

TOWN OF COTTESLOE



FULL COUNCIL MEETING

MINUTES

**The Ordinary Meeting of Council
Council Chambers, Cottesloe Civic Centre
16 December, 2002, at 7.00pm.**

ORDINARY MEETING OF FULL COUNCIL

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ORDINARY MEETING OF COUNCIL

16 December, 2002

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Chairperson announced the meeting opened at 7.00pm.

2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

2.1 PRESENT

The Mayor:	Mr J.C. Hammond
Councillors:	Cr. J.S. Birnbrauer
	Cr. M.E. Ewing
	Cr. A.D. Furlong
	Cr. B.R. Miller
	Cr. K.J. Morgan
	Cr. P. Rattigan
	Cr. J. Utting
	Cr. J.F. Walsh
	Cr. R. Whitby
Chief Executive Officer:	Mr S.D. Tindale
Manager, Development Services:	Mr S. Sullivan
Manager, Corporate Services:	Mr A. Lamb

2.2 APOLOGIES

Mr. M. Doig and Cr. A.O. Sheppard

2.3 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)

Nil.

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4 PUBLIC QUESTION TIME

Nil.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr. Ewing, seconded Cr. Morgan, that the minutes of the Ordinary Meeting of Full Council held on the 25 November, 2002 be confirmed, subject to the following amendments:

- (1) Amendment No. 2 on page 6, Item TP146 be deleted and replaced with:
That Part (3) be amended by adding the words:
 - (a) "*within 18 months*" prior to the word "*purchase*";
 - (b) "*to*" after the word "*property*" in line one.

- (c) *“failing which Council will reconsider its position”* after the word *“listing”*.
- (2) Part (3) of the Resolution being deleted and replaced with:
- (3) *Request the State Government to, within 18 months, purchase the property to restore the property and sell it with a heritage listing, failing which Council will reconsider its position.*

Carried 10/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor wished Councillors and Council staff a Merry Christmas and a Happy New Year.

COUNCIL BUS SERVICE

The Mayor called on Cr. Ewing to report on the bus service. Cr. Ewing reported that the service was being well used by residents and others and that it operated from 7.00am to 7.00pm on weekends during the summer months.

8 PUBLIC STATEMENT TIME

- (1) Mr Neil Robertson – Item TP164
Mr Robertson, architect for the proposed development, spoke in support of the application. In relation to the width of the garage doors he requested Council to allow these to be 60% of the street frontage as per the application and requested the deletion of condition (1)(g)(iii) from the recommendation.
- (2) Mr Tony Watts – Public Statement re Street Trees and Unauthorised Building
Mr Watts spoke of street trees outside his property that had been drilled and poisoned. He had reported the matter to the Police.

Mr Watts suggested that Council staff may have allowed an unauthorised crossover to be constructed to an unauthorised construction in Grant Street. He noted that the construction on the lot and the crossover were not in accordance with plans and suggested the current design was prohibited by the R Codes. Mr Watts asked why Council had done nothing about this. The CEO responded that the crossover had been constructed by Council, but contrary to development approval. He also stated that the owner had been given notice to comply with the development approval within 3 months and that any expense associated with the removal of the crossover would be met by Council.

- (2) Mr Robert Auguste – Item TP176
Mr Auguste spoke in support of the application and asked that condition q(ii) and q(iii) be removed from the recommendation. He suggested there were no guidelines and that he had not previously been asked for these to be provided.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

10 REPORTS OF COMMITTEES AND OFFICERS

DEVELOPMENT SERVICES COMMITTEE

9 December, 2002

PLANNING

TP162 NO. 37 (LOT 12) LYONS STREET – TWO STOREY SINGLE HOUSE

File No: No. 37 Lyons Street
Author: Ms. Janine McDonald
Report Date: 3 December, 2002
Author Disclosure of Interest: Nil
Senior Officer: Mr Stephen Sullivan

Property Owner: Mr & Mrs G & M Chessell
Applicant: Glenway Homes
Date of Application: 13 November, 2002

M.R.S. Reservation: N/A
Zoning (TPS No. 2): Residential
Density: R20
Lot Area: 685m²

SUMMARY

The purpose of this report is to seek Council approval for the development of a two-storey single house. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Plans and Elevations
- Cone of Vision Diagram
- Shadow Diagram.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2
Residential Design Codes of Western Australia

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
5.1.1.	Ridge height of 19.47 RL	19.73 RL

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	Setback of playroom from side boundary of 1.0m	Nil	3.3.1 – P1
3	Setback of garage from side boundary of 1.5m	1.0m	3.3.1 – P1
6	Setback of north eastern retaining wall from side boundary of	Nil	3.6.2 – P2
8	Visual privacy setback from front balcony of 7.5m	See attached	3.8.1 – P1
9	Overshadowing of adjoining lot no more than 25%	25.85%	3.9.1 – P1

CONSULTATION

Neighbour notification has been undertaken for a period of 14 days in accordance with Scheme requirements. To date, no written submissions have been received however, 2 adjoining neighbours have been into Council offices to view plans. As the notification period closes on Friday 6 December, any submissions received will be tabled at the Development Services Committee on Monday, 9 December, 2002.

BACKGROUND

The development site is on the western side of Lyons Street and is currently developed with a single storey brick and tile residence, which is not listed on Council's municipal inventory. The site has a cross fall from the south west corner to the north east corner of approximately 2 metres.

The proposal seeks to demolish the existing residence and re-develop the site with a rendered brick and colourbond two storey single house that is contemporary in design and has limestone rubble feature walls. The design incorporates a storage loft into the roof space.

DISCUSSION**Filling**

The site is such that it requires filling of approximately 1 metre in the north eastern corner to provide a level site for development. However the Residential Design Codes state that retained areas over 500mm in height must be setback from boundaries either in accordance with the visual privacy setbacks, or the table 2 setbacks, depending on whether adequate screening is provided. Requiring the filled area to be setback from the boundary is supported as it reduces the potential to overlook into adjoining property from the elevated area and reduces the impact of the boundary wall on the adjoining property. A condition is imposed accordingly.

Building Height

The proposed development is over height by approximately 260mm which is likely due to the storage area that is proposed to be accommodated in the roof space. Clause 5.1.1 of the Scheme states that Council may permit a third storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated in the Scheme and also provided that, in Council's opinion, the dwelling retains the appearance of a two storey house.

The roof pitch proposed is a standard 30° and the proposed dwelling does not appear to be higher than 3 stories. As such, no objection is raised to the loft storage however, this in itself is not sufficient reason to deviate from the Scheme's height controls and a condition requiring the ridge height be reduced is imposed accordingly.

Boundary Setbacks

The Residential Design Codes state that it is acceptable to build up to boundaries on land coded R20 where the wall is no higher than 3.0m with an average height of 2.7m and a maximum length of 9m. The proposed parapet wall to the playroom is approximately 3.4m high and therefore does not fit the above criteria. Given that the playroom is at the rear of the property and the proposed parapet therefore will not have a detrimental impact upon the streetscape, it is considered that it can be supported subject to a condition requiring it to be reduced in height.

The other setback that does not accord with the requirements of the Codes is the distance of the proposed garage from the common boundary, which should be 1.5m instead of the 1.0m provided. Although the difference is only minor, it is recommended that the required setback be enforced as this will help reduce the overshadowing of the adjoining southern property and should not negatively impact upon the proposed design given the adequate setbacks to the northern boundary.

Solar Access

The Design Codes state that it is acceptable to overshadow an adjoining lot by no more than 25% on land coded R20. The proposed development overshadows the adjoining southern lot by approximately 26%. In the event that a proposed development does not meet the acceptable standard, the applicant is required to demonstrate that the development meets the performance criteria set out in clause 3.9.1 of the Codes which states:

“Development designed with regard for solar access for neighbouring properties taking account the potential to overshadow:

- Outdoor living areas;
- Major openings to habitable rooms.”

As stated previously, enforcing a greater setback to the garage will minimize the amount of overshadowing, however, the shadow diagram submitted by the applicant indicates that the shadow of the proposed development does not fall over the primary outdoor living area of the adjacent property or any major opening to a habitable room.

Visual Privacy

The Residential Design Codes state that a 7.5 metre visual privacy setback is required from decks or balconies with the potential to overlook into adjoining properties. Applying the cone of vision to the proposed front balcony indicates that there is the potential to overlook into the adjoining property to the north.

The Codes state that where the acceptable setback standards are not met, compliance with the performance standards set out in clause 3.8.1 must be demonstrated. The clause states that new development should:

“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 effective screening; and
- The lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.”

In this case, the area of overlooking is the roof of the existing carport on the adjoining property which is located within the front setback area. As the overlooked area is not an active habitable space used for outdoor living purposes, no objection is raised to the small area of non-compliance.

CONCLUSION

The proposed development be approved subject to conditions to address retaining walls, building height, setbacks from boundaries and overlooking into adjoining properties.

Voting

Simple majority.

OFFICER RECOMMENDATION

That Council:

- (1) GRANTS its Approval to Commence Development for a two storey single house at No. 37 (Lot 12) Lyons Street Cottesloe, as shown on the plans received on the 13 November, 2002, 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 to Lyons Street being of an "Open Aspect" design and the subject of a separate application to Council.
 - (g) Revised plans being submitted to the Manager of Development Services showing:
 - (i) A maximum retaining wall height of 0.5m on the common boundaries;
 - (ii) The ridge height being reduced to 19.45 RL;
 - (iii) The parapet wall to the playroom being reduced in height to an average of 2.7m; and
 - (iv) The garage wall being setback from the adjoining boundary by 1.5m.
 - (h) The proposed playroom not being used for additional accommodation purposes or being modified in any way to provide for separate habitation.
- (2) Advise the submitters of this decision.

COMMITTEE COMMENT

The Committee considered the memo dated 6 December 2002 from staff and made the following changes to condition(1)(g)(iii) of the officers recommendation contained in the memo dated 6 December, 2002:

- (a) the playroom being setback 1m off the side boundary; and
- (b) the parapet wall being removed, as it is not required due to the side set back requirement

COMMITTEE RECOMMENDATION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council:

- (1) GRANT its Approval to Commence Development for a two storey single house at No. 37 (Lot 12) Lyons Street Cottesloe, as shown on the plans received on the 13 November, 2002, 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 to Lyons Street being of an "Open Aspect" design and the subject of a separate application to Council.
 - (g) Revised plans being submitted to the Manager of Development Services showing:
 - (i) A maximum retaining wall height of 0.5m on the common boundaries;
 - (ii) The ridge height being reduced to 19.45 RL;
 - (iii) The playroom being setback 1m off the boundary and the parapet wall being removed;
 - (iv) The garage wall being setback from the adjoining boundary by 1.5m;
 - (v) The development being set back from the front boundary by 6.0 metres;
 - (vi) The south facing windows to the ensuite bathroom being glazed with fixed obscure glazing or having sill heights 1650mm above finished floor levels; and
 - (vii) The windows to the stairwell being glazed with fixed obscure glazing or having sill heights 1650mm above the first floor finished floor level.
 - (h) The proposed playroom not being used for additional accommodation purposes or being modified in any way to provide for separate habitation.
 - (i) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (2) Advise the submitters of this decision.

AMENDMENT

Moved Cr. Utting, seconded Cr. Rattigan

That (1)(i) be deleted and replaced with the following: "*Air conditioning plant be installed in a garage or shed in order to mitigate potential noise and nuisance to neighbours.*"

Lost 2/8

The original motion was put and carried.

