

DCS343 POINT MOORE LEASES – CROWN RESERVE 25459

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ATTACHMENTS:	Yes (x13) – Confidential x2 A. MP Rogers - Point Moore Inundation & Coastal Processes Study Report B. The Wider Stakeholder List for Point Moore Studies Distribution C. Schedule Summary of Submissions for Point Moore Inundation & Coastal Processes Study Report D. GHD - Point Moore Residential Onsite Effluent Treatment & Disposal Study Report E. Schedule Summary of Submissions for Residential Onsite Effluent Treatment & Disposal Study F. Letters from State Government Departments & City Legal Advisors G. Point Moore Discussion Paper – 6 June 2017 H. Point Moore Discussion Paper Community Workshop – Collated Results I. The FOPMI Community Newsletters J. Schedule Summary of Submissions – Discussion Paper K. Proposed New Lease L. Confidential – Individual Submissions M. Confidential – Landgate Valuation Report

EXECUTIVE SUMMARY:

The purpose of this report is to provide a summary of the issues relating to Point Moore in order to determine the future of leasehold properties in Point Moore beyond the current lease expiry dates of 2025 and 2028.

The report recommends the voluntary surrender of existing leases and the granting of new 21 year leases subject to set conditions.

The primary inclusion in the proposed new lease is Trigger Points that would conclude the leases should significant risks eventuate that result in the area no longer being safe for human habitation.

Those lessees who choose not to enter into a new lease will retain their existing lease, which conclude in 2025 or 2028 with no provision for extension.

EXECUTIVE RECOMMENDATION:

That Council by Simple Majority pursuant to Section 3.58 of the Local Government Act 1995 RESOLVES to:

1. INVITE current lessees to surrender the current registered leases;
2. ENTER into new leases for those surrendered leases for a further period of 21 years commencing on the 1 July 2018;
3. SET the conditions of new leases to be based on the existing 2014 lease with the following additions:
 - a. That the lease term period will be 21 years unless the following risk triggers occur:
 - i. The City is ordered or directed in writing by the Chief Health Officer or Minister for Health to undertake actions due to immediate risk to public health as per the Health (Miscellaneous Provisions) Act 1911; and/or
 - ii. One or more Trigger Points to be included in the lease with respect to sea level rise, erosion, public health, power supply, wastewater and water supply, are realised requiring the leases to be mandatorily terminated;
 - b. The Trigger Points for Inundation/Erosion are determined and set at:
 - i. Where the most landward limit of the horizontal shoreline datum (HSD) is within 25m of the leasehold structure;
 - ii. Where a public road is no longer available or able to provide safe and legal access to the leasehold property due to coastal hazards;
 - iii. Where in any twelve month period any part of the leasehold property is flooded or inundated to a depth of 0.3m or greater from two or more separate hazard events;
 - iv. Where the leasehold property has sustained damage to the extent that is deemed irreparable or a total loss or is rendered uninhabitable for an extended period of time;
 - v. When water or electricity to the lot is no longer available as they have been removed/decommissioned by the relevant authority;
 - c. The Trigger Points for mandatory termination of leases for Residential Onsite Effluent Treatment are determined and set at:
 - i. If an assessment of the onsite effluent system, via the biennial licensed plumber report or from a formally lodged complaint, determines that the system is failing and it cannot be repaired/upgraded to the current (at date of failure) requirements of the Australian New Zealand Standard 1547:2012 Onsite Domestic Waste Water Management, Health (Miscellaneous Provisions) Act 1911, Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulation's 1974 and Draft Country Sewer Policy WA as amended from time to time;
 - d. Further investigation of onsite effluent and treatment systems compliance and efficiencies will occur if three consecutive samples from the City's summer/autumn period monthly beach water quality monitoring program exceed 500 **Enterococci/100ml* at Page Beach North, Point Moore North and Separation Point as per the National Health and Medical Research Guidelines for Managing Risk in Recreational Water as amended from time to time;

4. MAKE the determination subject to:
 - a. Reference to the Coastal Inundation and Erosion Study being included within the lease agreement, with the full report being provided to lessees prior to signing the lease;
 - b. Reference to the Residential Onsite Effluent Treatment and Disposal Study being included within the lease agreement, with the full report being provided to lessees prior to signing the new lease;
 - c. All leaseholders, at their own cost, be required on a biennial basis to provide evidence from a licenced plumber that the septic system is in a functional state and good working order;
 - d. In the event a trigger point is reached, a leaseholder will be provided a written notice to vacate within 6 months from the site;
 - e. No commercial uses are permitted to be conducted on the leased land as per the conditions of the Management Order;
 - f. A demolition and rehabilitation levy of \$250 per annum to all leaseholders be established and placed in a separate trust reserve account;
 - g. A lease cannot be sublet/rented, transferred, or assigned unless approved by the City and Minister for Lands in accordance with s.18 of the Land Administration Act 1997;
 - h. Consent for the new lease is obtained from the Minister for Lands in accordance with s.18 of the Land Administration Act 1997;
5. SET the lease rental fee payable at \$3,000 per annum, adjusted tri-annually by CPI;
6. SET an administrative pensioner discount of 50% on the lease rental fee to be applied to all owner/occupier pensioners that are eligible in accordance with the Rates and Charges (Rebates and Deferments) Act 1992;
7. NOTE that the lessee being responsible for separately paying;
 - a. all applicable rates, taxes, lease fees and other utilities;
 - b. legal and survey expenses associated with the, preparation, surrender, execution and registration of lease;
8. NOT revisit the matter of extension of Point Moore leases and make no further offer of new leases to current leaseholders other than as worded in the resolution; and
9. DELEGATE to the CEO authority to finalise the lease condition wording in accordance with the Council recommendation on this matter.

PROPONENT:

The proponent is the City of Greater Geraldton.

BACKGROUND:

Point Moore residents only have leasehold tenure of their land, on a Crown Reserve vested in the City. They do not have freehold tenure of the land. All current leases have an expiry date with no provision for an extension of the lease term. Feedback obtained from some leaseholders via the community engagement process indicates there is a misunderstanding of 'leasing', with a notable proportion of leaseholders assuming that they have rights to perpetual lease renewals beyond the current lease term. This is evident from submissions and questions asked at the community workshop where it was mentioned that third parties had advised a number of current leaseholders that purchasing a lease with an expiry date wasn't an issue, as in the

past, the Council had extended the leases. Expectations of some current leaseholders appear to be based on either misinformation or misunderstanding. Adequate due diligence at the time of entering, renewing or acquiring leases of Crown reserve land at Point Moore might have avoided such misunderstanding.

Council resolved at the April 2014 meeting not to consider any renewals of current leases (beyond the current lease expiry dates) until detailed studies on coastal inundation and erosion were undertaken and an environmental health assessment of the continued use of septic tanks in Point Moore were conducted. These studies and assessments have since been completed and the results provide the City with a clear understanding of the extent to which the Point Moore area is at risk from coastal erosion and inundation and how the aged septic systems present risks to the health of the community.

