloe Groyne”.

That a new point three (3) be added that reads “Consider alterations to the playground in the 2015/2016 budget review”.

Carried 6/0

COMMITTEE RECOMMENDATION

THAT Council, with respect to the proposed amendment to the Town of Cottesloe *Beaches and Beach Reserves Local Law 2012*:

1. Advertise the following proposed amendment for a period of not less than 42 days invite public submission in regards to the proposal.

8.1 (d) sailing craft and sail boards between Rosendo Street and South Cottesloe Groyne.

- 2. Invite public submission in regards to the proposed amendment and consider at a Meeting of Council after the specified closing date for submissions.**
- 3. Consider alterations to the playground in the 2015/2016 budget review.**

THE AMENDED SUBSTANTIVE MOTION WAS PUT

Carried 6/0

Mayor Dakwins declared an impartiality interest in item 10.1.2 due to being a member of the Cottesloe Tennis Club, and stated that as a consequence there may be a perception that her impartiality may be affected and declared that she could consider the matter on its merits and vote accordingly.

10.1.2 COTTESLOE TENNIS CLUB – REQUEST FOR SELF SUPPORTING LOAN, COUNCIL GRANT AND EXTENSION TO LEASE AREA

File Ref: SUB/1873
Attachments: [Correspondence from Cottesloe Tennis Club](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

To consider a request from the Cottesloe Tennis Club Inc ('Tennis Club') to assist with the proposed expansion of the Tennis Club courts, by:

1. Granting an extension to the current lease area;
2. Approving a self-supporting loan from Council for an amount not to exceed \$420,000; and
3. Requesting a grant of \$80,000 as a contribution towards the costs of the redevelopment.

A copy of the correspondence received from the Tennis Club is attached.

BACKGROUND

These matters have previously been considered by Council in June 2014 and August 2015, where the following Resolutions were adopted:

Council Resolution 23 June 2014

THAT Council confirms its support for expansion of the Cottesloe Tennis Club as indicated in the development application submitted to the Western Australian Planning Commission, and recommends the following conditions of approval to address the detailed design and construction requirements:

1. *In order to obtain any necessary Building Permit or construction works approvals from the Town affecting the Tennis Club site and the public domain, prior to the commencement of development the Club shall liaise with the Town and submit details of the following for approval:*
 - a. *A land survey of the extension area, affected features and proposed infrastructure in relation to the Tennis Club site, John Black Dune Park and the surrounds.*
 - b. *All retaining walls, cut and fill, earth batters/bunds or other ground level treatments to the boundaries of and within the Tennis Club site.*
-

- c. *The surface material and colour of all new or modified tennis courts.*
 - d. *The layout, design, height, materials and colours of all new or modified perimeter and internal fencing.*
 - e. *The design, height, materials, colours, specification and control of all new or modified lighting within the Tennis Club site, having regard to the amenity of surrounding areas. This may include night-time limits on lighting.*
 - f. *The drainage system for the tennis courts, grounds, buildings and structures within the Tennis Club site and in relation to surrounding areas, in order to manage stormwater runoff.*
 - g. *The location, extent and type of landscaping envisaged within the Tennis Club site or the buffer area within the lease boundary under the lease from the Town, particularly in relation to John Black Dune Park.*
2. *A comprehensive Construction Management Plan shall be submitted to the satisfaction of the Town prior to the issue of a Building Permit or works approvals, and shall address (amongst other things): construction access including affecting John Black Dune Park; traffic management and safety for the site and surrounding footpaths, verges and streets; worker parking; machinery and materials storage and security; dust and noise control; days and times of construction activity; notification to nearby properties and complaints handling; verge and tree protection and rehabilitation; and any staging of the development.*
 3. *All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction sites.*

Council Resolution 24 August 2015

THAT Council:

1. *Endorse the application from the Cottesloe Tennis Club and forward it to the Department of Sport and Recreation; and*
2. *Include an amount of \$58,428 in the Long Term Financial Plan as a self supporting loan for the one third contribution from the Town.*

The basis for the request by the Tennis Club and the need to expand the number of courts is explained in depth in the attached correspondence. In summary, the request to extend the lease would allow the Tennis Club to expand the number of hard courts from 6 to 10, group hard and grass courts together and develop infrastructure, such as additional lights.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

The following policies apply to the request/s from the Tennis Club.

Loans – Self Supporting Policy

Organisations seeking assistance from Council to raise a loan shall:

- *be an incorporated body*

- *provide a copy of the last three years' audited trading and balance sheet statements;*
- *agree to enter into a Deed of Agreement for the period of the loan repayments;*
- *provide whatever security or guarantees that Council considers appropriate to ensure that the loan is repaid;*
- *insure and keep insured premises where the premises are security over repayment of a loan;*
- *pay all costs associated with the preparation and stamping of legal documents concerned with the raising of the loan;*
- *provide a copy of the minutes of a legally constituted meeting of the organisation showing the formal resolution agreeing to the raising of the loan;*
- *provide any other information that Council requires.*

Donations Policy

ASSESSMENT CRITERIA

Donation requests will not be considered where;

- *The applicant is a private and for profit organisation or association.*
- *The applicant is an individual person.*
- *The application is in relation to general fundraising.*
- *The application is for funding for conferences and conventions.*

Priority will be given where ;

- *The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or with in the Western Suburbs;*
- *The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.*
- *The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.*
- *The funds are required for a new initiative or significant once off project.*
- *The applicant has not received a donation from Council within the previous two years.*
- *If the donation is for an event entry to the event is free of charge to Cottesloe residents to attend and participate.*
- *The application is made in the financial year prior to the funds being required in time for inclusion in the coming year's budget deliberations.*

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Functions and General) Regulations 1996
Local Government (Financial Management) Regulations 1996

There are several statutory implications arising from the request by the Tennis Club. The relevant sections of the applicable legislation are reproduced below for the information of Elected Members.