TP162 COUNCIL RESOLUTION

That Council:

- (1) **GRANT its Approval to Commence Development for a two storey single house at No. 37 (Lot 12) Lyons Street Cottesloe, as shown on the plans received on the 13 November, 2002, 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 to Lyons Street being of an "Open Aspect" design and the subject of a separate application to Council.**
- (g) Revised plans being submitted to the Manager of Development Services showing:**
 - (i) A maximum retaining wall height of 0.5m on the common boundaries;**
 - (ii) The ridge height being reduced to 19.45 RL;**
 - (iii) The playroom being setback 1m off the boundary and the parapet wall being removed;**
 - (iv) The garage wall being setback from the adjoining boundary by 1.5m;**
 - (v) The development being set back from the front boundary by 6.0 metres;**
 - (vi) The south facing windows to the en-suite bathroom being glazed with fixed obscure glazing or having sill heights 1650mm above finished floor levels; and**
 - (viii) The windows to the stairwell being glazed with fixed obscure glazing or having sill heights 1650mm above the first floor finished floor level.**
- (h) The proposed playroom not being used for additional accommodation purposes or being modified in any way to provide for separate habitation.**

- (i) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (2) Advise the submitters of this decision.

Carried 9/1

TP163 NO. 16 (LOT 4) BEACH STREET – TWO, TWO STOREY SINGLE HOUSES WITH BASEMENT GARAGES

File No:	No. 16 Beach Street
Author:	Ms. Janine McDonald
Report Date:	20 November, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Mr & Mrs Argus
Applicant:	Sharp & Van Rhyan Architects
Date of Application:	15 July, 2002 (revised plans on the 6 September, 2002)
M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Residential
Density:	R30
Lot Area:	306m² each

SUMMARY

The purpose of this report is to seek Council approval for the development of two, two-storey single houses. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Submissions x 5
- Plans and Elevations
- Cone of Vision Diagram
- Letter from applicant addressing areas of non-compliance with Scheme and Design Codes.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2
Residential Design Codes of Western Australia

HERITAGE LISTING:

State Register of Heritage Places -	N/A
TPS No. 2 -	N/A
Town Planning Scheme Policy No. 12 -	N/A
Draft Heritage Strategy Report -	N/A

Municipal Inventory -
National Trust -

N/A
N/A

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
5.1.1. Building height	Wall height of 33.69 RL	33.72 RL
5.1.1. Building height	Undercroft height of 26.42 RL	26.53 RL

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
4	Minimum outdoor living area of 24m ²	22m ²	3.4.2 – P2
3	Cedar screen setback from boundary by 1.1m	Nil	3.3.1 – P1
6	Southwest retaining wall setback from boundary by 1.5m	Nil	3.6.2 – P2
8	Visual privacy setbacks of 4.5, 6.0 & 7.5m to bedroom, study and balconies respectively	See attached diagram	3.8.1 – P1

CONSULTATION

Submissions were received from the following landowners:

Unit 4 No. 18 Beach Street

The submitter expresses concern that the development will impede her ocean views and de-value her property accordingly. The submitter is also concerned that her property can be viewed from the proposed east-facing balconies.

Unit 6 No. 18 Beach Street

The submitter objects to the proposed development as it will impede his ocean views and de-value his property accordingly. The submitter requests that the developers consider a flat-roofed development.

No. 2 Avonmore Terrace

The submitter contends that the development site was filled prior to the existing house being built and is concerned that the new development will be unnaturally elevated in relation to their property thus blocking out sunshine. The submitter also objects to the upper and lower front balconies and the 'Juliet' balcony to the proposed passageway which will provide overlooking into their property.

No. 6 Avonmore Terrace

The submitter requests the following modifications to secure their privacy/amenity:

- The upper level balcony to bedroom 3 being screened on the western side.

- The bathroom/WC windows being glazed with obscure glazing.
- Adequate retaining on the western boundary to support the dividing fence.

Unit 2 No. 17 Princes Street

The submitter is concerned that the height of the proposed development will impede her south-westerly views to Leighton Beach and Rous Head and contends that an 8.5m ridge height is excessive.

BACKGROUND

Approval to subdivide the land into two, green title lots of 306m² each was granted by the Western Australian Planning Commission on 22 April 2002. The approval was conditional upon the applicant obtaining development approval for the development of a house on each of the lots and the buildings being constructed to plate height prior to the submission of the Plan of Survey to the Commission for endorsement.

The development site is on the northern side of Beach Street, one lot east of the intersection of Avonmore Terrace. The land falls from north to south by approximately 4 metres. The proposal seeks to comprehensively re-develop the lots with two, double storey dwellings that are contemporary in style and are constructed primarily of brick and steel. The application proposes to develop the houses with undercroft garages and a parapet wall between them.

Since the close of the neighbour notification period, the applicant submitted revised plans in order to address issues such as building height, site works and overlooking. The revised design requires no areas of filling greater than 500mm in depth.

DISCUSSION

Parapet Walls

Clause 3.3.2 of the Design Codes state that it is acceptable to build up to a boundary where the subject site and the affected adjoining site are created in a plan of subdivision submitted concurrently with the development application, as is the case with this proposal. However, Council resolved at its meeting of 28 October 2002 to prepare a Streetscape Policy in order to enforce boundary setbacks throughout the Scheme Area in order to preserve streetscape character.

Enforcing a setback between the two dwellings will have a significant impact upon the design of the houses given the narrowness of the lots and raise issues with respect to overlooking and privacy between each dwelling. This type of development has been a problem in the past where approval was given for two dwellings joined by a parapet but only one dwelling constructed. In this case, however, this situation could not occur as the subdivision approval is for two dwellings to be constructed to plate height prior to the endorsement of the Plan of Survey. As a result, it is recommended that the parapet wall be allowed.

Boundary Setbacks

The application proposes a 1650mm high cedar privacy screen on top of the eastern boundary wall adjacent to the proposed passageway as a measure to mitigate the overlooking into the adjacent property from the sitting room and bedroom. Under the Residential Design Codes, a privacy screen falls into the

definition of a 'building', which in accordance with Table 2, must be set off boundaries accordingly. The required setback is 1.1m however a nil setback is proposed. The provision of the screen will address, in part, the concerns of the neighbour at 18 Beach Street regarding overlooking, however, it is considered that the screen should be setback in accordance with the Codes.

Retaining Wall Setbacks

The variation in site levels between the development site and No. 2 and No. 4 Avonmore Terrace means that the south-western boundary wall retains earth to a depth of approximately 1.1m. Clause 3.6.2 of the Design Codes states that retaining walls must be set off boundaries in accordance with Table 2 of the Codes, which based on the length and height of the wall, would be 1.5m. However, in this instance the retaining required is not the result of any additional filling of the development site and as such it is considered onerous to require the developer to set the wall away from the boundary. Notwithstanding, as the wall proposed is 2.4m to 3.5m in height and is therefore in excess of a "sufficient fence" as defined in the Fencing Local Law, it is considered reasonable to require that the wall be reduced in height to 1.8m from finished ground levels in order to reduce its impact upon the adjoining properties.

Building Heights

The wall height and undercroft height of the eastern-most house exceeds Scheme requirements marginally. As the variations are very small, no objection is raised.

Visual Privacy

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. Where the acceptable setback standards are not met, compliance with the performance standards set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

"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 effective screening; and
- The lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street. "

The cone of vision applied to the front balconies indicates that there is the potential to view into the properties at 18 Beach Street and 2 Avonmore Terrace. The applicant has provided a screen in an attempt to mitigate the overlooking into the rear yard at No. 2 Avonmore, but as it does not extend the full depth of the balcony, substantial overlooking can still be achieved. Conversely, no screening has been provided to the eastern face of the front balcony. Accordingly, it is considered appropriate that adequate screening be provided to both faces of the balconies.

The cones of vision from the sitting room and bedroom 2 that fall into No. 4 Avonmore Terrace are not extensive and emit from windows that do not directly face the adjoining properties. Of greater privacy concern is the 'Juliet' balcony to the passage way which has been screened from the adjoining

property on the eastern side by a cedar privacy screen but not on the western side. It is considered that the privacy screen should be provided on the western boundary also.

The other area of potential overlooking is from the proposed study, however on the eastern side this falls into a driveway and on the western side it falls into a utility area and emits from a window that does not directly face the adjoining property. In addition, the neighbour viewed the plans and has raised no objection to this window.

Submissions

Other issues raised in the submissions not yet addressed relate to building height and loss of ocean views. The only way of addressing these concerns would be to impose higher standards than required with respect to building height and setback from the primary street as the development accords with the Scheme and Council Policy in both respects. In fact, the Codes now require only a 4 metre setback from the primary street on land coded R30 whereas a 6 metre setback has been provided.

Under Clause 5.1.2 of the Scheme Council may impose conditions relating to the location and orientation of a building or buildings on a lot in order to achieve higher standards of day lighting, sunshine or privacy however, as the development accords with the acceptable standards, and as the owner of this lot has a right to develop in accordance with the Scheme, the recommendation does not require a greater front setback or a lower building height.

Minimum Outdoor Living Area

The Residential Design Codes require a minimum area of useable open space that must be accessible from a habitable room, behind the front setback line, have minimum dimensions of 4 metres and must be at least 2/3 (67%) uncovered. On land coded R30, the minimum outdoor living area that should be provided is 24m² however the rear courtyard provided is 22m². The additional 2m² can easily be provided by reducing the area of landscaping adjacent to the courtyard.

CONCLUSION

The proposed development be approved subject to conditions to address Code requirements and the privacy of adjoining properties.

Voting

Simple majority.

TP163 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council:

- (1) GRANT its Approval to Commence Development for two, double storey single houses at No. 16 (Lot 4) Beach Street Cottesloe, as shown on the plans received on the 13 November, 2002, 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 to Beach Street being of an "Open Aspect" design and the subject of a separate application to Council.
- (g) The subdivision approval being modified to provide for an easement over the common wall between the two houses.
- (h) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (i) A minimum outdoor living area of 24m² being provided in accordance with the Residential Design Codes;
 - (ii) The proposed cedar privacy screen being set off the eastern boundary by 1 metre in accordance with the Residential Design Codes;
 - (iii) The western boundary wall south of proposed bedroom 2 being a maximum of 1.8m high from finished ground level;
 - (iv) The eastern and western ends of the front balconies being screened the full depth of the balconies and to a height of at least 1650mm to prevent overlooking into adjoining properties;
 - (v) A cedar privacy screen as proposed on the eastern side of the development being provided on the western side of the development in the same position and set off the boundary as required in point (ii) above to prevent overlooking into the adjoining properties; and
 - (vi) Upper level bathroom and WC windows being glazed with fixed obscure glazing or having sill heights at 1650 above Ffl.

(2) Advise the submitters of this decision.

Carried 10/0

TP164 **NO. 2 (LOT 33) LYONS STREET – TWO, THREE STOREY SINGLE HOUSES WITH BASEMENT STUDIES**

File No:	No. 2 Lyons Street
Author:	Ms. Janine McDonald
Report Date:	25 November, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr. Stephen Sullivan
Property Owner:	N.A. Robertson, E.A. Robertson & C. Chircop
Applicant:	Neil Robertson Architect
Date of Application:	6 November, 2002 (revised design on 6 November, 2002)
M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Residential
Density:	R20
Lot Area:	361m² each

SUMMARY

The purpose of this report is to seek Council approval for the development of two, three-storey single houses. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Submissions x 2
- Plans and Elevations
- Cone of Vision Diagram
- Letter from applicant addressing Residential Design Code requirements.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2
Residential Design Codes of Western Australia

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
5.1.1.	Maximum building height of two storeys	Three storeys

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
8	7.5m privacy setback to balconies	See diagram	3.8.1 – P1
2	Garage door width less than 50% of street frontage.	60.2%	3.2.8 – P8

CONSULTATION

Submissions were received from the following landowners:

No. 42 Grant Street

The submitters are concerned they will suffer a loss of privacy and amenity because of the potential for overlooking from the upper level deck into their property. They request that the southern end of the front deck is screened in order to prevent overlooking. The submitters also express concern that there is the potential for the reflection of sunlight from the roof of the proposed development.