Based on independent, external advice from key State Government Agencies, Local Government insurers, and the City's legal advisors, Council is obliged to act to ensure the safety and wellbeing of the members of the Point Moore community. The City has sought to define a socially responsible solution to reduce its risks, and the risks of Point Moore residents, whilst providing leaseholders who genuinely want to reside in Point Moore with the opportunity to continue to do so. As described further in this report, the proposed solution is to offer current leaseholders the voluntary opportunity to surrender their existing leases (expiring variously in 2025 or 2028) in return for a new lease for 21 years which:

- Fully informs current, and potential new leaseholders, of the erosion, inundation and septic system related health risks involved in residing at Point Moore;
- Includes lease termination trigger points to ensure the safety, health and wellbeing of the resident community; and
- Includes lease termination trigger points to enable the City to undertake a managed retreat from the area when coastal erosion and inundation become an immediate risk to the safety of the community.

The history of Point Moore in brief is as follows:

Crown Reserve 25459 located in West End (Point Moore) was vested in the former Town of Geraldton on 7 December 1966 for the purpose of 'Recreation'. This came about because of the holiday cottages opposite the Port being demolished to allow for the Port expansion a few years previous.

The Point Moore lots were allocated individual Certificate of Crown Titles and leased on the proviso that lessees construct dwellings to the minimum specifications detailed within the lease. The vesting order also contained 'Clause K' which only allowed lessees to reside there for a maximum of three months in any 12 month period.

This 'Clause K' was never enforced and the Point Moore lessees successfully lobbied Council to request the removal of the 'Clause K' from the State. In 1988 the 'Clause K' was removed from the Vesting Order and a new Order was issued to the Town of Geraldton for the purpose of 'Beach Cottage and Recreation' allowing *permanent* residency on the leasehold lots.

Extract from Ordinary Meeting of Council Notes – 26 September 2017

In 2004, the City conducted a ground market valuation on the lots with a 2007 lease expiry date. At the same time, lessees were lobbying the Council to surrender their current lease and enter into a new lease with a longer tenure. This was due to there being only three years left before the expiry and the difficulty some were experiencing in obtaining mortgages, selling, etc. In 2005, Council resolved to invite the 2007 lessees to agree to an early surrender and set the lease fee at \$1,300 per annum adjusted every triennium by CPI. Of those 95 cottages due to expire in 2007, 44 lessees took up the offer.

In 2007, Council resolved to enter into 47 new lease agreements for the balance of the 2007 leases. Due to increased requests from the 2014 expiry lessees to surrender their leases early, Council also offered an early surrender and new lease agreement to all the 2014 lessees. A current ground market valuation was obtained at the time by Landgate who established a fair and reasonable market rent to be between \$5,000 and \$6,500 per lot per annum depending on the location and size of the land.

Council resolved at its meeting on 9 September 2008 to set the lease fees at \$3,000 adjusted every triennium by CPI and implement a 50% discount to eligible pensioners who held a lease at 30 June 2007. This discount was to alleviate the substantial increase in lease fees, which was also extended to eligible pensioners with a 2014 lease expiry who took up the early surrender option offered. A total of 46 leaseholders took up the early option to renew and were extended out to the 30 June 2028 leaving a balance of 34 to expire at their due date of 30 June 2014.

In 2014, Landgate undertook another ground market valuation for the balance of the expiring leases. The lease value of the lots at this time was between \$3,900 and \$4,150 per annum. The majority of the lots were valued at \$3,900 per annum, which Council resolved to set as the lease fee and to be adjusted every triennium by CPI. The 50% discount to eligible pensioners was also implemented under the same terms previously resolved in 2008.

There are two current lease expiry dates being 31 December 2025 and 30 June 2028. The tables below shows the number of leases per expiry date, fee charged and applicable pensioner discount, if any.

Leases commencing 2005/2006 (early surrender option) expiring 2025

Number of leases in total	Lease fee (01/07/2017)	Number of Pensioners receiving discount	Pensioner lease fee
44	\$1580.14	0	\$0

Leases commencing 2007 (2007 lease expiry) expiring 2025

Number of leases in total	Lease fee (01/07/2017)	Number of Pensioners receiving discount	Pensioner lease fee
47	\$3669.00	11	\$1834.50

Leases commencing 2008 (early surrender option) expiring 2028

Number of leases in total	Lease fee (01/07/2017)	Number of Pensioners receiving discount	Pensioner lease fee
22	\$3513.09	10	\$1756.55

Leases commencing 2007 (early surrender option) expiring 2028

Number of leases in total	Lease fee (01/07/2017)	Number of Pensioners receiving discount	Pensioner lease fee
24	\$3669.00	4	\$1834.50

Leases commencing 2014 (2014 lease expiry) expiring 2028

Number of leases in total	Lease fee (01/07/2017)	Number of Pensioners receiving discount	Pensioner lease fee
34	\$3993.60	10	\$1950.00

Both leases do differ in their wording with one significant difference being the ability to sublet, as it is inconsistent in current leases. For example, leases prior to the 2014 expiry contained a clause allowing subletting whereas those leases commencing 1 July 2014 do not.

Point Moore Leaseholders at a glance

There are 176 leasehold properties at Point Moore. Of these, five are under the management of the City. This means there are 171 leaseholders in Point Moore.

Based on the information available to officers, approximately 22.7% or 38 leaseholders do not reside in the City of Greater Geraldton:

- 3.5% or 6 leaseholders live within the Mid West;
- 12.5% or 21 leaseholders live in other parts of Western Australia outside of the Mid West;
- 4.7% or 8 leaseholders live interstate; and
- 0.1% or 2 leaseholders live overseas.

Currently, 76.6% or 128 leaseholders reside within the City of Greater Geraldton:

- 51.4% or 87 leaseholders live at Point Moore;
- 11.3% or 19 leaseholders live elsewhere in the City; and
- 13.1% or 22 leaseholders use a Geraldton PO Box for their mail confirmation of place of residence cannot be made.

Coastal Erosion/ Inundation and Wastewater Systems

Council at its meeting on 22 April 2014 unanimously resolved the following:

1. *ADVISE leaseholders that the City will not consider any further extension(s) to current leases (beyond this current extension) until a detailed study is prepared that examines:*
 - a. *coastal inundation / coastal protection assessment;*
 - b. *environmental assessment; and*
 - c. *health assessment of continued use of septic tanks the Point Moore area conformity with State coastal legislation requirements.*

The City has since completed the Point Moore Inundation and Coastal Processes Study and the Point Moore Residential Onsite Effluent Treatment & Disposal Study.

Coastal Inundation and Erosion

The contract to undertake the inundation and coastal erosion study was awarded to M P Rogers and Associates, an experienced coastal engineering consultancy. Inundation and erosion modelling and assessments in line with the State Planning Policy 2.6 – State Coastal Planning Policy were undertaken between July and December 2015. The report was made available to Councillors, Point Moore Lessees, and wider stakeholder and the public in January 2016.

The inundation and processes allowances study shows that:

1. Over all the planning timeframes assessed (present day, 2030, 2070, 2110) Point Moore is at risk from 1 in 100 year and 1 in 500 year inundation events – inundating Point Moore from the north and west;
2. Over the planning timeframes assessed Point Moore is at increasing risk from shoreline recession from the south due to erosion;
3. If the shoreline recession for the 2030 planning timeframe is realised, Point Moore will also become vulnerable to inundation from the south; and
4. From the combined inundation mapping and erosion setback lines, in line with the State Planning Policy 2.6 – Coastal Planning Policy, Point Moore would not be suitable for development if it were a green field site.

The Point Moore Inundation & Coastal Processes Study is attached as Attachment DCS343A.

All relevant stakeholders were provided with the report for comment.

A community information session was conducted on 13 January 2016 with MP Rogers presenting information regarding the finalised report findings and conclusions. The presentation was attended by 70 members of the Point Moore Community.