Local Government Act 1995 s3.58 Disposing of property

- (1) *In this section —*
- dispose** *includes to sell, lease, or otherwise dispose of, whether absolutely or not;*
- property** *includes the whole or any part of the interest of a local government in property, but does not include money.*
- (2) *Except as stated in this section, a local government can only dispose of property to —*
- (a) *the highest bidder at public auction; or*
 - (b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*
- (3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*
- (a) *it gives local public notice of the proposed disposition —*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition; and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
 - and*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) *the names of all other parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition —*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a*

true indication of the value at the time of the proposed disposition.

- (5) *This section does not apply to —*
- (a) *a disposition of an interest in land under the Land Administration Act 1997 section 189 or 190; or*
 - (b) *a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59; or*
 - (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.*

Local Government Act 1995 s6.20 Power to Borrow

- (1) *Subject to this Act, a local government may —*
- (a) *borrow or re-borrow money; or*
 - (b) *obtain credit; or*
 - (c) *arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,*

to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

- (2) *Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year —*
- (a) *unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and*
 - (b) *the resolution to exercise that power is to be by absolute majority.*

Local Government (Functions and General) Regulations 1996 r30 Dispositions of property excluded from Act s3.58

- (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;*
- or*
- (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;*

Local Government (Financial Management) Regulations 1996 r20 When local public notice not required for exercise of power to borrow

- (1) *A local government is not required to give local public notice of a proposal to exercise a power to borrow when the power is to be exercised to re-finance a loan or to continue other financial accommodation (whether with the same or another bank or financial institution) except where the re-financing or continuation is a major variation.*

From the above, it can be ascertained that the Tennis Club request to extend the area of the lease would be considered disposition of property and further would be considered an exempt disposition and as such there is no requirement to advertise the proposed lease.

In regards to the loan, as the new loan has not been included in the 2015/16 budget, there is a requirement to advertise the intention to borrow the funds.

FINANCIAL IMPLICATIONS

There are several financial implications arising from the request from the Tennis Club, as follows:

1. Although the loan requested is a self-supporting one in that the funds will be repaid by the Club over the life of the loan, the loan principal and interest repayments will still be shown in the statement of financial position and operating Statements and impact on Council's ratios.
2. There is no provision in the current budget to accommodate a grant of \$80,000.
3. Minor costs will be incurred in amending the lease (if so approved) and lodging with Landgate.

Upon receiving the request, Council staff contacted the Western Australian Treasury Corporation (WATC) and obtained indicative repayments on a loan of \$420,000. Based on the current interest rate, the loan repayments would be \$24,814.30, paid every six months, in addition to the payment of the indicative guarantee fee of \$773.72 per repayment (averaged over the life of the loan).

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Town of Cottesloe Staff
Western Australian Treasury Corporation Staff
Cottesloe Tennis Club Inc

STAFF COMMENT

From the above, it can be ascertained that the Tennis Club request to extend the area of the lease would be considered disposition of property and further would be considered an exempt disposition and as such there is no requirement to advertise the proposed lease.

In regards to the loan, as the new loan has not been included in the 2015/16 budget, there is a requirement to advertise the intention to borrow the funds.

The Tennis Club have previously received a similar loan from Council which was repaid in full by the due date (2014) and required a similar annual payment to that proposed in the new loan.

As there is no budget allocation for the requested grant of \$80,000, it is recommended that this matter be deferred for consideration with other budget amendments in the Six Month Budget Review, to be presented to Council at the first available meeting in 2016.

If Council was to approve the request for a grant of \$80,000, the total amount of the loan required would be reduced to \$340,000, with the repayments adjusted accordingly.

VOTING

Absolute Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Angers, seconded Cr Rodda

THAT Council, with respect to the request received from the Cottesloe Tennis Club Inc resolve as follows;

- 1. Approve the request to extend the area of the current lease as per the attached diagram;**
- 2. Advertise the intention to take out an unbudgeted self supporting loan of \$420,000; and**
- 3. Defer consideration of the request for a grant of \$80,000 until the Six Month Budget Review is presented to Council for consideration.**

Carried 6/0

10.1.3 CANCER SUPPORT WA INC – REQUEST FOR CHANGE OF PURPOSE OF COUNCIL DONATION

File Ref: SUB/1166
Attachments: [Cancer Support WA Correspondence](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

The 2015/16 budget contains provision for a donation of \$3,000 to Cancer Support WA Inc being a contribution towards the cost of staging the proposed Christmas Markets.

Due to the large number of similar events being staged at the same time, Cancer Support WA have decided not to proceed with the event and have requested the funds be used for their next major fundraising event, 'Afternoon Delights' on 28 February 2016.

BACKGROUND

The Afternoon Delights event is a well established local event that has historically been held at the North Cottesloe Primary School, however, it will be held at the Civic Centre this year for the first time due to the growing popularity of the event.