No. 4 Lyons Street

The submitter requests that the development site not be excessively filled and that the height of the development remains within the limits imposed by the Scheme. The submitter also requests that there be no overlooking into her property from any windows or balcony.

BACKGROUND

Approval to subdivide the land into two, green title lots of 361m² each was granted by the Western Australian Planning Commission in February 2000, despite Council's objection to the subdivision on the basis of inconsistency with the lot sizes set out in the Residential Planning Codes. Approval was conditional upon the applicant obtaining development approval for the development of a house on each of the lots.

The development site is on the eastern side of Lyons Street. The land falls from east to west by approximately 2 metres. The proposal seeks to comprehensively re-develop the lots with two, three storey brick and colourbond dwellings that are contemporary in style and have undercroft studies. No major site works are required apart from a small amount of cutting in.

DISCUSSION

Parapet Walls

Clause 3.3.2 of the Design Codes state that it is acceptable to build up to a boundary where the subject site and the affected adjoining site are created in a plan of subdivision submitted concurrently with the development application as is the case with this proposal. However, Council resolved at its meeting of 28 October 2002 to prepare a Streetscape Policy in order to enforce boundary setbacks throughout the Scheme Area to preserve streetscape character.

Enforcing a setback between the two dwellings will have a significant impact upon the design of the houses given the narrowness of the lots and raise issues with respect to overlooking and privacy between each dwelling. This type of development has been a problem in the past where approval was given for two dwellings joined by a parapet but only one dwelling constructed. In this case, however, this situation could not occur as the development approval will require the construction of both dwellings concurrently. As a result, it is recommended that the parapet wall be allowed.

Building Height

Clause 5.1 of the Scheme states that Council's general policy is for low rise development of no more than 2 stories but will not regard undercroft space used for non-habitable purposes such as garages, lift shafts, bathrooms and the like as a storey. The proposed development seeks to create 3 stories contrary to the Scheme, as one of the undercroft rooms is a study that has access to natural light and ventilation via a window. It is recommended therefore, that the proposed study be deleted from the plans to accord with Scheme requirements.

Visual Privacy

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. Where the acceptable setback standards are not met, compliance with the performance standards set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

“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 effective screening; and
- The lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.”

The cone of vision applied to the front balconies indicates that there is the potential to overlook the properties at No. 4 Lyons Street and No. 42 Grant Street. The overlooking into No. 42 Grant Street can be overcome by requiring 1650 high screening on the southern end of the balcony as has been provided to the northern end. The smaller areas of overlooking into No. 4 Lyons Street are of lesser concern as they do not fall into habitable areas of the adjoining property but rather the front setback area and the very rear of the property.

Garage Door Width

Element 2 of the Residential Design Codes restricts the width of garage doors in order to minimize the impact of wide garages on streetscape character. A garage door can be up to 60% of the street frontage but only where an upper floor or balcony extends the full width of the garage and the entrance to the dwelling is clearly visible from the street. In this case the entrances are not clearly visible from the street and therefore the garage door should not represent more than 50% of the street frontage. The garage doors proposed however, represent 60.2% of the street frontage. Where the acceptable standard is not met, compliance with the performance standard set out in clause 3.2.8 must be demonstrated. The clause states that:

“The proportion of frontage and building façade occupied by garages limited so as not to detract from the streetscape.”

In this case, the width of the garage doors would comply with the acceptable standard if the entrances to the houses were visible and as requiring a narrower door would restrict ingress and egress to the proposed garages, no objection is raised.

CONCLUSION

The proposed development be approved subject to conditions to address screening of the southern end of the front balcony and removal of the third storey.

Voting

Simple majority

OFFICER RECOMMENDATION

That Council:

- (1) GRANTS its Approval to Commence Development for two, double storey single houses at No. 2 (Lot 33) Lyons Street Cottesloe, as shown on the plans received on the 6 November, 2002, 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 to Lyons Street being of an "Open Aspect" design and the subject of a separate application to Council.
 - (g) The subdivision approval being modified to provide for an easement over the common wall between the two houses.
 - (h) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (i) The southern end of the front balcony being screened the full depth of the balcony and to a height of at least 1650mm to prevent overlooking into the adjoining property.
 - (ii) The deletion of the proposed undercroft study and the associated window to the undercroft space.
- (2) Advise the submitters of this decision.

COMMITTEE COMMENT

Cr. Walsh commented that the streetscape in Lyons Street is becoming dominated by garage doors and would like to see the garage door reduced to 50% of the lot not 60% as proposed. The front door cannot be viewed from the street and so the garage door should be only 50% of the lot.

Manager, Development Services advised the Councillors that as per the R Codes it should be reduced to 50% due to the front door being located at the side and is not visible from the street. He also advised that Council could consider a wider garage door width based on the performance criteria of the Residential Design Codes.

Cr. Ewing advised that the garage door should be reduced to 50%, as 60% does not enhance the streetscape.

Manager, Development Services will look into the issue of reducing the garage door to 50% as it will reduce the vehicular access to the double garage and may reduce it to a single width garage and one car may have to park in the front setback area.

The Committee also supported the deletion of condition (1)(g) which was not relevant.

COMMITTEE RECOMMENDATION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council:

- (1) GRANTS its Approval to Commence Development for two, double storey single houses at No. 2 (Lot 33) Lyons Street Cottesloe, as shown on the plans received on the 6 November, 2002, 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 to Lyons Street being of an "Open Aspect" design and the subject of a separate application to Council.
 - (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (i) the southern end of the front balcony being screened the full depth of the balcony and to a height of at least 1650mm to prevent overlooking into the adjoining property;
 - (ii) the deletion of the proposed undercroft study and the associated window to the undercroft space; and
 - (iii) the width of the proposed garage doors be reduced to a maximum of 50% of the lot.
- (2) Advise the submitters of this decision.

AMENDMENT

Moved Cr. Miller, seconded Cr. Furlong

"That condition (1)(g)(iii) be deleted."

Carried 6/4

The amended motion was put and carried.

TP164 COUNCIL RESOLUTION

That Council:

- (1) **GRANTS its Approval to Commence Development for two, double storey single houses at No. 2 (Lot 33) Lyons Street Cottesloe, as shown on the plans received on the 6 November, 2002, 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 to Lyons Street being of an "Open Aspect" design and the subject of a separate application to Council.
- (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (i) the southern end of the front balcony being screened the full depth of the balcony and to a height of at least 1650mm to prevent overlooking into the adjoining property;
 - (ii) the deletion of the proposed undercroft study and the associated window to the undercroft space; and

(2) Advise the submitters of this decision.

Carried 6/4

TP165

NO. 1 & 3 (LOTS 64 & 65) JOHN STREET, COTTESLOE – PROPOSED TOWN PLANNING SCHEME AMENDMENT NO. 32 (FORESHORE CENTRE 'R30' TO FORESHORE CENTRE 'R50')

File No.: No. 1 & 3 John Street, Cottesloe
Author: Mr Stephen Sullivan
Date of Application: N/A
Report Date: 4 December, 2002
Author Disclosure of Interest: Nil

PURPOSE OF REPORT

For Council to adopt proposed Amendment No. 32 to Town Planning Scheme No. 2 by rezoning the subject land from 'Foreshore R30' to 'Foreshore R50' and seek the final approval of the Minister for Planning and Infrastructure.

PROPERTY INFORMATION

Owner: J Kelly
Applicant: Peter Webb and Associates
Zoning: Foreshore Centre
Density: R30
Lot Area: 625m² and 627 m²
Heritage: N/A

PLANNING FRAMEWORK AND IMPLICATIONS

Statutory Environment:	Town Planning Scheme No. 2
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	Residential Design Codes
TPS Policy Implications:	Nil
Financial Implication:	Nil
Strategic Implication:	Nil

NEIGHBOUR NOTIFICATION

Neighbourhood consultation will occur following initiation of this Amendment to Town Planning Scheme No. 2.

COMMENT

Background

A request to rezone the subject land from ‘Foreshore R30’ to ‘Foreshore R50’ was received by the Town of Cottesloe in June 2001. The proposal was presented to the July 2001 Council meeting where it was resolved to defer the proposal pending receipt of concept plans for the subject land.

Concept plans were received and presented to the Council at its August 2001 meeting where it was resolved to (inter alia):

- Advise the applicant that the Council supports an increase in density subject to the Concept Plans being supported by Council;
- Refer the Concept Plans to the Design Advisory Panel for its comment; and
- Further consider the matter at its September 2001 meeting.

Revised Concept Plans consistent with the R50 coding were presented to the September 2001 Council meeting. At this meeting, Council considered comments from the Design Advisory Panel and resolved to initiate an Amendment to rezone the land to Foreshore Centre R50 subject to various conditions including:

- Submission of revised plans incorporating minor design changes;
- Retention of mature trees;
- Payment of all costs associated with the Scheme Amendment;
- The Concept Plan being incorporated within the Scheme Amendment documents; and
- Approval of the Concept Plan prior to final approval being granted for the Scheme Amendment.

Council formally initiated a Scheme Amendment at its May 2002 meeting.

The amendment was placed on public exhibition from 18 October 2002 to 28 November, 2002 and there were no submissions.

The progress of the Scheme Amendment is shown below:

Scheme Amendment Process	Anticipated Timing
Lodgement of rezoning submission to the Town of Cottesloe	Completed
Review by Administration	Completed
Report to Council by Administration	Completed
Resolution deciding to prepare a Scheme Amendment	Completed
Formal initiation and adoption of Scheme Amendment	Completed

Scheme Amendment Process	Anticipated Timing
Preparation of Town Planning Scheme Amendment documents	Completed
Refer to Environmental Protection Authority	Completed
Consent to advertise from Environmental Protection Authority	Completed
Advertising (42 days)	Completed
Review of submissions by Town of Cottesloe	December 2002
Endorsement of final approval by Town of Cottesloe	December 2002
Final approval by Western Australian Planning Commission	February 2003
Gazettal by Hon. Minister for Planning	March 2003

STAFF COMMENT

The necessary advertising of the amendment was carried out and during that time, there were no submissions received on the amendment. Council now needs to resolve to adopt the final version of the Scheme Amendment for it to proceed for final approval by the Western Australian Planning Commission/Minister for Planning and Infrastructure.

The Residential Design Codes have been introduced and development is now required to comply with these Codes. Previously, the plot ratio was 0.5 for grouped dwelling. A variation to the plot ratio limit was introduced in the Residential Design Codes to allow for an increase to 0.7 to accommodate the new development. This plot ratio limit has now been removed for grouped dwellings.

The way in which development has also been changed as a consequence of the introduction of the Residential Design Codes. When Council first assessed the development, it was based on the old Residential Planning Codes and assessments were based on the total site. Under the new Residential Design Codes, each grouped dwelling is required to be assessed individually for conformity with the development controls. It is expected that this could result in some conflict with the proposed development and the Residential Design Codes.

Until a full assessment under the new Residential Design Codes is carried out, it is not possible at this stage to identify the areas of conflict.

CONCLUSION

If time permits, a review of the application will be carried out to determine the impact of the Residential Design Codes on the proposed development and the amendment.

Voting

Simple Majority.

OFFICER RECOMMENDATION

That further comments will be made to the Development Services Committee pending a review of the effect of the Residential Design Codes on the proposed development application and controls contained within proposed Amendment No. 32.