All Point Moore key stakeholders were provided a copy of the Point Moore Inundation & Coastal Processes report. Please see the Community Engagement section of this report for greater detail on how the City informed and engaged with the Point Moore community. The City opened a community submission period in which 113 community members made submissions.

All relevant government and non-government agency stakeholders were provided with the report for comment including Water Corporation, Main Roads WA, Western Power, LGIS, City legal advisors and the Departments of Lands, Planning, Parks & Wildlife, Regional Development, and Environment Regulation.

The Wider Stakeholder List for Point Moore Studies Distribution is attached as Attachment DCS343B.

A record of the submissions received is attached as Attachment DCS343C.

The Inundation study for Point Moore, Town Beach to Drummond Cove, and Greys Beach to Cape Burney form the hazard mapping component for a CHRMAP process. The adaptation hierarchy is a gateway process, which means every effort should be made to implement the first adaptation approach in the hierarchy before moving on to the next adaptation approach. The four adaptation approaches are in the hierarchy:

- Avoid the risk;
- Manage/Managed retreat from the risk;
- Accommodate the risk; and
- Protect from the risk.

If after exhausting all avoidance, managed retreat, and accommodation options, with protection being the only option there would be costs associated with protecting Point Moore from the erosion (south) and inundation (north and west). This would take the form of a revetment structure, and on current costings, this would be in the order of:

Description	Unit Cost	Total Cost
<i>Erosion Protection (South)</i>		
~1000m Revetment	\$7,000-\$10,000 per linear m	\$7.0M - \$10.0M
Typical detailed design costs	6% of construction	\$0.42M - \$0.6M
<i>Inundation (north and west)</i>		
~1800m Revetment	\$7,000-\$10,000 per linear m	\$12.6M - \$18.0M
Typical detailed design costs	6% of construction	\$0.75M - \$1.08M
	TOTAL indicative costs	\$20.8M - \$29.7M

In this context, both the Department of Planning and the Department of Lands are advising/recommending that to **avoid** the risk (from the inundation and erosion hazards) that the lease should not be renewed/extended. Further, LGIS and McLeod's Lawyers have advised that the City needs to **manage** the current risk up until the expiry of the current leases. In order to **manage** the current risk for a new lease, trigger points have been identified that allow for early termination of the lease, should the risk become too great.

Residential Onsite Effluent treatment and Disposal Study

The contract to undertake ROETD study was awarded to GHD, an experienced engineering and environmental services company.

The study had two phases. The first phase involving installation of statically placed bores to monitor ground water for contamination. Phase two involved individual inspections of waste water systems at individual properties to determine compliance with legislation with the final report being completed in November 2016.

GHD report provided the following conclusions:

1. Observations made during the field investigation indicated that a significant number of the existing septic tanks and leach drains/soak wells are in a poor condition and require remedial works and in some cases replacement.
2. The properties in the study area are significantly smaller than the minimum lot size currently permitted for onsite wastewater disposal (typically 2,000 m²), and many of the onsite systems do not comply with current standards in a number of respects (e.g. sizing, configuration, horizontal setbacks, vertical separation distance to groundwater). For many properties, it would not be possible to

upgrade the existing onsite systems to meet current standards, or install alternative onsite systems that comply with current standards.

3. Though local groundwater is not used for irrigation or any other purpose, it does discharge to the nearby ocean, and residents or others could come into contact with groundwater when undertaking a range of land-based activities. In relation to public health risks:
 - The potential for contact with groundwater when undertaking land based sub surface activities such as excavation or trenching works is considered to represent a potential health risk to residents and others undertaking such activities in the study area. This risk may increase over time as local groundwater levels increase as a direct consequence of sea level rise.
 - It is considered unlikely that elevated levels of pathogens in groundwater flowing from the study area would pose a significant health risk to persons engaging in primary contact recreation in the ocean near Point Moore given natural purification processes in the aquifer and the high levels of dilution that would typically occur where the groundwater discharges into the ocean. However, under conditions of calm winds and low wave climate, rates of dilution may be greatly reduced, thereby increasing the potential health risk. These conditions typically occur late in the bathing season from March-May.
 - It is not possible to discount the possibility that onsite disposal of effluent from the Point Moore residential properties is at least partly responsible for the observed seasonal spikes in *Enterococci* levels at the CGG's local marine water quality monitoring sites.
4. In the long term, local groundwater levels will rise as sea levels rise, and the magnitude of the rise will severely constrain the potential to dispose of wastewater generated in the study area with the existing conventional onsite septic tank and leach drain/soak well systems approach.
5. If residential properties are to remain at Point Moore for the long term then a reticulated wastewater collection system will need to be installed that routes wastewater to the Water Corporation's Geraldton wastewater scheme.
6. An indicative cost estimate to design and to construct a conventional reticulated gravity sewer type collection system to serve all properties in the study area is \$8M to \$14M. At a unit cost of approximately \$70,000 to \$123,000 per property, this is likely to be prohibitively expensive. Whilst alternative wastewater collection technologies exist that may be able to be implemented at a significantly lower capital cost, ongoing costs for these systems would be higher.
7. Whilst nutrient levels in sampled groundwater indicated elevated wastewater-induced contamination above the adopted assessment criteria for all monitoring rounds, given the high levels of dilution that typically occur where groundwater discharges into the ocean it is considered unlikely that elevated levels of

nutrients in groundwater flowing from the study area are having any measurable impact on near shore marine ecosystems.

The Point Moore Residential Onsite Effluent Treatment & Disposal Study is attached as Attachment DCS343D.

A community information session was conducted on the 7 December 2016 with GHD presenting information regarding the finalised report findings and conclusions. The presentation was attended by 52 members of the Point Moore Community.

All Point Moore key stakeholders were provided a copy of the final ROETD report. Please see the Community Engagement section of this report for greater detail on how the City informed and engaged with the Point Moore community. The City opened a community submission period for the ROETD study in which 13 community members made submissions.

A schedule summary of the 13 submissions received are attached as Attachment DCS343E.

All relevant government and non-government agency stakeholders were provided with the final ROETD report for comment and a meeting was held with each to understand their position. The stakeholders included Water Corporation, Department of Health, Department of Environment Regulation, LGIS and the City legal advisors.

Department of Environment Regulation, Water Corporation and the City legal advisors provided a written response to the City regarding the ROETD study.

Department of Environment Regulation stated the following:

DER concurs that nutrients discharging from the study site is unlikely to have a measurable impact on the near shore marine environment. However, recommends that further consideration be given to the potential ecological risk posed by ammonia in the near shore benthic environment.

Based on the information provided, the study site does not appear to require reporting under section 11 of the Contaminated Sites Act at this time.

DER letter attached as Attachment DCS343F.

Water Corporation stated the following:

Wastewater servicing options for Point Moore

There is not an Infill Sewer Program possibility for this collective of leases. A privately funded and owned pump station for the site could be a consideration.

For this option, an indicative Infrastructure Contribution amount payable to the Corporation would be in the order of \$250,000.

Water reticulation infrastructure

The water reticulation network within the enclave is constructed of Asbestos Cement (AC) pipe and dates back to the 1960's. There is in the order of 2.6 kilometres of pipe

involved. It is an anomaly of a legacy nature that the Corporation owns and operates a network of water reticulation mains within a leased landholding area.

