

TOWN OF COTTESLOE



FULL COUNCIL MEETING

MINUTES

**ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 12 DECEMBER, 2005**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.00pm.

2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**Elected Members In Attendance**

Mayor Kevin Morgan
Cr Patricia Carmichael
Cr Daniel Cunningham
Cr Jo Dawkins
Cr Arthur Furlong
Cr Peter Jeanes
Cr Bryan Miller
Cr Victor Strzina
Cr Jack Walsh
Cr Ian Woodhill

Officers in Attendance

Mr Alan Lamb	Manager Corporate Services
Mr Geoff Trigg	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Jodie Peers	Executive Assistant

Apologies

Cr John Utting	
Mr Stephen Tindale	Chief Executive Officer

Leave of Absence (previously approved)

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Mr J Davis, 91 Broome Street - Item 12.1.1, Sea View Golf Club Lease Disputed Liability for Legal Fees

Mr Davis asked whether an alternative solution could be considered, such as the Sea View Golf Club putting a levy on their members?

The Manager Corporate Services replied that a levy on members had not been considered and that it is the Sea View Golf Club's decision on how to pay the account if they are to pay the full amount.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Miller

The Minutes of the Ordinary Meeting of Council held on Monday, 28 November, 2005 be confirmed.

Carried 10/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7.1 The Mayor wished all residents, ratepayers, workers within the town and staff a very safe Christmas and a prosperous new year. He also thanked the Councillors for their contributions during the past year.

8 PUBLIC STATEMENT TIMEMr J Wishire, 18 Mann Street - Item 11.1.3, Lots 10 & 120 Clive Road

Mr Wilshire advised that Cr Cunningham will be presenting to Council a petition from residents of Mann Street who are affected by the Clive Street development. Residents are concerned over pedestrian and vehicle safety, increased traffic flow and the preservation of the existing trees. The proposed rezoning should be carefully undertaken and the residents hope that Council addresses their concerns.

Mr C Bromley, 13A Avonmore Terrace - Item 11.1.4, 13A Avonmore Tce Proposed New Deck and Studio

Mr Bromley stated that he supports the Development Services Committee recommendation.

Mr P Robinson, 254 Marmion Street - Item 12.1.1, Sea View Golf Club Lease Disputed Liability for Legal Fees

Mr Robinson addressed Council as the President of the Sea View Golf Club. With the lease due to expire in June, 2005 the Club made a submission to Council in May, 2002, requesting that the lease process commence. At the June, 2002 meeting Council agreed to recommendation C50 which set out a 10 point plan for renewal of the Lease. Council engaged their lawyers to progress the lease document. The price for preparing the lease was not to exceed \$4,500. The CEO proposed the introduction of a Management Plan. The Club was and remains supportive of the Management Plan and spent many hours preparing and reviewing the document. Recommendation C50 included a public consultation period. In the end Council elected to have not one, but three periods of public consultation.

The whole process in fact took three years to complete. The introduction of the Management Plan, the three periods of public consultation and the extended nature of the whole Lease process have resulted in the legal costs blowing out by a staggering 418% to the \$23,298 figure as detailed in the notes today. That's over 5 times the original estimate. The uncertainty imposed by the protracted lease negotiations has had a detrimental affect on

club membership. It has been difficult to attract new members and difficult to retain existing members. The Club was living from hand to mouth as we pushed for the lease to be agreed and the improved stability that would bring. At the same time a number of capital improvement projects have been held up including the irrigation system requiring major expenditure and upgrade of clubhouse. The Club is grateful for the 21 year lease as it will provide the stability and security of tenure that will allow the necessary funding to be put in place for these projects to go ahead. However the Club feels that the burden of a further \$14,000 of legal costs is unreasonable and unfair given that the original estimate was \$4,500 and the increased cost was not of the Club's making.

Whilst the Officer Recommendation represents a payment by the Club of two and a half times the original estimate, the Club is willing to proceed on these grounds so that the matter can be laid to rest.

The Lease has delivered the following benefits to the Town:

- Council will receive rates in accordance with the assessment of the valuer general.
- Local residents aged from 8 to 88, male and female, will be provided with the opportunity to leave their computer screens and enjoy recreational activity. Club membership remains open.
- Local residents are provided protection from would-be developers. Had the course not been in place for the last 96 years, the reserves would almost certainly be the site of residential housing today.
- Council avoids around \$200,000 of cost that would otherwise be spent on the upkeep of the reserves, assuming they were to be kept at near current standards (the club spends around \$300,00 per year).
- The Lease has also delivered the Management Plan, which will be reviewed on 6 occasions through the course of the lease.
- In turn, the Management Plan will deliver the following benefits to the Town:
 - close monitoring of the Club's bore water data,
 - close monitoring of the Club's vegetation plans for the reserves, with a view to restoring native species,
 - close monitoring of wildlife related issues on the reserves,
 - close monitoring of the Club's safety plans,
 - and more besides.

The Lease is good for the Town of Cottesloe.

Mr K Adam, 183 Broome Street - Item 12.2.1, 1 Geraldine Street Pedestrian Access Way Closure to Vehicles

Mr Adam spoke on behalf of his client, the owner of 1 Geraldine Street. Residents in Geraldine Street agree that the position of the owner of 1 Geraldine Street is a reasonable one and have signed a memo outlining to Council the conditions that the decision could be made subject to. A copy of the memo was tabled. It reads as follows:

We, the undersigned residents of Geraldine Street, wish to express our support for the Lewis family, of 1 Geraldine Street, to continue to be able

to use part of the PAW to gain access to their garage, as they have been able to do for many years.

We understand that the accessway was legally closed to vehicular traffic in 1997 and that the Council has before it a recommendation that a bollard be placed in the PAW at Geraldine Street to prevent vehicles from entering it.

We understand that Mr and Mrs Lewis have requested that Council allow them to continue to gain access to their garage and have proposed that the Council agreed to this, subject to these conditions:

- (1) that a retractable bollard be located at Geraldine Street that could be operated only by the Lewis family and Council officers;*
- (2) that access be allowed only as far as their garage and a fixed bollard could be placed at that point;*
- (3) that Mr and Mrs Lewis will provide, at their cost, all legal assurances and legal actions necessary to allow the access;*
- (4) that Mr and Mrs Lewis will undertaken, at their cost, to provide the necessary public liability insurances; and*
- (5) any other actions that are necessary to ensure that other properties do not gain vehicular access from the PAW.*

We think that these conditions are reasonable, and we have no objections to Mr and Mrs Lewis's request being granted subject to these conditions.

Mr Adam asked Council to consider the access subject to the conditions set out in the memo. He does not feel that this will set a precedent for other residents.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

9.1 PROPOSED RE-ZONING OF 3 CLIVE STREET, COTTESLOE

Cr Cunningham presented a petition in relation to the proposed re-zoning of 3 Clive Street, Cottesloe. He stated that the petition has been signed by 24 residents of Mann Street, backing onto the lane. The petition reads as follows:

"Whilst we consider the proposed development has a lot to recommend it, we oppose the re-zoning unless the following issues are addressed:

- pedestrian and vehicle traffic safety and flow to be improved,*
- preserving the existing trees; and*
- reducing the impact to Mann Street dwellings by overlooking the backyards."*

9.1 COUNCIL RESOLUTION

Moved Cr Cunningham, seconded Cr Strzina

That Council accept the petition deal with it in conjunction with Item 11.1.3.

Carried 10/0

10 REPORTS OF COMMITTEES AND OFFICERS**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 5 DECEMBER 2005**

Moved Cr Furlong, seconded Cr Woodhill
That items 11.1.2 and 11.1.3 be withdrawn from en-bloc voting.

Carried 10/0

The above items were dealt with first before the remainder were dealt with en-bloc.

11.1 PLANNING**11.1.1 NO. 30, UNIT 3 ERIC STREET – DEVELOPMENT APPLICATION – PROPOSED ADDITIONS/ALTERATIONS TO EXISTING STRATA UNIT**

File No:	No 30/3 Eric Street
Author:	Lilia Palermo
Author Disclosure of Interest:	Nil
Attachments:	Location plan Correspondence from The Strata Centre Correspondence from Designer Submissions (4) Plans
Report Date:	28 November 2005
Senior Officer:	Andrew Jackson
Property Owner:	Mr David Ozanne & Ms Robyn Coombe
Applicant:	Mr. Ozanne
Date of Application:	28 November, 2005
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	296m²
M.R.S. Reservation:	N/A

SUMMARY

The application is for planning approval of the proposed additions/alterations to the existing strata Unit 3, No. 30 Eric Street.

Given the assessment that has been undertaken, the recommendation is to conditionally approve the application.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No. 2
 - Residential Design Codes
-

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

- State Register of Heritage Places N/A
- TPS No. 2 N/A
- Town Planning Scheme Policy No. 12 N/A
- Municipal Inventory N/A
- National Trust N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 3 – Buildings on Boundary	West Upper (living) – 1.2m	Nil	Clause 3.3.2 – P2
No 3 – Buildings Set back from Boundaries	East Upper (whole) – 4.8m	1.6m – 3.3m	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

N/A

CONSULTATION

REFERRAL

Internal
Building

External

Council received legal advice regarding dealing with development applications on strata properties. The applicant also provided an advice in writing from a recognised Strata Titles Consultant.

ADVERTISING OF PROPOSAL

The application was advertised as per Scheme No. 2 and the Residential Design Codes (RDC) by way of letters to adjoining property owners.

Submissions

There were 8 letters sent out. There were 4 submissions received, of which 3 were objections. Details of the submissions received are set out below:

17 Torrens Street

- *The loss of privacy is a major concern. Our private courtyard would be adversely affected. Overshadowing in this area would be intrusive together with a loss of sky.*
- *Council previously refused an application on the property due to the strata owners' objections.*
- *Proposed development involves common property.*

Unit 3, 153 Broome Street

- *Proposed additions would affect my privacy.*

15 Torrens Street

- *Council previously refused an application on the subject property.*
- *Impact on privacy.*
- *The proposal will reduce sunlight and views for my property.*

Unit 4, 30 Eric Street

- *We agree with the second storey to these premises as we believe that they are old and dated and would be improved by renovation and the addition of a second storey.*
- *We object to the major window with balcony on western elevation that overlooks our property.*
- *However, should the plans be amended to ensure the privacy of our area we would have no objection to the proposed renovation.*

BACKGROUND

Several strata owners referred to a previous decision of Council from October 1998. An application for two-storey additions for Unit 4, 30 Eric Street was considered by Council in 1998 and was refused for the following reasons:

“(a) Council is of the opinion that the layout of the existing development and the design of the proposed addition will:

- (i) have an adverse effect on the amenity of the adjoining units due to the loss of privacy to the rear and only private courtyard for each of the units; and*
- (ii) set an undesirable precedent for the other units to mirror the second storey addition which would have a detrimental affect on the amenity of all units due to the problems associated with overlooking, overshadowing and the loss of openness by enclosing the private courtyard by two storey buildings.*

(b) the proposed additions will further reduce the actual open space below the minimum 50% open space required in Table 1 of Residential Planning Codes; and

(c) the proposed variation to the required setbacks will have an adverse affect on adjoining properties.”

This past assessment and determination is noted. The current application is a new proposal, which is required to be assessed afresh, including against the new RDC and on its merits.

STAFF COMMENT

Validity of application

The application is for renovations and second storey additions to one of the units facing Eric Street. Unit 3 is one the four strata units at 30 Eric Street.

The application was received on 22 September 2005, however, normal processing of the application was delayed as the Planning Department sought legal advice and requested that the applicant provide advice from a strata-titles consultant to ensure that the application can be accepted by Council.

The legal advice is that if the proposal involves common property Council should not accept the application without the signatures of all strata owners, as any common property would be jointly owned by all. It is also advised that Council requests that the applicant provide advice from a strata-titles consultant who would confirm that the proposal does not involve development over any areas of common property.

The advice from the strata-titles consultant (see letter from The Strata Centre dated 21 November 2005 attached) is that the proposal does not affect any areas of common property.

Both the legal advice received by Council and the advice from the strata-titles consultant provided by the applicant confirm that Council can accept the development proposal as a valid application for and deal with it. Any other approvals that may be required under the Strata Titles Act are a separate process and the responsibility of the owner of the subject property.

Privacy

Three of the adjoining neighbours raised privacy issues as a concern:

- The adjoining strata owner at the rear stated that the private courtyard would be affected.
- The owners of the front (Eric Street) unit to the west stated their concern regarding the proposed dining room balcony.
- The neighbour to the east (3/153 Broome Street) also raised privacy as a concern but did not identify which major opening.

There are no new windows on the ground floor level that would cause any privacy issue for the adjoining neighbours.

The following windows are proposed on the upper level:

- Two small, obscure-glazed windows to a kitchen on the north elevation.
- A window to the living area obscure-glazed up to a level of 1.65m from the floor level of that room on the north elevation.
- A small balcony with access from the dining room is provided with a 1.65m high privacy screen on the northern and western side.
- On the eastern elevation a window to the WC (obscure-glazed), a window to a void and upper level alfresco area (provided with a privacy screen up to 1.65m from the floor level).

All of the proposed windows or balconies that could be considered major openings are provided with either obscure glazing or privacy screening to satisfy the privacy requirements under the RDC.

Clause 3.8.1 A1 of the RDC states:

Major openings to active habitable spaces or their equivalent which have a floor level more than 0.5m above the natural ground level and positioned so as to overlook any part of any other residential property behind its street setback line. To comply with at least one of the following:

i.....

ii. are provided with permanent vertical screening to restrict views within the cone of vision from any major opening of an active habitable space.

It is considered that the proposal is in compliance with the Acceptable Development Standards of the RDC as all the major openings are provided with sufficient privacy screening.

Overshadowing

Clause 3.9.1 A1 of the RDC - Design for Climate Requirements states:

Development that complies with the following is deemed to meet the relevant Performance Criteria:

A1 Notwithstanding the boundary setbacks in Element 3, development in Climatic Zones 4, 5 and 6 of the State shall be so designed that its shadow cast at midday, 21 June onto any other adjoining property does not exceed the following limits:

- *on the adjoining properties coded R26 and lower - 25% of the site area;*
- *on adjoining properties coded R30 to R40 inclusive – 35% of the site area;*
- *on adjoining properties coded R-IC or higher than R40 – 50% of the site area.*

Note: In this context “site area” refers to the surface of the adjoining lot without regard for any building on it but taking into account its natural ground levels.

The subject property is zoned Residential R30, so the second dot-point of the above quoted clause of the RDC would apply. The subject property is north-south orientated, which means that the shadow on winter solstice would fall mainly onto the street reserve in front of the property, therefore, none of the adjoining private properties would be affected.

It is considered that the proposed development is in accordance with the "Design for Climate" requirements of the RDC.

Side Setbacks

The following side boundary setbacks of the proposed new extensions don't comply with the acceptable development standards of the RDC.

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
West Upper	Living	7.0	8.7	No	1.2	Nil
East Upper	Whole	7.0	16.3	Yes	4.8	1.6 - 3.3

The above setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) & 3.3.2 (P2) of the RDC which are:

3.3.1 – Buildings Set back from the Boundary

P1 Buildings set back from boundaries other than street boundaries so as to:

- *Provide adequate direct sun and ventilation to the building*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Provide adequate direct sun to the building an appurtenant open spaces;*
- *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.*

The east upper wall has a setback of 1.6m to the building and 3.3m to the upper alfresco area. The eastern upper elevation does not have any major openings apart from the front portion of the alfresco area that is not screened, and the cone of vision from the unscreened portion of the alfresco area falls onto a driveway area of the adjoining property to the east whereby it is not considered to cause any impact on privacy of the adjoining property.

The proposal is in accordance with the Design for Climate requirements of the RDC.

Therefore, it is considered that the proposed eastern side boundary setback variations satisfy the above Performance Criteria of the RDC.

3.3.2 – Buildings on Boundary

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *Make effective use of space; or*

- *Enhance the amenity of the development; and*
- *Not have any significant adverse effect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The proposed nil setback for the front section of the west upper wall to the living room is in line with the existing nil setback of the ground floor. The wall of the adjoining strata unit to the west abuts the ground floor wall of the subject property. It is considered that the proposed nil setback for the upper floor would not have any adverse impact on the adjoining unit to the west. The owners of that strata unit expressed their support to the proposed renovations and extensions subject to no impacts.

Height

The proposal is for minor alterations on the ground floor and a second storey extension.

The proposal is in compliance with the two-storey height limit under the TPS2 Clause 5.1.1 (a) & (b).

Clause 5.1.1 (c) requires that the height limits of 6.0m for walls and 8.5m for the roof ridge are measured from the Natural Ground Level (NGL) at the centre of the site. The assessment carried out by the Planning Department indicates that the proposal complies with the height requirements of the Scheme.

Open Space

The proposed extensions reduce the percentage of open space available for the subject strata unit by approximately 3.3m², due to the proposed entry.

The rest of the proposed extensions follow the existing footprint of the residence thus having no impact on its open space. The applicant submitted an open space plan and calculation showing that the proposal is in compliance with the 45% open space requirement of the RDC.

CONCLUSION

It is recommended that the application for additions and alterations be approved subject to standard development conditions and one specific condition requiring the applicant to provide amended plans showing the current percentage of open space available on the subject strata property not being reduced by the proposed development.

It is also recommended to advise the applicant that other approvals may be required under the Strata Titles Act and it would be the responsibility of the owner to obtain those approvals.

VOTING

Simple Majority

11.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Woodhill

That Council:

- (1) GRANT its Approval to Commence Development for the Development Application - Proposed Additions/Alterations to existing strata unit at No 30, Unit 3 Eric Street, Cottesloe, in accordance with the plans submitted on the 22 September 2005, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - © The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
 - (g) Any front boundary fencing to the site being of an "Open Aspect" design in accordance with the Fencing Local Law and the subject of a separate application to Council.**
- (2) Advise the applicant that separate approval to the proposal may be required under the Strata Titles Act, which is the responsibility of the owner to obtain.**
- (3) Advise the submitters of this decision.**

Carried 10/0

11.1.2 NO. 7 (LOT 1) GRANT STREET – DEVELOPMENT APPLICATION – TWO-STOREY RESIDENCE – FURTHER REPORT FOLLOWING DEFERRAL

File No:	No. 7 Grant Street
Author:	Lilia Palermo/Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission from applicant (2) Report to November 2005 meeting Submission from applicant (4) Submission from neighbours (2) Plans & photographs
Report Date:	30 November 2005
Senior Officer:	Andrew Jackson
Property Owner:	D & C Watson
Applicant:	Odden Rodrigues Architects
Date of Application:	30 November, 2005
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	368m²
M.R.S. Reservation:	N/A

INTRODUCTION

- This application was considered at the November meetings and deferred in order to allow further consideration by all parties.
- Although the proposal had been recommended for approval with conditions, a number of aspects were raised by councillors and on behalf of neighbours, which it was concluded warranted review.
- The applicant was invited to address the aspects raised and submit additional information or revised plans.
- This report re-presents the application for determination
- The fresh recommendation is to approve the proposal with conditions.
- The previous report is attached and is to be read for the background and detail of the initial assessment. Also attached is a set of supporting information from the applicant as discussed below.

FURTHER CONSULTATION

- Two submissions had been received, both objections, the details of which were covered in the previous report.
 - Representation of the objectors was made at the Committee and Council meetings, where the points raised were noted.
 - Pursuant to the deferral the applicant has undertaken to liaise with the objectors and has advised that the applicant's response will be provided to the Town or presented to Council.
-

- The applicant has also met with officers to review and discuss the proposal, objections and aspects raised for further consideration.

APPLICANT'S RESPONSE

- Discussion with the applicant focussed on the aspects of building height and front setback as the key concerns. It was felt that the aspects of shadowing and the front fence could be satisfactorily resolved.
- The applicant has provided additional comments and diagrams in support of the proposal, some of which was tabled at the previous Committee meeting, comprising:
 - Letter from owner describing height and setback considerations and requesting approval largely as originally proposed (as tabled).
 - Accompanying plans from the architect showing the footprint and massing of the proposed dwelling (as tabled).
 - Computer picture of the outlook from the eastern neighbours' dwelling in relation to the original proposal.
 - Letter dated 25 November from architect elaborating on the above information and aspects, in particular the interrelationship with neighbouring dwellings and compliance with the R-codes.
- In summary, the applicant has at this stage requested:
 - Given the serious constraint of the sewer line, a parapet wall height of up to RL 17.67m is allowed.
 - Reduction of the boundary setback for the eastern wall by half the width of the pedestrian access way, in accordance with 3.3.1 A1(v) of the R-Codes.
 - Applying a 4m front setback in accordance with the R-Codes rather than Council's preference of 6m.
 - Allowing the amount of shadowing in accordance with the R-Codes.
- The applicant has indicated that discussions with the neighbours *may* lead to some design modifications, which if so will be presented to Committee and Council.
- Note that at the previous Committee meeting the owner (as set out in the attachment) volunteered that the parapet wall to the east boundary could be reduced to a height of RL 17.3 to comply with the basic requirement of TPS2.
- The applicant has indicated agreement with the requirement for an open aspect front fence.

FURTHER ASSESSMENT

For convenience, the key areas of non-compliance by the original proposal are reproduced below:

AREAS OF NON-COMPLIANCE

Town Planning Scheme No. 2

Clause	Required	Originally Provided
Clause 5.1.1 (c)	Measurement of parapet wall height from the NGL at the centre of the site being RL 10.3 + 7.0 = RL 17.3m	Top of the Parapet Wall = RL 17.67m – RL 17.97m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 3 – Boundary Setbacks/Wall Name	Required Setback	Proposed Setbacks to boundaries	Performance Criteria Clauses of the RDC applicable
East Basement (whole)	1.0	Nil – 1.4	Clause 3.3.1 – P1 Clause 3.3.2 – P2
East Ground (whole)	1.5	Nil – 3.6	Clause 3.3.1 – P1 Clause 3.3.2 – P2
East Upper (whole)	2.2	Nil – 1.4	Clause 3.3.1 – P1 Clause 3.3.2 – P2
West Upper (whole)	5.5	Nil – 4.4	Clause 3.3.1 – P1 Clause 3.3.2 – P2

Officer Comments

- Having regard to the deferral aspects under review, subsequent additional information and discussions held, further assessment by officer has been undertaken and the following advice is now provided.

Building height

- This aspect of the proposal may be considered from several perspectives.
- Firstly, the perspective of compliance with the Scheme or R-Codes, which sets out standards identified as acceptable but also contain discretion – the latter conveying that proposals may be considered on merit, which the Scheme expressly states. That is, where the height of a proposal is found to be reasonable, the fact of discretion being exercised to vary the height standard should not be of concern.
- Secondly, the form of development in connection with height prescriptions. In this respect, while the Scheme is silent about parapet walled / flat roofed buildings, Council has consistently relied on the R-Codes to assess such proposals, which are today common and an established part of the architectural vernacular or Cottesloe style. Again, there can be no real objection to the height of this form of development per se if it is not considered to cause undesirable effects, or indeed may be compatible with neighbouring dwellings, streetscape and emerging urban design of the locality, as in this instance.

- Thirdly, in determining building height by the NGL approach Council is able to adopt a measure taking into account the characteristics of a site and to exercise discretion where considered warranted; that is, there is no restriction on what nature or extent of topographical characteristics or constraints may be assessed or the conclusions that may be drawn. In this case, the situation pertaining to the sewer and the lower level of the site in relation to those to the east and south may be weighed-up.
- Fourthly, the performance of the proposed height of development or parts thereof relative to a site and design itself, neighbouring properties, the street and locality. This relies on the tests of amenity, views, privacy, shadow, etc as prescribed in the Scheme and R-Codes.
- Fifthly, height is only one aspect and is not to be considered in isolation but rather in conjunction with other development parameters, whereby it is the combination of standards applied to a proposal that amount the total urban design outcome and any effects (whether positive or negative).
- In this regard, where setbacks comply or respect neighbouring development, height may not be of any great consequence and may even exceed the base-standard if the building physically and visually fits into its site and setting. Moreover, in certain circumstances it may be considered appropriate to trade-off increased setback for extra height, especially in an instance such as this where the proposal would still be subservient to neighbouring buildings that sit higher and are of similar built form. It is also observed that a flat roofed design is of a lesser height than a pitched roof design.