COMMITTEE COMMENT

Manager, Development Services addressed the meeting and advised that now the R codes have changed there will now be issues with plot ratio and lot sizes that will affect the design of the application proposed for the lot.

Council may need to modify the Town Planning Scheme amendment and add a clause to override the Design Codes due to the change in minimum lot size. Legal advice would be sought on this matter and a further report would be circulated to Councillors.

COMMITTEE RECOMMENDATION

That the Manager, Development Services prepare a recommendation to Council for modifications to the Town Planning Scheme Amendment based on the plans previously submitted to Council and legal advice.

THE MANAGER, DEVELOPMENT SERVICES - ADDITIONAL INFORMATION AND RECOMMENDATION CIRCULATED TO MEMBERS - 13 DECEMBER, 2002

The Development Services Committee resolved as follows in relation to this item:

'The Manager, Development Services is to prepare a recommendation to Council for modifications to the Town Planning Scheme Amendment based on the plans previously submitted to Council and legal advice.'

The issue is that the original assessment for the proposed development was on the previous Residential Design Codes. The development application when submitted for the site will need to be assessed under the new Residential Design Codes. A preliminary assessment is that there will be problems associated with the proposal now that the new Codes have been introduced.

To support the development application when it is lodged, Council may need to have general discretion powers to vary the Residential Design Code requirements. To achieve this, Council would need to amend the proposed Town Planning Scheme Amendment to introduce these powers. This will be achieved by amending the relevant proposed Amendment provision as shown in bold in the attached document.

The matter of whether the Commission will view this as a major change to the amendment will only be determined following consideration of the proposal by the Western Australian Planning Commission.

TP165 **OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

That:

- (1) Council hereby resolves to proceed with Proposed Amendment No. 32 subject to the proposed amendment being modified by**

amending part (c) of the proposed amendment, by adding the following words after the word "Scheme" in sentence three:

"including any standard or requirements of the Residential Planning Codes,"

- (2) the Mayor and the Chief Executive Officer be authorised to sign and affix the seal of the Municipality of the Town of Cottesloe on the modified amendment documents.
- (3) a copy of the Report and the modified Scheme Amendment documents be forwarded to the Western Australian Planning Commission for final approval by the Minister for Planning and Infrastructure;

Carried 10/0

TP166 DELEGATED AUTHORITY - DETERMINATION OF ADVERTISING REQUIREMENTS FOR DEVELOPMENT

File No.: X4.6
Author: Mr Stephen Sullivan
Report Date: 3 December, 2002
Author Disclosure of Interest: Nil

PURPOSE OF REPORT

To seek delegation from Council for the determination of the advertising requirements and accompanying information for applications for Planning Consent.

STRATEGIC IMPLICATION

Nil

FINANCIAL IMPLICATION

Nil

STAFF COMMENT

Currently, when dealing with applicants, the Manager for Development Services determines the advertising requirements for applications for Planning Consent. The applicant then carries that advertising out before the reports are prepared and presented to Council.

Advertising requirements for different types of development applications are set out in clauses 7.1.4 to 7.1.6 of the Town Planning Scheme text. These clauses relate to development that is an "AA" use (refer to Table 1 – Zoning Table of the Town Planning Scheme text), two storey development and development that may impact on the locality (which requires wider and more intensive consultation).

The Residential Design Codes also allow for the notification of neighbours for a variation to the Codes or the documentation required to lodge a residential application for Planning Consent.

Clause 7.1.2 of the Town Planning Scheme text relates to the information required to be submitted as part of a development application. It also permits council to request additional information relevant to the application.

The clauses use the wording "...the Council...". It was explained to when I commenced with the Town, that it was the practice for the Department Manager to determine the advertising or submission requirements. It is not clear whether this was been formally delegated by Council to staff to determine.

The Scheme provisions relating to neighbour notification and accompanying information for applications can relate to residential and non-residential development, whilst the Residential Design Codes will relate to residential development only.

CONCLUSION

In order to formalise this practice, it is requested that Council formally resolve to delegate to the Manager, Development Services under Clause 7.10 of the Town Planning Scheme text the authority to determine the:

- advertising requirements for development applications under Clauses 7.1.4 to 7.1.6 of the Town Planning Scheme text;
- submission requirements under clause 7.1.2 of the Town Planning Scheme text; and
- accompanying information requirements under Clause 2.4 of the Residential Design Codes; and
- neighbour consultation under Clause 2.5 of the Residential Design Codes.

Voting

Simple Majority.

TP166 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council, acting under clause 7.10 of the No. 2 Town Planning Scheme Text, delegates to the Manager, Development Services the authority to determine the:

- (1) Advertising requirements for development applications under Clauses 7.1.4 to 7.1.6 of the Town Planning Scheme text;**
- (2) Submission requirements under clause 7.1.2 of the Town Planning Scheme text; and**
- (3) Accompanying information requirements under Clause 2.4 of the Residential Design Codes; and**
- (4) Neighbour consultation under Clause 2.5 of the Residential Design Codes**

Carried 10/0

TP167 **DELEGATED AUTHORITY DURING JANUARY 2003 COUNCIL RECESS**

File No.: X4.6
Author: Mr Stephen Sullivan
Report Date: 3 December, 2002
Author Disclosure of Interest: Nil

PURPOSE OF REPORT

To seek additional delegation powers during the Christmas and January 2003 Council recess.

CONCLUSION

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 Chairperson, during the Christmas and January recess.

The Manager, Development Services will be on leave from Wednesday, 25 December, 2002 through to Tuesday 28 January, 2003 inclusive.

The resolution shown below is similar to the resolution adopted by Council at its December 2001 meeting, except for the delegation dates.

Voting

Simple Majority

OFFICER RECOMMENDATION

- (1) In addition to the existing delegated authority for determination on applications for Planning Consent and subject to (3), 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, 17 December, 2002 to Friday, 7 February, 2003.
- (2) In addition to the existing delegated authority for determination on applications for Planning Consent and subject to (3), Council hereby further delegates to the Chief Executive Officer 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 the 2 January, 2003 to 28 January, 2003 when the Manager, Development Services is on leave.
- (3) The exercise of those powers referred to in (1) and (2) are granted subject to the relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee, prior to a decision being made on the application.

COMMITTEE COMMENT

Cr. Ewing advised that she would be away in January and requires a deputy to take her place. Cr. Furlong advised that he will be available in January to consult on any matters that may arise. The recommendation was amended to 'Chairperson of the Development Services Committee or the Deputy'.

The Committee agreed that Cr. Furlong would be the Deputy for the Chairperson.

TP167 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

- (1) In addition to the existing delegated authority for determination on applications for Planning Consent and subject to (3), 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, 17 December, 2002 to Friday, 7 February, 2003.
- (2) In addition to the existing delegated authority for determination on applications for Planning Consent and subject to (3), Council hereby further delegates to the Chief Executive Officer 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 the 2 January, 2003 to 28 January, 2003 when the Manager, Development Services is on leave.
- (3) The exercise of those powers referred to in (1) and (2) are granted subject to 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.

Carried 10/0

TP168 **NO. 7 (LOT 15) HENRY STREET – PROPOSED TWO STOREY SINGLE HOUSE**

File No:	No. 7 Henry Street
Author:	Mr Daniel Heymans
Report Date:	26 November 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Sullivan
Property Owner:	G Shepherd
Applicant:	Peter Jones Architect
Date of Application:	15 October 2002
M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Residential
Density:	R20
Lot Area:	607m ²

SUMMARY

The purpose of this report is to seek Council approval for the development of a two storey single house. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Submissions (x2)
- Site Plan, Floor Plans and Elevations
- Letter from applicant providing justification for variations to Scheme and Code requirements.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE**Town Planning Scheme Text:**

Clause	Required	Provided
5.1.1 (c)	Wall Height 6m	Wall Height 6.3m

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
8	Visual Privacy Setback for Balconies 7.5m from the boundary	Visual Privacy setback from Balconies 2.5m	Clause 3.8.1 – P1

CONSULTATION

Adjoining neighbours were notified by registered post by the applicant. Two submissions were received from the following landowners:

No. 5 Henry Street

The submitter is concerned about the following issues:

- (1) The height of the proposed development in relation to their property.
- (2) Overshadowing caused by the proposed development, especially of their paved outdoor living area.
- (3) That the house has a similar front setback to other properties on Henry Street.
- (4) Overlooking from the upper floor western bedroom windows onto their property.

No. 254 Marmion Street

The submitter is concerned with the possibility of overlooking from the two, west facing upper floor bedrooms windows onto their property.

BACKGROUND

The subject property is located on the western side of Henry Street. The property is flat and is currently developed with a single storey house. Development Approval for the same proposal was previously issued on the 28 September 2001. However the previous planning approval has lapsed and the development needs to be re-assessed under the Residential Design Codes, gazetted on 4 October, 2002.

STAFF COMMENT

Wall Heights

The wall height for the northern side of the dwelling exceeds the 6-metre limit imposed by Clause 5.1.1 of the Scheme by 400mm. The additional wall height is the result of a low-pitched roof design (4°), which is 1.54m below the allowable ridge height of 8.5m.

In view of this fact, it is considered that the additional wall height does not affect the overshadowing of neighbouring properties and therefore the administration recommends that this discretion be allowed.

Visual Privacy

The Residential Design Codes require privacy setbacks to balconies of 7.5 metres. Assessment of the application using the cone of vision indicates that the property to the north of the development site will be overlooked from the upper floor balconies. Visual privacy setbacks of only 2.5m have been provided.

Notwithstanding, the area overlooked on the adjoining property is a blank two storey wall. Given this, and that the adjoining owners raised no objection, no concern is raised with respect to the setback provided.

Submissions

The submitters raised a number of other concerns that have yet been discussed. These are outlined below:

The owners of No. 5 Henry Street were concerned about overshadowing of their property, however the proposed development will overshadow 24% of No. 5 Henry Street on the winter solstice and this is below the permissible 25% specified in the codes. The owners were also concerned about the primary street setback, as it is setback further than others in the street. The house is behind the 6m setback standard and it is considered unreasonable to request that it be brought further forward.

In addition the owners of both No. 5 Henry Street and No. 254 Marmion Street expressed concern about overlooking from the upper floor bedroom windows on the western side of the house. However, these windows are within the 4.5m setback to bedroom windows from the boundary and are therefore in compliance with clause 3.8.1 of the Residential Design Codes. Furthermore,

the windows are over 10m from No. 254 Marmion Street and do not directly face No. 5 Henry Street.

CONCLUSION

The application be approved subject to standard conditions.

VOTING

Simple Majority.

TP168 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council:

- (1) **GRANT Planning Consent to Commence Development for a two storey single house at No. 7 (Lot 15) Henry Street, Cottesloe in accordance with the plans submitted on the 15 October, 2002, 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 to Henry Street being of an "Open Aspect" design and the subject of a separate application to Council.**
- (2) **Advise the submitters of this decision.**

Carried 9/1

TP169 **NO. 6A (LOT 31) BARSDEN STREET – PROPOSED SHADE SAIL CARPORT WITHIN FRONT SETBACK AREA**

File No: No. 6A Barsden Street
Author: Mr Daniel Heymans
Report Date: 26 November 2002
Author Disclosure of Interest: Nil
Senior Officer: Mr Stephen Sullivan

Property Owner: Mr & Mrs Kendall
Applicant: As Above
Date of Application: 13 November 2002

M.R.S. Reservation: N/A
Zoning (TPS No. 2): Residential
Density: R20
Lot Area: 965m²

SUMMARY

The purpose of this report is to seek Council approval for the development of a shade sail carport within the front setback area. Refusal is recommended.