There is a fee for admission, with children under 12 admitted free of charge. The event features musicians performing jazz, classical and modern contemporary music in a relaxed atmosphere, with accompanying food stalls. Patrons are welcome to bring their own picnic basket and rug.

This location for the event was approved by Council at the 29 September 2015 Ordinary meeting of Council as per the following resolution;

THAT Council approve the application to hold the 'Afternoon Delights' Fundraiser Concert for Cancer Support WA at Cottesloe Civic Centre, on Sunday 28 February 2016, from 3.00pm to 6.30pm, subject to the following conditions:

1. *Adequate arrangements are made for rubbish collection and removal, 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 fees;*
-

5. *All appropriate environmental health food and beverage permits are in place prior to the event;*
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 a 'risk assessment document' or 'event management plan', to the satisfaction of the Chief Executive Officer, prior to the event;*
8. *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;*
9. *No activity to take place in the Secret Garden or Lower Lawn; and*
10. *All concert music ceasing by 7.00pm on Sunday 28 February 2016.*

Approximately 300 people are expected to attend the event.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Council Policy Donations provides guidance on what organisations and activities will be funded by the Town in the form of donations as follows;

ASSESSMENT CRITERIA

Donation requests will not be considered where;

- *The applicant is a private and for profit organisation or association.*
- *The applicant is an individual person.*
- *The application is in relation to general fundraising.*
- *The application is for funding for conferences and conventions.*

Priority will be given where;

- *The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or within the Western Suburbs;*
- *The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.*
- *The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.*
- *The funds are required for a new initiative or significant once off project.*
- *The applicant has not received a donation from Council within the previous two years.*

- *If the donation is for an event entry to the event is free of charge to Cottesloe residents to attend and participate.*
- *The application is made in the financial year prior to the funds being required in time for inclusion in the coming year's budget deliberations.*

It is noted that the Afternoon Delights event does not meet some of the above criteria, namely:

- Entry is not free of charge; and
- It is not a new initiative or significant one off project.

That said, given the worthwhile cause and that Cancer Support WA is moving the event to a new location, the request is supported by staff.

STATUTORY ENVIRONMENT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

FINANCIAL IMPLICATIONS

As the donation has already been provided for in the adoption of the 2015/16 budget (Account 20029.204.58) there are no financial implications arising from the request for the change of purpose of the donation.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Town of Cottesloe Staff
Cancer Support WA

STAFF COMMENT

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Angers, seconded Mayor Dawkins

THAT Council approve the request from Cancer Support WA Inc to change the purpose of the \$3,000 donation received in the 2015/16 budget from a contribution to the staging of the Christmas Markets to a contribution towards the Afternoon Delights event on 28 February 2016.

Carried 6/0

10.2 ENGINEERING

10.2.1 PROPOSED REDEVELOPMENT OF LESSER HALL – ACCEPTANCE OF ESTIMATED COSTS

File Ref: DD005.2015.00003304.001; PR53200
Attachments: [Lesser Hall Floor Plan](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Doug Elkins
Manager Engineering Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

Council is asked to endorse the Lesser Hall project budget, and the calling of tenders for the works.

BACKGROUND

As part of developing the long-term financial plan, as a tool to implement the Corporate Business Plan, Council identified the need to update and upgrade the Lesser Hall. Consequently, in the 2014/15 financial year, Council included an amount in the annual budget to engage a heritage architect to design the updated building.

The Lesser Hall has been designed to a detailed concept level, and has been estimated by a quantity surveyor. In order to progress the project from this point, it is necessary for Council to endorse the anticipated budget.

Including contingencies (design and construction contingencies), the anticipated total project cost is \$653,000. This estimate includes \$53,000 of contingencies, \$51,000 to remove and reconstruct the floor, and \$47,000 to remove the roof tiles, reinforce the roof structure, and to install roof waterproofing.

Last financial year, a budget allocation of \$80,150 was made for this project. In the current financial year, there is a budget allocation of \$350,500 for this project. Accordingly, so far there is an allocation of \$430,650. In order for the project to proceed to tender, Council will need to commit to allocating up to \$221,500 in the 2016/17 financial year.

STRATEGIC IMPLICATIONS

The Lesser Hall is a very high use community facility. The room is normally used six or seven days a week, with numerous uses on the same day not being uncommon. The Lesser Hall is also used as a storage facility for events in the grounds.

If Council proceeds with the Lesser Hall upgrade, it is expected that utilisation will increase, including increased use for Council events.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Upgrading the Lesser Hall will require assessment by the Heritage Council and a planning approval. These processes are currently underway, with approval likely to be issued by officers in the near future.

The value of the building contract will exceed the tender threshold. Accordingly, a tender will be required to complete the proposed works.

FINANCIAL IMPLICATIONS

The refurbishment of the Lesser Hall is a project being funded out of the proceeds from the sale of the depot. The commitments in the last and the current financial year are the total of the previous budget commitment. The proposed funding of \$221,500 in the 2016/17 financial year is in addition to the original budget. This allocation will need to be managed within the total of the available funds.

Each of the depot funded projects is budgeted based on an estimate developed from a broad scope. Accordingly, there are significant variations in total actual project costs, as scopes are refined. Offsetting the additional funds required to complete the Lesser Hall project, is a lower refined estimate for the Indiana Tea House redevelopment (approximately \$400,000), and project management costs that have not been required, and are not likely to be required (approximately \$500,000). The latter savings, project management, was based on the need to accelerate the depot funded projects, due to the urgency created by the proposed amalgamations. With the amalgamation question being resolved for now, projects are being managed within current staff resources. Based on the savings noted above, the additional allocation, to complete the Lesser Hall, can be accommodated.