Front setback

- The front setback of a building is a key element in determining the relationship to its site and surrounds, contributes significantly to the creation or erosion of streetscape and can emphasise or ameliorate the effect of the scale of development.
- Where setbacks achieve consistency the result is streetscape harmony, sharing of access to views, control of interrelationships such as overlooking or overshadowing, provision of outdoor space and so on.
- Council's preferred setback of 6m by resolution has been applied successfully to this section of the street and elsewhere in the district, yet is not compelled by TPS2 or the R-Codes.
- On the other hand, where a design performs in terms of the abovementioned factors and at the same time seeks to deliver to the site and setting, it would seem reasonable to allow a development that falls within the criteria for compliance.
- With this particular proposal it is assessed that the front setback arrangement is important to the dwelling and site as well as the eastern dwelling and street, whereby the design should be modified in the interests of all of these objectives.

Side setback

- While the height of the eastern parapet wall has to be assessed against the scheme standard, the actual height is not considered to be at issue here as the scale and position of the wall in relation to that neighbour is assessed to be of no effect in terms of shadow or visually.

- Its design and presence echoes the neighbouring dwelling and similar contemporary architecture in the street and locality.
- It is assessed that the height of the proposed eastern parapet wall is not of concern, however, the ability to reduce it to RL 17.3 is supported.

Rear shadow

- As previously assessed, where the amount of shadow at 27% is within the R-Codes Acceptable Development standard of up to 35% that aspect of the proposal is approvable.
- While any lowering of overall height would decrease the shadow, the effect would be only marginal.

Front fence

- The applicant has indicated that this requirement can be met, which will satisfy the local law and contribute to the streetscape.
- A condition can secure this.

CONCLUSION

To sum up, it is recognised that in context the proposal has an advantageous site but is also constrained by several factors, including the way in which surrounding development has occurred. The design challenge is to arrive at a development that is supportable when assessed against uniform planning requirements and the influences of neighbouring properties and streetscape.

On balance, it is concluded that Council ought to grant approval to the proposal subject to standard conditions and specific conditions for revised plans as set out below that aim for greater compliance with the preferred setback and height regime. However, should Council be of a mind to allow concessions or the applicant submit a compromise design which Council considers acceptable, then it is assessed that there is scope for Council to approve that, both in terms of the development standards and planning principles.

- The building height being modified to comply with the requirements of clause 5.1.1 of TPS2.
- The front setback being increased to 6.0m minimum, or alternatively:
 - The design of the building being modified so that any portion protruding into the 6.0m minimum front setback area is of an open aspect / visually permeable design, to ensure views from the adjoining property are preserved; or
 - The front section of the wall on the eastern side (in front of the entry on the lower level and in front of the void on the upper level) being relocated by 1.5m to the west in line with the eastern side of the upper balcony; together with the section of wall on the eastern side of the upper floor front balcony being modified to be an open design screen (such as louvres), which allow a westerly view from the balcony and upper bedroom window of the adjoining property at No. 11 Grant Street.
- The front fencing being modified to comply with the local law.

VOTING

Simple Majority

DECLARATION OF IMPARTIALITY

Cr Walsh made a declaration of impartiality as he knows Mr Watson.

COMMITTEE COMMENT

Mr Rattigan, Mr Adam, Mr Rodrigues and Mr Watson withdrew from the meeting to discuss the application and came to an agreement about revisions to the design.

Mr Rattigan advised the committee that he has withdrawn his objection as the applicant is reducing the height of the south wall to RL16.9m.

After further discussion involving all parties and Committee moved the following:

- (i) That the conditions (2) (g) (ii), (iii) and (iv) be deleted.
- (ii) Condition (2) (g) (i) being amended to read:
"The height of the parapet wall on the eastern boundary shall be no more than RL17.3m and height of the southern parapet wall shall be no more than RL16.9m;"
- (iii) A new condition (2) (g) (ii) being added to read:
"The front section of wall on the eastern side (in front of the entry on the lower floor and in front of the void on the upper level) being deleted and any balustrading to the front balcony being visually permeable."

Committee agreed to the Manager's advice that the draft minute be circulated to members to verify the recommendation.

OFFICER RECOMMENDATION

That Council:

- (1) Determine the natural ground level at the centre of the site to be RL10.3m for the purpose of clause 5.1.1 (c) of the Town Planning Scheme No 2.
- (2) GRANT its Approval to Commence Development for the Development Application - Two-Storey Residence at No 7 (Lot 1) Grant Street, Cottesloe, in accordance with the plans submitted on 15 November 2005, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours, following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
 - (f) Any front boundary fencing being of an open aspect design and the subject of a separate application to Council, in accordance with the fencing local law.
 - (g) Revised plans being submitted for approval by the Manager Development Services and subsequently implemented when the development is undertaken, showing:
 - (i) The parapet wall heights of the proposed development being modified to comply with the requirements of Clause 5.1.1 of Town Planning Scheme No. 2 and being lowered to RL17.3m maximum;
 - (ii) The front setback being increased to 6.0m minimum; or
 - (iii) The design of the building being modified so that any portion protruding into the 6.0m minimum front setback area is of an open aspect / visually permeable design, to ensure views from the adjoining property are preserved; or
 - (iv) The front section of the wall on the eastern side (in front of the entry on the lower level and in front of the void on the upper level) being relocated by 1.5m to the west in line with the eastern side of the upper balcony; together with the section of wall on the eastern side of the upper floor front balcony being modified to be an open design screen (such as louvres), which allow a westerly view from the balcony and upper bedroom window of the adjoining property at No. 11 Grant Street.
 - (v) Fencing along the front and western side boundaries within the front setback being of a 50% open aspect design in accordance with Council's Fencing Local law.
- (3) Advise the submitters of this decision.

11.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Woodhill

That Council:

- (1) Determine the natural ground level at the centre of the site to be RL10.3m for the purpose of clause 5.1.1 (c) of the Town Planning Scheme No 2.**
 - (2) GRANT its Approval to Commence Development for the Development Application - Two-Storey Residence at No 7 (Lot 1) Grant Street,**
-

Cottesloe, in accordance with the plans submitted on 15 November 2005, subject to the following conditions:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours, following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
 - (f) Any front boundary fencing being of an open aspect design and the subject of a separate application to Council, in accordance with the fencing local law.
 - (g) Revised plans being submitted for approval by the Manager Development Services and subsequently implemented when the development is undertaken, showing:
 - (i) The height of the parapet wall on the eastern boundary shall be no more than RL17.3m and the height of the southern parapet wall shall be no more than RL16.9m;
 - (ii) The front section of wall on the eastern side (in front of the entry on the lower floor and in front of the void on the upper level) being deleted and any balustrading to the front balcony being visually permeable; and
 - (iii) Fencing along the front and western side boundaries within the front setback being of a 50% open aspect design in accordance with Council's Fencing Local law.
- (3) Advise the submitters of this decision.

Carried 8/2

**11.1.3 PROPOSED AMENDMENT NO. 39 TO TOWN PLANNING SCHEME NO. 2 –
LOTS 10 & 120 CLIVE RD, COTTESLOE – REZONING FROM
PUBLIC PURPOSES TO RESIDENTIAL R50 – CONSIDERATION
OF PUBLIC SUBMISSIONS AND ADDITIONAL INFORMATION
FOR FINAL DETERMINATION OF AMENDMENT**

File No: 3 Clive Rd
Author: Mr Andrew Jackson
Attachments: Location plan
Previous reports to Council
Submissions from neighbours
Submission by consultant
Submission by applicant
Scheme Amendment Document

Author Disclosure of Interest: Nil
Report Date: 30 November 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

- This proposed rezoning and density-coding amendment to enable residential redevelopment has now undergone the statutory public advertising process.
- A number of submissions were received and are required to be considered by Council in deciding upon the amendment.
- In light of the submissions more information was sought from the proponents, also for consideration.
- This report presents the proposal, community comments and that information, for a recommendation by Council to the Western Australian Planning Commission and Minister for Planning & Infrastructure on the preferred outcome.
- Finalisation of the amendment is supported.

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2.
- Town Planning Regulations.

POLICY IMPLICATIONS

- There is no direct implication for current planning policies.

STRATEGIC IMPLICATIONS

- The proposed change has so far been supported in principle by Council.
- An amendment to TPS2 as finalised has implications to be carried forward into the Scheme Review. At this stage draft TPS3 includes the amendment land in a proposed R50-coded area.

FINANCIAL IMPLICATIONS

- Nil.

BACKGROUND

- Initially the amendment proposal was deferred pending the local precinct forum process and findings, in order to disseminate and examine the proposal more fully and gain feedback.
- This is set out in the previous report (attached) which presented the planning rationale for the proposal, the mechanics of the amendment, the land use, density and traffic aspects, the proponent's information, the precinct forum input, the options for dealing with the amendment proposal and the strategic dimension of residential redevelopment.
- The starting point for the amendment was an earlier resolution by Council under the Scheme Review, which supported a residential rezoning and increased density coding having regard to the proximity to public transport on Stirling Highway and other medium density codings in the area.
- Overall, Council accepted that the amendment proposal had merit for the purpose of advertising to the wider community.

SUBMISSIONS

- Following on from the precinct forum community consultation, the normal advertising for a rezoning amendment was undertaken, including notices, displays, sign/s on site and letters to nearby landowners/residents.
- Nine submissions were received, which are attached in full and summarised as follows:

Support:
<p>General:</p> <ul style="list-style-type: none"> • For R30 not R50, ie family residential. • Develop as proposed, but without increasing density coding. • Medium density is compatible with that to the north and south. • The development would be attractive. • Traffic still a concern – agree to no access via Clive Road. <p><u>Officer comment:</u></p> <ul style="list-style-type: none"> - <i>The density coding is required to be at least that necessary for the development and in this case the special provisions in the scheme text will limit the development potential to 14 dwellings at a density of R42.</i> - <i>The provisions will also require the form and standard of development to be in accordance with the concept plans.</i> - <i>Clive Road is considered to be a less convenient and safe access than McNamara Way and the provisions also control this.</i>
Non-support:
<p>Density coding:</p> <ul style="list-style-type: none"> • What is there to prevent R50 development as to be coded? • Prefer R30, although would accept R40. • Land does not front Stirling Highway so should not be higher density. • WAPC policy range for near railway stations is R20-R40, not higher.

- Documentation inconsistent regarding whether R45 or R50 proposed.

Officer comment:

- *Refer to comments above. In addition, frontage to the highway and the railway proximity policy are not factors limiting density coding – Council and the WAPC are not constrained from prescribing medium density codings above R40.*
- *The amendment documentation does make clear the density coding proposed.*

Traffic:

- Is a problem – need to share access between McNamara Lane and Clive Road, as Clive Road access is not such a problem.
- Narrow lanes, blind spots, excessive speed and heavy pedestrian usage create conflict and danger – lack of footpaths in the lanes.
- Calming required to control current and future users, eg bollards, speed humps, etc.
- Traffic study flawed, eg re current worker versus future residential trips – the latter will increase rather than decrease traffic; does not address pedestrian safety; need to deal with McNamara Lane difficulties – further assessment required.

Officer comment:

- *The laneway system in the locality serves to provide access as well as to shape the character of the neighbourhood, in terms of the combination of circulation (including for pedestrians), development opportunities and built form. While the nature of lanes tends to automatically moderate traffic behaviour, it can also invite indiscriminate driving and parking, whereby dedicated traffic calming and management may be called for.*
- *As to traffic generation, the proposed residential traffic would have a volume and pattern different to the existing worker traffic, however, it is likely to be more spread-out and the amount of replacement traffic would not overload the lanes or be inherently dangerous – the development proposes controlled (limited) access, shared crossovers/driveways and visitor parking.*
- *The avoidance of access via Clive Road is supported, as that access clearly lacks convenience and safety, yet should visitors use that access the proposal includes three parking bays in the verge (which would be available generally to people visiting other properties in Clive Road).*

Privacy:

- Overlooking of Mann Street properties from second floor balconies and due to height and small setbacks.

Officer comment:

- *It is acknowledged that the introduction of two storey residential development will create a new interrelationship between the site and surrounding properties. However, the separation distance afforded by the width of the lane and the usual setbacks means that the development will conform to privacy standards. Because the height of the development will*

also comply, that cannot be attributed to causing undue overlooking. Positively, the development is designed to place living areas downstairs and bedrooms upstairs, hence while residents opposite may still have a sense of being overlooked that will be from passive rather than active living spaces. The balconies are "private" amenity spaces rather than entertainment areas. Also, the windows to the bedrooms and bathrooms are of a small high-light or narrow nature, restricting visibility both out and in, rather than being large viewing windows.

Development:

- Queries levels on plan, which shows the development lower than the lane – will that really be the case?
- Protect remaining trees.
- What prevents the project from being on-sold and developed differently or to a lower standard?

Officer comment:

- *Site levels will be set as part of the detailed development application and approval process having regard to the natural ground level, services and drainage.*
- *The concept plans indicate retention of significant trees and additional landscaping, both of which would need to be part of the detailed development application and approval process.*
- *While there is nothing to prevent the development from being on-sold, it could not be developed differently or to a lower standard without having to undergo another amendment and subsequent development approval process. Effectively, the amendment will compel development in accordance the concept plans and special provisions.*

ADDITIONAL INFORMATION

- Given the submissions and aspects raised the proponent was provided with a summary of the submissions and invited to provide any comment or further information, to facilitate consideration by Council.
- The proponent responded with information as attached which comprises:
 - Covering letter from PMDR planning consultants.
 - Assessment of the intended development against the visual privacy requirements of the Residential Design Codes, from SJB planning consultants.
 - Traffic concerns analysis and commentary, from ARRB traffic consultants.
- In terms of the aspects raised in the submissions, which were also discussed in the previous reports on the amendment proposal, this additional information is summarised and assessed as follows:

Residential Design Codes – Visual Privacy (SJB planning consultants)**Advice:**

- The assessment indicates that the design of the intended development largely does or can readily comply with the acceptable development standards of the codes.
- This is due to the design, setbacks, screening and other features of the intended development.
- The proposal is not seeking a performance-based assessment or any undue concessions regarding visual privacy.
- The development approval process can ensure that the detailed design will be conditioned accordingly.

Officer comment:

- *This assessment is correct, which the development concept plans that were provided as part of the amendment intentionally demonstrated in order to explain and justify the proposal.*
- *Although the decision before Council is about the amendment rather than the actual development at this stage, the concept plans are tied to the amendment to ensure control over the development.*
- *While a future separate development application and approval will be required, the planning consultant has indicated that Council would be obliged to approve the development by reason of compliance with the codes.*
- *The concerns of existing residents about the potential effects of new development and two storey development can nonetheless be appreciated, however, where the design, layout, setbacks, height and other aspects conform to the codes or other controls Council is not in a strong position to refuse such. In other words, where there is a perception of effect on visual privacy, for instance, but a proposal satisfies the appropriate standards or measures, then the development is deemed to comply*

Traffic management (ARRB traffic consultants)**Advice:**

- The original traffic consultant has reviewed the initial traffic material and the submissions, as well as revisited the site.
- It is reiterated that the current versus proposed uses will give rise to different traffic effects and that the residential traffic is assessed as being less of an impact or conflict.
- It is observed that some traffic calming devices are in place and that more measures could be implemented to improve the management of vehicular and pedestrian movement, with suggestions made, particularly paving colour treatments and signage.
- McNamara Lane is still considered to be the preferred access rather than Clive Road, which has problematic traffic engineering.

Officer comment:

- *The officer comments further above deal with these considerations.*
- *The traffic consultant has advocated ways in which the laneway system could be improved, which is Council could relatively easily do.*
- *Traffic is a manageable aspect associated with the proposed amendment and ultimate development, which the special provisions and design have purposefully addressed.*

DISCUSSION

- As assessed in the previous reports, the amendment proposal is consistent with planning objectives for residential infill and housing choice, and the to-be-built density of R42, with a complying two storey height limit, is a typical medium density townhouse style of development, not unfamiliar to Cottesloe and essentially compatible with the locality.
- The concept plans approach is a deliberate technique to ensure that the amendment will result in development integrated with the surrounds, and specific controls are to be incorporated into the scheme text to apply the development parameters. As described, the planned development has been assessed as complying with the Residential Design Codes.
- In view of the above, the matter then becomes one of accommodating change to a neighbourhood and the extent to which the proponent or the Council can contribute to addressing the concerns associated with the proposal. In this respect the proposed development has addressed its site and setting in a comprehensive manner, and it would be the responsibility of Council to consider any urban design or traffic management improvements over the wider locality.

CONCLUSION

- The amendment proposal and associated development concept plans aim to define and control the extent and standard of development for the site, including taking into account the locality.
- The number of dwellings proposed constitutes a medium density coding, the design consciously complies with the Residential Design Codes, and the special provisions govern that this must occur.
- While in this or other instances a rezoning and density coding could be proposed without the benefit of concept planning to demonstrate and assess the end development, the advantage of the approach taken in this amendment is that it does cover the detailed design, which has been evaluated as part of the process.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) In pursuance of Section 7 of the Town Planning and Development Act (as amended) hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:
- (2) Amending the Scheme Map to transfer Lots 10 and 120 Clive Road, Cottesloe, from the Public Purposes: Commonwealth Government Reserve to the Residential Zone with a density coding of R50; and
- (3) Amending the Scheme Text by incorporating provisions in Schedule 5 specifying that:
 - (a) The maximum number of dwellings permitted shall be 14 (representing a built density of R42).
 - (b) The dwellings shall comply with the height controls of the Scheme.
 - (c) Vehicular access to the dwellings shall be via McNamara Way only and not via Clive Road.
 - (d) The development shall be in accordance with the concept plans numbered A01 to A05 (all Revision E) submitted with the amendment, subject to any modification in a development approval by Council.
- (4) Adopt the recommendation to note the submissions in support of and not in support of the amendment and to determine them in favour of the proposed amendment.
- (5) Adopt the amendment for the purpose of seeking the final approval of the Minister for Planning and Infrastructure.
- (6) Authorise the Mayor and Chief Executive Officer to sign the amendment documents and affix the Town's seal thereto.
- (7) Forward the amendment documents, together with a copy of Council's resolution on final approval, particulars of the steps taken to advertise the Amendment, a copy of the submissions made on the Amendment and advice of Council's recommendation in respect of the submissions, to the Western Australian Planning Commission for presentation to the Minister for Planning and Infrastructure for final approval of the Amendment.
- (8) And that Council:
 - (a) In supporting the amendment and having regard to ongoing development in this locality and its laneway system, review and improve the traffic calming and management measures provided.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That (8) be amended to include the following:

- (b) Include in the review an examination of the option to share access to this site between Clive Road and McNamara Way;
- (c) Recognises that existing trees should be retained and protected; and
- (d) Will examine minimisation of adverse overloading from the development to the rear of Mann Street properties at the planning approval stage.

Carried 6/4

AMENDMENT

Moved Cr Jeanes, seconded Cr Carmichael

That 3(c) be removed from the recommendation.

Carried 9/1

11.1.3 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Jeanes

That Council:

- (1) In pursuance of Section 7 of the Town Planning and Development Act (as amended) hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:**
- (2) Amending the Scheme Map to transfer Lots 10 and 120 Clive Road, Cottesloe, from the Public Purposes: Commonwealth Government Reserve to the Residential Zone with a density coding of R50; and**
- (3) Amending the Scheme Text by incorporating provisions in Schedule 5 specifying that:**
 - (a) The maximum number of dwellings permitted shall be 14 (representing a built density of R42).**
 - (b) The dwellings shall comply with the height controls of the Scheme.**
 - (c) The development shall be in accordance with the concept plans numbered A01 to A05 (all Revision E) submitted with the amendment, subject to any modification in a development approval by Council.**
- (4) Adopt the recommendation to note the submissions in support of and not in support of the amendment and to determine them in favour of the proposed amendment.**
- (5) Adopt the amendment for the purpose of seeking the final approval of the Minister for Planning and Infrastructure.**

- (6) Authorise the Mayor and Chief Executive Officer to sign the amendment documents and affix the Town's seal thereto.
- (7) Forward the amendment documents, together with a copy of Council's resolution on final approval, particulars of the steps taken to advertise the Amendment, a copy of the submissions made on the Amendment and advice of Council's recommendation in respect of the submissions, to the Western Australian Planning Commission for presentation to the Minister for Planning and Infrastructure for final approval of the Amendment.
- (8) And that Council:
- (a) In supporting the amendment and having regard to ongoing development in this locality and its laneway system, review and improve the traffic calming and management measures provided;
 - (b) Include in the review examination of the option to share access to this site between Clive Road and McNamara Way;
 - (c) Recognises that existing trees should be retained and protected; and
 - (d) Will examine minimisation of adverse overlooking from the development to the rear of Mann Street properties at the planning approval stage.

Carried 8/2

11.1.4 NO. 13A AVONMORE TERRACE – PROPOSED NEW DECK AND STUDIO

File No:	13A Avonmore Terrace
Author:	Lilia Palermo
Author Disclosure of Interest:	Nil
Attachments:	Location plan Correspondence from applicant Photographs Submissions (2) Plans
Report Date:	29 November 2005
Senior Officer:	Andrew Jackson
Property Owner:	S. Bromley
Applicant:	Gary Keen Building Design
Date of Application:	29 November, 2005
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a new studio at the rear of the property and a substantial deck above natural ground level adjoining the rear of the existing residence.

Given the assessment that has been undertaken, the recommendation is to approve the application with conditions.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No. 2.
- Residential Design Codes.

POLICY IMPLICATIONS

N/A

HERITAGE LISTING

- | | |
|-------------------------------------|-----|
| • State Register of Heritage Places | N/A |
| • TPS No 2 | N/A |
| • Town Planning Scheme Policy No 12 | N/A |
| • Municipal Inventory | N/A |
| • National Trust | N/A |

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Buildings on Boundaries	Setback to the western side boundary – 1.1m	Nil (Studio)	Clause 3.3.2 – P2
No 3 – Buildings on Boundaries	Setback to the southern side boundary – 1.5m	Nil (Studio)	Clause 3.3.2 – P2
No 8 – Privacy Requirements	Setback to the northern boundary from deck – 7.5m	3.5m	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

Nil.

CONSULTATION

REFERRAL

Internal
Building

External
N/A

ADVERTISING OF PROPOSAL

The application was advertised as per Scheme No. 2 and the Residential Design Codes.

The advertising consisted of letters to adjoining property owners.

Submissions

There were 4 letters sent out and 2 submissions received, of which 1 was an objection. Details of the submissions received are set out below:

13 Avonmore Terrace

- Owners of 13 Avonmore Terrace expressed no objection to the proposed studio and deck on the subject property.

10B Salvado Street

- *Such a large structure should not be built on our boundary.*

- *As part of the recent subdivision the ground level of 13A Avonmore Terrace near our boundary was recently raised and a new fence was constructed. The height of the recently constructed fence now extends to our second story balcony.*
- *The construction of a studio wall on our boundary would adversely affect our visual amenity.*
- *The visual effect of a higher wall constructed of brick on the boundary would be much more imposing.*
- *The wall would also block more morning sunlight from our kitchen window and would act as a thermal mass that would have a heating affect on our house.*

STAFF COMMENT

Buildings on boundaries

It is proposed to construct a studio at the rear of the subject property with nil setbacks to the southern and western side boundaries and a deck adjoining the rear of the existing residence.

Council received a letter from the adjoining property owners to the south (13 Avonmore Terrace) in support of the proposal.

An objection was received from the adjoining property owner at the rear of the subject property (10B Salvado Street).