ATTACHMENTS

- Location Plan
- Plan
- Elevations.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

State Register of Heritage Places N/A
TPS No. 2 N/A
Town Planning Scheme Policy No. 12 N/A
Draft Heritage Strategy Report John Street Heritage Area
Municipal Inventory Category 5
National Trust N/A

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
N/A	N/A	N/A

Town Planning Scheme Policy:

Policy No.	Required	Provided
No. 3 Garages and Carports in Front Setback	Carport behind 6m setback line	0.8m setback

Residential Design Codes:

Design Element	Acceptable Standards	Performance Criteria Clause
3 – Boundary Setback Requirements	Buildings setback in accordance with Table 1 = 6 metres	Clause 3.3.1 – P1

CONSULTATION

The applicant submitted a signed declaration from the adjacent owners of No. 4 and No. 8 Barsden Street stating that they had no objection to the proposed shade sail carport.

BACKGROUND

The development site is on the eastern side of Barsden Street. The application proposes a shade sail carport within the front setback area. It is proposed to set back the carport 0.8m from the front boundary and 0.5m from the side boundary.

STAFF COMMENT**Front Boundary Setback**

Town Planning Scheme Policy No. 3: Garages and Carports in Front Setback Area requires carports and garages to be positioned behind the front setback line in accordance with Table 1 of the Residential Design Codes, which on land coded R20, is 6 metres. The policy further states that Council may allow lesser setbacks to the primary street including a nil setback in the case of a carport.

In considering the variation, the Policy sets out those matters that should be taken into account. They include:

- that the carport does not significantly affect view lines of adjacent properties;
- adequate manoeuvring space for the safe ingress and egress of motor vehicles shall be maintained;
- the existing and potential future use and development of any adjoining lots; and
- existing setbacks from the street alignment in the immediate locality.

The Policy further states that:

“The materials of construction, design and appearance of a carport or garage erected within the front setback area shall be in character with the residence upon the site and be in harmony with the surrounding streetscape.”

The locality in which the development site is situated is characterised by low fences with open pickets. The major concern with the proposed development is that it is out of character with the existing style of development in the area. The majority of carports in the area are of traditional design with timber or brick posts and metal or tiled roofs and have been built to compliment the housing styles. The proposed shade sail however, is a contemporary structure and is not in keeping with the style of the house on the subject lot.

Heritage

The house is located within the Draft John Street Heritage Area and has been designated as Category 5 – significant in contributing to local character. New development within the Draft Heritage Precincts should conform with the Draft Residential Conservation & Development Guidelines which state that:

“Any carport proposed at the front of a house in a heritage area should generally remain open without incorporation of solid side walls or garage doors. These should be of similar design and materials, roof pitch and detailing as the existing residences.”

CONCLUSION

Given the above, Administration believes that the proposed shade sail does not conform with either Town Planning Policy No.3 or the Draft Residential Conservation & Development Guidelines and should therefore be refused.

VOTING

Simple Majority.

TP169 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council REFUSE its Approval to Commence Development for a Shade Sail Carport at No. 6A (Lot 31) Barsden Street, in accordance with the application and plans submitted on 13 November, 2002, as the proposed development does not comply with Town Planning Scheme Policy No. 3 and the Draft Residential Conservation & Development Guidelines, which state that carports should be of similar design and materials to the existing residence.

Carried 10/0

TP170 NO. 124 (13) RAILWAY STREET – PROPOSED SECOND STOREY ADDITIONS

File No:	No. 124 Railway Street
Author:	Mr. Daniel Heymans
Report Date:	26 November 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr S. Sullivan
Property Owner:	Mr & Mrs Muir
Applicant:	Modern Home Improvers
Date of Application:	8 November, 2002
M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Residential
Density:	R20
Lot Area:	728m ²

Summary

The purpose of this report is to seek Council approval for the development of second storey additions. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Site Plan, Floor Plan and Elevations
- Shadow Diagram
- Visual Privacy Diagram
- Letter from applicant discussing Residential Design Codes requirements.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

State Register of Heritage Places	N/A
TPS No. 2	N/A
Town Planning Scheme Policy No. 12	N/A
Draft Heritage Strategy Report	Claremont Hill Heritage Area
Municipal Inventory	N/A
National Trust	N/A

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
N/A	N/A	N/A

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	Boundary setback of western wall (rear, lower level) of 1.0m	0.5m	Clause 3.3.1 – P1
3	Boundary setback of eastern wall (rear, lower level) of 1.5m	0.925m	Clause 3.3.1 – P1
8	Visual Privacy Setback for Balconies 7.5m from the boundary	See Visual Privacy Diagram	Clause 3.8.1 – P1
8	Visual Privacy Setback for Habitable Rooms 6.0m from the boundary	See Visual Privacy Diagram	Clause 3.8.1 – P1

CONSULTATION

Adjoining neighbours were notified by registered post by the applicant. No submissions have been received as yet but the notification period does not

close until Friday, 6 December. Any submissions received will be tabled at the Development Services Committee on Monday, 9 December.

BACKGROUND

The subject property is located on the southern side of Railway Street. The existing building already has setbacks that are not compliant with the current Residential Design Codes.

STAFF COMMENT

Boundary Setbacks

A variation is being sought to the setback requirement for the western and eastern side boundaries. These walls are being extended in conformity with the existing walls.

The proposed western wall to the new family room lines up with the existing wrap-around verandah which is setback just 0.5m from the side boundary. However, table 2a of the Residential Design Codes requires a setback of 1.0 metre. Notwithstanding, it is the opinion of administration that the proposed 0.5 metre setback will not have a detrimental affect on the adjoining landowner as it is not less than the existing setback and the additional length of wall is only 5m. In addition, the new length of wall does not contain any major openings.

The proposed eastern wall is also lined up with the existing dwelling, which has a setback to the side boundary of 0.925m. Table 2a of the Residential Design Codes requires a setback of 1.5 metres. Notwithstanding, it is the opinion of administration that the proposed 0.925 metre setback will not have a detrimental affect on the adjoining landowner as it is not less than the existing setback and the additional length of wall is only 0.6m.

Visual Privacy

Under the Residential Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. In this case, the balcony requires a privacy setback of 7.5 metres, which is measured using a cone of vision. Applying the cone of vision to the proposed balcony proposed indicates that there is the potential to overlook into the properties to the west and east of the development site.

Where the acceptable standard is not met, compliance with the performance criteria set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

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 effective screening; and
- The lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.

In the case of the property to the east, the area of overlooking from the balcony is of little concern as the overlooked area is not an active habitable space used for outdoor living purposes.

In the case of the property to the west, the area of overlooking from the upper floor loft windows is of little concern as it falls into the service corridor of the adjoining dwelling and over the storeroom and laundry room windows. The overlooking from the balcony is of more concern however, as it falls over a substantial area of the rear yard the adjoining property that may well be used for outdoor living purposes. It is recommended therefore, that the western end of the balcony be adequately screened to a height of 1,650mm.

Heritage

The development site is located within the Draft Claremont Hill Heritage Area as identified by the Draft Heritage Strategy. The Draft Strategy requires new development to take into consideration the following guidelines:

- Overall Design Approach – new development should preferably be designed in a contemporary manner that is sympathetic to the surrounding area.
- Scale, Proportions and Bulk – new development should not be visually dominate.
- Views – should not obstruct views of heritage places.
- Materials, Colours, Details Setbacks, Roofs, Openings, Fencing and Landscaping – should take into consideration and relate to adjacent properties.

The proposed development has a roof pitch of 30 degrees and the windows are vertical in scale. The design of the proposed balcony is sympathetic with the federation character, existing in the area, as are the other elements such as the balustrading and decorative timberwork. It is considered that the design and finish of the proposed addition is in keeping with both the existing dwelling and the surrounding development and therefore adequately addresses the above guidelines.

CONCLUSION

That the proposed development be approved subject to conditions to require compliance with the Residential Design Codes with respect to visual privacy requirements.

VOTING

Simple Majority.

TP170 DECISION OF DEVELOPMENT SERVICES COMMITTEE ACTING UNDER DELEGATED AUTHORITY - DEVELOPMENT SERVICES COMMITTEE MEETING ON 9 DECEMBER, 2002

Moved Cr. Miller, seconded Cr. Birnbrauer

That the Development Services Committee, acting under authority delegated by Council Resolution TP40 May, 2002 GRANTS its Approval to Commence Development for the proposed additions at No. 124 (Lot 13) Railway Street, Cottesloe in accordance with the plans submitted on the 8 November, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.

- (2) 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.
- (3) 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.
- (4) 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.
- (5) Revised plans being submitted for approval by the Manager, Development Services, showing the western end of the proposed upper floor balcony being adequately screened to a height of at least 1650mm to prevent overlooking into the adjoining property.

Carried 5/0

TP171 NO. 37 (49) JOHN STREET – PROPOSED INTERNAL ALTERATIONS & EXTENSION OF TRADING HOURS

File No:	No. 37 John Street
Author:	Mr Daniel Heymans
Report Date:	2 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Sullivan
Property Owner:	M.I. Winter
Applicant:	P.K. Hall
Date of Application:	28 October, 2002

M.R.S. Reservation:	Urban
Zoning (TPS No. 2):	Residential
Density:	R20
Lot Area:	637m²

Summary

The purpose of this report is to seek Council approval for internal alterations and the extension of trading hours for the John Street Café.

ATTACHMENTS

- Location Plan
- Submissions.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

State Register of Heritage Places

N/A

TPS No. 2	N/A
Town Planning Scheme Policy No. 12	N/A
Draft Heritage Strategy Report	N/A
Municipal Inventory	N/A
National Trust	N/A

AREA OF NON-COMPLIANCE**Town Planning Scheme Text:**

Clause	Required	Provided
N/A	N/A	N/A

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
N/A	N/A	N/A	N/A

CONSULTATION

Adjoining neighbours were notified by registered post by the applicant. Four submissions were received from the following landowners:

No. 28 John Street

The submitters have raised Council's previous decision in October 1994 to refuse permission to extend trading hours and state that this decision was a good one, especially in light of Council's original decision to allow for the operation of a café from the original shop. In addition they specifically object to the following:

- (i) That parking in John Street is rarely available for residents and their families during the operating hours of the café. That any extension of operating hours would exacerbate this problem into the evenings.
- (ii) That noise, especially during the early mornings from delivery trucks, is of a major concern to the residents, and that any extension of trading hours would cause extra noise until at least 10.30pm.

No. 31 John Street

The submitters object to the increase in noise with patrons leaving after 10pm. They think this will add to the already considerable noise coming from the Hotel patrons. They do not believe that new patrons coming after 6pm will be locals as stated in the applicant's letter.

No. 32 John Street

The submitters object to the current noise levels caused by early morning deliveries, setting up the outdoor eating area and music during setting up and closing periods. They ask Council to reject this application in the interests of the residents of John Street.

No. 33A John Street

The submitters do not object to the proposed alterations and improvements. However they point out that they have to put up with: cooking smells; loud noises from patrons; barking dogs brought by patrons; patron's children playing

in their drive; cars reversing in and out of their driveway; cars competing for parking; parking on the grass verge; car horns and litter from the café blowing over into their property. They state that at the moment they contend and tolerate these disturbances, however an increase in the trading hours to 10.00pm would be intolerable.

BACKGROUND

The subject property is zoned "Residential" under the Town Planning Scheme and over the years has operated as a shop providing convenience goods to local residents. Over time, the use of the land slowly changed from providing convenience goods to providing takeaway meals and finally on the 28 September 1988, Council resolved, in relation to an application for a café on the site, the following:

"A dining room licence will be issued for the shop and outside eating areas subject to the following conditions:

1. Provision of male and female toilets and hand basins situated in a location to the satisfaction of the health surveyor;
2. Upgrading of the kitchen area to the satisfaction of the Health Surveyor.