The current estimate of the required additional funds is \$221,500. It is noted above that the original budget was developed based on a broad scope. It is the author's understanding that the original budget estimate was based on repairing leaks to the roof, and performing a basic upgrade, such as new fixtures and paint. The current estimate is based on a new scope that intends to invest in a more useful facility for the longer-term, as well as fully funding the repair of structural defects. Although the new scope comes at a greater cost, it is considered to be a better use of Council funds.

Finally, although the estimate is based on the opinion of a quantity surveyor, the estimate is considered the high end of the likely cost, based on the built in contingencies, estimates being based on previous construction costs, which recently appear to have reduced, and some of the professional services likely to be included in the quantity surveyor rates. Further, as these funds will be drawn from reserve, ultimately, only the funds actually used will be drawn.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

The main users of the facility have been provided an opportunity to make comment on the alternative floor plans and the finishes. Councillors have also been provided opportunity to make comment on the floor plan and finishes. The feedback from the main users, and Councillors, has been very consistent, with any detail included in comments included in the final design.

STAFF COMMENT

The existing Lesser Hall is in poor condition. The roof leaks, the floor is significantly out of level, there are structural cracks in the walls, and the kitchen and female toilet layouts are 'clunky' at best. The male and disabled toilets are accessed from the exterior of the building.

The existing layout of the Lesser Hall, along with the age of the fixtures, makes the space generally uninviting. The existing kitchen is of limited value for catering, and the current toilet arrangement does not work for current regular users of the building.

The major outcomes of the proposed upgraded building are to achieve a more usable floor plan, resolve the structural issues and to provide a community space of more value. The proposed floor plan is attached. The new layout provides additional storage, allows toilets to be accessed by parents, without disturbing a class, makes toilets available to users of the Sunken Lawn (such as for weddings), without providing access to the remainder of the Lesser Hall, and provides a reheat kitchen suitable for catering a function in the Lesser Hall or in the Civic Centre grounds. The new floor is a superior surface for dance and yoga type activities, which are a major community use of the current facility. The space will be air-conditioned and is to be fitted with modern audiovisual equipment, making the space useable as a training facility, and a space for public meetings. Finally, the new space includes partitioning, allowing intimacy to be created for small user groups and meetings.

The resolution of the existing floor structural defects requires the entire floor substructure to be removed and rebuilt. The finished floor will be overlaid with the original floorboards, followed by the installation of a floating floor, which is more suited to the use of the facility and will protect the original boards. The repair of the roof requires all tiles to be removed, additional timbers to be installed, a waterproofing layer to be installed, followed by the replacement of the original tiles.

The finished design has been developed by an architect specialising in upgrading heritage buildings. As part of the architect scope, the architect has liaised with the Heritage Council in order to develop a design that is sympathetic to the heritage values of the building and the Civic Centre in general.

The proposed Lesser Hall upgrade is considered to be a community investment, providing a high quality community meeting place and activity centre, as well as a support centre for Civic Centre functions. The investment will resolve current structural defects and will extend the life of the old building. It is recommended that Council endorse the project budget, and subsequently include the required additional

funds in the 2016/17 financial year budget. Providing Council desires to proceed with the project, construction commencement is planned at the end of the current wedding season.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Angers, seconded Cr Rodda

THAT Council:

- 1. Endorse the Lesser Hall project budget of \$653,000;**
- 2. Endorse the calling of tenders for the construction of the Lesser Hall upgrade, in accordance with the attached floor plan, subject to planning approvals being in place; and**
- 3. Consider including an amount of \$221,500 in the 2016/17 financial year budget, for the Lesser Hall upgrade project.**

Carried 6/0

10.2.2 REQUEST TO NAME RIGHT OF WAY 16 – DELAMARE LANE

File Ref: SUB/256
Attachments: [Plan of ROW 16](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Doug Elkins
Manager Engineering Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

Council is asked to endorse the naming of Right of Way ('ROW') 16 as Delamare Lane.

BACKGROUND

In response to a medical emergency, requiring residents to direct an ambulance to the unnamed ROW 16, a request has been received to name the laneway. Previously, Council created a Nomenclature Working Group to develop names for roads and right of ways, among other things. This group has developed a list of suitable names, with this list being approved by Council.

The proposed name for ROW 16 is Delamare Lane, which recognises the grazing lands of the Delamare Dairy in the North Ward. It is recommended that Council endorse this name for consideration by the Geographic Names Committee.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Naming of roads is controlled by the *Land Administration Act 1997* ('Act'). Under the Act, naming of streets and roads is the role of the Minister for Lands on advice of the Geographic Names Committee, generally on request and advice of Local Government. Accordingly, the ultimate decision rests with the Minister for Lands.

FINANCIAL IMPLICATIONS

There will be a minor cost associated with producing and installing a sign.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

A letter was sent to every resident adjoining the laneway. Including the original requester, six responses were received. Each of the responses supported naming of the laneway, due to difficulties in giving directions to ambulances, taxis and couriers. Out of the six responders, five supported the name Delamare Lane.