The proposal is not in accordance with the Acceptable Development standards of the RDC under its clause 3.3.2 (A2) and therefore is required to be assessed under the Performance Criteria, which are as follows:

3.3.2 – Buildings on Boundary

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *Make effective use of space; or*
- *Enhance the amenity of the development; and*
- *Not have any significant adverse effect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The rear of the subject property was filled due to the Water Corporation requirements during the subdivision/amalgamation approval stage. This resulted in the finished levels at the rear of the subject property being considerably higher than the levels of the adjoining property to the west.

The proposed wall of the studio with a nil setback to the western boundary, if measured from the existing ground level of the adjoining property, is approximately 5.0m in height due to the difference in levels.

Although it could be argued that the proposed walls with the Nil setback to the western and southern boundaries make effective use of space on the subject property and do not affect privacy of the adjoining properties, the height of the

proposed wall on the western boundary as seen from the adjoining property is considered to have a negative impact on the amenity of the rear neighbour.

The proposed studio is quite large, with a bathroom, kitchen and storage areas being part of the design. It is considered that there is an opportunity to either reduce the overall footprint of the proposed building or change the design to incorporate a 1.1m setback to the western boundary.

Privacy (proposed deck)

The proposed deck adjoining the rear of the existing residence is more than 500mm above the existing natural ground level of the site and therefore is subject to the privacy provisions of the RDC, which require a 7.5m setback for open outdoor active habitable spaces such as balconies, decks, verandahs and the like.

The proposed setback from the deck to the northern boundary is 3.5m, which is not in accordance with the acceptable development standards of the RDC under its clause 3.8.1 (A1) and therefore has to be considered under the corresponding Performance Criteria of this clause, which are:

Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

- *The positioning of windows to habitable rooms on the development site and the adjoining property;*
- *The provision of affective screening; and*
- *The lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.*

The adjoining property is a vacant site and therefore it is not possible to predict where major openings or outdoor living areas would be positioned if the property is later developed.

The above provisions of the RDC do not cater for situations where the adjoining land has not yet been developed, although they do set out to protect amenity generally and in perpetuity. However, it is obvious that overlooking from the proposed deck would fall within the area that would not be a front garden or an area visible from the street, as the proposed deck is positioned more towards the middle of the northern side boundary.

It is considered that taking into account the considerable height of the proposed deck from the natural ground level, it would be reasonable to request that the northern side of the proposed deck be provided with a privacy screen 1.65m high to avoid overlooking into the adjoining property, which would alleviate potential future privacy issues when the adjoining property is developed.

CONCLUSION

It is recommended that the application for a new studio and deck on the subject property be approved subject to relevant standard conditions and two specific conditions, requiring privacy screening along the northern side of the deck and a setback of 1.1m (in accordance with the RDC) from the studio wall to the western side boundary.

VOTING

Simple Majority

11.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Woodhill

That Council:

- (1) GRANT its Approval to Commence Development for the Proposed New Deck and Studio at No 13A Avonmore Terrace, Cottesloe, in accordance with the plans submitted on 2 September 2005, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
 - (e) Revised plans being submitted for approval by the Manager Development Services, showing:**
 - (i) the wall of the studio being set back a minimum of 1.1 m from the western side boundary in accordance with the Acceptable Development Standards under Clause 3.3.1 (A1) of the Residential Design Codes; and**
 - (ii) the proposed deck being provided with a 1.65m minimum height privacy screen in accordance with the privacy provisions of the Residential Design Codes, with the height of the screen being measured from the finished floor level of the deck;**
 - (iii) and carrying out of the development shall include these requirements.**
- (2) Advise the submitters of this decision.**

Carried 10/0

11.1.5 DELEGATION OF POWERS - CHRISTMAS RECESS

File No: X4.6
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 21 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to delegate authority to the Manager of Development Services to make determinations on those applications for planning consent that are received during the period from Tuesday, 13th December, 2005 to Friday, 3rd February, 2006 while the Council is in recess.

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The following resolution was passed by Council at its December 2004 meeting:

That Council

- (1) *In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2), Council hereby further delegates to the Manager of Development Services under Clause 7.10.1 of the No. 2 Town Planning Scheme Text, authority to make a determination on those applications for Planning Consent that are beyond his current delegated powers for the period from Tuesday, 14 December, 2004 to Friday, 4 February, 2005.*
- (2) *The exercise of those powers referred to in (1) is granted subject to:*
 - (a) *The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the application; and*
 - (b) *A list of items to be dealt with under this delegation is to be identified and included in the weekly list of Delegated Authority Items that:*
 - (i) *is to be circulated on a weekly basis to all Councillors; and*
 - (ii) *subject to the current call in arrangements for Delegated Authority Items.*

STAFF COMMENT

It is requested that the Manager of Development Services and the Chief Executive Officer be granted additional delegated authority, to determine applications beyond their current delegation powers, in consultation with the Development Services Presiding Member, during the Christmas and January recess.

COMMITTEE COMMENT

Committee discussed the overall situation regarding the sub-station and whether it could be relocated as well as the implications for the planning and development of the area, and considered that Council should not support the application at this stage given the consultant advice being sought, and that the suggested conditions should be qualified accordingly.

VOTING

Absolute Majority

11.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Woodhill

That Council

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2), Council hereby further delegates to the Manager of Development Services under Clause 7.10.1 of the No. 2 Town Planning Scheme Text, authority to make a determination on those applications for Planning Consent that are beyond his current delegated powers for the period from Tuesday, 13 December, 2005 to Friday, 3 February, 2006.**
- (2) The exercise of those powers referred to in (1) is granted subject to:**
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Presiding Member of the Development Services Committee or the Deputy, prior to a decision being made on the application; and**
 - (b) A list of items to be dealt with under this delegation is to be identified and included in the weekly list of Delegated Authority Items that:**
 - (i) is to be circulated on a weekly basis to all Councillors; and**
 - (ii) subject to the current call in arrangements for Delegated Authority Items.**

Carried by Absolute Majority 10/0

11.2 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**11.2.1 NO. 200 CURTIN AVENUE – DEVELOPMENT APPLICATION UNDER METROPOLITAN REGION SCHEME FOR PROPOSED UPGRADE OF WESTERN POWER SUB-STATION**

File No: 200 Curtin Avenue
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil.
Report Date: 5 December, 2005
Senior Officer: Mr Stephen Tindale

BACKGROUND

- Council is aware of the proposal by Western Power to increase the capacity of the sub-station at the Curtin Avenue / Jarrad Street site.
- In recent months Council has given consideration to this in relation to the Town Centre Study and the future of Curtin Avenue.
- Also some nearby residents have expressed concern to Council about the proposal and whether the sub-station needs to expand or could be relocated.
- Council at its 28 November 2005 meeting resolved to engage a consultant to examine the veracity of the proposal by Western Power and possible options.

DEVELOPMENT APPLICATION

- In September, to progress the proposal, Western Power had submitted a development application to commence the upgrade.
- This comprised a Metropolitan Region Scheme (MRS) application form and covering letter, but no plans. The form described the proposed development as: “upgrade 66kv sub-station to 132kv”.
- The letter described a two-stage upgrade:
 - March 2006 – complete detailed design and commence tender process for works.
 - July 2006 – commence project implementation. Remove one 66kv transformer, replace it with one 132kv transformer and connect the sub-station to the existing 132kv transmission line that runs along Curtin Avenue. This work would be completed by November 2008.
 - Remove a second 66kv transformer and replace it likewise, by November 2009.
 - June 2010 – landscaping completed.
- The letter advised that Western Power would be willing to undertake landscaping and screening of the sub-station and invited comment from Council as to what would be acceptable to the community.
- The letter also advised that removal of a Pine tree would be required and that the Heritage Council of WA (HCWA) has agreed to that.

- A subsequent letter from Western Power to the Manager Engineering Services dealt specifically with the Pine tree removal. It included a sketch plan of the proposed upgrade and photo-montages of the larger transformers and indicative solid masonry screen walls to the site, but did not refer to that material.
- Council sought from Western Power clarification and more information to ensure a competent application. A formal response was not received until late November 2005, comprising another letter, plans and copy of the HCWA advice. The letter advises as follows:
 - The works are to be as indicated in the sketch plan and the new equipment is to be “of a similar nature” to that existing.
 - *Officer comment: this is a plan view only and does not provide any elevations to illustrate the vertical scale of the new transformers or power poles.*
 - The works will be contained within the existing site, as Western Power no longer intends to seek to obtain more land to the east.
 - *Officer comment: pursuant to the Town Centre study the Department for Planning and Infrastructure liaised with Western Power in support of options for future Curtin Avenue and the town centre, and as a result Western Power advised that it would purchase equipment for the sub-station upgrade which would not require more land.*
 - Landscaping is not proposed as part of the application, on the basis that the works would not significantly alter the appearance of the sub-station, however, Western Power is willing to undertake landscaping around the site to address public amenity. The photo- montages were included to illustrate walls as an alternative to vegetative screening.
 - *Officer comment: landscaping outside the existing perimeter fencing or future boundary walls would occupy road and other reserve lands. Council is only responsible for the verges and Western Power should contribute any landscaping required due to the upgrade.*
 - A copy of the HCWA letter is now enclosed.
 - *Officer comment: the HCWA has assessed the proposal to remove a Pine tree in relation to the intended listing of the “Norfolk Island Pine Precinct” in the State Register of Heritage Places and supports the removal.*

PROCESS

- The proposal, being for electricity supply works, is exempt from the need for local town planning scheme approval, but it is practice for authorities to consult the local government, as in this instance regarding the landscaping/screening suggestions.
- The application is made under the MRS, as it affects land zoned under that scheme. The site is predominantly zoned Urban under the MRS – only the south-east corner is encroached by the Primary Regional Road reservation for possible future Curtin Avenue.

- Such applications are lodged with the local government for forwarding to the Western Australian Planning Commission (WAPC) for determination. This is essentially a regional-level planning determination, although it has regard to local aspects.
- The local government is able to make a recommendation to the WAPC, including any conditions it considers should be imposed.
- The WAPC may consult any authority and must have regard to the purpose for which the land is zoned or reserved under the MRS, the orderly and proper planning of the locality and the preservation of the amenities of the locality.
- This process does not automatically provide for public advertising by the local government or WAPC, although the wider public interest is taken into account by the WAPC and a local government may elect to consult its community.
- In this instance it is considered that Council is sufficiently aware of community interest or concern to deal with the proposal.

LOCAL PLANNING CONSIDERATIONS

- From Council's perspective, at a local planning level the planning considerations associated with the proposal (assuming it is to proceed) relate to the visual amenity of the sub-station. In this respect it is assessed that:
 - Additional landscaping all around the sub-station would improve its appearance and be consistent with the open, treed character of Curtin Avenue and the reserve lands.
 - Solid masonry screen walls have been used well at other sub-stations, especially those in built-up areas with a hard-edge urban character. Due to the taller height of the new equipment to be screened, a wall height of up to 3 or 3.2m may be employed. It is understood that walls are the alternative to palisaded fencing (for security/safety) of up to 2.5 or 2.8m high. Apparently walls are an aesthetic consideration only, as noise is controlled by way of the equipment.
 - With the Cottesloe sub-station, while walls may be desirable to conceal larger, busier or less attractive new infrastructure and equipment, they would tend to emphasise the site as a dominant installation and create a compound effect in contrast with the open space and avenue of Pine trees.
 - Vegetative screening around the site would soften the impact of the sub-station, whether with mesh fencing or solid walls, and should be a recommended condition of development approval in either case.
 - Solid walling could be considered after the sub-station is upgraded or in conjunction with future urban development, including the ultimate solution for Curtin Avenue, town centre and reserve lands.
 - Whenever, landscaping or walling should address the sub-station on all sides, as it is viewed from all around.
 - The loss of a Pine tree is not ideal but could be accepted in the circumstances and relocation or replacement could be recommended. Alternatively, it could be recommended that consideration be given to positioning of these particular poles and line to avoid the tree if at all possible.

- The introduction of several new power poles and lines to the landscape (plan refers) is inevitable, however, their impact could be minimised by careful choice of finishes and colours, as a recommended condition. Upon completion of the upgrade some temporary poles and lines would be removed.

CONCLUSION

- At a strategic and regional planning level, Council's interest is in the land use and urban design implications of the proposal in relation to the future of Curtin Avenue, the town centre, reserve lands, nearby housing and the district overall (as relocation of the sub-station would transfer similar built form and amenity aspects to another site and vicinity).
- If Council is not convinced that the sub-station should remain or be upgraded, Council may wish to not support the current application; however, Council should not lose the opportunity to convey its position or concerns to the WAPC and to recommend conditions in any event. In the meantime, Council should advise the WAPC and Western Power that a consultant is examining the situation regarding the sub-station on behalf of Council.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council advises the Western Australian Planning Commission as follows:

- (1) That the future and implications of the sub-station and its proposed upgrade have been given consideration in Council's town centre study and examination of the options for future Curtin Avenue, which has included liaison with Western Power and other State government agencies.
- (2) That Council on 28 November 2005 resolved to obtain a specialist consultant report regarding the sub-station, aimed at providing a preliminary assessment as to whether it would be worthwhile seeking an in-depth assessment of the quoted need to upgrade the sub-station capacity from 66kv to 132kv, the low possibility of other sites being used, and the high costs (approximately \$30m) to relocate the sub-station to another site.
- (3) Council has also liaised with Western Power about the subject Metropolitan Region Scheme development application, and that should the Commission proceed to approve the application Council recommends the following conditions to address the amenity impacts of the proposal:
 - (i) Western Power shall liaise with the Town of Cottesloe to agree upon suitable screen walls and landscaping to be provided by Western Power at its cost in conjunction with the upgrading of the sub-station, including design, materials, finishes, colours and species compatible with the locality.
 - (ii) Western Power shall review the positioning of the new poles and cut-in line to the north of the sub-station site to if at all possible achieve an alignment that does not require any tree removal, but that if the subject

Pine tree proposed to be removed must be, then as part of the works the tree is to be relocated or replaced by Western Power at its cost, in consultation with the Town of Cottesloe.

- (iii) Western Power shall give consideration to the finishes and colours of all infrastructure associated with the upgrade in order to minimise the visual impact of the sub-station, in consultation with the Town of Cottesloe.

11.2.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Woodhill

That Council advises the Western Australian Planning Commission as follows:

- (1) That Council does not support the application at this stage and that the future and implications of the sub-station and its proposed upgrade have been given consideration in Council's town centre study and examination of the options for future Curtin Avenue, which has included liaison with Western Power and other State government agencies.**
- (2) That Council on 28 November 2005 resolved to obtain a specialist consultant report regarding the sub-station, aimed at providing a preliminary assessment as to whether it would be worthwhile seeking an in-depth assessment of the quoted need to upgrade the sub-station capacity from 66kv to 132kv, the low possibility of other sites being used, and the high costs (approximately \$30m) to relocate the sub-station to another site, and that this report is being arranged.**
- (3) Council has also liaised with Western Power about the subject Metropolitan Region Scheme development application, and that should the Commission nonetheless proceed to approve the application, at this stage Council recommends the following conditions to address the amenity impacts of the proposal:**
 - (i) Western Power shall liaise with the Town of Cottesloe to agree upon suitable screen walls and landscaping to be provided by Western Power at its cost in conjunction with the upgrading of the sub-station, including design, materials, finishes, colours and species compatible with the locality.**
 - (ii) Western Power shall review the positioning of the new poles and cut-in line to the north of the sub-station site to if at all possible achieve an alignment that does not require any tree removal, but that if the subject Pine tree proposed to be removed must be, then as part of the works the tree is to be relocated or replaced by Western Power at its cost, in consultation with the Town of Cottesloe.**
 - (iii) Western Power shall give consideration to the finishes and colours of all infrastructure associated with the upgrade in order to minimise the visual impact of the sub-station, in consultation with the Town of Cottesloe.**

Carried 10/0

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON
6 DECEMBER 2005**

Moved Cr Miller, seconded Cr Strzina

That items 12.1.1, 12.1.2, 12.1.3, 12.1.6, 12.1.7 and 12.2.1 be withdrawn from en-bloc voting.

Carried 10/0

The above items were dealt with first before the remainder were dealt with en-bloc.

12.1 ADMINISTRATION**12.1.1 SEA VIEW GOLF CLUB LEASE - DISPUTED LIABILITY FOR LEGAL FEES**

File No:	C12.2
Author:	Mr Alan Lamb
Author Disclosure of Interest:	Nil
Report Date:	30 November, 2005
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the matter of the disputed liability for legal fees associated with the new lease and to recommend that Council bear half of the legal costs associated with the management plan and lease agreement.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

If Council adopts the recommendation the affect will be to reduce current Sundry Debtors by \$11,529.26 and increase legal expenses in the area of Other Sport and Recreation by \$10,590.06 (that is the sundry debtor \$11529.26 plus an additional legal bill yet to be invoiced by the lawyer \$119.80, a total of \$11,649.06 less GST).

BACKGROUND

Leading up to the negotiation and drafting of a new lease for the Sea View Golf Club, administration obtained an estimate for the legal costs. The standard practice is for leases to include a clause that requires the lessee to pay all cost associated with putting the lease together and so the Club was advised (by email, to the Manager, dated 12 December, 2002) of the quotation received by administration. The quote

was the lowest of time charges or \$4,500 to prepare the lease to the state where it is acceptable to Council.

In summary the work to be undertaken was to be:

- *preparation of a draft lease for your consideration;*
- *discussion of a draft lease with yourself;*
- *amending the draft lease in light of those discussions;*
- *finalising the lease in a form acceptable to the Town of Cottesloe to deliver to the Sea View Golf Club for its comments.*

If the lease was then accepted by the Club without amendment there would be fees and costs for a further two hours to prepare the lease in an executable form and to have it stamped and registered (estimated at between \$500 and \$600). If amendments to the lease were requested and protracted negotiations were entered into then fees would be charged at an hourly rate of between \$280 and \$395 plus GST and disbursements.

Negotiations ensued and protracted public comment and assessment thereof, required further legal input.

The following is a summary of the current position with respect to legal and associated charges:

DATE OF LAWYERS INVOICE	AMOUNT \$ (inc GST)	CLUB INVOICED	ACCOUNT PAID BY CLUB
27/6/03	4,552.02	Yes	Yes
5/12/03	3,349.50	Yes	Yes
20/4/05	14,516.15	Yes	No
Yet to be invoiced	119.80	No	No
Sub Total	22,537.47		
Survey costs paid to survey firm and invoiced 31/1/05	760.65	Yes	Yes
Total	23,298.12		
Costs reimbursed by Club	8,662.17		

The lease provides that:

The Lessee must pay to the Lessor:

- (a) *The Lessor's reasonable legal and other costs associated with;*
 - (1) *the preparation, execution, stamping and necessary registration of this Document and any documents for extending or renewing the Term;*
 - (2) *considering the Lessee's request for approval or consent, including consent to an assignment or sublease; and*
 - (3) *any breach of a Lessee's Covenant; and*
- (b) *all stamp duty and registration fees payable in connection with this document.*

CONSULTATION

The author has spoken with representatives of the Club and Council staff.

STAFF COMMENT

The Sea View Golf Club wrote to Council in June 2005 requesting that the \$14,516.15 legal fees account remitted by Council be reviewed noting that the originally quoted fee was \$4,500 and they had already paid \$8662.17 for fees and costs. Their letter noted an awareness of extra work being required and so an acceptance of costs so far, but questioned the justification of the new account. They also noted that the amount would place a great deal of strain on the Club's finances. The CEO passed the Club's comments on to the lawyer for his comment and the lawyer's response noted a number of factors that contributed to the higher legal bill.

These included:

- Issues raised by SVGC – and further drafts of the Lease.
- Amendments requested by SVGC.
- Issues raised by the public following consultation were referred to the lawyer for comment.
- Management Plan – this was introduced part way through the process and the lawyer was asked to review and comment on it.
- Consent of the Minister – at the time of estimating costs it was presumed that this had already been obtained.
- Difficulty with regard to the Land – considerable difficulty was encountered with regard to the land, and relevant title to the land. A number of searches were undertaken at DLI, and correspondence and attendances took place with DLI with a view to arranging for the urgent preparation of a Qualified Certificate of Crown Land Title.
- Other issues – various other issues arose and advice was provided

The lawyer further noted that the payment of legal costs by another party are often contentious because a lack of understanding of the extent and complexity of the work. In any case it is often the case that legal costs payable by the third party are capped to a certain amount with the balance being borne by the party who has incurred them. All work that was undertaken was at or below the original agreed rate and was reasonably incurred.

The lawyer suggested the Town meet with SVGC and agree to a commercial resolution and that perhaps each party bearing 50% of total cost may be appropriate.

It can be argued that all legal and associated costs would have been incurred in any event and that all costs should be met by the lessee. Equally though, it could be argued that this was anything but a straight forward process because of the need for a high level of community consultation and input which had an impact on costs. The lease is not a commercial lease. Rather it is the Town, as caretaker and manager of reserve land, passing rights of use, together with responsibilities, to a local club for mutual and community benefit. It is not unreasonable to expect the club to bear a limited portion of the costs especially where these are large and have exceeded expectations.

With regard to the Club's statement that the new account (\$14,516.15) would put a great deal of strain on its finances, the Club provided a copy of its 2005 Annual Report which included audited financial reports to December 31, 2004. These reports show that 84% of the Club's revenue comes from membership, 4% comes from net bar trading and the balance from sundry sources. 42% of its operating expenditure is applied to the course, 39% to administration, 11% to house and 8% to match expenditure. The balance sheet shows current assets of \$189,911 including cash of \$168,316 however the cash is offset by a current liability of membership subs in advance of \$211,134 (presumably the source of the largish year-end cash balance). In summary, it is the author's opinion that the Club's accounts are typical of many community clubs in that it relies heavily on its membership for funds, spends almost all of its annual income each year on club operations, and raises loans for capital items (they look to be fully paid in 2005). It would appear from the statements in the annual report that the Club's claim, that the new account would put a great deal of strain on its finances, is correct.

VOTING

Absolute Majority for part (2).

DECLARATION OF IMPARTIALITY

Mayor Morgan and Cr Strzina made declarations of impartiality as members of the Sea View Golf Club.

Cr Furlong made a declaration of impartiality as he is a social member of the Sea View Golf Club.

COUNCIL COMMENT

Concern was raised regarding the monitoring of the legal costs and that Council needs to be more diligent in the future to ensure that legal costs are not excessive in the future.

12.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUINCIL RESOLUTION

Moved Cr Miller, seconded Cr Walsh

That Council:

- (1) Offer to meet 50% of legal and other costs associated with the renewal of the Sea View Golf Club lease; and**
- (2) Subject to the Sea View Golf Club's agreement with (1) above, write off \$11,649.06 of the Sea View Golf Club's debt to Council.**

Carried by Absolute Majority 10/0

12.1.2 INDIANA TEA HOUSE LEASE - ASSIGNMENT

File No: C12.2
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the Indiana Tea House lessee's request for approval of its proposed assignment of the lease, with a recommendation that it be approved subject to relevant information being supplied before the meeting.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil as the lease requires that the lessee meet all costs associated with the assignment process.

BACKGROUND

Cocks Macnish, Barristers & Solicitors faxed a letter (date stamped 14/11/05) notifying that they act for Skynova Pty Ltd (Indiana Tea House Lessee) and its shareholders for the sale of all the issued shares in Skynova Pty Ltd to Vive Indianas Pty Ltd and that the settlement date under the contract is 16 January, 2006. They noted the requirement to gain the Town's consent and requested "... *as a matter of urgency what requirements you have in order to expedite all procedures necessary within the Town of Cottesloe for the purposes of considering and if thought fit giving your consent to the above transaction.*"

The correspondence was passed to McLeods Barristers and Solicitors to draw up and draft assignment agreement and act on behalf of Council. A letter was faxed to Cocks Macnish advising that Mcleods will be assisting with this matter and that the matter would have to go to Council. Further that it would need to be listed on Council's December meeting agenda in order to meet their timeframe and that the agenda closed on 29 November, 2005.

