Point Moore Discussion Paper

Introduction

While the current leases at Point Moore do not provide for an extension of the term, there is a growing expectation from leaseholders that they have rights beyond the current lease term, and that the Council should provide clarity with respect to the future of leasehold properties at Point Moore.

The purpose of this discussion paper is to provide a summary of the issues relating to Point Moore in order to facilitate discussion and engagement with the Council and community, with the view to the Council finally determining the future of leasehold properties in Point Moore - beyond the current lease expiry dates of 2025 and 2028.

Background

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 as a result 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 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

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 an early surrender and set the lease fee at $1,300 per annum. Of those 95 cottages due to expire in 2007, 44 lessees took up the offer.

In 2007, Council resolved to enter into 51 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 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 35 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. 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.

A summary of current leases is provided in the following table:

Expiry Date	Lessees	Commencement Lease Fees	Pensioners Receiving Discount	Pensioners in Total	Total Lease Revenue 2016/17
2025 (Early Surrender)	44	$1,300	0	11	$230, 962.16
2025	50	$3,000	10	13	
2028 (Early Surrender)	46	$3,000	14	25	$247 652.17
2028	34	$3,900	10	13	
TOTALS	**174**		**34**	**62**	**$478,614.33**

Coastal Inundation and Erosion

At the Ordinary Meeting of Council on 22 April 2014 Council resolved for the City to undertake a coastal inundation study of the Point Moore area.

- Planning to undertake the study took place between December 2014 and March 2015 including the development of a design brief and a community engagement plan.
- M P Rogers and Associates, and experienced coastal engineering consultancy was engaged to undertake the study in July 2015.
- 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;
4. From the combined inundation mapping and erosion set-back 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 City held a community information session on 13 January 2016 with M P Rogers presenting information about the inundation and erosion assessment and the findings of the report.

Each lessee, and land and property owner at Point Moore was provided with a copy of the report. Wider stakeholders including all local real estate agents, settlement agencies, State departments, and Parliamentarians representing Geraldton and the mid-West were also provided with a copy of the report.

The report was made, and is, publicly available on the City's website.

City officers liaised with Friends of Point Moore throughout the study to progressively update them with information as it became available to the City.

All relevant stakeholders were provided with the final report for comment and a position statement were sought from each major stakeholder. The major stakeholders included Department of Planning, Department of Lands, LGIS and the City Legal Advisors.
The City liaised with its insurers, legal advisors, the Department of Lands and the Department of Planning. Their responses are outlined below:

LGIS Advice

LGIS identified that the City must timeously implement:

- Erection of appropriate [inundation] signage in the Point Moore area;
- Uniformly disclose hazard information across all leaseholders (current and potential), residents, assignees and the public generally;
- Development and implementation of an appropriate evacuation plans specific to Point Moore;
- Development and effective communication and media strategy.

In response, the City:

- Is in the process of erecting appropriate [inundation] signage in the Point Moore area;
- Has provided the report and a summary of the findings to all leaseholder (current and potential), residents, assignees and the public generally;
- Notes that evacuation is the responsibility of the WA Police and State to authorise and organise an evacuation event;
- Has undertaken regular minuted/noted PMT (Project Management Team) meetings;
- Has developed and continuously updates community engagement plans with respect to the Point Moore settlement.

McLeods Solicitors Advice

McLeods Solicitors identified that the City:

- Should provide Point Moore lessees access to the inundation report;
- Consider what measures it could take to ensure that:
    - The inundation report is publicly available;
    - Those most likely to be affected are specifically alerted to the report;
    - Those most likely to be affected are encourage to consider the information carefully, particularly in the context of the decision they make about their continuing occupancy, use or development of their residences;
- Should revise and strengthen lease clauses related to the hazard.

In response, the City:

- Has provided Point Moore lessees access to the inundation report;

- Has made available on its website the inundation report, and provided media releases to promote awareness of the report;
- Has provided each leaseholder and lease address with a copy of the report;
- Has undertaken a community information session for the inundation study to assist those that are most likely to be affected in their decision-making processes;
- Has strengthened the deed-of-assignment information relating to the hazard in transfer of leases;
- Is developing a strengthened lease agreement with specific information on the hazards and any trigger points for termination of lease – should the leases be renewed.

Department of Planning

The department of planning identified that there is sufficient basis and details in the study to conclude against extension of the leases.

Further, they advised, that if this advice is not taken, consideration could be given to short term trigger-based leases that include a risk notification.