Further to that the following areas as designated on the plans submitted 13th September 1988 to have non-conforming use rights as a shop:

- Shop
- Outside Eating Area
- Dry Store
- Kitchen.

The balance of the property to be designated as residential use and shall not be used for any other purpose."

Town of Cottesloe By-Law No. 42: Eating Houses defines a Dining Room as premises where meals to be served to less than 30 persons at any one time. The Dining Room licence for the John Street Café allows for a maximum of 30 persons at any one time and that the opening hours be restricted from 7.00am to 7pm.

Thereafter, complaints were received in February 1989 from residents in relation to the Café's opening hours, which sometimes went up to 10.00pm. The owner was advised that the opening hours were restricted to 7.00pm who then agreed to conform by the approved opening hours.

An additional licence to "set up and conduct eating areas in streets and other public places" was approved in April 1989 for the John Street Café which permitted the placement of 16 chairs and 5 tables between the hours of 7.00am and 7.00pm on the verge.

A further application was received in September 1994 for an extension to the café's trading hours which Council refused for the following reasons:

- (1) "Council is not prepared to extend the hours of operation of the John Street Café as it is of the opinion that the activities associated with the John Street Café will have a detrimental impact on the surrounding residential properties; and

- (2) There was strong opposition from the surrounding residents in relation to the request for the extension of trading hours.”

Currently the John Street Café has two licences:

- (1) “Licence To Set Up And Conduct Eating Area In Streets And Other Public Places – which permits a maximum of 5 tables and 16 chairs and operating hours between 7.00am and 6.00pm.
- (2) Licence To Conduct An Eating House – which permits a maximum of 30 people at any one time.”

STAFF COMMENT

The John Street Café has been operating since its approval in September 1988. During this period there has been a number of occasions where trading hours were exceeded which drew criticism from the adjoining residents.

The residents of John Street have raised a number of concerns in relation to the current application to increase trading hours for the café, particularly in relation to parking and noise. Most residents state that they have accepted the current arrangements, even though these represent a nuisance, but they believe that any extension of trading hours will detrimentally impact on their amenity, particularly during the evenings.

An inspection of the premises has revealed that the current use of the premises is not in accordance with the 1988 decision of Council. The residential component has been removed and used as an adjunct to the shop.

In addition, a previous application to extend the trading hours to 10.00pm was rejected by Council in September 1994 due to the impact on the residents and the strong opposition received. It is administration’s opinion that nothing has changed since 1994 to warrant reconsideration of the previous decision of Council. Given the above, and as the residents are still clearly opposed to the extension of the trading hours, it appears that the application should be refused.

Conclusion

Before the matter of the hours of trading are resolved however, Council needs to make a decision in relation to the extension of the non-conforming use. It would appear that the conversion has been carried out without Council approval under the Town Planning Scheme. Further comments on this matter will be made at the Development Services Committee following further investigation by staff.

OFFICER RECOMMENDATION

Further comments will be made to the Development Services Committee following further investigation.

COMMITTEE COMMENT

The applicant requested that the item be deferred in his presentation to Council.

TP171 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

At the applicant's request, consideration of this item be deferred to the February 2003 meeting of Council.

Carried 10/0

TP172 **NO. 3 (LOT 51) MACARTHUR STREET – PROPOSED DOUBLE CARBAY, DECK EXTENSIONS AND ACCESS RAMP**

File No:	No. 3 Macarthur Street
Author:	Mr Daniel Heymans
Report Date:	26 November, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Mr & Mrs Butterworth
Applicant:	As Above
Date of Application:	12 November, 2002
M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Residential
Density:	R30
Lot Area:	435m²

SUMMARY

The purpose of this report is to seek Council approval for the development of a double car bay, deck extensions and access ramp within the front setback area. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Plan.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE**Town Planning Scheme Text:**

Clause	Required	Provided
5.5.3 Size & Location of Car Spaces	5.5m x 2.5m	5.5m x 2.4m

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
5	On site parking provision for single houses - 2 parking spaces	3 parking spaces	Clause 3.5.1 – P1

CONSULTATION

Adjoining neighbours were notified by registered post by the applicant in accordance with Scheme requirements however no submissions were received.

BACKGROUND

The development site is on the southern side of Macarthur Street. The application proposes a double car bay, deck extension and ramp access way. The property already has an existing single bay garage located on the front boundary with a nil setback.

DISCUSSION**Size & Location of Parking Spaces**

The proposed car bays are only 5.5m x 2.4m and as a result, are not strictly in accordance with Clause 5.5.3 of the Town Planning Scheme which states that the minimum dimension of every car parking space shall be 5.5 metres x 2.5 metres. There is enough area to increase the size of the car bays to accord with Council's requirements, however the following points highlight other concerns with the additional car bays.

Location & On Site Parking Provision

Clause 3.5.1 of the Residential Design Codes state that single residential dwellings should be provided with two parking spaces. The subject lot already has one parking space in the form of a garage and the application is proposing an additional two car parking bays. The two new car bays are located within the front setback area.

The main concern with the proposal is that approximately 75% of the frontage of the subject lot will be used for parking uses. In addition Clause 5.5.3 of the Town of Cottesloe Town Planning Scheme No. 2 states that:

“Council shall take into account and may impose conditions concerning-

- (a) the number of spaces to be roofed or covered;
- (b) the number of spaces to be below natural ground level;

- (c) the means of access to each space and the adequacy of any manoeuvring area;
- (d) the location of the spaces on the site and their affect on the amenity of adjoining development, including the potential effect if spaces should later be roofed or covered;
- (e) the adequacy of proposed screening or planting;
- (f) the extent to which spaces are located within the required setback areas;
- (g) the location of proposed footpaths and the effect on traffic movement and safety;
- (h) the location of proposed access ways on and off public roads and the effect on traffic movement and safety.”

One of the above clauses deals with amenity and this is an area of concern with the proposal, particularly as the proposed development will significantly impact on the streetscape in the area and provide a precedent for parking within the front setback in this locality. Given the above, whilst administration believes that the provision of one additional car bay is justified, the provision of a second car bay is not.

CONCLUSION

The application be approved subject to a condition requiring that the second car bay be deleted from the proposed development.

VOTING

Simple Majority.

OFFICER RECOMMENDATION

That the Development Services Committee, acting under authority delegated by Council Resolution TP40 May, 2002 GRANTS its Approval to Commence Development for an additional car bay, deck extensions and access ramp at No. 3 (Lot 51) Macarthur Street, Cottesloe in accordance with the plans submitted on the 29 November, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) 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.
- (3) 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.
- (4) Revised plans being submitted for approval by the Manager, Development Services, showing only one additional car bay.

COMMITTEE COMMENT

The Manager, Development Services advised that the grade of the ramp is very steep and that the ramp could be moved closer to the new car bay.

The Committee agreed that applicant should move the ramp closer to the proposed car bay.

TP172 **DECISION OF DEVELOPMENT SERVICES COMMITTEE ACTING UNDER DELEGATED AUTHORITY - DEVELOPMENT SERVICES COMMITTEE MEETING ON 9 DECEMBER, 2002**

Moved Cr. Miller, seconded Cr. Walsh

That the Development Services Committee, acting under authority delegated by Council Resolution TP40 May, 2002 GRANTS its Approval to Commence Development for an additional car bay, deck extensions and access ramp at No. 3 (Lot 51) Macarthur Street, Cottesloe in accordance with the plans submitted on the 29 November, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) 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.
- (3) 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.
- (4) Revised plans being submitted for approval by the Manager, Development Services, showing deletion of one car bay and relocation of the ramp.

Carried 5/0

TP173 **NO. 39 (LOT 21) CURTIN AVENUE – TWO STOREY SINGLE HOUSE**

File No:	No. 39 Curtin Avenue
Author:	Ms. Janine McDonald
Report Date:	26 November, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Sullivan
Property Owner:	P Hawken & J Gardiner
Applicant:	As above
Date of Application:	25 September, 2002 (revised plans on the 21 October, 2002)
M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Residential
Density:	R30
Lot Area:	380m²

SUMMARY

The purpose of this report is to seek Council approval to the development of a two-storey single house. Refusal is recommended.

ATTACHMENTS

- Location Plan
- Plans and Elevations
- Cone of Vision Diagram
- Shadow Diagram
- Letter and facsimile from applicant addressing areas of non-compliance with Scheme and Design Codes.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2
Residential Design Codes of Western Australia

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
5.1.1.	Wall height of 29.00 RL	29.40 RL
5.1.1.	Roof height of 31.50 RL	31.96 RL

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	Boundary setback to northern parapet wall (front) of 1.8m	Nil	3.3.1 – P1
3	Boundary setback to northern parapet wall (rear) of 1.2m	Nil	3.3.1 – P1
3	Boundary setback of southern wall (rear) of 1.2m	Nil	3.3.1 – P1
3	Boundary setback of southern wall (front, lower level) of 1.5m	1.2m	3.3.1 – P1
3	Boundary setback of southern wall (front, upper level) of 1.8m	1.2m	3.3.1 – P1
8	Visual privacy setbacks to rear balcony of 7.5m	See diagram	3.8.1 – P1
8	Visual privacy setbacks to balcony to Bed 1 of 7.5m	See diagram	3.8.1 – P1
9	Overshadowing of adjoining property no more than 35%	74.9%	3.9.1 – P1

CONSULTATION

The proposed development was advertised for a period of 14 days in accordance with Scheme requirements however no submissions were received.

BACKGROUND

No. 39 and No. 41 Curtin Avenue are lots that were originally developed with a house that straddled the boundary. The original dwelling has recently been demolished and applications to redevelop both of the lots with 2 storey dwellings submitted concurrently. The proponents of both proposals are known to each other and have collaborated on the design in an attempt to achieve sufficient amounts of lighting, privacy and solar access.

No. 39 is on the western side of Curtin Avenue in south Cottesloe. The land slopes from north to south by approximately 1 metre and falls away at the corners of the site. The proposal seeks to develop the site with a two storey, brick and colourbond dwelling that is contemporary in style with clerestory-type north and south facing windows and a nil setback between it and the proposed development at 41 Curtin Avenue.

DISCUSSION**Building Heights**

The attached letter from the applicant indicates that the initial method of determining the natural ground level by averaging the four corners is not applicable to the contours of this site and two of the levels used represent the adjacent property to the south and not the development site. It is agreed that an error was initially made and the natural ground level at the centre of the site re-established to be 23.00 RL.

This figure is however, still lower than the 23.46 RL used by the applicant who states that it is lower than the 25.00 FFL of the original house and was arrived at in an attempt to step the houses (No. 39 and 41) down the hill in relation to existing houses either side (see streetscape drawing attached). The floor level of the original house is not considered relevant to this discussion as that dwelling was a single level house that was constructed across two lots. The purpose of the height controls is to minimise the impact of two-storey development on streetscape, local amenity and neighbouring properties. In staff's opinion, the proposed development reads too high and the ridge should therefore be reduced 460mm. This will also help reduce the shadow thrown by the proposed development over the property to the south.

Northern Parapet Walls

Clause 3.3.2 of the Design Codes state that, except where otherwise provided for in an adopted Local Planning Policy, it may be acceptable to build up to a boundary where the parapet wall abuts an existing or simultaneously constructed wall of similar or greater dimension. However, Council has resolved to prepare a Streetscape Policy that will enforce boundary setbacks throughout the Scheme Area in order to preserve streetscape character.