McLeods have sought information they suggest is relevant (details of the structure of the new company, guarantors and information to establish that either the company or guarantors have assets). Mcleods faxed a letter dated 21 November, 2005 to Cocks Macnish asking for the following information:

1. *A recent company search.*
2. *Identification of the change of ownership that has occurred.*
3. *Names of the proposed guarantors.*
4. *Information establishing the financial stability of the assignee and/or the guarantors.*
5. *Information establishing that the assignee, or the parties controlling the assignee, are of good character and have a history that indicates that the premises will be operated in a manner that supports its continuation as a significant asset to the area.*

Clause 38 of the Indiana Tea House lease agreement deals with assignment of the lease.

Clause 38.1 provides that:

The Lessee must not assign, mortgage or charge the leasehold estate in the Premises nor sublet, part with possession, or dispose, of the Premises or any part of the Premises without the consent of the Lessor and the Minister for Lands and except under this clause.

Clause 38.2 provides that:

Sections 80 and 82 of the Property Law Act 1969 are excluded.

Clause 38.3 deals with consent to assignment and provides, amongst other things that;

The Lessor may not unreasonably withhold its consent to an assignment of the leasehold estate created by this Document if:

- (a) *the proposed assignee is a respectable and responsible person of good financial standing, the onus of satisfying the Lessor in respect of those criteria being on the Lessee;*

Clause 38.6 requires that where the assignee or sublessee is a corporation the shares in which are not quoted on any stock exchange in Australia directors or shareholders are to guarantee to the Lessor the observance and performance by the assignee or sublessee of the Lessee's Covenants including payment of all Money Payable.

Clause 38.9 provides that the lessee must pay to the lessor all professional and other costs, charges and expenses incurred by the lessor in respect of enquiries made as to the respectability, responsibility and financial standing of each proposed assignee, and all other matters relating to the proposed assignment.

CONSULTATION

The author has communicated with Cocks Macnish, McLeods and Council staff.

STAFF COMMENT

Subject to the Town being provided with the information requested on its behalf by Mcleods and subject to Council being satisfied with this information, there appears to be no good reason to withhold agreement to the requested assignment. A copy of the draft assignment agreement is attached.

Provided the requested information is received by 4.30pm on Tuesday, 6 December, 2005 so that it may be presented to the Works and Corporate Services Committee (this meeting), it is recommended that Council agree to the assignment and authorise the Mayor and CEO to sign and seal a copy of the attached agreement that includes details of the guarantor.

VOTING

Absolute majority

COMMITTEE COMMENT

The committee felt that without the information requested, it would not be prudent to make a recommendation supporting the proposed assignment. Additional time was essential to good decision making. The bona fides of Vive Indianas Pty Ltd had yet to be proven.

OFFICER RECOMMENDATION

That subject to the lessee providing Council with additional relevant information requested on its behalf, Council:

- (1) Agree to the proposed assignment of the Indiana Tea House lease agreement from Skynova Pty Ltd to Vive Indianas Pty Ltd; and
- (2) Authorise the Mayor and CEO to sign and seal the agreement.

12.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That the matter be referred to the next ordinary meeting of Council in 2006 subject to the lessee providing the information as requested.

Carried by Absolute Majority 10/0

**12.1.3 COTTESLOE CIVIC CENTRE – MAINTENANCE AND RESTORATION –
ADDITIONAL WORKS**

File No: C4.4
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 28 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to recommend to Council that it approve the inclusion of additional works into the 2005/06 year of the Cottesloe Civic Centre Maintenance and restoration five year plan.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Action 1 under Strategy 4.6 of the Strategic Plan requires that a long term plan be prepared for the Civic Centre, based on current levels of expenditure. An item was put to the November Strategic Planning Committee meeting (reporting to the December Council meeting) recommending a five year plan. This item seeks to modify the 2005/06 year of the five-year plan.

FINANCIAL IMPLICATIONS

Nil, the proposed works are expected to be covered by the budget provision. The provision was made in the capital section of the 2005/06 budget and the proposal is that some of these funds be reallocated to the maintenance area. The recommendation will however require an absolute majority as it proposes a reallocation of \$54,000 of the provision from the capital area to the maintenance area.

BACKGROUND

A detailed plan for maintenance and restoration works (primarily the external walls) at the Civic Centre was prepared as part of the budget process based on the standard annual provision of \$170,000 and included in the capital section of the budget. The operating section of the budget included provision for expenditure at similar levels to the previous year. The provision in the capital section of the budget was increased by \$230,000 to \$400,000 to be applied against necessary works.

In 2000 Council commissioned a study and report on priorities and costs and Considine and Griffiths Architects used the Conservation Plan they had prepared for Council in 1996 as the basis for the study. The Schedule of Conservation/Maintenance Works, which prioritised and provided indicative costs for works, has been the basis for all works planning.

CONSULTATION

Nil other that with Council staff.

STAFF COMMENT

The five year capital works plan deals mainly with the external garden and retaining walls and does not adequately address some of the building's requirements. Similarly, the annual maintenance provision goes some way to meeting the needs of the buildings and grounds but does not adequately meet the need for the building to be repainted (the process is actually more than just a paint job, as it includes restoration works, replacement of gutters etc). For example the operating budget for the Civic Centre includes a provision of \$39,000 for contractors (the budget shows the provision as \$42,000 however the Marmion Street Community Centre is combined with the Civic Centre at that level of reporting and \$3,000 of the provision relates to the former).

Budget work papers show the division of this provision as:

Electrical	10000
Plumbing	1000
Painting	10000
Airconditioning	2000
Servicing fire extinguishers etc	2000
Termite treatments	1000
Sundry	3000
Sound monitoring - functions (note costs recoverable)	10000
Total	39000

It will be noted that \$10,000 has been set aside for painting, this compares to the following schedule of assessed painting needs staged over five years which shows the expenditure requirement of \$38,800 (note; does not include scaffolding, water blasting or any restoration works that may be found to be required) for 2005/06:

COTTESLOE CIVIC CENTRE - FIVE YEAR ASSESSED PAINTING REQUIREMENTS PLAN

Upper Level Internal Works - Full repaint		
Area to be painted	Estimated Cost	Financial Year
Upper Level - Room 48 (Arcade) Complete repaint	\$ 8,000.00	2005/2006
Upper Level - Room 35 (Council Chambers) - Windows	\$ 2,500.00	2006/2007
Upper Level - Room 37 (Foyer) Complete repaint	\$ 800.00	2005/2006
Upper Level - Room 47 (Men's Toilet & Passage)	\$ 1,200.00	2006/2007
Total	\$ 12,500.00	

Upper Level Internal Works - Touch Up		
Area to be painted	Estimated Cost	Financial Year
Room 31, 32, 33, 34, 41 - touch up & make good	\$ 1,800.00	2009/2010
Total	\$ 1,800.00	

Ground Floor Internal Works - Full repaint		
Area to be painted	Estimated Cost	Financial Year
Office 8 & 9 - Complete Repaint	\$ 1,200.00	2008/2009
Total	\$ 1,200.00	

Ground Floor Internal Works - Touch Up		
Area to be painted	Estimated Cost	Financial Year
Offices 1, 2, 3, 4, 5, 6 & 7 - Touch Up	\$ 1,800.00	2007/2008
Total	\$ 1,800.00	

External Works - Full Repaint		
Area to be painted	Estimated Cost	Financial Year
Remainder of western wall and southern wall - Complete external including walls & woodwork	\$ 12,000.00	2005/2006
Northern Wall - Complete external including walls & Northern end of eastern wall	\$ 14,000.00	2005/2006
Main Entry - Eastern Side	\$ 4,000.00	2005/2006
Southern end eastern wall	\$ 30,000.00	2006/2007
Total	\$ 13,000.00	2006/2007
	\$ 73,000.00	

Total For Financial Year	\$	Total Cost
2005/2006	\$ 38,800.00	
2006/2007	\$ 46,700.00	
2007/2008	\$ 1,800.00	
2008/2009	\$ 1,200.00	
2009/2010	\$ 1,800.00	
		\$ 90,300.00

Notes:

The estimates do not include the hire and installation of scaffolding and water blasting/pressure cleaning of surfaces.

The forgoing was prepared solely on a painter's assessment of needs and the next stage is to prepare a plan taking financial constraints into account which will be done once this matter is decided. It is apparent that some of the additional funding provision could be applied to meet this need.

The consultant's report on options for providing more space at the Civic Centre noted that the *"Chambers and associated rooms required a minor upgrade and refit to provide more appropriate levels of servicing and finishes and estimated the cost of*

this to be in the order of \$215,000. Based on this and known immediate needs the following list of proposed works was compiled as an option for the additional funding:

COUNCIL CHAMBERS - PROPOSED WORKS

DETAILS	ESTIMATED COST	CAPITAL/ OPERATING
	\$	
Audio system	19,000	Capital
Speaker timing system	1,000	Capital
Mayor's dais-		
removal	2,500	Capital
replacement desks/furniture	20,000	Capital
lighting/electrical improvements	15,000	Capital
other	4,000	Capital
Floor sanding and recoat	2,500	Operating
Total	64,000	

It is suggested that this work would vastly improve the amenity of the Chambers. It includes removing the raised area which takes up a lot of space and is configured such that it poses a trip hazard. It is suggested that the crest portion of the front section be retained and incorporated in the construction of new Mayor's desk.

Lighting in the Chambers is lacking in some locations and dazzling in others. According to the heritage architect, the existing light fittings are of no great historical significance and so could be replaced.

The consultant's report on options for providing more space at the Civic Centre also noted that the War Memorial Hall required major upgrade works to increase its functionality and *"enhance its use as a meeting hall with such things as, sound reinforcement, air-conditioning and visual display facilities"* and estimated the cost of this to be in the order of \$215,000. No work has been done on more accurate costings as yet however attendees at annual electors meetings and the like will have noted the poor quality of lighting, antiquated fans and the lack of air-conditioning, and so this would be a good candidate for some of the additional funding. Other improvements such as visual display facilities and the like would enhance the room's use for meetings, seminars and the like.

The main entrance area to the grounds is in need of work such as resurfacing the drive (main gates to upper lawn gates), installing proper drainage and kerbing, and improving lighting of the area. The drive works costs are estimated to be \$25,000 and the lighting is yet to be costed. It is envisaged that ornate lamp posts and the like would be included in the lighting and that the cost would exceed \$20,000.

The funds could be applied to the proposed works associated with creating more office and other space at the Civic Centre. The cost of options put forward by the consultant ranges from \$345,000 to \$423,500 (note; does not include the estimated cost of base work recommended by the consultant which totals to \$855,000). Council is yet to decide on which option to further pursue, and is waiting for further information to assist it, and so if this option was favoured the funds could be reserved until required.

A final option highlighted for application of all or part of the additional funds is to escalate proposed works on the external walls (retaining and garden walls). The following works have been highlighted for consideration:

**COTTESLOE CIVIC CENTRE
ADDITIONAL WORKS 2005/06**

DETAIL	ESTIMATED COST \$
P305 TO 312 (MAIN LAWN NORTH SIDE) REBUILD	55,500
P335 TO 343 (WALL TO MAIN LAWN, SOUTH SIDE) RE-BUILD	48,000
SP 374 TO 408 (RETAINING WALL TO LOWER PLAYGROUND REPLACE BALUSTERS AS REQUIRED, SCAFFOLD AND RE-POINT WALL	50,000
W501 TO 508 (PLAYGROUND) REBUILD BROKEN SECTIONS OF WALL REPLACE MISSING PIERS & URNS, RE-POINT REMAINING WALL	50,000
REMOVE TREES AS REQUIRED	26,500
TOTAL	230,000

Works that include rebuilding walls have been grouped together in the forgoing as there will be some economies of scale in combining some of these projects. A small number of Norfolk Island pine trees have been highlighted for possible removal based on their proximity to each other or walls. Relevant arbourculturalist and engineering reports would be obtained and alternatives explored prior to any action. It is expected that tree removals could cost as much as \$8,000 each and so any proposed, and approved, removals would be planned to be done together to reduce costs.

It is recommended that the additional \$230,000 be applied as follows:

<u>DETAILS</u>	<u>ESTIMATED COST</u>
Painting and associated maintenance	\$54,000
Council Chambers improvements	\$64,000
War Memorial Hall improvements	\$112,000
TOTAL	\$230,000

Painting and associated maintenance as above includes:

<u>DETAILS</u>	<u>ESTIMATED COST</u>
provision for a painting contractor to do works highlighted as required in 2005/06	\$38,800
additional painting noted as being required (sunken lawn toilets and room 46 – ladies toilets off main hall) – work completed	\$3,200
an allowance for scaffold hire and water-blasting	\$10,000
an allowance replacement of gutters, down pipes and the like	\$12,000
Total	\$64,000
Less current budget provision for painting	(\$10,000)
Required funds	\$54,000

The forgoing recommendation is based on the significant need for painting works, particularly exterior painting, to be carried out to protect the building. It is appreciated that this is a recurrent cost item and that ideally the funds should go to capital improvements however these works will help preserve the asset.

The proposed Council Chamber improvements will result in more space for the public to sit and make the room user friendly. Similarly the War Memorial Hall improvements will improve the amenity of the facility for Council and community use and should enhance its commercial potential.

Other options noted are being addressed over time with the regular allocation of funds. Works on the walls and gardens may gain future funding from the National Trust Appeal whereas the recommended works are not included in the appeal and so will not gain funding from this potential source.

VOTING

Absolute Majority

COMMITTEE COMMENT

The committee felt that funds for the proposed expenditure on the Council Chambers would be better directed towards improvements to the War Memorial Hall.

OFFICER RECOMMENDATION

That Council:

- (1) Approve an amendment of the 2005/06 budget to reduce the provision for Civic Centre Capital Works by \$54,000 and increase the provision for Civic Centre Maintenance by \$54,000; and
- (2) Approve the following proposed plan for additional works at the Cottesloe Civic Centre:

<u>DETAILS</u>	<u>ESTIMATED COST</u>
Painting and associated maintenance	\$54,000
Council Chambers improvements	\$64,000
War Memorial Hall improvements	\$112,000
TOTAL	\$230,000

12.1.3 COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) **Approve an amendment of the 2005/06 budget to reduce the provision for Civic Centre Capital Works by \$54,000 and increase the provision for Civic Centre Maintenance by \$54,000; and**
- (2) **Approve the following proposed plan for additional works at the Cottesloe Civic Centre:**

<u>DETAILS</u>	<u>ESTIMATED COST</u>
Painting and associated maintenance	\$54,000
Council Chambers improvements	\$20,000
War Memorial Hall improvements	\$156,000
TOTAL	\$230,000

Carried by Absolute Majority 10/0

12.1.4 NEW YEAR'S EVE - AUTHORISATION OF POLICE

File No: X7.2
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 28 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise members of the WA Police Service to perform any of the functions of an authorised person under Council's *Local Government Property Law*.

STATUTORY ENVIRONMENT

Section 9.10.(1) of the *Local Government Act 1995* provides that:

"The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions."

Under Council's *Local Government Property Law* an "authorised person" means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under the local law.

Specific provisions of the local law provide the following:

3.15(1) *A person, on local government property, shall not consume any liquor or have in her or his possession or under her or his control any liquor, unless-*
(a) that is permitted under the Liquor Licensing Act 1988; and
(b) a permit has been obtained for that purpose.

3.15(2) *Subclause (1) does not apply where the liquor is in a sealed container.*

8.1 *A person on local government property shall obey any lawful direction of an authorised person and shall not in any way obstruct or hinder an authorised person in the execution of her or his duties.*

8.2 *An authorised person may direct a person to leave local government property where she or he reasonably suspects that the person has contravened a provision of any written law.*

9.3(1) *Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law is prohibited from doing, commits an offence.*

9.3(2) *Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000...*

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The Town of Cottesloe's vision is for "A clean, safe and attractive town."

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

For the last several years, officers of the Town of Cottesloe and operators of licensed premises have worked together with the WA Police Service in seeking to minimise adverse impacts arising from New Year's Eve celebrations on the Cottesloe beachfront.

The overall approach has been one of seeking continuous improvement.

Broken glass presents a huge problem in terms of accidental injuries for revellers on the night and beachgoers in the following days. The clean up effort severely taxes the Council's resources.

It is intended that illuminated mobile display boards will be put in place with the following safety message "No alcohol allowed west of Marine Parade".

Obviously if this direction is to be enforced then members of the WA Police Service must be given the power to exercise power and direct people to behave responsibly when using local government property.

Since last year's event, members of the Western Australian Police Service now have power to move on people that they suspect may be about to commit an offence. The issue of a "move on" notice requires people to stay out of the particular area for 24 hours.

When coupled with Council's local laws, the "move on" notice could prove to be very effective in controlling anti-social behaviour on the night.

CONSULTATION

The OIC of the Cottesloe Police Station supports the proposal subject to Council's own authorised officers being present on the night to provide advice and support where required.

STAFF COMMENT

Historically the response to broken glass has been to improve lighting in known trouble spots, confiscate alcohol from under age drinkers, supply SULO bins rather than metal bulk rubbish bins, provide a chill – out area and ensure that a First Aid post is there on the night.

This year it is intended that we go beyond this and trial a "no alcohol policy".

VOTING

Simple Majority

12.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council authorise members of the Western Australian Police Service to perform any of the functions of an authorised person under Council's *Local Government Property Law*.

Carried 10/0

12.1.5 OCEAN BEACH HOTEL – PROPOSED CAR PARKING LIMITATION

File No: C12.11
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made that NO STOPPING signs be installed effective 4pm Sunday to 5am Monday from the 1st September to 1st May in the OBH slip road carpark immediately west of the OBH drive-in bottle shop entrance.

STATUTORY ENVIRONMENT

Council's Parking Local Law applies.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Council's strategic vision is for "A safe, clean and attractive Town".

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Currently there are no restrictions on parking in the slip road carpark adjacent to the Ocean Beach Hotel.

At a recent meeting of the CEO, Senior Ranger and Senior Sergeant Scott Halvorson (OIC of the Cottesloe Police Station) there was some discussion on the tendency of "hoons" to congregate in the slip road carpark of a Sunday during the pub-going season.

The slip road carpark is used as a burnout area and vehicles regularly exit the slip road at speed into Marine Parade.

Recently there was an accident where a vehicle did exactly this. After exiting the slip road the driver lost control, clipped a kerb and careered into a parked vehicle 100m down the road.

Given that there are public safety concerns with the operation of the carpark on Sunday afternoons and into the night, it is proposed that the carpark be closed with a view to eliminating the problem of "hooning".

In particular, it is proposed that NO STOPPING signs be installed that will be effective 4pm Sunday to 5am Monday from the 1st September to 1st May in the slip road carpark immediately west of the drive-in bottle shop entrance.

CONSULTATION

Since the meeting Senior Sergeant Scott Halvorson has taken the matter up with OBH management. There was no opposition to the proposed closure of the carpark.

STAFF COMMENT

There is a “duty of care” issue here. Currently we have a situation where patrons of the OBH and pedestrians are walking through a carpark where vehicles are driven at unreasonable speed. Given the higher risk of an accident occurring because of the presence of alcohol, it would be prudent to close the carpark.

It is intended that the slip road carpark be blocked off at the same time that the parking restrictions are in place. The carpark would then reopen in time for the early morning swimmers using North Cottesloe Beach.

For the first two weeks of the parking restrictions, warning notices would be issued. Thereafter, infringement notices are to apply.

While an argument can be mounted for an increased police presence in order to check the vehicle “hooning”, there is little doubt that an increased police presence could only be of a temporary nature. As soon as backs are turned, it is likely that trouble would flare again.

VOTING

Simple Majority

DECLARATION OF INTEREST

Cr Furlong made a declaration of proximity interest as his residence is within 200 metres of the site being discussed.

12.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council approve the installation of NO STOPPING signs effective 4pm Sunday to 5am Monday from the 1st September to 1st May in the OBH slip road carpark immediately west of the OBH drive-in bottle shop entrance.

Carried 10/0

12.1.6 OUT OF HOURS WORK ON CONSTRUCTION SITES

File No: D10.2
Author: Ms Ruth Levett
Author Disclosure of Interest: Nil
Report Date: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present a Noise Management Plan to permit construction work out of hours on domestic building sites between 6.00am to 7.00am from Monday to Friday during the summer months from 1 November to 30 April. It is recommended that the plan for approval of our of hours work be supported.

STATUTORY ENVIRONMENT

Regulation 13 of the Environmental Protection (Noise) Regulations 1997 permits work outside designated hours where a Noise Management Plan is submitted.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Construction on domestic building sites is currently permitted in accordance with the following condition:

All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997. Work on the site is limited to between 7.00am and 7.00pm, Monday to Saturday and no work is permitted on Sundays and Public Holidays. Works proposed outside of these times requires prior approval from Council. For further information contact Councils Environmental Health Officer.

It is proposed that the Noise Management Plan will permit certain works to be conducted on domestic building sites commencing at 6.00am on Monday to Friday for the duration of the summer months from 1 November to 30 April each year. A copy of the draft Noise Management Plan is attached.

CONSULTATION

Nil.

STAFF COMMENT

The Housing Industry Association, acting on behalf of its members, has been working with the Department of Environment to resolve the problems associated with the starting time of 7.00am on building sites during the summer months. The Association has prepared a Noise Management Plan that meets the requirements of the regulations and is supported by the Department of Environment.

Currently, the Chief Executive Officer is authorised to approve Noise Management Plans in accordance with the Environmental Protection (Noise) Regulations. To date, Noise Management Plans have not been used for works between 6.00am and 7.00am on domestic building sites. It is proposed that individual builders will be required to submit a plan at the commencement of construction for the approval of the Chief Executive Officer and that neighbours are notified at least 24 hours prior to the commencement of work of the intention to work on the site between the hours of 6.00am to 7.00am Monday to Friday during the summer months from 1 November to 30 April.

Construction workers are exposed to harmful UV radiation from the sun and are subject to heat stress to a greater extent than most workers. Much of their work involves heavy manual work that creates additional stress as temperatures rise.

The administration are constantly in receipt of complaints from neighbours where builders commence work before 7.00am during the summer months. Whilst the inconvenience to residents being woken early is acknowledged, it is only for a short period of time at various stages of construction. It is not meant to be a daily occurrence throughout the construction period.

It is therefore recommended that Council support the approval of the proposed out of hours work on all domestic construction sites subject to the CEO approving a Noise Management Plan prior to the commencement of construction.

It is also recommended that the attached Noise Management Plan be amended to cover only the days Monday to Friday and exclude Saturday where work is currently permitted to commence at 7.00am in accordance with the regulations. The Noise Management Plan will not permit work on Sunday or Public Holidays. Approval to work on these days is generally intended for commercial sites or where services must be cut and permission must be sought from the Chief Executive Officer using a separate Noise Management Plan.

The plan clearly identifies the types of work that will be permitted and the general activities that may occur prior to 7.00am. Neighbours are also required to be advised of the proposed out of hours work.

It is anticipated that this will eliminate a considerable amount of tension between builders and their contractors and neighbours as well as time that the administration spend on dealing with this matter particularly during the summer months.

VOTING

Simple Majority

COUNCIL COMMENT

Concern was raised that the noise levels will commence earlier and therefore have a detrimental effect on families close to construction sites.

12.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council:

- (1) Supports the approval of a Noise Management Plan for out of hours work on domestic construction sites between 6.00am to 7.00am from Monday to Friday during the summer months from 1 November to 30 April;**
- (2) Supports the approval of a Noise Management Plan commencing on 1 January, 2006; and**
- (3) Requests the administration of notify the holders of all existing building licences in writing of the requirement to lodge a Noise Management Plan for proposed out of hours work on existing or new domestic building sites as of 1 January, 2006.**

Carried 6/4

12.1.7 TEMPORARY CLOSURE OF MARINE PARADE FOR SEADRAGON FESTIVAL 2006

File No: X 7. 1
Author: Ms Carolyn Ryder
Author Disclosure of Interest: Nil
Report Date: 23 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The Sea Dragon Festival organising committee would like Council to consider the closure of Marine Parade to vehicle access from Forest Street to John Street, between 10am and 3pm on Sunday, 5 March, 2006.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

District Development/Environment/Streetscape - Provision of clean, safe, sustainably managed streetscapes ... which are pedestrian friendly.