On this point for the sake of clarity, there is no inference that this situation will change if the status quo of this landholding remains and if left undisturbed there are no immediate concerns with the asset condition. However, were a major construction exercise, such as constructing a network of wastewater plumbing be undertaken in what are close confines, the integrity of and ability to protect the AC pipe network during the course of such an exercise could be problematic. Should it be that the water network would require replacement as a part of the sewer plumbing work then the Corporation would seek to normalise the servicing arrangements with the internal water pipework becoming private plumbing.

The indicative costing provided for replacement water reticulation is in the order of \$1M - \$2M and would not be funded by WaterCorp.

Water Corporation letter attached as Attachment DCS343F.

Department of Health stated the following:

1. An onsite waste water system would be deemed to be non-functioning when the system is no longer capable of adequately treating and disposing wastewater. For example, this may present itself in the form of wastewater overflowing or back flowing either from the land application area or from some portion of the plumbing connected to the onsite wastewater system.
2. In accordance with Section 107 (1) of the *Health (Miscellaneous Provisions) Act 1911 (the Act)* the local government is responsible to assure that all on-site wastewater systems within its district are installed and maintained in a way that will not pose a risk to public health:

"The local government shall provide that all drains, sanitary conveniences, and any apparatus for the treatment of sewage within the district are constructed and kept so as not to be a nuisance or dangerous or injurious to health".

Section 108 of the Act gives the local government power to enter the property, examine a system and issue a written notice to complete the necessary work to repair or replace a system that according to the local government's judgment poses a risk to public health. It is the local government's responsibility to examine the system and define whether or not the system '*appears to be in a bad condition*' or '*a proper condition*'.

Where a local government is of the opinion that an onsite wastewater system must be repaired or replaced or where an owner of a premise applies to repair, replace or install an onsite wastewater system; such repairs, replacements or installations are required to comply with current standards and practices. The process for seeking approval to conduct such work is described by the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

3. Section 135 of the Act enables local government to declare any house or part thereof as unfit for human habitation. Section 99 of the Act describes the minimum requirements of a house.

4. The DOH does not approve alternative wastewater systems for a specific lot sizes. All domestic wastewater systems approved for the use in WA are published in the DOH website and have to be designed and installed in accordance with the site specific requirements (soil type, infiltration rate, setback distances etc.) in compliance with the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974*.

Department of Health letter attached as Attachment DCS343F.

City legal advisors **McLeod's Barristers and Solicitors** stated the following:

1. In relation to the 'failing septic systems' in the Point Moore area, the City is not under any legal obligation to take enforcement action under any of the provisions in sections 99, 135 and 354 of the Health (MP) Act;
2. In relation to the 'failing septic systems; in the Point Moore area, the City-
 - a) Were under a duty to take enforcement action under the Health (MPAct) or subsidiary legislation;
 - b) Failed to take that enforcement action.
3. It would be open to the Chief Health Officer or the Minister for Health to order or direct the City to take action (or arrange for someone else to take action and for the City to pay the costs);
4. For the purpose of the Health (MP) Act (and the Treatment of Sewage Regulations), including the services of notices-
 - a) The City is the 'owner' of each of the Point Moore sites and the buildings on those sites;
 - b) Each lessee is an 'occupier' of the leased premises and any building on those premises;
5. There is no legal obligation on the City to notify the lessees of a particular property of the potential for them to vacate the property if the septic system for the property fails but, once the City has clarified the legal position with the Department of Health, there may be good governance grounds for the City to notify lessees of a legal position that would apply if the septic system fails; and
6. It would not be necessary for the City to attempt to inform each person who proposes to sublet, or who is subletting, one of the leased premises of the potential public health risks to the area – but it would be prudent for information about those health risks to be publicly available, such as from the City's website.

City legal advisors letter attached as Attachment DCS343F.

Leasing Matters

In light of the issues of inundation, erosion, sewerage and water, it is timely to determine Point Moore's future. Further, it is considered that a 'managed retreat' is important to ensure that leasing at Point Moore is not infinite and that the written advice of relevant State agencies are taken into consideration. In particular, the City notes

the advice of the Department of Planning (DOP) that there is sufficient basis and details in the study to conclude against extension of the current leases.

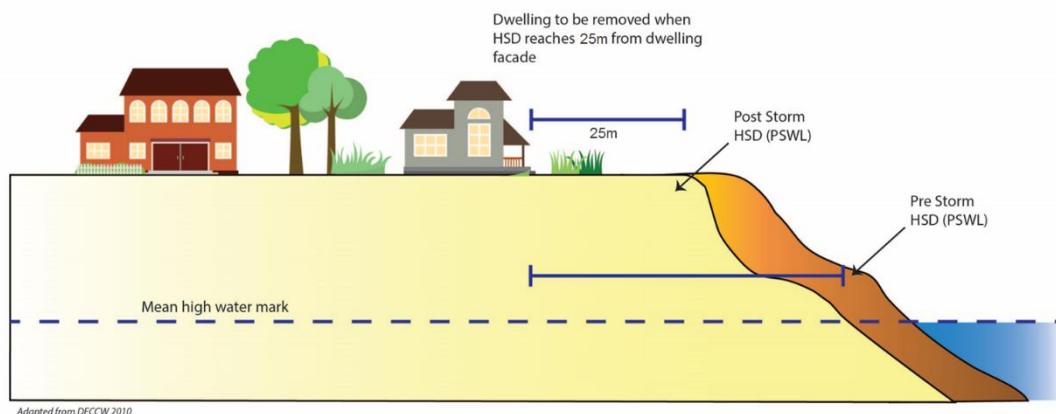
Further, DOP advises that, if their advice is not taken, consideration could be given to short term trigger based leases that include a risk notification. The former Minister for Planning reiterated this advice.

In addition, the former Minister for Lands stated that the Department of Lands and Department of Planning had collectively agreed that there is sufficient evidence to conclude that suitable adaption [sic] measures be put in place including the non-renewal of the residential leases beyond their current expiry date.

In regard to that advice, the Executive recommendation is formulated around trigger-based lease terminations that includes the applicable risk notifications and disclaimers.

The lease termination trigger points suggested for inundation and erosion are defined as follows:

- a) Where the most landward limit of the horizontal shoreline datum (HSD) is within 25m of the leasehold structure;



In relation to trigger point a), the Diagram above for example $S_1=25m$. For Point Moore, it is 23m, 5m, 26m depending on which way you are facing.

- b) Where a public road is no longer available or able to provide safe and legal access to the leasehold property due to coastal hazards;
- c) Where in any twelve month period any part of the leasehold property is flooded or inundated to a depth of 0.3m or greater from two or more separate hazard events;
- d) Where the leasehold property has sustained damage to the extent that is deemed irreparable or a total loss or is rendered uninhabitable for an extended period of time; and

- e) When water, or electricity to the lot is no longer available as they have been removed/decommissioned by the relevant authority.

The proposed lease termination triggers for onsite effluent are defined as:

If an assessment of the onsite effluent system, via the biennial licensed plumber report or from a formally registered complaint, determines that the system is failing and it cannot be repaired/upgraded to the current (at date of failure) requirements of the Australian New Zealand Standard 1547:2012 Onsite Domestic Waste Water Management, Health (Miscellaneous Provisions) Act 1911, Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulation's 1974 and Draft Country Sewer Policy WA as amended from time to time.