The final responder did not object to the proposed name, however, suggested the names Barking Dog Lane, Myrtle Lane and Denny Lane - the latter two names being the names of an aunt who had previously lived in the same house. Of these three suggestions, the only name that might be accepted is Denny Lane. The first suggestion is a double barrelled name, which are no longer accepted by the Geographic Names Committee. The second suggestion is a first name, which is not accepted by the Geographic Names Committee. In addition, the name Myrtle is well used as a street name, for its botanical relevance.

The final of the three suggestions might be acceptable, although could still be excluded due to being within 10 km of Denny Way in Myaree (it is 16km by road, but less than 10km straight line).

STAFF COMMENT

The proposed name was selected using a committee of community members. The feedback from the adjacent residents is support for the name, although one responder has provided a suggestion of alternatives.

On receipt of the possibly acceptable alternative name of Denny Lane, officers reviewed the Ruth Marchant James' Cottesloe A Town of Distinction book, to determine any historical relevance. The particular resident and the name generally are not recognised in the book, suggesting the historical relevance of the name is limited to the residence adjacent to the lane. In view of the name developed by the Nomenclature Working Group being based on a robust process of consideration, and recognises an interesting part of Cottesloe history, it is recommended that Council endorse the name Delamare Lane.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Angers, seconded Cr Thomas

THAT Council endorse the name Delamare Lane for the naming of Right of Way 16.

Carried 6/0

10.3 FINANCE

10.3.1 FINANCIAL STATEMENTS FOR THE MONTH ENDING 30 NOVEMBER 2015

File Ref: SUB/1878
Attachments: [Monthly Financial Statements for the Period 1 July 2015 to 30 November 2015](#)
Responsible Officer: Garry Bird
Author: Manager Corporate & Community Services
Wayne Richards
Finance Manager
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

It is a requirement of the *Local Government Act 1995* that monthly 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 Accounting Policy
Town of Cottesloe Investments Policy
Town of Cottesloe Investment of Surplus Funds Policy

STATUTORY ENVIRONMENT

Local Government Act 1995
Local Government (Financial Management) Regulations 1996

FINANCIAL IMPLICATIONS

Income and expenditure received to date for the 2015/16 financial year is in keeping with budgeted income and expenditure.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENTKey Financial Indicators at a Glance

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.

Please note the Financial Statements for the year ended 30-06-2015 have been signed off by the auditors and depreciation has now been processed for the period to 30-11-2015.

- The net current funding position as at 30-11-2015 is \$5,950,745 and is in line with previous financial years as shown on pages 2 and 22 of the attached Financial Statements.
- Rates receivable as at 30-06-2015 stood at \$2,821,252 and again is in line with previous financial years as shown on pages 2 and 25 of the attached Financial Statements.
- Operating expenditure is less than year to date budget by \$308,389 with a more detailed explanation of material variances provided on page 21 of the attached Financial Statements.
- The Capital Works Programme is approximately 27% complete as at 30-11-2015. Capital expenditure is greater than year to date forecasts by \$308,345 with material variances again detailed on page 21 and a full capital works programme listing shown on pages 32 to 36.
- 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 30-11-2015 Employee Costs were \$29,025 less than year to date forecasts. This is largely attributable to a vacancy for in the position of Senior Ranger for several months and also the timing of the Enterprise Bargaining Agreement negotiations.
- Various transfers to and from Reserve Funds have not been made for 2015/2016 and are generally undertaken in the latter half of the financial year, depending on the progress of specific projects to which these transfers relate.

List of Accounts for November 2015

The List of Accounts paid during November 2015 is shown on pages 37 to 44 of the attached Financial Statements. The following significant payments are brought to Council's attention:-

- \$80,542.00 to Geraldine Nominees T/A Daimler Truck for a new truck
- \$49,460.40 to F J Fitzsimmons & Co for right of way construction works
- \$163,761.40 for Council's quarterly contribution towards the Grove Library
- \$49,148.28 to Perthwaste Green Recycling for waste collection and disposal services
- \$31,554.28 to Surf Life Saving Western Australia for the monthly surf life saving service
- \$82,196.35 and \$84,018.83 to Town of Cottesloe staff for fortnightly payroll
- \$300,000.00 to Council's investment account 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 37% of funds invested with National Australia Bank, 30% with Bankwest, 18% with Westpac Banking Corporation and 15% with the Commonwealth Bank of Australia.

Information on borrowings is shown in Note 10 on page 29 of the attached Financial Statements.

Rates, Sundry Debtors and Other Receivables

Rating information is shown in Note 9 on page 28 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, page 25 of the attached Financial Statements with 17% older than 90 days. Debt recovery action is due to commence shortly on outstanding accounts that are older than 90 days.

Other receivables, which are listed on the Statement of Financial Position on page 9 of the attached Financial Statements, and consists of outstanding infringements written from the new infringement software solution recently introduced. Over the next few months Council is operating both the old and new software systems which will be combined into one in the first half of 2016. As a part of the change in software systems, infringements are now brought to account at the time they are written rather than when the monies are received, and a separate report on outstanding infringements will be included in the Financial Statements included once this transition to the new system is completed.

Budget Amendments

Budget amendments are summarised on pages 12 and 13 of the attached Financial Statements and listed in more detail on page 24.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Rodda, seconded Cr Thomas

THAT Council receive the Financial Statements for the period ending 30 November 2015 including the List of Accounts for November 2015 as submitted to the 8 December 2015 meeting of the Works and Corporate Services Committee meeting.