District Development/Environment/Traffic Management and Safety - A system which promotes safety and the 'TravelSmart' concept.

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Cottesloe Sea Dragon Festival is a popular community event that takes place annually in March on the beachfront between Indiana Teahouse and Cottesloe Surf Life Saving Club. The objective of the festival is to "*celebrate, as a whole community, the intrinsic values of our precious yet fragile coast; raising awareness of community groups and empowering individuals to reduce human impact on the coastal zone*".

This year, the Sea Dragon Festival organising committee would like to engage the community in a range of interactive activities that promote a more sustainable lifestyle. To create a safe space for fun physical activities such as rollerblading, cycling circuits and so on, it is proposed that Marine Parade be closed to vehicular traffic from Forest Street to John Street, between the hours of 10am and 3pm to coincide with the Sea Dragon Festival.

CONSULTATION

Nil

STAFF COMMENT

While it is recognised that traffic flow will be diverted to Broome and Napier Streets, closure of Marine Parade during the Sea Dragon Festival offers a multitude of benefits to the community including:

- restoration of the dual function of the street as a place for pedestrian activities;
- encouragement and promotion of a more sustainable lifestyle and alternative methods of getting around (cycling, walking, roller blading) in Cottesloe;
- encouragement of social and cultural exchange within our community; and
- the festival can be enjoyed by the whole family in a safe environment.

CEO COMMENT

Regrettably I cannot support the proposed closure.

Effectively it will still be summer. There will be pub crowds to contend with, the bog lappers, taxis, rerouting of buses, advice to emergency services (ambulance), advice to police, advice to residents, detour signs, barricades and the manning and removal thereof etc. Local business will need to be consulted to ensure that they are happy with any alternative arrangements. John Street and Forrest Street residents may be less than happy with the diversion of traffic off Marine Parade.

In short it's not as simple as closing a shopping centre strip or mall. The multi-purpose use of the beachfront makes it more difficult than would ordinarily be the case.

The section of road includes two bus stops which are used for the pick-up and set-down of passengers for both the CottCat and Transperth passengers. These bus stops directly service Cottesloe Beach and their operation would effectively be ruled out on the day.

We could close off the Forrest Street carpark as an alternative space to work with but it is still going to be a very busy intersection (Marine Parade & Forrest).

VOTING

Simple Majority

OFFICER RECOMMENDATION

Option A):

That Council agree to restrict vehicle access to Marine Parade between Forest Street and John Street, for interactive physical activities, during the hours of 10am and 3pm on Sunday, 5 March, 2006.

Option B):

That Council refuse the request to restrict vehicle access to Marine Parade between Forest Street and John Street on Sunday, 5 March, 2006.

12.1.7 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council refuse the request to restrict vehicle access to Marine Parade between Forest Street and John Street on Sunday, 5 March, 2006.

Carried by the casting vote of the Mayor 6/5

12.2 ENGINEERING

12.2.1 1 GERALDINE STREET, COTTESLOE - PEDESTRAIN ACCESS WAY - CLOSURE TO VEHICLES

File No: 1 Geraldine St & E13. 1. 23
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 1 December, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in October, 2005 Council resolved:

“That the matter be deferred back to administration for a further report and that the bollard not be installed at this time.”

A formal request for advice was then sent to Land Asset Management Services, Department of Planning and Infrastructure. That advice has now been received.

This report recommends that Council inform the owner of 1 Geraldine Street that a bollard will be installed at the end of January, 2006 to prevent vehicle use of the side pedestrian access way (PAW), as agreed to in 1997, to protect the public from illegal vehicle use of this access.

STATUTORY ENVIRONMENT

The access is vested in Council as a PAW. Council has no current power to allow vehicles to be drive on this PAW. Only a change of status back to a Laneway/Right of Way or to a road would restore the vehicle access right. This has been confirmed through contact with Land Asset Management Services.

POLICY IMPLICATIONS

Council's policy on *Laneways/Rights of Way* applies.

OBJECTIVES:

1. To provide a safe environment and trafficable surface for residents to access their properties while managing risk to the public and the Town of Cottesloe.
2. To establish a procedure for the progressive upgrading of all public Rights of Way and Laneways, by paving and drainage, using all available sources of funding.
3. To establish a procedure for private developments and subdivisions to contribute to the upgrading of public Rights of Way and Laneways, where those developments impact on those routes.
4. To establish a procedure for sections of private laneways to become Crown land, including land held by Council as private property and used by the public as access.

PRINCIPLES:

1. To recognise that the Rights of Way/Laneway network provides valuable access to residential and commercial properties.
2. To recognise that aesthetic improvements occur in street frontages when garages and carports are accessed from Rights of Way and Laneways.
3. To ensure that the costs of improvements to ROW's/Laneway are funded by developers and subdividers, if such improvements are required to service such developments.
4. To recognise that the ROW/Laneway network is of benefit to the whole community and that the Town of Cottesloe should contribute towards upgrading, if landowners wish to contribute towards ROW or Laneway upgrading.
5. To recognise that any ROW or Laneway used by the general public should be Crown Land vested in Council for the purpose of public access, maintained by Council through the normal annual budgeted maintenance programs.
6. To discourage motorists from using laneways as de-facto streets or using laneways as shortcuts.

ISSUES:

1. When compared with similar Local Government Authorities in the metropolitan area, the Town of Cottesloe has a high proportion of its ROW's and Laneways in a poor to undeveloped condition.
2. A large proportion of ROW's and Laneways in the Town of Cottesloe are privately owned by the Town, with the remaining sections being either Crown land or privately owned by various individuals or companies.
3. ROW's and Laneways are being progressively built, piecemeal, due to conditions placed on developments and subdivisions, with no long term aim of this construction. Such construction has not included a requirement to connect the built section to a built street or existing built Laneway or ROW.
4. ROW's and laneways often contain Service Authorities infrastructure eg deep sewers, water supply pipes, as well as Council installed drainage systems. Machine access is required at all times to maintain and service this infrastructure, regardless of ownership.
5. The mixture of Crown control, private ownership and Council ownership of ROW's and Laneways has created confusion in the past for staff trying to maintain these accesses while trying not to expend Council funds on privately owned sections.
6. The amount of privately owned laneway sections (by Council and individuals) requires a lot of control regarding actions, filing, knowledge of ownership etc, which could be greatly simplified by their surrender to the Crown.
7. Past completion of various short sections of ROW and Laneway construction by various contractors organized by various developers to meet development conditions have left Council with varying levels, construction standards and

quality standards of these sections throughout the Town area. This will inevitably result in a variety of maintenance problems as ROW and Laneway use grows.

8. Many of the past approved laneway constructed sections have been to a 100mm thick, un-reinforced concrete standard. With vehicle weights increasing and the use of heavy machinery by Service Authorities to service their infrastructure in laneways, it is also inevitable that Council will be involved in expensive repairs to cracked and damaged concrete laneway sections. Therefore Laneway surfacing should be based on flexible rather than inflexible pavements.

POLICY:

1. Council's attitude towards the status of Rights of Way/Laneways is that all such accesses should be Crown land, where they are used by the general public rather than for a specific restricted property access function.
2. Any sections of Rights of Way/Laneways owned by the Town of Cottesloe will be surrendered to the Crown under processes included in the Local Government Act. Any such sections owned by ratepayers of the Town of Cottesloe, which become available to Council for little or no cost, will also be surrendered to the Crown for Crown land.
3. When a Right of Way or Laneway is required for primary access to a new development the developer will upgrade by paving, kerbing and drainage, the Right of Way or Laneway from the nearest built gazetted road or existing built laneway to the furthestmost lot boundary, to the satisfaction of the Manager Engineering Services.
4. The developer may elect to have the Laneway upgrading works done by the Town of Cottesloe or by a Contractor.
 - (a) If the Town is to undertake the works, payment of the full estimated value of the works must be received by the Town before works commence.
 - (b) If the developer employs contractors, a supervision and inspection fee is to be charged, in accord with Section 6.16 of the Local Government Act 1995.
5. The design of the Right of Way or Laneway must recognise the need to minimise vehicle speeds and maximise safety and security.
6. When a Right of Way is required for primary or secondary access from an existing property redevelopment, it is conditional (Town Planning) upon the developer to contribute an amount equivalent to 50% of the costs to construct a portion of standard ROW 4m x 20m in area.
 - (a) Where a charge has been applied, as condition of development for the upgrade of a ROW, the money is to be placed in a Reserve Account established under Section 6.11 of the Local Government Act, for the specific purpose of ROW upgrade.
7. Notwithstanding averaging requirements for developments under the residential codes for rear setbacks and fencing specifications in Council's fencing local laws, there shall be a minimum building setback for carports and garages, to allow a minimum turning circle of six (6) metres, measured from the far side laneway boundary to the closest part of the structure, for each car bay, carport and garage designed at 90° to the laneway or Right of Way.

8. Fees and charges for contribution to works, supervision and inspection will be determined annually by Council in accordance with the provisions of Section 6.16 of the Local Government Act 1995.
9. In situations where new developments or redevelopments are not factors in laneway upgrading and the condition of particular laneways has created concern regarding unsafe conditions for drivers and pedestrians, an increased public liability risk and ongoing maintenance requirements, the following shall apply regarding upgrading:
 - (a) A construction program of ROW's and Laneways will be determined by priority on the basis of vehicle and pedestrian usage, existing surface condition, drainage problems and condition of private fencing.
 - (b) The design of the ROW/Laneway will recognise the need to minimise vehicle speeds and maximise safety and security.
 - (c) All fences abutting ROW's and Laneways shall be constructed and maintained in accordance with Council's fencing Local Laws.
 - (d) The funds available for ROW/Laneway upgrading per budget year shall be total of:
 - (i) The equivalent of the total of minimum rates levied on privately owned ROW/Laneway sections per financial year; plus
 - (ii) Contributions received through the development process as covered under point #6, ie the contents of the Reserve Account for this purpose; plus
 - (iii) An amount determined by Council in each budget document, to be made available from Council funds for ROW/Laneway upgrading and construction.
 - (e) Where adjacent landowners wish to contribute to the cost of construction of a ROW/Laneway or section thereof, the project will be given priority over all other such works, subject to the following:
 - (i) The application shall contain confirmation by landowners of their request for the upgrading and the amount each is willing to contribute.
 - (ii) It will be the responsibility of the applicants to collect the contributions and deliver all monies to the Council.
 - (iii) A minimum of 50% of the total cost of the work, estimated by the Council's Manager Engineering Services will be required prior to acceptance of any application. If the ROW/Laneway or section thereof already includes work previously required to be done in the preceding five years then expenditure involved will be treated as contributions, in order to assess priorities and make up the minimum of 50%.
 - (iv) Work will not commence until the full amount of the contribution has been received by the Council.
 - (v) The programming and design of the work will be at the sole discretion of the Council.
 - (vi) Applications will be approved in the order in which the full amount of the contribution is received by the Council and will be subject to the availability of funds to meet the Council's contribution through budget allocations each year.
10. The higher the percentage of cost of laneway upgrading to be provided by private property owner contribution, the higher the priority of project acceptance from

Council, apart from the need to allow for funding to remove public liability risks and unsafe conditions on any other ROW or Laneway.

11. As a general rule it is Council policy to keep laneways open, even if unconstructed. Applications for closure are to be considered by Council.
12. The widths of ROW's/Laneways, the need for truncations on 90° bends, 'Tee' junctions and outlets of laneways onto gazetted roads, and set back requirements from laneways are issues dealt with in other Council documents.
13. Naming of Laneways is not supported as this may create problems of residents requesting the normal services of a street eg access for emergency vehicles, postal services, refuse collection and street numbering.

However, the installation of metal plates at each end of Laneways/ROW's showing the ROW number is supported.

14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW/Laneway to allow rear vehicle access, and the developer believes there is a substantial negative attitude from other affected landowners for such ROW/Laneway improvements, it is up to the developer to demonstrate to Council that attitude.
15. Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of #16 to present Council with the case to prevent such sealing and drainage.
16. The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least 2/3rds of all landowners affected by the proposal supporting the 'no sealing and drainage' case and accepting that any future request to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of 2/3rds of those owners for a differential rating payment system for those properties to fund such improvement works.

RESOLUTION NO: 12.2.5
ADOPTION: 28 November, 2005
REVIEW: December, 2012

STRATEGIC IMPLICATIONS

The most applicable areas of Council's Strategic Plan are:

Governance/Consistency: All decisions made are consistent with relevant statutes, Council policy and the aims of this plan.

Management/Statutory Compliance: All procedures and decisions comply with external and internal statutes.

FINANCIAL IMPLICATIONS

Nil, if statutory requirements are met. Unknown, if vehicle use continues on PAW.

BACKGROUND

This access was gazetted as a public street in 1983. The approval for a garage on 1 Geraldine Street was given, with access from this underwidth street, after that date.

In 1997, in order to stop vehicles using this access from Geraldine Street to a multi-storey unit development in Gadsden Street, residents in this area successfully petitioned Council to have this access converted to a PAW. In order for this to occur, the owner of 1 Geraldine Street committed in writing to stop using the vehicular access to the existing double garage and that the garage would be converted to gain access from Geraldine Street.

Recently, a query was received from the owner of 1A Geraldine Street, requesting approval to drive over the north end of this PAW to gain access to a proposed new subdivided block on the south side of 1A Geraldine Street. This request was refused. The question was then asked regarding why 1 Geraldine Street still continued to be allowed to drive on the PAW.

The records were then checked and the details emerged regarding the 1997 undertaking.

A formal response has now been received from Land Asset Management Services on this matter.

CONSULTATION

Full consultation occurred in 1997, including written agreement from the owner of 1 Geraldine Street, for the conversion of the underwidth road to a PAW.

STAFF COMMENT

Mr Ken Adams, the consultant handling this matter for the owner of 1 Geraldine Street, was informed by staff of this departmental advice. He has now provided a legal comment arranged by the same property owner, regarding vehicle use of this PAW. Further explanation was gained regarding the received legal document. The most applicable section of the *Land Administration Act, 1997* appears to be Section 144 which deals with easements over Crown land.

The major consideration is whether Council wishes to consider an easement of access for a single property to gain vehicle use over a PAW, while excluding all other vehicle users.

Because of strong objections by the majority of residents in Geraldine Street to vehicles using this access plus the potential for a major increase of use from residents from a new block of flats, including the owners of 1 Geraldine Street, Council successfully acted to achieve conversion of this access to pedestrians only, in 1997.

This proposal, to convert from laneway to PAW, would not have been possible without the written proposal by the owner of 1 Geraldine Street to stop using the vehicular access to the side garage.

In this case, the agents of the Crown, the Department of Planning and Infrastructure, have stated that the only viable option is to convert the purpose back to that of a road, to allow use by vehicles, other than maintenance machinery.

VOTING

Simple Majority

COUNCIL COMMENT

The legal aspects are to be reviewed and the *Local Government Act* is to be clarified in relation to this matter. The Department of Land Information needs to be further consulted in relation to the matter.

OFFICER & COMMITTEE RECOMMENDATION

That Council inform the owner of 1 Geraldine Street, Cottesloe, that a bollard will be installed at the end of January, 2006 to prevent vehicle use of the side Pedestrian Access Way, as agreed to in 1997, to protect the public from illegal vehicle use of this access.

AMENDMENT

Moved Cr Furlong, seconded Cr Strzina

That the matter be deferred and referred back to administration.

Carried 10/0

12.2.1 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That the matter be deferred and referred back to administration.

Carried 10/0

12.2.2 PROPOSAL TO SURRENDER ROW 63 - BROOME STREET TO AVONMORE TERRACE, SOUTH OF DEANE STREET, NORTH OF ROSENDO STREET

File No: E13. 1.63
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 28 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A letter has been received from the owners of Right of Way (ROW) No. 63, which runs from Broome Street to Avonmore Terrace, south of Deane Street and north of Rosendo Street, offering to transfer the ROW to Council for a nominal sum, to be surrendered to the Crown under *Rights of Way/Laneways* policy item 4.2.

This report recommends the acceptance of this offer.

STATUTORY ENVIRONMENT

This ROW/Laneway is owned by Zenline Holdings Pty Ltd as a private property.

The *Land Administration Act 1997* - Section 52 would appear to apply to this proposal (see attachments).

Section 52 of the Act requires approval by all service authorities, evidence of notification to all affected landowners, support by the landowner and the assessment of submissions following a 30-day advertised objection period.

POLICY IMPLICATIONS

Council's *Rights of Way/Laneways* policy applies.

RIGHTS OF WAY / LANEWAYS**OBJECTIVES**

1. To provide a safe environment and trafficable surface for residents to access their properties while managing risk to the public and the Town of Cottesloe.
2. To establish a procedure for the progressive upgrading of all public Rights of Way and Laneways, by paving and drainage, using all available sources of funding.
3. To establish a procedure for private developments and subdivisions to contribute to the upgrading of public Rights of Way and Laneways, where those developments impact on those routes.
4. To establish a procedure for sections of private laneways to become Crown land, including land held by Council as private property and used by the public as access.

PRINCIPLES:

1. To recognise that the Rights of Way/Laneway network provides valuable access to residential and commercial properties.
2. To recognise that aesthetic improvements occur in street frontages when garages and carports are accessed from Rights of Way and Laneways.
3. To ensure that the costs of improvements to ROW's/Laneway are funded by developers and subdividers, if such improvements are required to service such developments.
4. To recognise that the ROW/Laneway network is of benefit to the whole community and that the Town of Cottesloe should contribute towards upgrading, if landowners wish to contribute towards ROW or Laneway upgrading.
5. To recognise that any ROW or Laneway used by the general public should be Crown Land vested in Council for the purpose of public access, maintained by Council through the normal annual budgeted maintenance programs.
6. To discourage motorists from using laneways as de-facto streets or using laneways as shortcuts.

ISSUES:

1. When compared with similar Local Government Authorities in the metropolitan area, the Town of Cottesloe has a high proportion of its ROW's and Laneways in a poor to undeveloped condition.
 2. A large proportion of ROW's and Laneways in the Town of Cottesloe are privately owned by the Town, with the remaining sections being either Crown land or privately owned by various individuals or companies.
 3. ROW's and Laneways are being progressively built, piecemeal, due to conditions placed on developments and subdivisions, with no long term aim of this construction. Such construction has not included a requirement to connect the built section to a built street or existing built Laneway or ROW.
 4. ROW's and laneways often contain Service Authorities infrastructure eg deep sewers, water supply pipes, as well as Council installed drainage systems. Machine access is required at all times to maintain and service this infrastructure, regardless of ownership.
 5. The mixture of Crown control, private ownership and Council ownership of ROW's and Laneways has created confusion in the past for staff trying to maintain these accesses while trying not to expend Council funds on privately owned sections.
 6. The amount of privately owned laneway sections (by Council and individuals) requires a lot of control regarding actions, filing, knowledge of ownership etc, which could be greatly simplified by their surrender to the Crown.
 7. Past completion of various short sections of ROW and Laneway construction by various contractors organized by various developers to meet development conditions have left Council with varying levels, construction standards and
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quality standards of these sections throughout the Town area. This will inevitably result in a variety of maintenance problems as ROW and Laneway use grows.

8. Many of the past approved laneway constructed sections have been to a 100mm thick, un-reinforced concrete standard. With vehicle weights increasing and the use of heavy machinery by Service Authorities to service their infrastructure in laneways, it is also inevitable that Council will be involved in expensive repairs to cracked and damaged concrete laneway sections. Therefore Laneway surfacing should be based on flexible rather than inflexible pavements.

POLICY:

1. Council's attitude towards the status of Rights of Way/Laneways is that all such accesses should be Crown land, where they are used by the general public rather than for a specific restricted property access function.
2. Any sections of Rights of Way/Laneways owned by the Town of Cottesloe will be surrendered to the Crown under processes included in the Local Government Act. Any such sections owned by ratepayers of the Town of Cottesloe, which become available to Council for little or no cost, will also be surrendered to the Crown for Crown land.
3. When a Right of Way or Laneway is required for primary access to a new development the developer will upgrade by paving, kerbing and drainage, the Right of Way or Laneway from the nearest built gazetted road or existing built laneway to the furthestmost lot boundary, to the satisfaction of the Manager Engineering Services.
4. The developer may elect to have the Laneway upgrading works done by the Town of Cottesloe or by a Contractor.
 - (a) If the Town is to undertake the works, payment of the full estimated value of the works must be received by the Town before works commence.
 - (b) If the developer employs contractors, a supervision and inspection fee is to be charged, in accord with Section 6.16 of the Local Government Act 1995.
5. The design of the Right of Way or Laneway must recognise the need to minimise vehicle speeds and maximise safety and security.
6. When a Right of Way is required for primary or secondary access from an existing property redevelopment, it is conditional (Town Planning) upon the developer to contribute an amount equivalent to 50% of the costs to construct a portion of standard ROW 4m x 20m in area.
 - (a) Where a charge has been applied, as condition of development for the upgrade of a ROW, the money is to be placed in a Reserve Account established under Section 6.11 of the Local Government Act, for the specific purpose of ROW upgrade.
7. Notwithstanding averaging requirements for developments under the residential codes for rear setbacks and fencing specifications in Council's fencing local laws, there shall be a minimum building setback for carports and garages, to allow a minimum turning circle of six (6) metres, measured from the far side laneway boundary to the closest part of the structure, for each car bay, carport and garage designed at 90° to the laneway or Right of Way.

8. Fees and charges for contribution to works, supervision and inspection will be determined annually by Council in accordance with the provisions of Section 6.16 of the Local Government Act 1995.
 9. In situations where new developments or redevelopments are not factors in laneway upgrading and the condition of particular laneways has created concern regarding unsafe conditions for drivers and pedestrians, an increased public liability risk and ongoing maintenance requirements, the following shall apply regarding upgrading:
 - (a) A construction program of ROW's and Laneways will be determined by priority on the basis of vehicle and pedestrian usage, existing surface condition, drainage problems and condition of private fencing.
 - (b) The design of the ROW/Laneway will recognise the need to minimise vehicle speeds and maximise safety and security.
 - (c) All fences abutting ROW's and Laneways shall be constructed and maintained in accordance with Council's fencing Local Laws.
 - (d) The funds available for ROW/Laneway upgrading per budget year shall be total of:
 - (i) The equivalent of the total of minimum rates levied on privately owned ROW/Laneway sections per financial year; plus
 - (ii) Contributions received through the development process as covered under point #6, ie the contents of the Reserve Account for this purpose; plus
 - (iii) An amount determined by Council in each budget document, to be made available from Council funds for ROW/Laneway upgrading and construction.
 - (e) Where adjacent landowners wish to contribute to the cost of construction of a ROW/Laneway or section thereof, the project will be given priority over all other such works, subject to the following:
 - (i) The application shall contain confirmation by landowners of their request for the upgrading and the amount each is willing to contribute.
 - (ii) It will be the responsibility of the applicants to collect the contributions and deliver all monies to the Council.
 - (iii) A minimum of 50% of the total cost of the work, estimated by the Council's Manager Engineering Services will be required prior to acceptance of any application. If the ROW/Laneway or section thereof already includes work previously required to be done in the preceding five years then expenditure involved will be treated as contributions, in order to assess priorities and make up the minimum of 50%.
 - (iv) Work will not commence until the full amount of the contribution has been received by the Council.
 - (v) The programming and design of the work will be at the sole discretion of the Council.
 - (vi) Applications will be approved in the order in which the full amount of the contribution is received by the Council and will be subject to the availability of funds to meet the Council's contribution through budget allocations each year.
 10. The higher the percentage of cost of laneway upgrading to be provided by private property owner contribution, the higher the priority of project
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acceptance from Council, apart from the need to allow for funding to remove public liability risks and unsafe conditions on any other ROW or Laneway.