The proposed lease trigger points for further investigation into onsite effluent and treatment systems compliance and efficiencies Residential Onsite Effluent Treatment are defined as:

Three samples in a row from the City's summer/autumn period monthly beach water quality monitoring program exceed 500 **Enterococci/100ml* at Page Beach North, Point Moore North and Separation Point as per the National Health and Medical Research Guidelines for Managing Risk in Recreational Water as amended from time to time.

**Enterococci are bacteria found in large concentration in human faeces. They are an indicator bacteria used to detect and estimate the level of faecal contamination in water. They are not dangerous to human health but are used to indicate the presence of a health risk. Anything above this level may indicate a significant risk of high level of illness transmission.*

As part of the City's commitment to transparency regarding Point Moore, City staff prepared a Discussion Paper that provided a summary of the issues and obligations the City has with Point Moore concerning the risks associated with coastal erosion, inundation and the impact the aged wastewater disposal systems are having on the area. The objective of the Discussion Paper was to facilitate a better understanding of the issues and enable the City to engage with the community on possible lease options beyond the current lease expiry dates of 2025 and 2028.

Council at its meeting on the 27 June 2017 resolved the following:

1. *APPROVE the release of the Point Moore Discussion Paper for public comment and community engagement;*
2. *CONDUCT community engagement in late July early August 2017; and*
3. *LIST for determination at the September 2017 Council meeting.*

The Discussion Paper is submitted as Attachment DCS343G.

Community Feedback on possible lease options and conditions.

The Point Moore Discussion Paper Community Workshop Report is attached as Attachment DCS343H.

Possible Lease Options: At the Point Moore Discussion Paper Community Workshop, 29 of the 52 workshop participants provided the following feedback on the three possible lease options. Comments regarding these lease options begin on Page 4 of the Workshop Report.

Don't offer new leases	2	7%
Offer new lease provided coastal/waste/water infrastructure is funded by the State Government	1	3%
Offer new lease with conditions	18	62%
Neutral or no preference provided	8	28%

Possible Lease Conditions: At the Point Moore Community Workshop 48 of the 52 workshop participants provided the following feedback on the three possible lease options. Comments regarding all lease conditions options begin on Page 6 of the Workshop Report.

1. Provide a new lease up to 21 years to 2038 and specifically state no lease extensions will be provided. Comments on Workshop Report page 6.

Can live with	28	58%
Cannot live with	18	38%
Neutral or no preference provided	2	4%

2. Reference to the Coastal Inundation and Erosion Study be included in the agreement and the report be provided as an annexure. Comments on Workshop Report page 7.

Can live with	37	77%
Cannot live with	9	19%
Neutral or no preference provided	2	4%

3. Reference to the Residential Onsite Treatment and Disposal Study be included in the agreement and the report be provided as an annexure. Comments on Workshop Report page 8.

Can live with	39	81%
Cannot live with	5	11%
Neutral or no preference provided	4	8%

4. Trigger points be included in the lease with respect to sea level rise, erosion, public health, wastewater, and water supply, which would require the leases to be mandatorily terminated should those trigger points be realised. Comments on Workshop Report page 8.

Can live with	16	33%
Cannot live with	25	52%
Neutral or no preference provided	7	15%

5. Leaseholders be required to provide evidence on an 'XX' (e.g. 12 month?) basis from a licenced plumber that the septic system is in a functional state and good working order. Comments on Workshop Report page 9.

Can live with	39	81%
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Extract from Ordinary Meeting of Council Notes – 26 September 2017

Cannot live with	3	6%
Neutral or no preference provided	6	13%

6. No commercial uses are permitted on the leased land without the consent of the Minister and City. Comments on Workshop Report page 10.

Can live with	30	63%
Cannot live with	13	27%
Neutral or no preference provided	5	10%

7. Only owner-occupier (all) aged pensioners be provided a discount on lease fees. *eliminates inequity. Comments on Workshop Report page 10.

Can live with	42	89%
Cannot live with	2	4%
Neutral or no preference provided	4	7%

8. A demolition and rehabilitation levy to be applied to all leaseholders of approximately \$500 per annum. Comments on Workshop Report page 11.

Can live with	23	48%
Cannot live with	17	35%
Neutral or no preference provided	8	17%

9. Leases to be terminated upon the death of the leaseholders. Comments on Workshop Report page 12.

Can live with	0	0%
Cannot live with	45	94%
Neutral or no preference provided	3	6%

10. Lease not to be sublet, transferred, or assigned (existing clause) *Leases not provided for investment purposes. Comments on Workshop Report page 13.

Can live with	6	12%
Cannot live with	36	75%
Neutral or no preference provided	6	13%

11. Lease fees subject to CPI increases (existing clause) Comments on Workshop Report page 14.

Can live with	19	50%
Cannot live with	9	24%
Neutral or no preference provided	10	26%

12. To ensure compliance with all lease conditions leaseholders will be required to provide a biennial return certificate of residency. Comments on Workshop Report page 15.

Can live with	20	41%
Cannot live with	20	42%
Neutral or no preference provided	8	17%

In summary, the majority of the workshop participants said they could live with:

- New lease specifically stating no lease extension will be provided;

- The two reports being included in a new lease as an annexure;
- Providing evidence from a plumber of their functioning septic system;
- No commercial uses permitted without consent from the City; and
- Only owner-occupier aged pensioners get a discount of lease fees.

More than half of workshop participants said they could not live with:

- Trigger Points being included in the lease;
- Lease being terminated upon death of the leaseholder; and
- Leases not to be sublet/rented, transferred or assigned.

There was no majority on whether or not participants could live with:

- Application of a demolition levy of approx.\$500/annum;
- Leases being subject to annual CPI increases; and
- Ensuring compliance via a biennial return certificate of residency.

The results of the community engagement were used to inform the Executive Recommendations in as such:

- A new 21 year lease with Trigger Points, which should these trigger points come into effect, it would no longer be safe or viable to live at Point Moore;
- Lease holders are to provide evidence from a licensed plumber their septic system is functioning and in good working order;
- No commercial uses permitted, and leases cannot be sublet, transferred or reassigned without approval of Council and the Minister for Lands;
- A 50% discount on lease fees to be applied to all eligible pensioners provided they reside at Point Moore;
- A demolition levy of \$500/annum be established; and
- After July 2028, a lease is to be terminated upon the death of the leaseholder and cannot be bequeathed unless approved by Council.

ECONOMIC, SOCIAL, ENVIRONMENTAL & CULTURAL ISSUES:

Economic:

There are 176 leasehold properties at Point Moore and an estimated 300 people live in the community. If the leases were not renewed and these residents needed to find alternative housing simultaneously, this would have economic impacts on the local economy.

Social:

There are 176 leasehold properties at Point Moore and an estimated 300 people live in the community. Each leaseholder has their own experience of how they came to live in Point Moore and how their welfare, housing security, financial security and mental health will be impacted if leases are not renewed.

One of the most likely social impacts of failure to provide new leases or enacting a trigger that results in leases being terminated is housing insecurity. Submissions

revealed that for many, their leasehold at Point Moore is their only home and if they were no longer able to reside at Point Moore, they would be vulnerable to homelessness; may need to reside with family members; be trapped in a long-term rental dependency; or have to live in public housing in a neighbourhood not of their choosing. The pensioner and single parent demographic in the community is particularly vulnerable to housing insecurity as they are less likely to secure a mortgage. Other residents may find themselves transitioning from being leaseholders to renters and may remain renters if they were not be able to sell their leasehold to recoup their investment. This could lead to long-term financial instability or financial hardship.