Carried 6/0

11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING BY:****12.1 ELECTED MEMBERS**

Nil

12.2 OFFICERS

As the required notice was given Committee was not required to vote to consider the report as an urgent matter.

12.2.1 FINAL ADOPTION – BUSINESS PLAN FOR THE REDEVELOPMENT OF THE INDIANA TEA HOUSE

File Ref: SUB/2057
Attachments: [Attachment 1 Public Submissions Received](#)
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Mat Humfrey
Chief Executive Officer
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

Council is being asked to consider the feedback received on the Business Plan and Concept Plans for the redevelopment of the Indiana Tea House and the consider adopting the Plans, with or without amendments.

BACKGROUND

For some time now, the Indiana building on Cottesloe Beach has presented the Town with significant issues. Primarily these issues are;

1. The state of the public toilets contained within the building;
2. The capacity of the public toilets within the building; and
3. The constraints that the lease document places on the Town in seeking to achieve a facility in line with community expectations.

The Business Plan and Concept Plans, as presented for public comment, seek to provide a high quality and permanent solution to this problem.

STRATEGIC IMPLICATIONS

The Town's Strategic Community Plan lists a number of strategies that will be positively impacted by this project, being;

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

Major Strategy 1.5 – Continue to improve access and inclusion of aged persons and those with disabilities.

Priority Area 3 – Enhancing beach access and foreshore

Major Strategy 3.1 – Implement the ‘Foreshore Redevelopment Plan’ in consultation with the community.

Major Strategy 3.2 – Continue to improve beach facilities

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

3.59. *Commercial enterprises by local governments*

(1) *In this section —*

acquire has a meaning that accords with the meaning of **dispose**;

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

land transaction means an agreement, or several agreements for a common purpose, under which a local government is to —

- (a) acquire or dispose of an interest in land; or
- (b) develop land;

major land transaction means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,

is more, or is worth more, than the amount prescribed for the purposes of this definition;

major trading undertaking means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve,

expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

trading undertaking means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of **land transaction**.

(2) *Before it —*

- (a) commences a major trading undertaking; or
- (b) enters into a major land transaction; or

- (c) *enters into a land transaction that is preparatory to entry into a major land transaction,*

a local government is to prepare a business plan.

- (3) *The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —*
 - (a) *its expected effect on the provision of facilities and services by the local government; and*
 - (b) *its expected effect on other persons providing facilities and services in the district; and*
 - (c) *its expected financial effect on the local government; and*
 - (d) *its expected effect on matters referred to in the local government's current plan prepared under section 5.56; and*
 - (e) *the ability of the local government to manage the undertaking or the performance of the transaction; and*
 - (f) *any other matter prescribed for the purposes of this subsection.*
 - (4) *The local government is to —*
 - (a) *give Statewide public notice stating that —*
 - (i) *the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction; and*
 - (ii) *a copy of the business plan may be inspected or obtained at any place specified in the notice; and*
 - (iii) *submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
 - and*
 - (b) *make a copy of the business plan available for public inspection in accordance with the notice.*
 - (5) *After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.*
- * Absolute majority required.*
- (5a) *A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.*
 - (6) *If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.*
 - (7) *The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.*
-

- (8) *A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.*
- (9) *A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.*
- (10) *For the purposes of this section, regulations may —*
- (a) prescribe any land transaction to be an exempt land transaction;*
 - (b) prescribe any trading undertaking to be an exempt trading undertaking.*

FINANCIAL IMPLICATIONS

There are no direct financial implications from considering the Business Plan, the financial implications of the overall project are described in the Business Plan.

STAFFING IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Section 3.59 requires that the Town prepare and advertise a Business Plan for public comment prior to entering into a binding agreement. The required Business Plan has been prepared and advertised as required. The submissions have been included in Attachment 1 for Council's consideration.

STAFF COMMENT

The consideration of the Business Plan is the latest step in reaching a permanent solution to the issue of public facilities on Cottesloe Beach. The Business Plan also seeks to address issues with the Indiana building itself and the lease associated with it.

In February 2012, Council adopted the Foreshore Redevelopment Plan. This plan was developed after extensive community consultation and with the assistance of prominent experts. In this Plan, two locations were shown for additional toilet facilities. These locations were the area immediately south of the current Indiana Building (location 4) and opposite the end of Napier Street (location 10). In October 2012, the implementation of the Foreshore Redevelopment Plan was made the highest priority by Council. The Chief Executive Officer at the time was given the task

of implementing the plan. When the plan was analysed by staff, the additional toilets were seen as the highest priority as their placement would affect other projects, such as the location of shared use paths and so on.

In November 2012, an architect's brief was drawn up and distributed for the design of two new toilet facilities at the locations shown on the Foreshore Redevelopment Plan. Suitable architects were then shortlisted and asked to make a presentation to Council. In September 2013, the two successful companies presented their designs to a Council workshop.

Following the election in October 2013, the two designs were advertised for public comment. The initial response was not positive and at the Annual Electors' Meeting held in January 2014, the following motion was put;

Moved R Sadlier, Seconded G Boland

That Council immediately cause the flushing mechanism in the Indiana women's toilets to be renewed;

All work and expenditure on the proposal (as part of the Foreshore Redevelopment Plan) for a new toilet block on the grass anywhere west of Marine Parade be suspended;

Council's Environmental Officer to inspect the Indiana's toilets daily during peak times, providing a report on health and cleanliness conditions

Carried – no dissent.