11. As a general rule it is Council policy to keep laneways open, even if unconstructed. Applications for closure are to be considered by Council.
12. The widths of ROW's/Laneways, the need for truncations on 90° bends, 'Tee' junctions and outlets of laneways onto gazetted roads, and set back requirements from laneways are issues dealt with in other Council documents.
13. Naming of Laneways is not supported as this may create problems of residents requesting the normal services of a street eg access for emergency vehicles, postal services, refuse collection and street numbering.

However, the installation of metal plates at each end of Laneways/ROW's showing the ROW number is supported.

14. Where a development or subdivision approval includes a condition requiring the sealing and drainage of a portion of ROW/Laneway to allow rear vehicle access, and the developer believes there is a substantial negative attitude from other affected landowners for such ROW/Laneway improvements, it is up to the developer to demonstrate to Council that attitude.
15. Where no application for a development has been received relating to the drainage and sealing of a laneway, and one or more landowner wishes to prevent the sealing and drainage of a laneway, then the concerned landowner(s) would undertake the requirements of #16 to present Council with the case to prevent such sealing and drainage.
16. The demonstration of a local landowner attitude against the drainage and sealing of a laneway to meet a development condition must include the signatures of at least 2/3rds of all landowners affected by the proposal supporting the 'no sealing and drainage' case and accepting that any future request to Council from any affected landowner to upgrade or seal that laneway must include an acceptance of 2/3rds of those owners for a differential rating payment system for those properties to fund such improvement works.

RESOLUTION NO: 12.2.5
ADOPTION: 28 November, 2005
REVIEW: December, 2012

STRATEGIC IMPLICATIONS

The following applies from Council's Strategic Plan:

Management/Statutory Compliance - All procedures and decisions comply with external and internal statutes.

Governance/Long Term Vision - Decisions are made based on the best available advice in the long term interests of the whole community.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Council's policy provides for the surrender of privately owned laneways and for their conversion to Crown land for the public purpose of access, similar to road reserves.

Council is legally able to, and responsible for, the ongoing care, control and maintenance of road reserves and Crown rights of way/laneways, to ensure public access, general maintenance and the day-to-day management of these accesses.

If left in private ownership, the owner is responsible for:

- ensuring public access,
- legal liability for injury or damage relating to the right of way/laneway, and
- payment of Town of Cottesloe rates, if applicable.

No approval for any form of development is normally possible on the area of the right of way/laneway apart from maintenance and improvements of the surface and drainage infrastructure.

CONSULTATION

No consultation has taken place on this matter.

STAFF COMMENT

Council's policy supports the surrender of privately owned laneways and their conversion to Crown land status. It means that the confusion surrounding ownership status and maintenance responsibilities is removed. It also ensures no further adverse possession claims because such claims are not possible on Crown land.

Council's attitude is for the retention of existing laneway alignments for future use and to keep their availability ensured for flexibility in alternative uses, planning consideration and access options.

Private owners gain because:

1. All future maintenance becomes Council's responsibility.
2. Council is legally liable for any claims regarding injury or property damage.
3. All existing property access rights are 'locked in' because of the Crown land status. This status also forbids any claims for adverse possession.
4. Laneway upgrading conditions from rear access requirements or subdivisions can be easily controlled, without a private owner of the laneway making the approval process more complex.
5. There is no potential for rates to be levied on the private laneway if it becomes Crown land.

This application for surrender of a privately owned laneway may be the first of a number of similar applications. As such, it is important to ensure that the correct section of legislation is complied with. The process is relatively complex.

VOTING

Simple Majority

COMMITTEE COMMENT

Nil

12.2.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council offer to purchase Right of Way No. 63, running from Broome Street to Avonmore Terrace, south of Deane Street and north of Rosendo Street, for a nominal cost of \$50.00, plus meeting all costs associated with the transfer of ownership, with the intention of transferring the Right of Way to the Crown.

Carried 10/0

12.2.3 REPORT FOR LANEWAY KERBING - JOINERY WAY

File No: E13. 1.47
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A request has been received from the owner of 5 Pennefather Lane for the kerbing of Joinery Way along the northern boundary of that property.

This report recommends consideration of this expenditure in the 2006/07 budget provisions.

STATUTORY ENVIRONMENT

This laneway was declared a public street in 1989, then paved and drained by Council. The access is under the care, control and maintenance of Council, with power to expend Council funds, if required.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

New kerbing on this frontage only, is estimated at \$300. Other lane sections in the area are not kerbed.

BACKGROUND

Council has not budgeted any funds in 2005/06 for the upgrading of laneways. All of Pennefather Lane is unkerbed and the section on the west side of the portion requested for kerbing is also not properly kerbed.

The majority of Joinery Way and McNamara Way is kerbed.

CONSULTATION

No consultation has occurred on this matter.

STAFF COMMENT

This is a minor portion of laneway, easily kerbed for approximately \$300. However, there is a high potential for residents using the length of Pennefather Lane to request the same service/infrastructure from Council, if this section was completed.

The request is not for maintenance and the discussion within Council regarding laneway upgrading at Council's cost has not resulted in budget allocations being made.

VOTING

Simple Majority

COMMITTEE COMMENT

Nil

12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Inform the owner of 5 Pennefather Lane that no funds have been allocated in 2005/06 for any laneway upgrading, including kerbing, in the Town of Cottesloe; and**
- (2) Consider a budget allocation for laneway upgrading, including for this type of work, in the 2006/07 budget deliberations.**

Carried 10/0

12.2.4 CURTIN AVENUE AND THE WESTERN POWER SUB-STATION

File No: E17.10.24 & E16. 2
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 1 December, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

Councillor Carmichael and the author recently attended a residents meeting concerning the Western Power Sub-Station and Curtin Avenue. That group has now provided a letter dealing with a number of points relating to that discussion.

This report recommends letters to be sent to the Police Department, Main Roads WA and Department of Planning and Infrastructure regarding the points raised by residents and that the Development Services Committee give consideration to allowing full height solid fences on Curtin Avenue property frontages in order to reduce noise problems.

STATUTORY ENVIRONMENT

Curtin Avenue is vested for care, control and maintenance in the Town of Cottesloe. The Commissioner of Main Roads has allowed permit vehicles (large trucks) to continue to use Curtin Avenue regardless of Council objections.

Any speed control actions rest with the Police Department. Changes to intersection traffic lights is a Main Roads WA function, requiring permission, funding and justification.

The existing electrical sub-station is under the control of Western Power. Western Power operates under its own Act which provides full legal powers for their operations.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The most applicable parts of Council's Strategic Plan relating to this issue are:

Governance/Long Term Vision: Decisions are made based on the best available advice in the long term interests of the whole community.

Governance/Broad Representation: Council acknowledges the views and interests of all components of the community and strives to achieve a balanced and proactive position on issues which affect public, commercial and private sectors.

District Development/Environment: Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation.

District Development/Environment/Traffic Management and Safety: A system which promotes safety and the "Travel Smart" concept, incorporates widespread use of 50km/h speed limits and a community bus service, removes through freight traffic and resists any move to a 4 lane highway on Curtin Avenue.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The points raised in the received letter are:

1. Strong opposition is voiced to Western Power enlarging the existing sub-station, particularly to the east where a new north/south regional road is proposed.
2. Concern shown for the increasing traffic on Curtin Avenue, request for strategies to improve the situation. Concern about the eventual 'bottleneck' of Curtin Avenue, between the existing West Coast Highway and the eventual new alignment of Curtin Avenue through Leighton Beach.
3. Increased noise levels due to heavy truck use - the need for approval to be given for solid front fences fronting Curtin Avenue to reduce the noise burden. The eventual movement of the major 'through road' to the east will take many years, with a continuing build up of the noise problem.
4. Jarrad Street/Curtin Avenue intersection - pedestrians trying to cross Jarrad Street or Curtin Avenue at this intersection have no 'pedestrian phase' at the lights. This creates danger for any crossing pedestrian, particularly the elderly and disabled.
5. People drive through the lights at the Curtin Avenue/Jarrad Street intersection. A red light camera is required.
6. The relocation of the major north/south traffic movement to the eastern side of the sub-station needs a timeframe. More pressure is required from Council on the State Government to start this project.

CONSULTATION

A variety of consultation has occurred in previous years on this matter. As the Curtin Avenue/highway upgrade works head towards the design stage, a variety of consultation efforts will be undertaken.

STAFF COMMENT

Main Roads WA can immediately be contacted and requested to consider the provision of pedestrian crossing phases at the Curtin Avenue/Jarrad Street intersection, along with the infrastructure for a camera system connected to the red light phase.

The Police Department can be requested to target vehicles speeding on this part of Curtin Avenue as well as vehicles 'running the red light'.

The Department of Planning and Infrastructure and Main Roads WA can be sent a copy of this letter, underlining the needs of local residents, with Council support.

A meeting of Council's Development Services Committee would be the most appropriate forum for consideration of the request for full height solid front fences along Curtin Avenue.

VOTING

Simple Majority

12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Thank the residents of Curtin Avenue who have provided their comments on Curtin Avenue and the Western Power sub-station;**
- (2) Refer the comments on proposed full-height, solid fences on Curtin Avenue to reduce road noise to the Development Services Committee;**
- (3) Send a copy of the resident's correspondence to Main Roads WA, requesting consideration of 'pedestrian phase' additions to the traffic lights at the Curtin Avenue/Jarrad Street intersection and pointing out the need for a camera to record vehicles running the red light at this intersection;**
- (4) Send a copy of the resident's correspondence to the Police Department pointing out the problems of speeding and red light running at this intersection; and**
- (5) Send a copy of the resident's correspondence to the Department of Planning and Infrastructure and Main Roads WA, encouraging the early consideration of a long term solution to the Curtin Avenue traffic problem together with a request for aid to be provided for the design of the new regional north/south road to replace the Council controlled Curtin Avenue.**

Carried 10/0

12.2.5 STREET FURNITURE - STYLE GUIDE

File No: E17. 8
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

Several months ago, new street bollards were ordered and now have arrived ready for installation. These have a number of advantages for local government use and Works & Corporate Services Committee members had been shown samples of the proposed bollards.

Staff have also been working through alternatives for new public rubbish bins and bin surrounds, to arrive at the best available choices for the town centre and the beach foreshore.

This is in line with Council's adopted *Streetscape and Road Furniture Five Year Plan* and the budget for \$30,000 to be spent on rubbish bins/surrounds this financial year.

The colour choice also meets the requirements of Council's *Streetscape Policy and Manual*.

With the presentation to Council of the Andrew Forrest/Paul Jones 'vision' for the beachfront, staff need direction as to, particularly, colour choice on such streetscape and road furniture.

This report recommends that Council contact Paul Jones regarding the preparation of a colour/style guide to be used for streetscape and road furniture replacement.

STATUTORY ENVIRONMENT

There is no specific legislation relevant to this report.

POLICY IMPLICATIONS

Council's policy relating to this matter is its *Streetscape Policy and Manual*, adopted in 1999 and its *Streetscape and Road Furniture Five Year Plan*, adopted in August, 2005.

STRATEGIC IMPLICATIONS

The most appropriate provision is under:

District Development/Environment/Streetscape - Provision of clean, safe, sustainably managed streetscapes, with appropriate selections of trees and infrastructure, which are pedestrian friendly and incorporate tidy verges.

FINANCIAL IMPLICATIONS

Sixty-six (66) bollards already purchased. \$30,000 budget provision for year one of a three year program for rubbish bin/surrounds replacement in the town centre and the beach foreshore.

BACKGROUND

The following is an extract from Council's report on the Five Year Development Plan for Streetscape and Road Furniture.

Bollards (special area bollards)

The manual describes these as recycled underground power boundary probes with recycled plastic battens. Staff have been unsuccessful in locating a new source for these 'boundary probes'. Western Power knows of no availability from their resources. The plastic battens break down quickly, possibly because they are not UV stabilised. Therefore a new bollard type is required, to ensure long term availability, low maintenance costs, and retention of the long term objectives for style and aesthetics which can be practically met by Council maintenance staff.

The new bollard material has been purchased, which is low cost, of recycled products, meets the Main Roads WA/safety liability concerns for frangibility, is easily replaceable and easy to repaint/clean off regarding graffiti.

Staff were about to make a final decision regarding rubbish bins and surrounds based on local manufacture, ease of replacement 'fit for purpose' requirements and occupational safety and health concerns when the CEO raised concerns about a potential lack of sympathy with the proposed beachfront vision.

Purchases have been suspended until the substance of this matter is resolved.

CONSULTATION

The *Streetscape and Road Furniture Five Year Plan* was advertised for public comment prior to adoption by Council.

STAFF COMMENT

In regards to the adopted *Streetscape and Road Furniture Five Year Plan* staff would normally proceed to follow the policy, Australian Standards, budget provisions and year one of the five year plan, for the replacement or upgrading of this infrastructure.

With regards to rubbish bins and surrounds, the existing stock on the beachfront and in the town centre are a variety of styles, subject to heavy graffiti and vandalism, in a variety of colours and with serious occupational safety and health concerns.

Bins requiring plastic inner liners are now banned because of the possibility of syringes sticking through the liner into the maintenance staff.

Not more than 20kg can be lifted to shoulder height, meaning that bins with metal inserts which receive sand, liquid, partially filled containers and other heavier rubbish cannot be considered.

The result is that only wheeled bins, either 120 litre or 240 litre capacity, have become the standard public bin type, with a decorative surround and a side entry

door/gate. These bins/surrounds must be placed in positions easily accessible by the public but also accessible by waste management contractors.

Rubbish bins must also not have sharp edges or finger 'traps' dangerous to the public or users. If the top surround is removable, in order to access the internal metal liner, it will be used as a 'Frisbee' by vandals.

All of this demonstrates the need for multiple considerations concerning the choice of streetscape and road furniture.

Similar considerations are made for street bollards. One major consideration relating to legal damage or injury claims is the 'frangability' issue. If a bollard is, as an example, steel pipe with a concrete insert, designed to stop undue damage or vandalism, it may also cause major injury or vehicle damage if hit by a vehicle.

Recent court decisions, Main Roads WA and Standards Australia now push the concept of light weight bollards which will create minimal damage or injury.

Light weight metal bollards can cost \$500 to \$1,000 (or more) but can easily be vandalised, graffitied or damaged. Staff often have to straighten the existing bollards in Napoleon Street, and remove graffiti.

The new bollard material has been chosen with these considerations in mind.

The main remaining consideration is colour. Colour has a major impact on aesthetics. The multiple colours of the Marine Parade precinct is a negative factor, as is the ongoing need for maintenance and removal of graffiti.

The town centre colours are 'Forrest Floor', 'Red Maple' and 'Silver Grey'. For Marine Parade precinct it is 'Space Blue'. 'Bronze Olive' is the colour specified for residential bin enclosures.

Unfortunately, commercial suppliers produce a range of colours, often not including the exact colours specified by Council policy. This has resulted in at least three different blue shades being used in the Marine Parade precinct.

In addition, with the growing use of wheeled plastic bins, the colour range is limited, unless a bin surround is provided at every bin site. This includes the triple bin sites for recycling stations.

With the presentation of the Andrew Forrest/Paul Jones 'vision' of the beach/Marine Parade precinct, it would appear opportune to revisit the colour schemes or style guide provided by the 1999 *Streetscape Policy and Manual*.

With the work already undertaken on the 'vision' presentation and being a local resident understanding the precinct priorities, Mr Paul Jones would appear to be a logical choice to prepare such a 'style guide', for the future direction of staff.

VOTING

Simple Majority

12.2.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council contact Mr Paul Jones regarding the preparation of a colour/style guide to be used for streetscape and road furniture replacement.

Carried 10/0

12.3 FINANCE**12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 NOVEMBER, 2005**

File No: C 7. 4
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 November, 2005, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

A report on the variances in income and expenditure for the period ended 30 November, 2005 is shown on pages 40 and 41. It will be noted from that a lot of these variances are as a result of timing differences.

It can be noted on the Operating Statement on page 17 that operating revenue is ahead of budgeted figures by an amount of \$37,532, the main reason for this being extra grant funding for Civic Centre Projects.

Overall expenditure is \$473,301 less than budgeted, with the main reasons relating to timing differences, though there could be some savings in the areas of insurance premiums and legal expenses.

VOTING

Simple Majority

12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 November, 2005, as submitted to the 6 December, 2005 meeting of the Works and Corporate Services Committee.

Carried 10/0

12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 30 NOVEMBER, 2005

File No: C 7.12 & C 7.13
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 November, 2005, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

The Schedule of Investments on page 48 of the Financial Statements shows that \$2,894,563.49 was invested as at 30 November, 2005. Of this, \$697,586.02 was reserved and so restricted funds. Approximately twenty one per cent of the funds were invested with the Home Building Society, seventy two per cent with National Australia Bank, and seven per cent with Bankwest.

The Schedule of Loans on page 49 shows a balance of \$403,448.59 as at 30 November, 2005. Of this \$190,817.07 relates to self supporting loans.

VOTING

Simple Majority

12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 November, 2005, as submitted to the 6 December, 2005 meeting of the Works and Corporate Services Committee.

Carried 10/0

12.3.3 ACCOUNTS FOR THE PERIOD ENDING 30 NOVEMBER, 2005

File No: C 7. 8
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 30 November, 2005, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

Significant payments included in the list of accounts commencing on page 42 of the Financial Statements, brought to Council's attention include:

- \$21,472.50 to West Australian Local Government Superannuation Plan being for employer contributions to the plan.
- \$17,831.00 to A D Engineering for a transportable speed radar display.
- \$84,615.03 to the Shire of Peppermint Grove for combined library contributions.
- \$29,020.73 to the Town of Mosman Park for drainage works.
- \$26,042.50 to Municipal Liability Insurance being Council's second contribution.
- \$64,075.00 to Westrac P/L for the purchase of a new Caterpillar Skid Steer Loader.
- \$45,195.06 to Roads 200 for roadworks along Rosendo St etc
- \$10,078.12 to Surf Life Saving WA for the summer contract.

- \$31,888.00 to the Municipal Workcare Scheme being Council's second instalment.
- \$11,778.07 to the Western Metropolitan Regional Council for transfer station fees & tip passes.
- \$31,340.54 to Trum Pty Ltd (t/a Wasteless) being for domestic and commercial waste collection services for the month of October 2005.
- \$52,226.89 & \$57,060.90 being staff payroll for the month of November.

VOTING

Simple Majority

12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 30 November, 2005, as submitted to the 6 December, 2005 meeting of the Works and Corporate Services Committee.

Carried 10/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 30 NOVEMBER, 2005**

File No: C 7. 9
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 30 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 November, 2005, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Sundry Debtors Report on pages 45 & 46 of the Financial Statements shows a balance of \$1302020.62 of which \$17,802.75 relates to the current month. The balance of aged debt greater than 30 days stood at \$112,271.87 of which \$14,516.15 relates to disputed legal expenses incurred with the Sea View Golf Club lease, \$45,500.00 relates to the trade in of a truck which is awaiting the fit out of the new truck, \$13,208.80 relates to outstanding grant funding from the Department of Planning and Infrastructure, and \$13,166.10 relates to outstanding rent and water charges.

The Property Debtors Report on page 47 of the Financial Statements shows a balance of \$1,443,022.00. Of this amount \$167,734.83 and \$7,040.25 are deferred rates and deferred ESL respectively. As can be seen on the Balance Sheet on page 18 of the Financial Statements, rates as a current asset stood at \$1,268,251, as against \$1,251,834 at the same time last year.

VOTING

Simple Majority

12.3.4 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 30 November, 2005; and**
- (2) Receive the Sundry Debtors Report for the period ending 30 November, 2005.**

Carried 10/0

13 STRATEGIC PLANNING COMMITTEE MEETING HELD ON 29 NOVEMBER 2005**13.1 GENERAL****13.1.1 COTTESLOE CIVIC CENTRE - ACCOMODATION OPTIONS**

File No: C4.6
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 22 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council a consultants report commissioned in accordance with Council's resolution of June, 2005 with a recommendation that Council either call for expressions of interest in a lease or request a detailed report on the option to take over full operation of the facility.

STATUTORY ENVIRONMENT

The *Local Government Act 1995* (Section 3.58) provides that where a Local Government intends to dispose of property (includes leasing) it is required to dispose to the highest bidder at an auction or call tenders except in certain circumstances. These circumstances include where the value of the market value of the property is more than \$20,000 (Section 31 of *Local Government (Functions and General Regulations)*).

Another exception is provided for in the *Local Government Act* (Section 3.58(3) which sets out that a local government can dispose of property other than by auction or tender if before agreeing to do so it gives statewide public notice of its proposal and then considers any submissions made. The notice is to give details of the proposed disposition including the market value of the disposition as ascertained by a valuation carried out not more than six months before the proposed disposition.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Action 2 under Strategy 2.3 of Council's Strategic Plan provides:

With the assistance of the consultant engaged in accordance with Council's resolution (June 2005) assess usage options for the Cottesloe Civic Centre that provide either a commercial or community benefit, or both, optimise use of the facility, and at the same time meets the Council's and community's needs.

FINANCIAL IMPLICATIONS

Nil at this time.

BACKGROUND

Following a report to the Strategic Planning Committee in November, 2005 Council passed the following resolution at its 13 December, 2004 meeting:

That Council:

- (1) *Confirm its commitment to:*
 - (i) *retaining the Civic Centre as its administrative centre;*
 - (ii) *ensuring that a good standard of office space is provided for staff and in turn;*
 - (iii) *ensuring that customers are better served.*
- (2) *Obtain architectural plans for potential additions to the Civic Centre.*

In accordance with part 2 of the resolution Considine and Griffiths Architects P/L were engaged.

Considine and Griffiths put forward the following options which were presented to the June 2005 Council meeting:

OPTION 1 - Addition/ Expansion of Current Accommodation

This option requires approximately 200m² of new accommodation, which corresponds to an estimated cost of \$345,000. This would result in an estimated total cost of \$1,200,000 with no significant increase in returns.

OPTION 2 - Addition & Relocation of Catering Services.

This option requires approximately 130m² of new accommodation, which corresponds to an estimated cost of \$225,000. A further additional cost is the refurbishment of the area previously occupied by the catering services contractor, which represents an additional 260m² at a cost of \$165,000. This would result in an estimated total cost of \$1,245,000 with no significant increase in returns. An indeterminate cost is that related to the relocation of the Catering Services, any future lease agreement will need to be negotiated to clarify the cost to be borne by each party. This option assumes the loss of the Lesser Halls as a facility or its replacement on site at a cost of say \$335,000.

OPTION 3 – Relocation of Catering Services & Retention of Caretakers Lodge

This option requires approximately 130m² of new accommodation, which corresponds to an estimated cost of \$225,000. Further additional costs are upgraded accommodation for Planning and Development Services and Community Safety, housed in the Caretakers Lodge, which represents an additional 146m² at a cost of \$92,000. The estimated total is \$1,172,000. There would be no significant increase in returns. An indeterminate cost is that related to the relocation of the Catering Services, any future lease agreement will need to be negotiated to clarify the cost to be borne by each party. This option assumes the loss of the Lesser Halls as a facility or its

replacement on site at a cost of say \$335,000. This option provides no significant increase in revenue.

OPTION 4 – Construction of a New Administration Building

This option requires approximately 980m² of new office space, of which 280m² is surplus space to generate a rental income, this represents an estimated cost of \$1,372,000. Upgrade work would still be required on the council chambers, Jarrah room, lounge area and arcade, representing an additional estimated cost of \$690,000. The total estimated cost for this option is \$2,062,000. This excludes any work being undertaken to the existing offices once vacated. However, once a use is determined there would be some associated costs. This option provides for a significant increase in revenue returns to the council through the additional rent from the surplus floor area.