Although these impacts may be significant, they are impacts associated with entering into any lease agreement and are not specific to Point Moore. These impacts might have been avoided if current leaseholders had fully considered the consequences of lease non-renewal and undertaken sufficient due diligence of their own accord at the time of entering, renewing or acquiring leases of Crown Reserve land at Point Moore.

While the mental health of leaseholders is important, the physical health and wellbeing of the community in regard to continued residency at Point Moore must also be considered. The findings of the ROETD Study indicate septic systems are failing, which is resulting in potential health implications for leaseholders, their family members and visitors to the area.

While the WA Health (Miscellaneous Provisions) Act 1911 obliges the Government to regulate wastewater disposal, the City has a broader duty of care that goes beyond just statutory compliance with the Act. The City has a duty of care to act in the best interest of the community, to protect individuals from harming themselves and to prevent their actions from harming others. This compels the City to ensure the scenario of a member of the community becoming ill, or worse, from coming in primary contact with contaminated groundwater through simple activities such as digging a hole in the garden is prevented.

Therefore, the City has sought to define a socially responsible solution to reduce its risks, and the risks of Point Moore residents, which takes into consideration the feedback leaseholders provided via the community engagement process, considers the social impacts of not renewing leases, whilst providing leaseholders who genuinely want to reside in Point Moore with the opportunity to continue to do so whilst ensuring the health and safety of the community are maintained.

Environmental:

The environmental impacts are detailed within the body of the report and are covered within the attached Discussion Paper DCS343G.

Cultural & Heritage:

There is no formal cultural, heritage or Aboriginal impacts that relate to this proposal, as Point Moore does not have any formal heritage, cultural or Aboriginal listings. However, it is noted that leaseholders have stated that the community of Point Moore has become iconic to Geraldton since the 1960's and contributes to the nostalgia and tourism appeal of Geraldton.

Furthermore, a Conservation Assessment for the Point Moore Lighthouse carried out in 2000 acknowledged that even though there is no Aboriginal listings, heritage listings or cultural listings for the area of Point Moore, Aboriginal people did traditionally meet at Point Moore to fish. The assessment also notes that there may be some Aboriginal burial sites along all coastal areas including Point Moore but stated that there has been no evidence to confirm this and that any Aboriginal material present may have already been disturbed, destroyed or otherwise obscured as a result of a long history of development in the Point Moore area.

RELEVANT PRECEDENTS:

The history of Council decisions associated with the Point Moore leases are included within the Background section of this report. Other relevant precedent is as follows:

Drummond Cove Leases

The 23 leases on Reserve 24738 located on the foreshore at Drummonds Cove expired on 31 December 2016. At the end of the lease, the lessees were required to remove their entire infrastructure from the leased land.

As compensation to the lessees, the former Shire of Greenough offered vacant lots in the new subdivision located on the east side of Whitehill Road, Drummonds Cove via a ballot. The selected lots were located in Surf Place, Beach View, Tailer Street and Hester Street. These lots were sold to the lessees based on the 2005 valuation with an addition discount of 20% discount to leaseholders who held a valid lease as at 28 February 2005. In addition, the Lessees were offered an interest free loan to be repaid over a five-year period. Lessees were required to enter into an agreement with the City and pay a \$5,000 deposit.

To assist with the removal of their cottages, lessees were paid a 'Clean Up Bonus' by the City. A payment of \$12,500 plus a proportion of interest received on the \$312,500 held in trust for the Clean Up Bonus, was given to each lessee upon satisfactorily removing their cottages. This equated on average to around \$16,000 per property.

Sunset Beach Holiday Park

The City has a Management Order K985563 over Reserve 27317 Bosley Street, Sunset Beach for the purpose of Caravan Park and Parking with the Power to Lease for a period of up to 35 years.

Due to the risk of coastal erosion experienced along the northern foreshore area of Reserve 27317, two leases were issued concurrently commencing 1 December 2009. The first lease being for a 7056m² portion of the Reserve being the 'Managed Coastal Retreat Area' and the second lease being for a 5.7028 hectares portion of the Reserve being the 'Non-Managed Coastal Retreat Area'. The purpose of this is to give the Lessor (City) the power to issue the Lessee with a Deed of Surrender of Lease should it be determined in the Lessor's reasonable opinion the Premises become substantially affected by erosion.

On the 22 November 2016, Council agreed to a surrender of those leases and enter into new lease agreements to enable them to achieve long term financial security to their investment to a proposed development of the vacant land onsite.

The first lease area being the 'Managed Coastal Retreat Area' was amended accordingly to reflect current coastal setbacks as identified in the Inundation and Coastal Processes Study.

COMMUNITY/COUNCILLOR CONSULTATION:

There has been extensive community engagement with Point Moore leaseholders, residents and other stakeholders regarding the results of the two studies. There were three opportunities for Point Moore stakeholders to learn about the issues facing the area via two community information sessions and a community workshop.

The first community information session held on 13 January 2016 to present the results of the Point Moore Inundation and Coastal Processes Study was attended by 70 members of the Point Moore community.

Promotion of the information session included mailing invitations to all Point Moore leaseholders and letters of invitation were hand delivered to all Point Moore residences to ensure sub-lessees were also invited.

Letters of invitation were also sent to:

- the owners of the Belair Caravan Park, who have a commercial lease agreement with the City;
- the Geraldton Volunteer Marine Sea Rescue Group have a lease agreement with the City for their operations located on the Point Moore Foreshore;
- The owner of 481 Marine Terrace; and
- The three State Government agencies who manage the Point Moore lighthouse (Dept. of Transport, State Heritage Office and the Australian Maritime Safety Authority).

The Study was presented by consultant MP Rogers and followed by a question and answer session where questions were written on index cards, collected, themed and answers provided by the consultant and members of the Executive Management Team. The City also provided written responses to the questions to all leaseholders. These were mailed to all leaseholders and hand delivered to all Point Moore residences. Both the study and the questions and responses were also published on the City's website.

The second community information session was held on 7 December 2016 to present the results of the Point Moore Residential Onsite Effluent Treatment & Disposal Study (DCS343D) was attended by 52 members of the Point Moore community.

Promotion of the Information session included mailing invitations to all Point Moore leaseholders and letters of invitation were hand delivered to all Point Moore residences to ensure sublessees were also invited.

Letters of invitation were also sent to:

- The owners of the Belair Caravan Park;
- The Geraldton Volunteer Marine Sea Rescue Group;
- The owner of 481 Marine Terrace; and

- The Dept. of Transport, State Heritage Office and the Australian Maritime Safety Authority who manage the lighthouse.

The Study was presented by consultant GHD and followed by a question and answer session where questions were written on index cards, collected, themed and answers provided by the consultant and members of the Executive Management Team. The City also provided written responses to the questions to all leaseholders. These were mailed to all leaseholders and hand delivered to all Point Moore residences. Both the Study and the questions and responses were also published on the City's website.

Council were also kept up to date on progress via Concept Forums presentations of both studies.

City officers have progressively met with executive members of the Friends of Point Moore Inc. (FOPMI) community group to provide updates on progress of the outcomes of the ROETD Study and to discuss the responses received from various third parties regarding the study results.

In turn, FOPMI agreed to update the Point Moore Community on the progress the City was making via their community newsletters published in March, July and August 2017. These newsletters were emailed to their 114 members and hand delivered to all residences in Point Moore.