Minister for Planning

The Minister for Planning reiterated the advice from the Department of Planning stating that there is sufficient evidence in the study to recommend against extension of the current leases.

Department of Lands

Department of Lands identified that the reserve (Point Moore) is at risk from coastal hazards and that risk is increasing both in extent and depth. They conclude that further discussion should occur between the City and DOL regarding the long term land use planning for the area post expiry of the current leases.

Minister for Lands

The Minster 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.

Coastal Hazard Risk Management and Adaptation Planning (CHRMAP)

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;
- Protect from the risk.

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.

In this context, LGIS and McLeod's have advised that the City needs to **Manage** the current risk up until the expiry of the current leases.

Protecting from the Risk

If the 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
Erosion Protection (South)		
~1000m Revetment	$7,000-$10,000 per linear m	$7.0M - $10.0M
Typical detailed design costs	6% of construction	$0.42M - $0.6M
Inundation (north and west)		
~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**

Residential Onsite Effluent treatment and Disposal Study

On April 22 2014, Council resolved for the City to undertake a Residential Onsite Effluent Treatment and Disposal Study (ROETD) of the Point Moore area. The contract to undertake this study was awarded to GHD an experienced engineering and environmental services company.

The study had two phases with the first phase involving installation of strategically 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 provide the following conclusions

1. Observations made during the field investigation indicate 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 will 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 routs 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 $6 to 10M. At a unit cost of approximately $35,000 to $55,000 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 City held a community information session on 7 December 2016 with GHD presenting information regarding the finalised report findings and conclusions.

The report was made, and is, publicly available on the City's website. Each property was provided a copy of the final ROETD report. The City opened a community submission period for the ROETD study, which had 13 community members provide submission.

City officers have also met with members of the Friends of Point Moore Association to progressively update them with a number of updates as responses are received from various third parties and generally to provide a status update.

All relevant stakeholders were provided with the final ROETD report for comment and a meeting was held with each key stakeholder to understand their position. The major 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 have provided a written response to the City regarding the ROETD study. Please note that the Department of Health are yet to respond to the matter in writing. A summary of advices provide by these agencies is provided as follows:

Department of Environment Regulation
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.

Water Corporation

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. (this relates to a standard headworks contribution for the use of WaterCorp's trunk water infrastructure)

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 Water 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 to 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 also.

McLeods Solicitors

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, if the City-
   (a) Were under a duty to take enforcement action under the Health (MPAct) or subsidiary legislation: and
   (b) Failed to take that enforcement action.

It would be open to the Chief Health Officer or the Minister for Health to order direct the City to take action (or arrange for someone else to take action and for the City to pay the costs)

3. 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; and
   (b) Each lessee is an 'occupier' of the leased premises and any building on those premises;

4. 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

5. 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.

Other Matters

Pensioner Discounts

During the course of the City's engagement with the Friends of Point Moore, they requested that consideration be given to providing a discount to all pensioner leaseholders.

Currently an aged pensioner discount is provided only to leaseholders who were aged pensioners when their leases were extended at 2007 and 2014. Leaseholders who have since become aged pensioners are not entitled to be provided with a pensioner discount. The purpose of the pensioner discount was to alleviate the burden that the aged pensioner leaseholder would have faced entering into a new lease with a substantially increased lease fee.

Of the 62 aged pensioner leaseholders, only 34 are receiving the 50% discount. Additionally, there are now three groups of pensioners that are paying different levels of lease fees (see table on page 2) because of the above decisions of Council. This arrangement is unequitable.

This inequity can be addressed by providing an aged pensioner discount for all owner occupied aged pensioners and by establishing a uniform lease fee through a new lease agreement.

Demolition of Buildings

The precise terms and conditions attached to lease agreements have varied over time. As a result, only 19.54% of lease agreements have a lease condition that requires the leaseholder to demolish and remove all buildings, at their own expense, upon the expiry of the lease.

Based upon past experiences, the City is not confident that buildings will be demolished and removed by the leaseholders at the expiry of their lease - not withstanding that the lease condition require them to do so.

To address this issue, and provide equity and uniformity, a demolition and removal levy could be applied under a new lease agreement. Alternately, the wider community would be required to fund these cost via their rates.