The meeting then heard a second motion which stated;

Moved G. Boland, seconded S. Freeth

As the problem of the state of the Indiana toilets has been ongoing for many years under current lease agreements, the Town of Cottesloe is to take action by the end of March 2014 for a change to the lease agreement, so that the Town of Cottesloe has full responsibility for the toilet maintenance and Indiana pays a greater rental as a result.

Carried – no dissent.

In February 2014, the Design Advisory Panel also raised concerns with the designs. Following this, Council resolved to accept the Minutes of the Annual Electors' Meeting and the projects were effectively cancelled.

In order to put in place the resolutions of the Electors' Meeting, two things needed to be put in place. The first was that the lease for the facility would need to be renegotiated, or at the very least amended, to allow the Town to take on this responsibility. Secondly, the toilets themselves would need to be considered and possibly redeveloped.

To this end a concept plan was developed showing one possible way the toilets could be redeveloped. This proposal showed a significant increase in natural ventilation as well as an increased capacity, which would cater for peak demand. The concept was costed, but was well beyond the Town's finances at that time. Until such a time the Town had the required resources, the project was again set to one side.

The issues around the lease continued to be discussed. The discussions focused on the possibility of the lessee being willing to redraw the lease document.

In August 2014, Council considered the Depot Funds Strategy, which documented Council's priorities at the time for the allocation of the funds that would be received from the imminent settlement of the former depot site. In this plan, an allocation of \$2.2 million was set aside for the works required at the Indiana site.

Discussions with lessee revealed that the lessee was not willing to give up the kiosk space on the middle level, as would be required for the redevelopment option the Town was pursuing. As such the concept plan was amended showing the kiosk relocating to the upper level (street level), which would allow the toilets to be expanded and improved.

In April 2015, costings on the updated concept were received. These costing showed that in order for the project to go ahead, contributions would be needed from both the lessee and the State Government. In the same month, the Town was awarded with the inaugural "toilet seat of shame" by Cottesloe Residents and Ratepayers Association. The award was made on the basis that the Town had not done enough to remedy the situation with toilets in the Indiana building.

In May 2015, Council was briefed on the progress of the Indiana project and of the need to seek State Government assistance with the project. During May, contact was made with the State Government, seeking assistance with the project. Council has been informed that such assistance will be considered in the 2016/2017 State Budget deliberations – as has been reported in the press.

Following this, a Heads of Agreement was entered into, which allowed the Town to advertise a business plan and concept plan for public comment. The Heads of Agreement is not binding on the Town and simply stated each party's intentions if the redevelopment is to go ahead.

The Business Plan (and associated Concept Plans) was advertised in accordance with the *Local Government Act 1995* and the Town's Consultation Policy. The issue received further coverage in local and state media, with several stories being printed about the plans in the press. The Town also held an information evening on the plans during the submission period.

The response to the submission period was less than expected by officers. For a project of this significance, it would be normal to receive 100 plus submissions. It would also be fair to say that attendance at the public information evening was also lower than expected, with approximately 30 members of the public in attendance.

The feedback received in favour of the project comprised largely simple statements of support. Many of these statements were along the lines of “I’m glad that something is finally being done” and stated support of the concept.

The submissions that were against the project, tended to go into more detail – as would be expected. The issues identified with the against submissions can be broadly categorised as follows;

1. Respondents had issues with the use of ratepayers’ money to remedy the issue.
2. Respondents did not want to see any further building on the west side of Marine Parade.
3. Respondents felt that the lessee was receiving too much benefit from the proposal or that the Town should take legal action against the lessee.
4. Respondents were concerned about the risk associated with the project.
5. Some suggestion was made that the project cease until the Foreshore Redevelopment works are complete.

While the issue of ratepayers’ funds being used to maintain public facilities should not be dismissed, there is an obligation on the Town to ensure there are adequate and useable public toilets in public areas. While there may well be an argument that the Town should receive additional funding to assist with the maintenance of the beach, this is largely a separate issue. Council may also wish to consider what it charges and when it permits events at the beach as a way of increasing the income that can be attained from it.

With regards to the concerns around additional buildings, the Town does state in its Beach Policy that *“the policy of the Town of Cottesloe shall be to limit the construction of any enclosed roof structures west of Marine Parade to replacement only without significant expansion of the footprint, height or mass of the structure”*. When the previous project of building additional toilets was considered, this was one of the main reasons for that project being set aside. Having said this, the area in which the “new” building will occur already has built form on it. The promenade area will sit at a different level, but will largely be public open space. The building footprint will increase slightly, but given the need for additional toilets during the summer months, this is seen as preferable to having portable toilets on the beach.

With regards to the timing of the work, the Concept Plans for the Indiana Redevelopment were deliberately advertised prior to the work commencing on the remainder of the Foreshore area. The reason for this is really quite simple – until the lease of the Indiana site is settled and the land in question reverts to the Town, the Town cannot make plans for the land between the Indiana Building and Marine Parade, nor can we make plans for what would happen in the area in front of the boatshed, as the Town does not currently control either of these two areas.

There were other issues raised in submissions, most of which can be addressed during the next phase of this project, should Council opt to proceed. These concerns centered around the detail of the project, such as detailed layout considerations,

whole of life costings, and further testing of the existing structure that would require more than a visual inspection.