Council passed the following resolution at its June 2005 meeting:

That Council

- (1) *Not proceed with further exploration of option 4; and*
- (2) *In order to gain more information before further addressing the office accommodation issue, engage a consultant in 2005/06 to assess usage options for the Cottesloe Civic Centre that provide either a commercial or community benefit, or both, optimise use of the facility, and at the same time meets the Council's and community's needs.*

Considine and Griffiths was again engaged to assist with part 2 of the resolution, primarily for continuity. They in turn engaged VSA Property to undertake the following tasks:

- *inspect and report on the existing uses within the premises;*
- *review the accommodation requirements – undertake a quick review of the accommodation requirements (prepared by Griffiths Muston) to ensure they are still current;*
- *examine potential commercial uses - this would include the existing catering arrangements and the implications (if any) of the proposed options outlined in the City's letter to Considine & Griffiths dated 6 July 2005, i.e. the feasibility of establishing a cafe/coffee shop on site and the potential for hiring out the various meeting rooms for conference/seminar facilities. VSA Property is also to examine the feasibility of doing away with the catering lease and taking over the hiring of the facilities direct - this may involve hiring a caretaker or an onsite property manager;*
- *examine the current community uses that operate from the facility and determine whether there is capacity to accommodate any additional uses and/or improve the services to existing users; and*
- *report on the findings and recommendations.*

A copy of their report is attached for information and the report's conclusions/recommendations are as follows:

7.0 CONCLUSION AND RECOMMENDATIONS

It is evident from the recent review of requirements at the Cottesloe Civic Centre that there is insufficient space to meet the demands of the all the existing users. In addition to this, the administrative functions of the Council are presently fragmented over the site.

An assessment of other potential uses on the site suggests that there are no viable alternatives. A café/coffee shop is unlikely to be commercially feasible due to the location, lack of visibility to passing traffic and competition from more successful operations on the ocean foreshore. Similarly, a seminar/conference facility is also not considered to be feasible as a standalone operation for the same reasons. It is considered that a small on site kiosk may be viable if there is an increase in community activities especially in summer and at weekends. Also if the facilities in the building are upgraded as recommended by Considine and Griffiths, there may be a flow on effect for use of the upper level areas for seminars and conferences.

As indicated in this report, it is recommended that all the existing uses, including the on site catering arrangement, be retained on site if at all possible. The solutions for the Cottesloe Civic Centre revolve around whether Heritage Council approval is received for the proposed building extension(s). Two broad solutions have been identified.

The first solution, i.e. retaining all the existing uses on site, is considered to be the most attractive option. As pointed out, this solution is dependent on getting Heritage Council approval to the proposed extension(s). It is recommended that more detailed plans be developed for this option and that discussions be held with the Heritage Council to gauge the level of support for the proposed extensions. While this is happening, it is also recommended that community feedback be sought on the two solutions and the impact that these have on existing uses.

Any future tender for the existing catering arrangement should be based around an events coordinator, which would be responsible for managing and coordinating the community uses (such as craft and community fairs), the numerous private functions and any additional conferences or seminars that are held on site.

The tender should also allow for an upgrade of the existing facilities and the provision of a kiosk if it is considered necessary.

In the event that Heritage Council approval is not forthcoming, the only realistic option is to terminate the on site catering arrangement or cease the community activities in the Lesser Hall or both, in which case the solution outlined in Section 6.2 should be progressed.

CONSULTATION

The author has consulted with staff and the consultant.

STAFF COMMENT

As will be seen from the consultant's report the consultant recommends retention of the existing uses including the on site catering arrangement, based around an events

coordinator who could manage the community uses and commercial functions. The suggestion is that a company such as Mustard Catering could undertake the coordinating role.

While not recommended by the report Council also has the option of dispensing with the catering lease arrangement and operating the facility in a similar manner to the way in which most Councils manage their halls and grounds.

It has been suggested that greater community use be promoted and Council is now calling for nominations for a community committee to assist with this. There has and will always be a level of conflict between private functions and community uses and embarking on say a 10 year lease at a time when community uses are likely to increase may not be wise. On the other hand it is unreasonable to keep the current lease arrangement with Mustard going on a month by month basis for much longer.

The following recommendation is based on the fact that Council may wish to look more closely at the option of dispensing with the catering lease arrangement and managing the facility in house. Alternatively it may wish to move ahead with the lease arrangement. The latter has two options, one is to call tenders for a lease arrangement similar to the one currently in operation, and the other is to pick up on the consultant's recommendation that events coordination be the main thrust of the lease. The process could include calling for expressions of interest first to establish variables such as commercial purposes, premises needs and the like. Alternatively it could include deciding what will be permitted, what premises will be offered etc and going direct to tender. The former is favoured as it could come up with a range of options for Council to consider before inviting tenders.

VOTING

Simple majority

COMMITTEE COMMENT

The committee was informed that the monthly tenancy of Mustard Catering was unsustainable and needed to be formalised by way of a short-term, private-treaty contract.

The committee felt that while a catering/events function should continue to exist at the Civic Centre, it should not form part of the core functions undertaken by staff of the Town of Cottesloe. Private enterprise was better equipped to undertake such a function. A high degree of specialisation and effort is required in order to keep the frequency of use of the Civic Centre facilities up.

It was also felt that the Caretaker's Cottage might make a better community meeting place than the lesser hall and that staff currently located at the Caretaker's Cottage should be housed within the main office.

OFFICER RECOMMENDATION

That Council, with respect to the Cottesloe Civic Centre:

- (1) Request Administration to prepare a detailed report on the option for it to take over full operation of the Civic Centre, OR

- (2) Call for expressions of interest for a catering lease similar to that which is currently in operation, or an events coordination lease arrangement, or both a catering and events coordination lease.

13.1.1 OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Furlong

That:

- (1) **A short-term contract with Mustard Catering be prepared for Council's consideration; and**
- (2) **A design brief be prepared for Council's consideration for extensions based on:**
- (i) relocation of staff from Caretakers Cottage; and**
 - (ii) private catering/events coordination remaining on site.**

Carried 10/0

13.1.2 COTTESLOE CIVIC CENTRE - MAINTENANCE AND RESTORATION PLAN

File No: C4.4
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 22 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to seek Council approval for a five year maintenance and restoration plan for the Cottesloe Civic Centre.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Action 1 under Strategy 4.6 of the Strategic Plan requires that a long term plan be prepared for the Civic Centre, based on current levels of expenditure.

FINANCIAL IMPLICATIONS

The plan put forward is in accordance with budget provisions.

BACKGROUND

Up until recently, maintenance and restoration works at the Civic Centre had been planned, with the assistance of a consultant engineer, on a short-term basis (typically two years) mainly targeting areas where safety was a major consideration. More recently a five year plan has been developed based on current levels of funding (\$170,000 per year) and a copy of this plan is attached. The plan is referenced to numbered parts of walls as shown on a series of plans.

The analysis of what needs to be done to various sections of walls was done some time ago as part of a Lotteries Commission funded report on the walls. The process has been for the consultant to work with Council staff on the detail of how the work is to be done each year. That is, in some cases there is a need to demolish and rebuild all or part of a wall or pier etc and in others different processes are employed to restore it. In addition to this, it is often difficult to establish the exact problem and hence the solution until work has commenced. This has made accurate cost estimates difficult.

During the budget development process the provision was increased by \$230,000 from \$170,000 to \$400,000. A report will be put to the December Works and Corporate Services meeting recommending how these funds should be applied.

CONSULTATION

None other than with staff

STAFF COMMENT

The attached five year plan deals only with the external walls. Consultant's reports have highlighted these as requiring the highest level of expenditure. No long term planning has been done in relation to the buildings, other than for rebuilding the summer house this financial year, pending a decision in relation to office requirements which may result in alterations to the building. The architects report also highlighted some significant internal works that would require substantial funding. It will be noted that each year from 2006/07 includes a contingency which could be applied to building works. Also note that estimates are a conservative "best guess" and so actual cost of individual works may differ from the estimates.

It is recommended that this plan be accepted by Council.

VOTING

Simple majority

13.1.2 OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Furlong

That Council accept the five year maintenance and restoration plan for the Cottesloe Civic Centre as attached to the agenda.

Carried 10/0

13.1.3 RESIDENTS SATISFACTION SURVEY 2005

File No: X3.8.1
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 23 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put the results of the 2005 resident's satisfaction survey.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Action 1 under Strategy 1.7 of Council's Strategic Plan calls for:

Community survey

- *Continue to issue the survey every three years*
- *Collate and analyse completed surveys.*
- *Report to Strategic Planning Committee*

Action 1 under Strategy 4.5 of Council's Strategic Plan calls for:

- *Analyse results of Community Services Survey on levels of satisfaction with the provision of Public Toilets*

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

At its April, 2005 meeting Council resolved as follows:

That Council conduct a random sample survey of the community, along the same lines as the 2002 community survey, for the following services:

Community Services	Engineering Services
<ul style="list-style-type: none"> • <i>Council publications and information</i> • <i>Council events (Australia Day, Seadragon Festival, musical concerts etc.)</i> • <i>Civic Centre - Council offices</i> • <i>Civic Centre - other buildings</i> • <i>Civic Centre - grounds and</i> 	<ul style="list-style-type: none"> • <i>Jarrad Street – West</i> • <i>Jarrad Street - East</i> • <i>Marine Parade</i> • <i>North Street</i> • <i>Curtin Avenue</i> • <i>Marine Parade</i> • <i>Napoleon Street</i>

<p><i>gardens</i></p> <ul style="list-style-type: none"> • <i>Community safety and security</i> • <i>Cottesloe/Peppermint Grove/Mosman Park Library</i> • <i>Aged Persons Support Service</i> • <i>Public toilets.</i> 	<ul style="list-style-type: none"> • <i>Rights of way</i> • <i>Other streets</i> • <i>On-street parking</i> • <i>Off-street carparks</i> • <i>Verge parking</i> • <i>Pedestrian crossings</i> • <i>Street litter bins</i> • <i>Street trees</i> • <i>Street drainage</i> • <i>Street lights</i> • <i>Street kerbs</i> • <i>Street verges</i> • <i>Street cleaning</i> • <i>Footpaths</i> • <i>Dual use paths & cycle lanes</i> • <i>Bus shelters</i> • <i>Streetscapes</i> • <i>Street drainage to include drainage sumps</i> • <i>Beach cleaning</i> • <i>Railway reserves not under control of Council.</i> • <i>Council's green areas watering programme.</i> • <i>Dog excreta removal</i>
<p><i>Recreation Services</i></p> <ul style="list-style-type: none"> • <i>South Cottesloe Beach</i> • <i>Cottesloe Beach</i> • <i>Cottesloe Beach Wading Pool</i> • <i>North Cottesloe Beach</i> • <i>Vera View Beach</i> • <i>Dog exercise areas</i> • <i>Playgrounds</i> • <i>Cottesloe Oval</i> • <i>Harvey Field</i> • <i>Cottesloe Tennis Courts</i> • <i>Sea View Golf Course</i> • <i>Other Parks and Reserves.</i> 	<p><i>Other Services</i></p> <ul style="list-style-type: none"> • <i>Weed control</i> • <i>Noise control</i> • <i>Rubbish bin collection service</i> • <i>Recycling service</i> • <i>Dog control</i> • <i>Building services</i> • <i>Health services</i> • <i>Town planning advisory services</i> • <i>Town planning approvals.</i> • <i>Visual privacy controls</i> • <i>Residential densities</i> • <i>Heritage controls/incentives</i> • <i>Bulk waste collections</i> • <i>Green waste collection service</i> • <i>Cat control</i> • <i>Introduced species of birds (lorikeets and corellas).</i>

Council staff posted out 587 questionnaires to a randomly-selected sample based on the electoral roll as used in the May, 2005 Mayoral election. 196 completed surveys were returned and staff entered the relevant data into a spreadsheet. The data analysis was conducted by Estill and Associates who prepared the attached report.

The report's executive summary is as follows:

EXECUTIVE SUMMARY

The Services Survey for the Town of Cottesloe covered four functional areas of service delivered by the Town of Cottesloe:

1. *Community services;*
2. *Recreation services;*
3. *Engineering services; and*
4. *Other services (including Development, Control and Waste).*

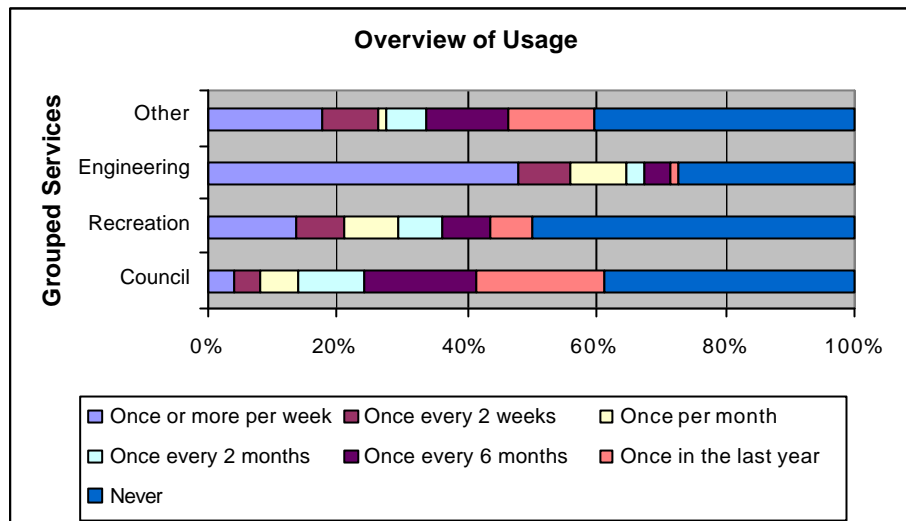
The survey was first undertaken in July 2002. This report concentrates on the second survey undertaken in August 2005. 587 questionnaires were sent to rate payers, asking four questions of 66 services offered by the Town of Cottesloe. These questions were:

1. *How often do you use the service?*
2. *How satisfied are you with the service?*
3. *Is the service offering value for the rates and charges?*
4. *Would you be willing to pay for improvements to the service?*
5. *Should the service be increased/reduced?*

This generated a great deal of data which is discussed in later sections. An overview of the results is presented below along with major conclusions. While this does not allow the nuances to be fully explored, the data is analysed in further detail later in the report.

The emphasis here is on overall trends. Using this method, it is impossible to know if, for example, dissatisfaction scores are due to only one service. However, if the trend is not reflected in the full data set, a discussion of differences will be undertaken in the following pages.

USAGE

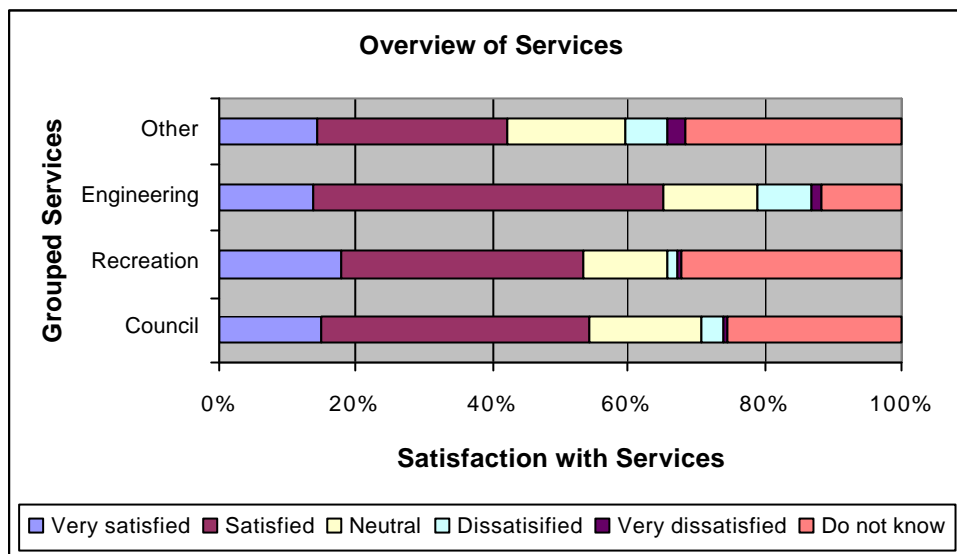


What is most obvious from the table above is the high percentage of the sample who “never” use the services provided by the Town of Cottesloe. 38% do not use the council/community services which include the civic building and grounds, the events and the libraries.

40% do not use other services and 50% never use a recreation service. The percentage drops for engineering services due to the streets and parking. There is a high percentage of usage, once or twice a week and fortnightly, for engineering services which accounts for over 50% of the responses. This is due to rubbish collection services.

The spread of responses for recreation and council/community services is as one would predict given the large range of services and service types. Often, events are only held once a year, or rate payers may only visit council offices once a year. Other services are more likely to be used once a week, such as the library or the beach. However, the overwhelming finding is that the respondents are not using the services. This finding is not as one might expect. Nor is it confined to those few services that people do not need/want to use very often (such as might be expected for town planning services), but rather is a consistent finding across all services and all service types.

SATISFACTION

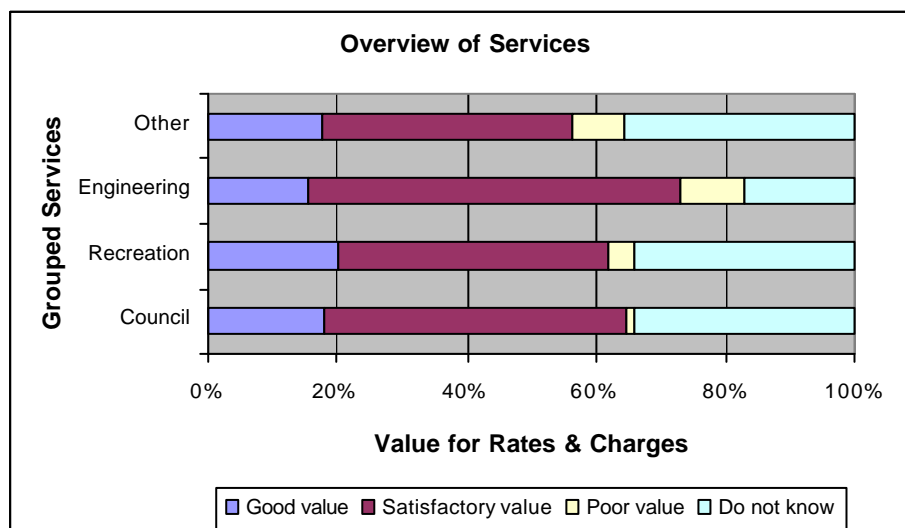


What is most obvious from the table above is the high percentage of respondents who are satisfied with the services provided by the Town of Cottesloe. Across all services within the four broad categories, over 15% of respondents are “very satisfied”. Combining satisfied and very satisfied, the percentage rises to over 40% and for engineering services to over 60%.

Supporting the conclusion that respondents are satisfied with the services offered by the Town of Cottesloe is the lack of dissatisfaction shown by the respondents. Overall, for the four broad categories, less than 8% reported dissatisfaction. A large percentage of the respondents were neutral or unable to decide.

This data suggests that overall satisfaction with the services provided by the Town of Cottesloe is high.

VALUE FOR RATES AND CHARGES

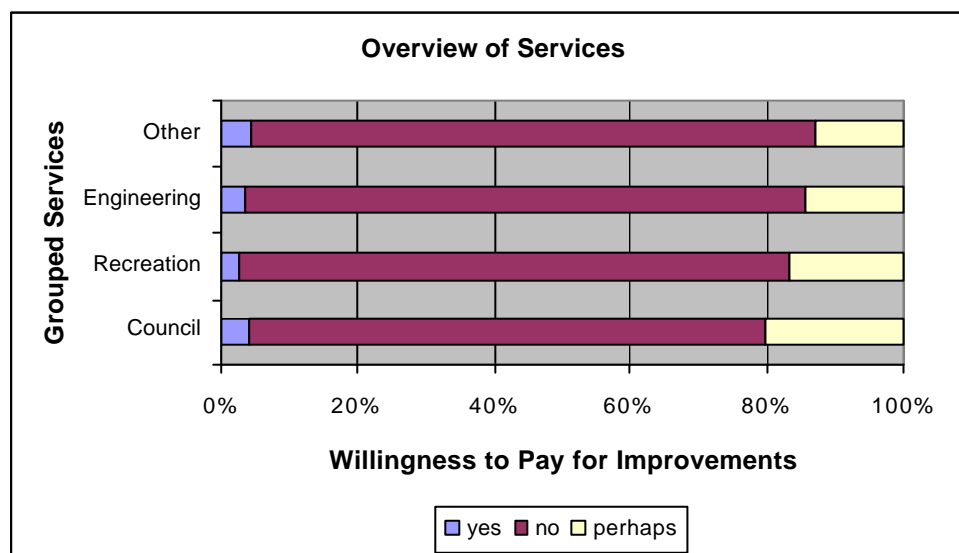


Just under 20% of respondents feel that each of the grouped services represents good value for the rates and charges. If we add this to those who view the value as satisfactory, the percentage rises to around 60% over all the groups.

This is supported by the lack of respondents who feel that the services reflect poor value for money. Engineering has the highest percentage of “poor value” responses, but this reflects the views of only 10% of the respondents and is not predominantly due to one service. Almost 20% of the respondents do not know if the service is offering value for money, and this is probably due to the fact that they do not use the service and, therefore, do not have the knowledge to make the decision.

Overall, respondents are happy with the value for rates and charges they are receiving for the services provided by the Town of Cottesloe.

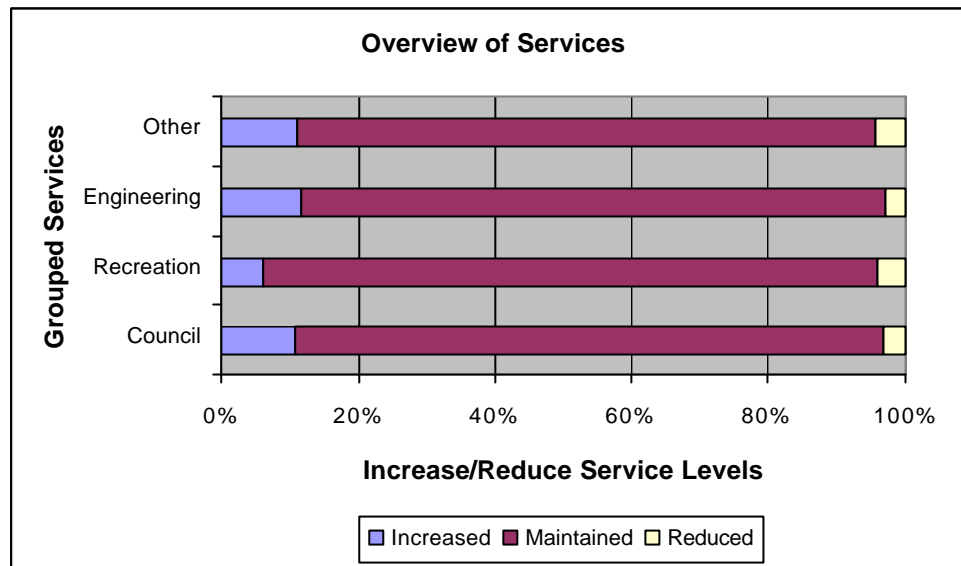
WILLINGNESS TO PAY FOR IMPROVEMENTS



This table is clear — respondents are not willing to pay for improvements to services. This finding is consistent across all the services.

Up to 20% of respondents feel that “perhaps” there are services they may be willing to pay to improve, but there is no one service that people have flagged that is poor, or needs improvements, or that they would be more likely to pay to improve.

The “perhaps” response may reflect the group that does not know a service well enough to say if there is a need to pay for improvements.

INCREASE/REDUCE THE SERVICE

Less than 15% of the respondents feel that services should be increased. This finding is consistent across all services; no one particular service stands out as in need of increase.

Less than 10% of respondents feel that services should be reduced. Again, this is consistent across all services with no particular pattern emerging on one service.

Overwhelmingly, the respondents want current levels of service to be maintained.