The FOPMI Community Newsletters are submitted as Attachment DCS343I.

The Discussion Paper DCS343G was released for public comment on the City's website on the 28 June 2017. The deadline to make a submission was 7 August 2017 at 5pm. All Point Moore leaseholders were mailed a copy of the Discussion Paper and a letter of invitation to attend a community workshop on the Discussion Paper. A letter of invitation, which included the website link to the Discussion paper was also hand delivered to all residences in Point Moore to ensure sublessees were also invited.

A total of 83 submissions were received and a schedule summary of those submissions are submitted as Attachment DCS343J.

Individual submission papers have been supplied separately to Council.

On 19 July 2017, the City conducted the community workshop to present the issues the City is facing concerning Point Moore and gather feedback on the options or conditions on what could constitute a new lease. The workshop was attended by 50 leaseholders who represented 43 Point Moore leaseholds, and 2 non-residents. Only one leaseholder who registered was unable to attend.

Promotion of the community workshop included mailing invitations to all Point Moore leaseholders and letters of invitation were hand delivered to all Point Moore residences to ensure sublessees were also invited. The workshop was also promoted in the FOPMI community newsletter.

Letters of invitation were also emailed to:

- The owners of the Belair Caravan Park;
- The Geraldton Volunteer Marine Sea Rescue Group;
- The owner of 481 Marine Terrace; and
- The Dept. of Transport, State Heritage Office and the Australian Maritime Safety Authority who manage the lighthouse.

The community workshop featured a number of short presentations followed by a question, answer session, and concluded with a deliberation session where participants were encouraged to discuss what they had heard and provide their feedback on the lease options, possible lease conditions and a possible lease renewal process. A full report on the outcomes of the community workshop which included feedback on the possible lease options and conditions, written responses to 100 questions and the power point presentation was either mailed, emailed or hand delivered to all Point Moore leaseholders on Monday 7 August 2017. The full report was also published on the City's website. FOPMI also forwarded the workshop report to their members.

At the request of FOPMI, the City also extended the submission deadline to Friday 11 August 2017 to provide leaseholders with the opportunity to review the workshop report and make a submission. Leaseholders were informed of the deadline extension in a letter accompanying the workshop report.

The proposed new lease draft has been based on the 2014 current lease with the new conditions included. This is submitted as attachment DCS343K.

LEGISLATIVE/POLICY IMPLICATIONS:

Section 3.58 of the Local Government Act 1995 details the process for 'disposing' (in this case leasing) of property.

Section 18 of the Land Administration Act 1997 details various transactions relating to Crown Land to be approved by the Minister.

Planning and Development Act 2005 – Part 3 – State Planning Policy No. 2.6 State Coastal Planning Policy.

Health (Miscellaneous Provisions) Act 1911.

Australian New Zealand Standard 1547:2012 Onsite Domestic Waste Water Management, Health (Miscellaneous Provisions) Act 1911.

Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulation's 1974.

Draft Country Sewer Policy WA as amended from time to time.

National Health and Medical Research Guidelines for Managing Risk in Recreational Water (as amended from time to time).

Rates and Charges (Rebates and Deferments) Act 1992.

Contaminated Sites Act 2003

FINANCIAL AND RESOURCE IMPLICATIONS:

The City will generate the following revenue in 2017-18 from Point Moore properties:

- Rates levied - \$198,254
- Lease fees - \$478,045

Based on any consideration to develop and install either or both required infrastructure relating to Foreshore Protection and Waste & Water Services, primary modelling has been undertaken to analyse the possible impacts to Council and leaseholders. At this time, the modelling only reflects the impacts per capital costs and are indicative figures.

Modelling has been based on preliminary estimates using the following low to high range cost scenarios:

Foreshore Protection Capital Costs:

Low Range - \$21m
 Medium Range - \$25m
 High Range - \$28m

Waste/Water Infrastructure Capital Costs:

Low Range - \$8m
 Medium Range - \$11m
 High Range - \$14m

Modelling Underlying Principles:

- Council fully funds the proposed infrastructure
- Funding is via debt finance
- Period of financing 20 years and interest rate based on current WA Treasury Corp rates.
- Includes depreciation expenses

The following tables summarises the indicative costs to leaseholders if they were required to service the capital outlay (annual debt serving costs and additional depreciation expense) on the proposed infrastructure:

Table 1: Cost per Leasehold per Annum (Based on 20 year scenario)

<i>Project Description</i>	Cost per Leaseholder Per Annum		
	<i>Low Range</i>	<i>Mid Range</i>	<i>High Range</i>
	\$	\$	\$
Combined Foreshore Protection & Waste/Water Infrastructure	15,140	18,670	21,650
Waste/Water Infrastructure Only	3,510	4,830	6,150

Table 2: Overall cost per Leasehold (Based on 20 year payment scenario)

Project Description	Overall Cost per Leaseholder		
	Low Range	Mid-Range	High Range
	\$	\$	\$
Combined Foreshore Protection & Waste/Water Infrastructure	302,800	373,400	433,000
Waste/Water Infrastructure Only	70,200	96,600	123,000

The following table provides indicative figures in “today terms” for Council to service the costs of both proposed infrastructure capital outlays from general revenue via a “one-off” increase to rates that would be additional to the annual LTFP increase of 3.5% plus growth.

Table 3: General Revenue Impact – Rating Adjustment

Project Description	General Rates Increases		
	Low Range	Mid-Range	High Range
	%	%	%
Combined Foreshore Protection & Waste/Water Infrastructure	6.0%	7.3%	8.5%
Waste/Water Infrastructure Only	1.4%	1.9%	2.4%

In dollar terms, the impact in relation to the existing LTFP and over a ten year period, Council would be drawing between an additional \$26m to \$38m in rates from the community to enable it to service the cost of the capital outlay for the two infrastructure components which just represents 50% of the proposed period in servicing the costs.

The other key factor that by debt financing it reduces Council’s capacity to borrow for other priority works in the future. Based on absorbing the indicative costs within Council’s existing LTFP and without any change to the current annual indexing of rates, the inclusion of the proposed infrastructure could change the City’s debt coverage ratio (one of the measures of financial sustainability and capacity) by up to 1.5 numeral points, which would place this ratio within the basic standard range. This ratio is both an indicator to Council on its ability to produce enough cash to adequately service its borrowings, and its capacity to obtain new finance. The other major impact would be on Council’s reduced ability and capacity to manage unexpected peaks in capital expenditure that may result from future emergent works or other funding opportunities in support of major infrastructure projects that may have broader and more significant community based and economic benefits.

Landgate were engaged to provide an assessment of the ground rental for the 175 lease lots. Having regard to sales evidence applied, a value broadly in the range of \$100K to \$130K for the subject lots as if held as unencumbered freehold titles as been applied. The report suggests by applying a rate return or yield of around 3% for residential property of this nature to the above referred value range of \$100K to \$130K, the result would reflect rental levels at approximately \$3K to \$4K per annum.

Accordingly, assessment of ground rental has been made within this range, taking into account slight variations of factors, which may affect the overall vacant property value

with such features including size, configuration, location and aspect being considered. Council have been provided a copy of the full report separately.