Enforcing a setback on the southern boundary will have a significant impact upon the design of the house given the narrowness of the lot and raise issues with respect to overlooking, overshadowing and privacy between it and the

proposed development to the south. Council's concerns with this type of development stems from instances where approval have been given in the past for single houses joined by a parapet but only one of the dwellings constructed. Even though approval to commence development to both houses may be given, there is obviously no guarantee that the adjacent development will proceed and this then raises concerns regarding impacts on the amenity of the adjoining lot when it is eventually developed.

Refer to the applicant's letter for comments relating to the parapet walls.

Boundary Setbacks

An additional parapet on the southern boundary is proposed that is 8.5m long by 6.2m high. This is contrary to the Residential Planning Codes which state that in areas coded R30, walls not higher than 3.0m with an average of 3.0m may be built up to one side boundary. The applicant advises that the owner of the adjoining lot to the south has agreed to the parapet however, the scale of this wall is considered unacceptable because it contributes to the significant overshadowing of the adjoining lot.

Similarly, the Codes state that setbacks to the southern boundary forward of the parapet should be 1.5m at the ground level and 1.8m at the upper floor level whereas the application proposes a 1.2m setback at both levels. Whilst the area of non-compliance is only 600mm in reality, requiring the specified setbacks will help minimise the significant overshadowing of the adjoining property.

Refer to the applicant's letter for comments relating to boundary setbacks.

Solar Access

The Design Codes state that it is acceptable to overshadow an adjoining lot by no more than 35% on land coded R30. The proposed development overshadows the adjoining lot by approximately 70%. In the event that a proposed development does not meet the acceptable standard, the applicant is required to demonstrate that the development meets the performance criteria set out in clause 3.9.1 of the Codes which state:

“Development designed with regard for solar access for neighbouring properties taking account the potential to overshadow:

- Outdoor living areas;
- Major openings to habitable rooms;”

The house to the south of the development site is built across 2 lots and therefore the amount of overshadowing over the adjoining property is in the vicinity of 40%. However the Codes are specific that overshadowing is considered in relation to the adjoining lot and it is feasible that this land may be developed with a single house at some time in the future. Given the significant amount of shadow thrown by the proposed development, it is likely that it would overshadow both the outdoor living areas and major openings to habitable rooms of any new development.

Refer to the attached letter for the applicant's comments in relation to overshadowing.

Visual Privacy

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. Where the acceptable setback standards are not met, compliance with the performance standards set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

“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 effective screening; and
- The lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.”

The applicant has advised that the overlooking from the balcony of bedroom No. 1 would not be an issue as it is intended to develop a two-storey parapet wall adjacent to the void on No. 41 Curtin Avenue. As Council cannot be sure that development will proceed as proposed on No. 41, it would be preferable if appropriate screening was proposed to mitigate any overlooking from the proposed balcony. The other areas of overlooking are into the very rear of the adjoining properties to the north, south and west and as such, are of little concern.

Refer to the attached letter for the applicant’s comments in relation to visual Privacy.

CONCLUSION

The main areas of concern with the proposed development are the parapet walls and the overshadowing of the adjoining property to the south. Resolution of these issues through the submission of revised plans however, is not considered feasible given the design changes that would need to occur given the narrowness of the lot. As a result, it is recommended that the proposed development be refused.

The applicant has requested in a facsimile dated 29 November 2002 (attached) that Council, should it not support the variations proposed, provided guidance in identifying areas of compromise that may be considered.

Voting

Simple majority.

OFFICER RECOMMENDATION

That Council REFUSE its Approval to Commence Development for a two storey single house at No. 39 (Lot 21) Curtin Avenue, in accordance with the application and plans submitted on 21 October 2002 as Council believes that the areas of non-compliance with the Residential Design Codes and the Scheme are sufficient to warrant a redesign of the proposed dwelling and in doing so, particular attention should be given to appropriate setback distances to common boundaries and adequate solar access for adjoining properties.

COMMITTEE COMMENT

Cr. Ewing advised that she would like to see the second storey modified to reduce the overshadowing to 50%.

Cr. Birnbrauer asked about the issue of getting the owners to build the residences at 39 and 41 Curtin Avenue at the same time. Manager, Development Services advised that there is no legal grounds to allow this.

Committee asked the question if the application is refused will the applicant have to pay another set of fees? Manager, Development Services advised that if the application is refused, the applicant will have to pay another set of fees, carrying out the neighbour notification process again. Alternatively, if they appealed the appeal tribunal has a large backlog and will take several months to obtain a decision, especially with the change in legislation governing appeals due to occur in January 2003. Deferral of the application would be the best option with the applicant liaising with the Manager, Development Services with a view to submitting revised plans addressing the issues of concern to the Committee.

Cr. Ewing stated that this development does not help the lot next door and when the owners go to develop the lot there will an issue with having no solar access.

Cr. Ewing asked the applicant if he wanted to defer the application to work out the overshadowing issue.

Applicant advised that he would prefer to defer the application to keep the application moving along. Advised that he can get the overshadowing down to 60% with a few changes.

Manager, Development Services advised the Committee that the applicant should be requested to address the following issues - overshadowing, boundary wall, building heights, elevated entrance and privacy issues.

The Committee advised the applicant that they will accept overshadowing of up to 50% of the adjoining lot to the south.

The applicant requested deferral and would submit a written request for deferral formally in writing to Council.

TP173 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

- (1) **That consideration of this matter be deferred to the February 2003 meeting of Council.**
- (2) **The applicant be requested to submit revised plans incorporating the following changes:**
 - (i) **Overshadowing up to a maximum of 50% of the adjoining southern lot;**
 - (ii) **The south boundary wall being set back from the boundary in accordance with the Residential Design Codes;**

- (iii) Reduction in building height to comply with Scheme requirements;
 - (iv) Modification to the elevated entrance and the impact of the retaining wall and boundary fencing;
 - (v) Privacy issue with regard to overlooking from the balcony.
- (3) The applicant is requested to submit to Council written consent for the deferral as set out in Clause 7.9.1 of No. 2 Town Planning Scheme text.

Carried 10/0

TP174 NO. 41 (LOT 20) CURTIN AVENUE – TWO STOREY SINGLE HOUSE

File No: No. 41 Curtin Avenue
Author: Ms. Janine McDonald
Report Date: 26 November, 2002
Author Disclosure of Interest: Nil
Senior Officer: Mr Stephen Sullivan

Property Owner: G Abrahams
Applicant: As above
Date of Application: 25 September 2002

M.R.S. Reservation: N/A
Zoning (TPS No. 2): Residential
Density: R30
Lot Area: 364m²

SUMMARY

The purpose of this report is to seek Council approval to the development of a two-storey single house. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Submission x 1
- Plans and Elevations
- Cone of Vision Diagram
- Shadow Diagram.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2
 Residential Design Codes of Western Australia

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
5.1.1.	Wall height of 51.17 RL	51.38 RL

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	Boundary setback to parapet walls on southern boundary of 1.5m	Nil	3.3.1 – P1
8	Visual privacy setbacks to front and rear balcony of 7.5m	See diagram	3.8.1 – P1
8	Visual privacy setback to master bedroom of 4.5m	See diagram	3.8.1 – P1
8	Visual privacy setback to family, meals and sitting room of 6.0m	See diagram	3.8.1 – P1
9	Overshadowing of adjoining property no more than 35%	58.9%	3.9.1 – P1

CONSULTATION

The proposed development was advertised for a period of 14 days in accordance with Scheme requirements and 1 submission was received from the owner of No. 43 Curtin Avenue who expresses concern regarding the potential to view into her living room from the proposed sitting room window.

BACKGROUND

No. 39 and No. 41 Curtin Avenue are lots that were originally developed with a house that straddled the boundary. The original dwelling has recently been demolished and applications to redevelop both of the lots with 2 storey dwellings submitted concurrently. The proponents of both proposals are known to each other and have collaborated on the design in an attempt to achieve sufficient amounts of lighting, privacy and solar access.

No. 41 is on the western side of Curtin Avenue in South Cottesloe. The land slopes from north to south by a little less than a metre and falls away at the front corners and rear corners of the site, although the rear corners have been retained. The proposal seeks to develop the site with a two storey, weatherboard and colourbond dwelling that is contemporary in style and has a nil setback between it and the proposed development at No. 39 Curtin Avenue.

DISCUSSION

Building Heights

The proposed wall height is in excess of that required in the Scheme by approximately 200mm however as this variation is relatively minor, and the ridge height of the development is within acceptable limits, no objection is raised.

Front Boundary Setback

The application proposes a front boundary setback of 4 metres which is in accordance with that specified by the Residential Design Codes for land coded R30. However, at its meeting of 28 October 2002, Council resolved to prepare a Streetscape Policy to enforce a 6 metre setback throughout the town in order to preserve established streetscape character. In proximity of the subject site, development is generally setback 6 metres although this is obscured by the existence of solid front boundary fencing. Notwithstanding, Council policy is now for open aspect fencing and as the lots in this locality become redeveloped over time, the front setback will become more apparent. Approval of the 4 metre setback will result in a development forward of others in the street and create an undesirable precedent.

Southern Parapet Walls

Clause 3.3.2 of the Design Codes state that, except where otherwise provided for in an adopted Local Planning Policy, it may acceptable to build up to a boundary where the parapet wall abuts an existing or simultaneously constructed wall of similar or greater dimension. However, Council has resolved to prepare a Streetscape Policy that will enforce boundary setbacks throughout the Scheme Area in order to preserve streetscape character.

Enforcing a setback on the southern boundary will have a significant impact upon the design of the house given the narrowness of the lot and raise issues with respect to overlooking, overshadowing and privacy between it and the proposed development to the south. Council's concerns with this type of development stems from instances where approval have been given in the past for single houses joined by a parapet but only one of the dwellings constructed. Even though approval to commence development to both houses may be given, there is obviously no guarantee that the adjacent development will proceed and this then raises concerns regarding impacts on the amenity of the adjoining lot when it is eventually developed.

Solar Access

The Design Codes state that it is acceptable to overshadow an adjoining lot by no more than 35% on land coded R30. The overshadowing is calculated without regard for any building on the adjoining land but taking into account its natural ground levels. The proposed development overshadows the adjoining lot by approximately 58.9% and a little of the lot beyond that also.

In the event that a proposed development does not meet the acceptable standard, the applicant is required to demonstrate that the development meets the performance criteria set out in clause 3.9.1 of the Codes which state:

“Development designed with regard for solar access for neighbouring properties taking account the potential to overshadow:

- Outdoor living areas;
- Major openings to habitable rooms;”

The applicant's position is that because his house and the proposed house at No. 39 are abutting, then the two houses essentially become a single development and therefore overshadowing is not an issue. Further, the development on No. 39 has been designed with clerestory style windows and a

central void in order to maximise solar access. It appears in this case therefore, that the performance criteria has been met.

Visual Privacy

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. The cone of vision technique applied to the proposed development indicates that there is the potential to view into the adjoining property to the north from virtually all the northern windows and the front and rear balconies. The overlooking from the front balcony is of no concern as it falls within the front setback area of the adjacent lots. The overlooking from the northern facing windows and rear balcony could be overcome by raising the sill heights and the screening respectively to 1650mm from floor level. The applicant has advised that he is willing to make the required changes to prevent overlooking and this would address the submission from the owner of 43 Curtin Avenue.

CONCLUSION

The main areas of concern with the proposed development are the parapet walls and the front boundary setback. Resolution of these issues through the submission of revised plans however, is not considered feasible given the design changes that would need to occur given the narrowness of the lot and the potential for overshadowing when the development is set away from the southern boundary. As a result, it is recommended that the proposed development be refused.

VOTING

Simple majority.