Summary of Risks/issues

A summary of risks/issues, the works required to mitigate them, and the indicative costs are provided below:

Issue	Risks/Issues	Works Required to Address Risk/Issue	Indicative Costs
Inundation and Erosion	1. Point Moore is at risk from a 1:100 and a 1:500 year inundation event. 2. Point Moore is potentially at risk after 2030 from coastal erosion. 3. Under State Government guidelines new development is not permitted in the Point Moore area because of the inundation and erosion risk. 4. Sea level rise may impact the groundwater level at Point Moore leading to inundation through upwelling.	Inundation from the sea: Build a protective sea wall to prevent erosion Inundation from upwelling: Permanent dewatering and storage pond	$20.8M to $29.7M Unknown
Sewerage	1. The groundwater at Point Moore is contaminated by faecal matter. 2. There is a potential health risk associated with direct contact with groundwater when undertaking land based subsurface activities. 3. Local sea level rise will have an impact on the effectiveness and compliance of residential onsite effluent systems. 4. A number of septic systems in Point Moore are in poor condition and require remediation. 5. Onsite systems cannot comply with current standards due to lot size, vertical separation distances to groundwater and setbacks 6. A reticulated wastewater system would be problematic given the constraints of lot sizes and the placement of buildings 7. A wastewater reticulation system would not be funded by WaterCorp.	Install a wastewater reticulation network to service all properties within Point Moore. Decommission all residential onsite effluent systems within the property and connection to the reticulated waste water system. ($10,000 to $20,000 per property) Reinstate Bitumen Roads	$5 to $11 M $1.75M to $3.5M $1M to $2M
Water	1. The current water reticulation system is at the end of its useful life and will need to replaced if disturbed while installing wastewater reticulation, or at the end of its useful life. 2. The installation of a new water reticulation would not be funded by WaterCorp.	Installation of a water reticulation network if wastewater reticulation system is installed to service Point Moore. WaterCorp Headworks contribution	$1M to $2 M $250,000
Pensioner Discounts	1. Only pensioners who were in possession of a lease as at 30th June 2007 receive a pensioner discount.	Provide greater equity through uniform lease fees and the	Depends upon the lease fee set by Council and the

	2. Pensioner discounts are applied to differing lease fees. That is – not all pensioners receiving the discount are paying the same lease fee.	application of an aged pensioner discount for all owner occupiers.	number of aged pensioner owner occupiers
Removal of Dwellings at expiry of lease	1. The current lease agreements have differing requirements with regards to the removal of dwellings and buildings at the expiry of the lease. 2. It is unlikely that leaseholders will remove dwellings without enforcement or compensation.	Establish a demolition and remediation levy for all leaseholders to be held in trust until the expiration of the lease.	Approximately $1,000 per annum for the life of the new lease.
		Total Indicative Cost:	$28M to $44M

*The above costs are conservative indicative guides only. No detailed engineering studies have been undertaken.

Lease Options to Address Risks and Issues

The following lease options are available to the Council to address the above risk/issues:

1. Allow leases to run their current term and offer no new leases or extensions. This option would not mitigate the risks until such time that the leases expire.

2. Provide a new lease of 20 years to 2037 (maximum allowable term), 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.

3. Provide a new lease of 20 years to 2037 (maximum allowable term), 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.

4. Provide a new lease of 20 years to 2037 (maximum allowable term), subject to the lease being mandatorily extinguished should trigger points with respect to sea level rise, erosion, public health, wastewater, and water supply be realised. This option would remove the risks once they have been realised.

In order to have uniformity of lease conditions, pensioner discounts, and expiry dates, it is recommended that the current leaseholders be required to surrender their current lease within a twelve month period and enter a new lease agreement. If a leaseholder fails to surrender their lease and enter into a new lease within this timeframe, it is recommended that no lease extensions or new lease agreements be provided beyond the existing term.

Potential Lease Provisions

In determining the conditions of a new lease agreement, the Council may wish to consider the following provisions:

1. That the lease explicitly state that no lease extensions be will be provided due to Point Moore not being fit for permanent human habitation.
2. Reference to the Coastal Inundation and Erosion Study be included in the agreement, with the report provided as an annexure.

3. Reference to the Residential Onsite Effluent Treatment and Disposal Study be included in the agreement, with the report provided as an annexure.
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 extinguished should those trigger points be realised.
5. Leaseholders be required to annually provide evidence from a licenced plumber that the septic system is in a functional state and good working order.
6. Leases only be provided for owner occupation (to avoid investors benefitting from publically subsidised leases).
7. All aged pensioners be provided a discount on lease fees.
8. No commercial uses are permitted on the leased land, in accordance with the terms of the State Government Management Order.
9. A demolition and rehabilitation levy be applied to all leaseholders.
10. Leases are to be extinguished upon the death of the leaseholders.
11. Leases are not to be sublet, transferred, or assigned.