INTEGRATED PLANNING LINKS:

Title: Community Strategy 1.3.4	1.3 Community Health and Safety Encouraging initiatives to improve community safety.
Title: Environment Strategy 2.1.1	2.1 Revegetation-rehabilitation-Preservation Working with the community and environmental groups to identify and implement environmental initiatives.
Title: Governance Strategy 4.1.1	4.1 Community Engagement Continuing to engage broadly and proactively with the community.
Title: Governance Strategy 4.5.1	4.5 Good Governance & Leadership Strengthening the governance role of Councillors by informing, resourcing, skilling and supporting their role.

REGIONAL OUTCOMES:

There are no impacts to regional outcomes.

RISK MANAGEMENT:

This report includes details of the associated risks and is further complimented by the attached Discussion Paper DCS343G that summarises the risks and issues, the works required to mitigate them, and the indicative costs.

ALTERNATIVE OPTIONS CONSIDERED BY CITY OFFICERS:

There were a number of options that were considered by City Executives and Officers, these are as follows:

1. Allow the current leases to run to the end of their term, i.e. 2025 and 2028 respectively and not renew the leases after that time; or
2. Offer a new lease of 21 years to 2039 (maximum allowable term) commencing 1 July 2018, subject to the State Government and the leaseholders agreeing to

fund the necessary infrastructure works to mitigate the inundation, erosion, wastewater and water risks. This option would not mitigate the risks until such time that the infrastructure works are complete; or

3. Offer a new lease of 21 years to 2039 (maximum allowable term) commencing 1 July 2018, subject to the State Government agreeing to fund the necessary infrastructure works to mitigate the inundation, erosion, wastewater and water risks by 2020. This option would not mitigate the risks until such time that the infrastructure works are complete.

The Discussion Paper DCS343G also considered a condition as part of any new lease that required leases to be terminated upon the death of the leaseholder preventing any bequeathment to family or others. This was considered as a condition but was not included as an Executive recommendation given the impact of social and existing financial implications to the leaseholder.

A further condition within the Discussion Paper DCS343G for consideration was that any new lease could *not* be sublet/rented, transferred, or assigned.

These conditions remain an option for Council to impose in the interests of implementing a full managed retreat over the reserve; however, the Executive recommendation has provided this condition based on approval for this being received from the City and the Minister for Lands in accordance with s.18 of the Land Administration Act 1997.

Lease consistency is also an issue in that the ability to sublet is inconsistent in current leases. For example, leases prior to the 2014 expiry contained a clause allowing subletting whereas those leases commencing 1 July 2014 do not.

Executive consider that in all reality, it has become very clear from the submissions and workshop responses that conditions imposed that will prevent bequeathment, subletting/renting, transfer or assignment would not receive support from the leaseholders and would really be a case of the alternative option 1 above coming into force that the leases will expire at due date as they simply will not sign up to a new lease.

COUNCIL DECISION

MOVED CR DOUGLAS, SECONDED CR HALL

That Council by Simple Majority pursuant to Section 3.58 of the Local Government Act 1995 RESOLVES to:

1. **INVITE current lessees to surrender the current registered leases;**
2. **ENTER into new leases for those surrendered leases for a further period of 21 years commencing on the 1 July 2018;**
3. **SET the conditions of new leases to be based on the existing 2014 lease with the following additions:**
 - a. **That the lease term period will be 21 years unless the following risk triggers occur:**
 - i. **The City is ordered or directed in writing by the Chief Health Officer or Minister for Health to undertake actions due to immediate risk to public health as per the Health (Miscellaneous Provisions) Act 1911; and/or**

- ii. **One or more Trigger Points to be included in the lease with respect to sea level rise, erosion, public health, power supply, wastewater and water supply, are realised requiring the leases to be mandatorily terminated;**
 - b. **The Trigger Points for Inundation/Erosion are determined and set at:**
 - i. **Where the most landward limit of the horizontal shoreline datum (HSD) is within 25m of the leasehold structure;**
 - ii. **Where a public road is no longer available or able to provide safe and legal access to the leasehold property due to coastal hazards;**
 - iii. **Where in any twelve month period any part of the leasehold property is flooded or inundated to a depth of 0.3m or greater from two or more separate hazard events;**
 - iv. **Where the leasehold property has sustained damage to the extent that is deemed irreparable or a total loss or is rendered uninhabitable for an extended period of time;**
 - v. **When water or electricity to the lot is no longer available as they have been removed/decommissioned by the relevant authority;**
 - c. **The Trigger Points for mandatory termination of leases for Residential Onsite Effluent Treatment are determined and set at:**
 - i. **If an assessment of the onsite effluent system, via the biennial licensed plumber report or from a formally lodged complaint, determines that the system is failing and it cannot be repaired/upgraded to the current (at date of failure) requirements of the Australian New Zealand Standard 1547:2012 Onsite Domestic Waste Water Management, Health (Miscellaneous Provisions) Act 1911, Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulation's 1974 and Draft Country Sewer Policy WA as amended from time to time;**
 - d. **Further investigation of onsite effluent and treatment systems compliance and efficiencies will occur if three consecutive samples from the City's summer/autumn period monthly beach water quality monitoring program exceed 500 *Enterococci/100ml at Page Beach North, Point Moore North and Separation Point as per the National Health and Medical Research Guidelines for Managing Risk in Recreational Water as amended from time to time;**
- 4. **MAKE the determination subject to:**
 - a. **Reference to the Coastal Inundation and Erosion Study being included within the lease agreement, with the full report being provided to lessees prior to signing the lease;**
 - b. **Reference to the Residential Onsite Effluent Treatment and Disposal Study being included within the lease agreement, with the full report being provided to lessees prior to signing the new lease;**
 - c. **All leaseholders, at their own cost, be required on a biennial basis to provide evidence from a licenced plumber that the septic system is in a functional state and good working order;**
 - d. **In the event a trigger point is reached, a leaseholder will be provided a written notice to vacate within 6 months from the site;**

- e. No commercial uses are permitted to be conducted on the leased land as per the conditions of the Management Order;
 - f. A demolition and rehabilitation levy of \$250 per annum to all leaseholders be established and placed in a separate trust reserve account;
 - g. A lease cannot be sublet/rented, transferred, or assigned unless approved by the City and Minister for Lands in accordance with s.18 of the Land Administration Act 1997;
 - h. Consent for the new lease is obtained from the Minister for Lands in accordance with s.18 of the Land Administration Act 1997;
5. SET the lease rental fee payable at \$3,000 per annum, adjusted tri-annually by CPI;
 6. SET an administrative pensioner discount of 50% on the lease rental fee to be applied to all owner/occupier pensioners that are eligible in accordance with the Rates and Charges (Rebates and Deferments) Act 1992;
 7. NOTE that the lessee being responsible for separately paying;
 - a. all applicable rates, taxes, lease fees and other utilities;
 - b. legal and survey expenses associated with the, preparation, surrender, execution and registration of lease;
 8. NOT revisit the matter of extension of Point Moore leases and make no further offer of new leases to current leaseholders other than as worded in the resolution; and
 9. DELEGATE to the CEO authority to finalise the lease condition wording in accordance with the Council recommendation on this matter.

CARRIED 10/1

Mayor Van Styn	YES
Cr. Douglas	YES
Cr. Bylund	YES
Cr. Keemink	YES
Cr. Hall	YES
Cr. Critch	YES
Cr. Tanti	N/V
Cr. Reymond	NO
Cr. Mcllwaine	N/V
Cr. Freer	YES
Cr. Colliver	YES
Cr. Caudwell	YES
Cr. Thomas	YES