COMPARISON WITH THE 2002 FINDINGS

The conclusions for the majority of services as presented in the 2002 report are almost universally applicable to the 2005 data. This includes the conclusion: The Aged Persons Support Services

Only a few respondents accessed this service. A majority of respondents indicated that they did not know about the service. This suggests that TAPSS is not well advertised as a community service.

If the Town of Cottesloe acted upon this conclusion, it would have to be deemed a failure as there is little more knowledge of the service now than three years ago.

The issues surrounding public toilets seem to be the same as 2002; that is, some want the service increased and some want the service reduced. As the majority of respondents do not use this service, it may well be a service that reflects their perceptions of the use of council services by visitors to the area. Some residents may feel more likely to support services for visitors than others. In the 2002 survey, there was a concern about the perception visitors have of the area based on the standard of the public toilets. However comments in the 2005 survey concentrated on the need for more toilets, particularly at the beaches, and to improve the standard, cleaning and maintenance of the existing facilities.

The beaches are still the most used recreation service and satisfaction with beach cleaning is very high. However, Vera View beach is not well used. The tennis courts and the Golf Club still have their critics, more so the golf course. As with the 2002 survey many of the comments for the 2005 survey were concerned the closure of Jarrad Street, there was also some concern that the golf course was less accessible to non golfers, and a call for more access to the golf course for walkers.

Conclusions on streets are equivalent, and most probably due to similar issues, as is the case with parking. The 2005 data for railway land also supports the conclusion of 2002 — that it is used by a small group who use the train, and dissatisfaction is due to a lack of maintenance and lack of parking at Grant Street Railway Station.

There is support and satisfaction and high usage with the pedestrian amenities in both surveys. There is a similarity on issues such as overhanging trees, the comments for the 2005 survey also call for more pruning, there was also a call for less Norfolk pines.

The 2002 findings that dog excreta removal is an area of concern, with noticeable levels of dissatisfaction, is not supported by the 2005 data. Levels are not noticeably high, and this service falls within the general trends.

The conclusions for control services need to be expanded to include issues with noise control. Bird and noise control are equivalent issues in the 2005 survey. Although levels of dissatisfaction and calls for improved services are relatively low comments calling for the culling of birds are high. There is however no common theme for noise control, some respondents call for more control of hotel noise others, or better noise control at new year, or public events one respondent wants more control on the placement of air conditioners.

With regards to the conclusions of the 2002 survey on Development Services, the results of the 2005 survey do not warrant the conclusion of dissatisfaction with planning. That many respondents do not use the services is similar to the 2002 results, but dissatisfaction is so small that the conclusion “there is also a noticeable level of dissatisfaction with town planning in general” is not supported by the 2005 survey results.

However, the heritage debate seems to be as much an issue in 2005 as it was in 2002. Added to which, there is an indication in the data for 2005 that density issues are a concern for residents. For both the heritage and density issue the sample is divided. Some people call for no more high density, and others call for more infill, some feel that blocks are too small and others want them even smaller. The heritage debate similarly split the sample, with many calling for the council to be careful not to lose the essence of Cottesloe by removing the old to make way for the new. Others felt that the incentives offered were too low, and others felt they were too high and interfering with progress. From the heat in the debate it would appear that these issues will face the Town of Cottesloe for some time.

The conclusions for waste recovery in 2002 seem equivalent to those of the 2005 findings.

Overall, the level of agreement between the two surveys is very high which seems to be further indication that the rate payers in the Town of Cottesloe are satisfied with the services provided by the council.

CONCLUSIONS

Overall, it would seem that the respondents to the survey are satisfied with the services provided by the Town of Cottesloe. They want the services maintained at the current levels but are unwilling to pay for improvements which they do not see as necessary.

ASSESSMENT METHODOLOGY

The 2005 survey was the same as that undertaken in 2002, consisting of five questions asked in relation to 66 services provided by the Town of Cottesloe. These questions were:

- 1. How often do you use the service?*
- 2. How satisfied are you with the service?*
- 3. Is the service offering value for the rates and charges?*
- 4. Would you be willing to pay for improvements to the service?*
- 5. Should the service be increased/reduced?*

587 questionnaires were sent out by post to a randomly-selected sample based on the electoral roll. 196 completed survey forms were returned.

The data was coded and entered into an Excel spreadsheet. Analysis was conducted and the results are presented below. Using the four broad categories of council services, the data is presented in table format and the major findings are highlighted.

CONSULTATION

The process involved a survey being sent to 587 electors of the Town.

STAFF COMMENT

The executive summary and report contain a lot of information and in summary it appears that the community is satisfied with the services provided by the Town, that it wants service levels maintained and is not prepared to pay for a higher level of service.

The comment regarding TAPSS at 1.6 in the Executive Summary that there has been no improvement from the 2002 survey in raising the profile of TAPSS is being addressed by the TAPSS Management Committee and the Combined Councils Committee. TAPSS adopted a strategic plan earlier this year that included a restructure, a review of its constitution and the service agreement between it and the four Councils (Cottesloe, Claremont, Mosman Park and Peppermint Grove), and a number of other changes designed to increase the number of clients and the number of services provided. The restructure process is in its final stages and the TAPSS Committee with its newly appointed Director have implemented a number of changes. It is expected that the next survey will show an improvement in this area.

With regard to public toilets, whilst it is obvious that more are required, especially at Cottesloe Beach, possibly at a site south of Cottesloe Beach and in the town centre, the majority of respondents don't use them, are either satisfied with them or do not know, think the service is reasonably good value for money and don't want to pay for improvements. It is suggested that that this result would be expected given that this was a residents survey and many residents would not use the beach ablutions for example as they would probably shower/change etc at home. Also many of those that did use the facilities would have become accustomed to their standard over time. Others would probably feel that their rates should not go to facilities primarily used by the wider community.

It was interesting to note that in Engineering Services 71% of respondents never used bus shelters and 51% never use the railway. Also interesting is the high use of footpaths (90% used them twice per week). 90% of respondents were satisfied or very satisfied with the rubbish service.

It is recommended that administration review the results of this survey and refer to it as need be for the purposes of long and short term planning.

VOTING

Simple majority

OFFICER RECOMMENDATION

That Council:

- (1) Receive the Resident Satisfaction Survey as presented; and
- (2) Request that Administration review the results of this survey and refer to it as need be for the purposes of long and short term planning.

13.1.3 OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Furlong

That Council:

- (1) Receive the Resident Satisfaction Survey as presented;**
- (2) Request administration to tabulate the comments received for Council's further consideration; and**
- (3) Request that Administration review the results of this survey and refer to it as need be for the purposes of long and short term planning.**

Carried 10/0

13.1.4 CEO'S PERFORMANCE REVIEW

File No: X9.12
Author: Mr Stephen Tindale
Author Disclosure of Interest: The author has an interest in the matter as it directly relates to his employment.
Report Date: 21 November, 2005
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to engage WALGA's Workplace Relations Service to manage the performance and remuneration review process for the CEO (working with the CEO's Performance Review Panel) and prepare a report for Council's consideration.

STATUTORY ENVIRONMENT

The relevant sections of the Local Government Act read, in part, as follows:

- 5.38. *Annual review of certain employees' performances***
The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.
- 5.39. *Contracts for CEO's and senior employees***
(1) The employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The achievement of Council's strategic plan is directly related to the performance of the CEO.

FINANCIAL IMPLICATIONS

The last performance review was facilitated by the WALGA's Workplace Relations Service at a cost of \$967 ex GST.

BACKGROUND

Parts 2.1 and 2.2 of the CEO's employment contract read as follows:

2.1 Term

Subject to the terms and conditions of this Contract the Council shall employ the CEO as the Chief Executive Officer, for the term of four years, commencing on the 7th January 2003 and expiring on the 6th January 2007.

2.2 Extension of Term

There is no compulsion on either the Council or the CEO to agree to an extension of the Term, however:

2.3.1 the Council shall invite the CEO in writing not later than six months prior to the expiry of the Term to discuss the possibility of the parties entering into a new Contract for a further term with the intent of finalising those discussions not later than three months prior to the expiry of the Term; and

2.3.2 in the event that the Council and the CEO agree to an extension of the Term, this Contract shall continue to apply unless varied in writing by the parties.

Parts 4 and 5.2 of the CEO's employment contract read as follows:

4.1 Adherence to Performance Objectives and Outcomes

The CEO agrees with the Council that the CEO must, in performing the CEO's obligations under this Contract, use every reasonable endeavour to achieve the agreed Performance Outcomes.

4.2 Performance Reviews

The CEO's performance pursuant to this Contract shall be reviewed by the Council annually during the Term and more frequently if the Council or the CEO perceives that there is a need to do so.

The Council shall give the CEO reasonable notice in writing that a performance review is to be conducted to enable the CEO sufficient time to prepare.

4.3 Conduct of Performance Review

Any performance review will be conducted on behalf of the Council by the nominated persons or person to whom the Council delegates that task.

4.4 Procedure

Any performance review conducted shall take the format of the following procedure:

4.4.1 The CEO will be provided with a series of questions, for the purposes of self-assessment, based on agreed Key Result Areas:

4.4.2 Each Councillor will receive a series of questions relating to agreed Key Result Areas to individually record their impressions of the CEO's performance. A committee or consultant representing Council will be convened to compile a consensus response for each of the Key Result Areas based on the individual Councillors' comments.

4.4.3 A summary response on the performance measures will be presented and the results will be discussed between the CEO and Council, nominated persons or person. If performance in any of the Key Result Areas is considered unsatisfactory by either party, specific examples illustrating the performance gap must be identified. The CEO shall provide feedback on the working relationship with Council.

4.4.4 *Once agreement has been reached by the parties on the review categories, Key Result Areas will be developed for the following 12 month period. Key Result Areas will not be developed to cover all aspects of the position and will focus only on those areas that are most clearly linked to the achievement of Council's strategic objectives. These goals shall be tangible and measurable, and within the Chief Executive Officer's area of control and authority.*

4.4.5 *A report shall be prepared describing the assessment developed during the performance review, changes to be made, special tasks to be done, or decisions to follow as a result of the evaluation.*

5.2 Salary (Cash Component)

5.2.1 *The Council must, before the expiration of each year during the Term, review the Remuneration Package taking account of:*

- (a) the total remuneration of CEOs holding positions similar to the Position of local governments in Western Australia of similar size to Cottesloe; and*
- (b) the Council's policy of review from time to time which shall be based on performance, productivity and such other matters as the Council reasonably considers relevant, but there is no obligation on the Council to increase the Remuneration.*

In May 2005 Council determined that the CEO's Performance Review Panel be comprised of all of the members of the Strategic Planning Committee

At the July 2005 meeting of Council it was resolved that the next review of the CEO's performance to be conducted in January 2006 and that the Key Result Areas for the period 2005-2006 be drafted by the Chief Executive Officer and external facilitator, in consultation with the Council Review Committee.

At the August 2005 meeting of Council it was resolved to adopt new performance criteria for the CEO subject to the inclusion of the following Key Result Area:

- Completion of the draft town planning scheme by the end of December 2005 to a stage whereby Council can seek permission to advertise by the Minister's deadline.

CONSULTATION

Nil.

STAFF COMMENT

It has become the custom to use WALGA's Workplace Relations Service to manage the performance and remuneration review process for the CEO. The following recommendation seeks confirmation of the practice.

VOTING

Simple Majority

DECLARATION OF INTEREST

The CEO made a declaration of interest as the matter directly relates to his employment. He said that the extent of the interest was negligible at this point in time as the matter of remuneration and the extension of the contract was not under active consideration and that the question before the committee was simply one of process.

He asked that he be allowed to participate in the debate.

COMMITTEE RESOLUTION

That the CEO be allowed to participate in the debate.

13.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Furlong

That Council:

- (1) Engage WALGA's Workplace Relations Service to manage the performance and remuneration review process for the CEO (working with the CEO's Performance Review Panel) and prepare a report for Council's consideration; and**
- (2) That Council invite the CEO in writing not later than six months prior to the expiry of the Term to discuss the possibility of the parties entering into a new Contract for a further term with the intent of finalising those discussions not later than three months prior to the expiry of the Term.**

Carried 10/0

14 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

15 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Miller

That this matter be considered at this meeting.

Carried 10/0

15.1.1 STATE COASTAL PLANNING POLICY - PROPOSED HEIGHT LIMITS – COUNCIL COMMENT

File No:	D4.16
Author:	Mr Andrew Jackson
Author Disclosure of Interest:	Nil.
Attachments:	Proposed amendment to Policy document Map Copy of Minister's Press Release 30/10/05
Report Date:	8 December, 2005
Senior Officer:	Mr Stephen Tindale

INTRODUCTION

- The Western Australian Planning Commission (WAPC) has released for public comment a proposed addition to the State Coastal Planning Policy (SCPP) to include the matter of building height limits. Submissions close on 23 December 2005.
 - The SCPP operates under the State Planning Framework and gives strategic direction to planning and development control parameters for the coast. Local planning instruments and all decision-making authorities (including the State Administrative Tribunal) are required to have regard to this high-level policy framework. The height limits will guide local planning strategies, town planning schemes or amendments, local planning policies, development applications, development guidelines, structure plans or master plans – that is, they will be implemented via strategic and statutory planning mechanisms.
 - The proposal reflects previously announced Government policy generally in favour of five to eight storey height limits.
 - It also reflects the WAPC Metropolitan Region Scheme (MRS) Clause 32 Resolution made earlier this year, to define classes of development that the WAPC wants to determine rather than allowing local governments to do so on its behalf. Another MRS Clause 32 Resolution has been applied to the Ocean Beach Hotel site, in relation to any proposal for all-residential development.
-

- The WAPC is also preparing a more detailed planning strategy for Perth dealing with all aspects of coastal planning, land use, development and management. The draft Perth Coastal Planning Strategy (PCPS) is undergoing a comprehensive community engagement phase, entailing an overarching workshop, sector workshops and stakeholder workshop. The PCPS will recognise the aspect of building height limits and may influence them but is not a vehicle for direct control.
- This report presents the proposed addition to the SCPP for Council's consideration and comment.

PROPOSAL

- The proposal is to introduce a statement of height limits in the policy to provide an overall degree of control for the metropolitan coastline.
- It is to apply to land within the 300m wide coastal strip and in respect of residential (including short-stay accommodation), office or hotel land uses, or any combination of them.
- Specifically, the proposal is to add a new sub-section as follows:

5.3 Building Height Limits

The provisions of this part of this policy apply to all development within 300 metres of the horizontal setback datum except industry, infrastructure and other developments which, in the opinion of the Commission, are of a similar nature to industry and infrastructure.

The height of buildings should be limited to a maximum of five storeys (and not exceeding 21 metres) in height. Town planning schemes may specify lower maximum height limits in particular localities in order to achieve outcomes which respond to the desired character, built form and amenity of the locality.

Higher structures up to a maximum of eight storeys (and not exceeding 32metres) in height may be permitted where:

- (a) there is broad community support for the higher buildings following a process of full consultation;*
- (b) the proposed development is suitable for the location taking into account the built form, topography and landscape character of the surrounding area;*
- (c) the location is part of a major tourist or activity node;*
- (d) the amenity of the coastal foreshore is not detrimentally affected by any significant overshadowing of the foreshore; and*
- (e) there is visual permeability of the foreshore and ocean from nearby residential areas, roads and public spaces.*

In considering proposals for medium and high density developments on the coast consideration should be given to any other relevant policies and guidelines adopted by the Commission.

“height, building” has the same meaning as in the Town Planning Amendment Regulations 1999, Appendix B – Model Scheme Text.

COMMENT**Policy Provisions**

- Fundamentally, the proposal signifies that building height ought to be controlled, that medium-rise buildings are considered generally acceptable and that taller buildings need to satisfy performance-criteria to demonstrate acceptability.
- Importantly, the proposal recognises the statutory power of town planning scheme height limits to prevail. It therefore introduces a height regime in lieu of a scheme. However, it also suggests that schemes should only specify lower height limits *in particular localities*. This may imply that schemes should embody a general five storey standard with lower or higher height standard only applying by exception. The Minister's press release on the proposal is more encouraging in stating: *In recognition that some local communities may not want five or eight storey developments, the proposed amendment allows councils to set lower height limits through town planning schemes.*
- This assumes the policy heights are reasonable and encourages an essentially blanket approach to heights, which may stimulate proposals from developers that create a five to eight storey pattern of development.
- The 300m wide coastal strip constitutes a considerable distance from the foreshore within which to control building height, but on a whole-of-state basis is understood to encompass a range of environments.
- The proposal for up to five storeys as the default standard where a town planning scheme does not set lower limits, and up to eight storeys in certain circumstances, could transform beachfront activity nodes and extensive suburban areas inland. Where town planning schemes do not set height limits for residential development and are reliant on the *Residential Design Codes*, it may be open to argument that there are grounds to exceed the two storey standard by virtue of the policy provisions. It is considered that this needs to be clarified. It may be better and safer for the height prescriptions to only apply to carefully defined areas.
- The supporting material advises that land uses to which the proposal is to apply are residential (including short-stay accommodation), office or hotel, or any combination of them. However, this is not referred to the actual text, which states *all development*. Moreover, the quoted uses appear potentially too narrow, as other uses such as recreational, entertainment, retail and commercial are likely to be proposed within coastal buildings. This aspect requires clarification.
- The term *taller structures* would read better as *taller buildings*, to avoid confusion.
- The criteria for taller buildings are quite comprehensive and embrace relevant planning principles. The conjunctive *and* linking the list indicates that all of the parameters are required to be met in order to merit taller buildings being permitted.
- The reference to *broad community support* is ambiguous. It could be taken to mean where there is support from the broader community as distinct from the local or district community. It could also be interpreted as that the support broadly exists yet is not necessarily the majority view. The criterion should be clarified and balanced to stipulate where *there is a substantial predominance of support from both the local and regional communities.*
- The definition of building height is appropriate for uniformity of planning instruments and consistency in decision-making.

- The reference to medium and high *density* developments should read *rise*, in order to not confuse the parameters of height and density (the latter which is not otherwise mentioned in the proposed sub-section).
- The proposal is effectively a development control that is proposed to sit within a policy that is of a strategic environmental planning and management nature rather than a mainstream development control instrument.

Cottesloe Context

- The thrust of the proposal is to allow for five to eight storey height limits where there are not lower limits prescribed in a town planning scheme.
- To the extent that Cottesloe is seen as a *major tourist or activity node* the proposal would encourage taller buildings.
- However, the other criteria cited of built form, landscape character, not overshadowing the beach, amenity and access to views are also germane to Cottesloe and have been identified and demonstrated as vital to setting suitable height limits for the locality – the natural topography and built landscape of Cottesloe have contributed to the generally lower-rise urban form, character and amenity of the district, including the sharing of views and avoidance of serious overshadowing of the beach and foreshore areas.
- Furthermore, it is apparent that community aspirations are overwhelmingly against excessively high buildings in Cottesloe and in line with generally lower-rise development and carefully-considered higher limits for special sites.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council notes the proposed amendment to the State Coastal Planning Policy and submits the following comments to the Western Australian Planning Commission:

- (1) Council supports in principle a policy proposal that fundamentally acknowledges the need to control building heights and which recognises the statutory power of town planning scheme height limits to prevail.
- (2) Council also supports the town planning scheme process and related mechanisms as the most legitimate method of community consultation to achieve height limits appropriate to local area planning and development circumstances.
- (3) Council considers that, while Cottesloe may be seen as an activity node, the aspects identified of built form, landscape character, not overshadowing the beach, amenity and access to views are vital to setting suitable height limits for the locality.
- (4) Furthermore, it is apparent that community aspirations are overwhelmingly against excessively high buildings in Cottesloe and in line with generally lower-rise development and carefully-considered higher limits for special sites.

- (5) Council is concerned that the policy proposal may stimulate proposals from developers that create a five to eight storey pattern of development as the norm rather than respecting local variations and characteristics.
- (6) The proposal for up to five storeys as the default standard where a town planning scheme does not set lower limits, and up to eight storeys in certain circumstances, potentially could transform beachfront activity nodes and extensive suburban areas inland. Where town planning schemes do not set height limits for residential development and are reliant on the *Residential Design Codes*, it may be open to argument that there are grounds to exceed the two storey standard by virtue of the policy provisions. It is considered that this needs to be clarified. It may be better and safer for the height prescriptions to only apply to carefully defined areas.
- (7) The supporting material advises that land uses to which the proposal is to apply are residential (including short-stay accommodation), office or hotel, or any combination of them. However, this is not referred to the actual text, which states *all development*. Moreover, the quoted uses appear potentially too narrow, as other uses such as recreational, entertainment, retail and commercial are likely to be proposed within coastal buildings. This aspect requires clarification.
- (8) The term *taller structures* would read better as *taller buildings*, to avoid confusion.
- (9) The reference to *broad community support* is ambiguous. It could be taken to mean where there is support from the broader community as distinct from the local or district community. It could also be interpreted as that the support broadly exists yet is not necessarily the majority attitude. The criterion should be clarified and balanced to stipulate where *there is a substantial predominance of support from both the local and regional communities*.
- (10) The reference to medium and high *density* developments should read *rise*, in order to not confuse the parameters of height and density (the latter which is not otherwise mentioned in the proposed sub-section).

AMENDMENT

Moved Mayor Morgan, seconded Cr Furlong

That (1) of the recommendation be amended to read as follows:

- (1) Council supports in principle the policy proposal but only so far as it acknowledges the need to control building heights and which recognises the statutory power of town planning scheme height limits to prevail.

Carried 6/4

15.1.1 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Furlong

That Council notes the proposed amendment to the State Coastal Planning Policy and submits the following comments to the Western Australian Planning Commission:

- (1) Council supports in principle the policy proposal but only so far as it acknowledges the need to control building heights and which recognises the statutory power of town planning scheme height limits to prevail.**
- (2) Council also supports the town planning scheme process and related mechanisms as the most legitimate method of community consultation to achieve height limits appropriate to local area planning and development circumstances.**
- (3) Council considers that, while Cottesloe may be seen as an activity node, the aspects identified of built form, landscape character, not overshadowing the beach, amenity and access to views are vital to setting suitable height limits for the locality.**
- (4) Furthermore, it is apparent that community aspirations are overwhelmingly against excessively high buildings in Cottesloe and in line with generally lower-rise development and carefully-considered higher limits for special sites.**
- (5) Council is concerned that the policy proposal may stimulate proposals from developers that create a five to eight storey pattern of development as the norm rather than respecting local variations and characteristics.**
- (6) The proposal for up to five storeys as the default standard where a town planning scheme does not set lower limits, and up to eight storeys in certain circumstances, potentially could transform beachfront activity nodes and extensive suburban areas inland. Where town planning schemes do not set height limits for residential development and are reliant on the *Residential Design Codes*, it may be open to argument that there are grounds to exceed the two storey standard by virtue of the policy provisions. It is considered that this needs to be clarified. It may be better and safer for the height prescriptions to only apply to carefully defined areas.**
- (7) The supporting material advises that land uses to which the proposal is to apply are residential (including short-stay accommodation), office or hotel, or any combination of them. However, this is not referred to the actual text, which states *all development*. Moreover, the quoted uses appear potentially too narrow, as other uses such as recreational, entertainment, retail and commercial are likely to be proposed within coastal buildings. This aspect requires clarification.**
- (8) The term *taller structures* would read better as *taller buildings*, to avoid confusion.**

- (9) The reference to *broad community support* is ambiguous. It could be taken to mean where there is support from the broader community as distinct from the local or district community. It could also be interpreted as that the support broadly exists yet is not necessarily the majority attitude. The criterion should be clarified and balanced to stipulate where *there is a substantial predominance of support from both the local and regional communities*.
- (10) The reference to medium and high *density* developments should read *rise*, in order to not confuse the parameters of height and density (the latter which is not otherwise mentioned in the proposed sub-section).

Carried 9/1

16 MEETING CLOSURE

The Mayor announced the closure of the meeting at 8.35pm.

CONFIRMED: MAYOR DATE:/...../.....