During the next phase, it is intended that the following works be undertaken;

1. Detailed design works would be undertaken to allow for the necessary approvals and costings to be attained.
2. Detailed costings of the initial capital works program would be attained – the lessee would be responsible for all outstanding maintenance requirements that need to be undertaken.
3. Whole of life costings would be attained for the entire site as it would be post renovation.
4. Detailed legal work would be undertaken to develop the Agreement for Lease and Lease documentation to ensure the Town's interests are protected.
5. Issues such as universal access, integration with the Town's Foreshore Redevelopment Project, trees in the public space, choice of materials and management and maintenance of the facility would all be considered at this stage.

The reason this work has not been undertaken before now is that these are significant costs, which would not be transferrable to other options. If there was broad lack of support for the overall concept, there would be little point in taking on this expenditure, as it would not be needed. If the support of the concept is there, it is then prudent to undertake these costs and at the same time, undertake this work with a knowledge of the community's concerns and objectives.

This work will be undertaken in a staged format in close consultation with Council. While it is necessary to keep the project moving forward in order to maintain the highest possible chances of obtaining funding, we also need to be prudent in our expenditure to ensure the Town remains in the best possible position to react to any development with this project.

VOTING

Absolute Majority

OFFICER RECOMMENDATION

Moved Mayor Dawkins, seconded Cr Rodda

THAT Council consider the submissions presented in Attachment 1 and consider the Final Adoption of the Business Plan for the Redevelopment of the Indiana Tea House as advertised.

MOTION TO GO BEHIND CLOSED DOORS

Moved Cr Boulter, seconded Cr Pyvis

In accordance with Standing Orders 15.10 "That the Council meets behind closed doors" (LG Act s5.23) so that Council discuss the legal advice received.

Carried 6/0

Members of the Public and media were requested to leave the meeting at 7:13 PM.

MOTION TO COME FROM BEHIND CLOSED DOORS

Moved Cr Angers, seconded Cr Boulter

In accordance with Standing Orders 15.10 that the meeting be re-opened to members of the public and media.

Carried 6/0

Members of the Public and media returned to the meeting at 7:41 PM.

COMMITTEE RECOMMENDATION (PROCEDURAL MOTION)

Moved Mayor Dawkins, seconded Cr Pyvis

THAT Council defer the item.

Carried 6/0

Cr Downes, the media and members of the public left the meeting at 7:43 PM and did not return.

13 MEETING CLOSED TO PUBLIC**13.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED****MOTION FOR BEHIND CLOSED DOORS****Moved Cr Angers, seconded Mayor Dawkins****In accordance with Standing Orders 15.10 “That the Council meets behind closed doors” (LG Act s5.23) so that Council discuss the confidential report.****Carried 6/0**

Cr Rodda declared an impartiality interest in item 13.1.1 due to due to knowing the current lessees of the Cafe and Kiosk at North Cottesloe Beach (Barchetta)., and stated that as a consequence there may be a perception that his impartiality may be affected and declared that he could consider the matter on its merits and vote accordingly.

Cr Angers declared an impartiality interest in item 13.1.1 due to due to knowing the current lessees of the Cafe and Kiosk at North Cottesloe Beach (Barchetta)., and stated that as a consequence there may be a perception that his impartiality may be affected and declared that he could consider the matter on its merits and vote accordingly.

13.1.1 ASSIGNMENT OF LEASE – CAFE AND KIOSK AT NORTH COTTESLOE BEACH (BARCHETTA)

File Ref: SUB/1939
Responsible Officer: Mat Humfrey
Chief Executive Officer
Author: Garry Bird
Manager Corporate & Community Services
Proposed Meeting Date: 08 December 2015
Author Disclosure of Interest: Nil

SUMMARY

This report recommends that Council note the information contained in the confidential officer report in relation to an assignment of lease and endorse the officer recommendation.

BACKGROUND

Refer to the confidential report attached.

STRATEGIC IMPLICATIONS

Refer to the confidential report attached.

POLICY IMPLICATIONS

Refer to the confidential report attached

STATUTORY ENVIRONMENT

Local Government Act 1995 – s5.23 – Closing a meeting to the public.

(2) (e) a matter that if disclosed, would reveal —

- (ii) information that has a commercial value to a person; or*
- (iii) information about the business, professional, commercial or financial affairs of a person*

FINANCIAL IMPLICATIONS

Refer to the confidential report attached.

SUSTAINABILITY IMPLICATIONS

Refer to the confidential report attached.

CONSULTATION

Refer to the confidential report attached.

STAFF COMMENT

As the content of the report contains information that meets the conditions set in the Local Government Act s5.23(2) (c) and (e), it is recommended that the meeting be closed to the public while considering this item.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Angers, seconded Cr Rodda

THAT Council authorise the Mayor and the Chief Executive Officer to execute the assignment of the lease documents required for the Cafe and Kiosk at North Cottesloe Beach, subject to satisfactory due diligence checks to be undertaken prior to signing of the assignment documents.

Carried 6/0

MOTION FOR BEHIND CLOSED DOORS

Moved Mayor Dawkins, seconded Cr Angers

In accordance with Standing Orders 15.10 that the meeting be re-opened to members of the public and media.

Carried 6/0

13.2 PUBLIC READING OF RECOMMENDATIONS THAT MAY BE MADE PUBLIC

As there were no members of the public or media present the recommendation for item 13.1.1 was not read aloud.

14 MEETING CLOSURE

The Presiding Member announced the closure of the meeting at 7:52 PM.

CONFIRMED: PRESIDING MEMBER _____ DATE:../../....