OFFICER RECOMMENDATION

That Council REFUSE its Approval to Commence Development for a two storey single house at No. 41 (Lot 20) Curtin Avenue, in accordance with the application and plans submitted on 11 October, 2002 as Council believes that the areas of non-compliance with the Residential Design Codes and the Scheme are sufficient to warrant a redesign of the proposed dwelling and in doing so, particular attention should be given to appropriate setback distances to common boundaries and adequate solar access for adjoining properties.

COMMITTEE COMMENT

This application had similar issues of overshadowing as No. 39 Curtin Avenue. Due to the two developments abutting each other, it was considered appropriate to defer consideration of this item as well. This will allow the owners to resolve any issues that may arise as a consequence of changes to the plans for No. 39 Curtin Avenue.

The applicant requested the application be held over and this will be submitted formally in writing to Council.

TP174 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

- (1) That the item be deferred to the February 2003 meeting of Council.
- (2) The applicant is requested to submit to Council written consent for deferral as set out in Clause 7.9.1 of No. 2 Town Planning Scheme text.

Carried 10/0

TP175 NO. 10 (32) MARGARET STREET – PROPOSED CARPORT WITHIN FRONT SETBACK AREA & FRONT BOUNDARY WALL

File No: No. 10 Margaret Street
Author: Mr Daniel Haymens
Report Date: 7 November, 2002
Author Disclosure of Interest: Nil
Senior Officer: Mr Stephen Sullivan

Property Owner: D Borshoff & C Crabb
Applicant: As above
Date of Application: 24 October, 2002

M.R.S. Reservation: N/A
Zoning (TPS No. 2): Residential
Density: R20
Lot Area: 491m²

SUMMARY

The purpose of this report is to seek Council approval for the development of a carport within the front setback area. Conditional approval is recommended under delegated authority by the Development Services Committee.

ATTACHMENTS

- Location plan
- Plan.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
N/A	N/A	N/A

Town Planning Scheme Policy:

Policy No.	Required	Provided
No. 3 Garages and Carports in Front Setback	Carport behind 6m setback line	Nil setback to Margaret Street

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
2	Setback of Garages and Carports - 6.0m	Front Setback from primary street – nil	Clause 3.2.3 – P1

CONSULTATION

Adjoining neighbours were notified by registered post by the applicant. No Submissions were received.

BACKGROUND

The subject lot has an existing carport located in the same position as the proposed carport. The existing carport is in a rundown state and the application proposes to replace the existing carport as well as construct a low front boundary wall.

STAFF COMMENT

Front Boundary Setback

Town Planning Scheme Policy No. 3: Garages and Carports in Front Setback Area requires carports and garages to be positioned behind the front setback line in accordance with Table 1 of the Residential Design Codes, which on land coded R20, is 6 metres. The policy further states that Council may, in a particular case, allow lesser setbacks including a nil setback to the primary street in the case of a carport.

In considering the variation, the Policy sets out those matters that should be taken into account. They include:

- That the carport does not significantly affect view lines of adjacent properties;
- Adequate manoeuvring space for the safe ingress and egress of motor vehicles shall be maintained;
- The existing and potential future use and development of any adjoining lots; and
- Existing setbacks from the street alignment in the immediate locality.

The Policy further states that:

“The materials of construction, design and appearance of a carport or garage erected within the front setback area shall be in character with the residence upon the site and be in harmony with the surrounding streetscape.”

The locality in which the development site is situated is characterised by solid front boundary fences. Given the above, it is unlikely that the proposed development will be out of character in the locality or affect the neighbour's amenity or site lines along Margaret Street. Although the lot enjoys double road frontage, there is little room at the rear of the property to locate the proposed garage. In addition there is an existing carport in the same location as the proposed carport.

CONCLUSION

It is considered that the new carport and wall will considerably improve the streetscape in this locality and as a result, it is recommended that the application be approved subject to standard conditions.

VOTING

Simple Majority.

OFFICER RECOMMENDATION

That the Development Services Committee, acting under authority delegated by Council Resolution TP40 May, 2002 GRANTS its Approval to Commence Development for a carport and front boundary wall at No. 10 (Lot 32) Margaret Street, Cottesloe in accordance with the plans submitted on the 21 October, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) 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.
- (3) 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.
- (4) 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.

COMMITTEE COMMENT

Committee requested the front boundary wall to be of an open aspect as per Council Policy.

The plans submitted have inaccurate measurements on it and accurate plans should be submitted to Council prior to the issue of a building licence. The approval was amended to reflect this requirement.

TP175 **DECISION OF DEVELOPMENT SERVICES COMMITTEE ACTING UNDER DELEGATED AUTHORITY - DEVELOPMENT SERVICES COMMITTEE MEETING ON 9 DECEMBER, 2002**

Moved Cr. Furlong, seconded Cr. Miller

That the Development Services Committee, acting under authority delegated by Council Resolution TP40 May, 2002 GRANTS its Approval to Commence Development for a carport and front boundary wall at No. 10 (Lot 32) Margaret Street, Cottesloe in accordance with the plans submitted on the 21 October, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) Submission of revised accurate plans to the satisfaction and approval of the Manager, Development Services, such plans showing details of the proposed boundary fences.

Carried 4/1

Cr. Furlong left the Chamber at 7.43pm and returned at 7.44pm.

TP176 **NO. 583 (LOT 15) STIRLING HIGHWAY AND NO 1 & 3 (LOTS 3 & 4) BRIXTON STREET – THREE STOREY MIXED USE DEVELOPMENT COMPRISING TEN (10) RESIDENTIAL UNITS AND THREE (3) SHOWROOM UNITS**

File No:	No. 583 (Lot 15) Stirling Highway No 1&3 (Lots 3 & 4) Brixton Street
Author:	Mr Daniel Heymans
Report Date:	26 November 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Mr R. Auguste
Applicant:	As above
Date of Application:	25 September, 2002

M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Town Centre
Density:	R100
Lot Area:	1054m²

Summary

The purpose of this report is to seek Council approval for the development of a three storey mixed use development comprising ten (10) residential units and three (3) showroom units. Conditional approval is recommended.

ATTACHMENTS

- Location Plan
- Plans and Elevations

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

State Register of Heritage Places	N/A
TPS No. 2	N/A
Town Planning Scheme Policy No. 12	N/A
Draft Heritage Strategy Report	N/A
Municipal Inventory	Category 1
National Trust	N/A

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
5.5.1 & 5.5.3 Car Parking	27-29 bays required.	25
5.1.1 Ridge Height	8.5m	11.0m
5.1.1 Wall Height	6.0m	9.0m

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
5	Stair access for no more than two (2) dwellings	Provision of one (1) stair access for four - five dwellings	Clause 3.5.5 – P5
10	Clothes Drying Area fully screened from public.	No	Clause 3.10.3 – P3

CONSULTATION

Neighbours were contacted by registered post in accordance with Scheme requirements, however no written submissions were received.

BACKGROUND

Council approved an application for the development of the subject lot to accommodate ten (10) residential units and three commercial units on the 23 July 2001. The approval was also for the renovation of the heritage building fronting Stirling Hwy, as this renovation has been completed it does not form part of the current application.

STAFF COMMENT

The current planning application differs from the original approval in the following ways:

- There has been an internal redesign of the residential units by deleting the proposed study and providing a dining area for residents;
- The showroom floorspace has been reconfigured, although this results in an increase in total floorspace of only 3m²;
- The internal void has been modified to allow for a redesign of the internal stairway and entrances to each unit;
- The external design of the building has been modified substantially, and has been considered by the Design Advisory Panel.

The current application has been assessed against the provisions of the updated Residential Design Codes gazetted in October 2002. Of particular relevance to this proposal are the provisions contained with clause 4.2.1 - Dwellings in Mixed Use Development. The proposed development complies with the requirements under this clause. Administration has no concern with the minor internal changes proposed by the current application.

Design Advisory Panel

The application was presented to the Design Advisory Panel for comment who noted that no schedule of materials and finishes was provided. The members (only 3 were in attendance) considered that the new design was not an improvement on the previous design put forward. In particular, there was concern with unusual roof design and the lack of detail generally such as the absence of balustrading and the like. Notwithstanding the above, the opinion was also expressed that Cottesloe Town Centre has no real architectural theme and therefore the design of the proposed development was not important.

It is administration's view that the proposed new design is not an improvement on the approved design, particularly with respect to the lack of detail to the street frontage and the unusual roof design.

CONCLUSION

Given the above report, administration recommends that the application be approved subject to revised plans being submitted, to the satisfaction of Council, addressing the concerns of the Design Advisory Panel, particularly in relation to lack of detailing on the street facade, lack of verticality in the design and resolution of the unusual roof structure.

Voting

Simple majority.

OFFICER RECOMMENDATION

That Council:

GRANTS Planning Consent for a mixed use development comprising ten (10) residential units and three (3) showroom units at 583 – 585 (Lot 15) Stirling Highway and No 1 & 3 (Lot 3 & 4) Brixton Street, Cottesloe in accordance with the plans submitted on 26 September 2002 subject to:

- (a) Details of colours and external materials shall be submitted prior to issue of a building licence to the satisfaction of the Manager Development Services.
- (b) Approval is based on consent for ten (10) residential units and three (3) showroom units.
- (c) Rubbish storage areas for both the existing and proposed buildings to be provided and screened from public view to the satisfaction of the Manager Development Services prior to occupancy.
- (d) The provision of refuse bins to adequately service the development is required prior to occupancy to the satisfaction of the Manager Development Services.
- (e) The minimum private open space as required under the provisions of the Residential Design Codes should be provided for each residential unit to the satisfaction of the Manager Development Services.
- (f) For residential development, the manoeuvrable areas for car bays/carports, garages shall be designed to allow vehicles to turn in a single turning movement at a radius of not less than 5.5m and exit in forward gear.
- (g) Car bays to be a minimum of 2.5m x 5.5m with a 6.0m accessway between rows.
- (h) Any car bay adjacent to a wall, rail, structure, etc, higher than 150mm shall be a minimum width of 2.8m.
- (i) All stormwater shall be contained and disposed of on-site.
- (j) All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (k) Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve, rights-of-way or adjoining properties. The gutters and downpipes used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings.
- (l) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.
- (m) The owner shall treat the roof surface to reduce glare (if applicable), if in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (n) The applicant applying to the Town of Cottesloe for approval to construct a new crossover, if applicable, in accordance with the local law, and be approved by the Manager, Works and Special Projects.
- (o) The use of the "showroom" units shall be in accordance with the definitions as detailed in the Town Planning Scheme No 2. Any other use outside the definition of "showroom" is required to apply for a change of use through the submission of a formal planning application.

- (p) A demolition plan indicating those buildings to be demolished to be submitted to the satisfaction of the Manager Development Services.
- (q) The applicant shall submit revised plans and/or details for approval by Council which address condition: (1) (a) and
 - (i) The lack of detail on the street façade;
 - (ii) The lack of verticality in the design; and
 - (iii) Redesign the roof structure to provide more verticality in its design.
- (r) Signage does not form part of this approval. Details of all advertising signs shall be submitted to Council in the form of a separate planning application.
- (s) Noise levels from plant and equipment, measured at the property boundary, shall not exceed permissible levels as outlined in the Environmental Protection (Noise) Regulations 1997. It is the responsibility of the developer to advise purchasers of the residential units within the development that the property is in close proximity to established commercial premises and major traffic routes. It is therefore subject to noise not associated with a typical residential environment and that in selecting to reside in this locality, purchasers must recognise and accept the noise, traffic (including service vehicles) and other factors that constitute normal city centre activity.
- (t) The development should be designed and constructed such that noise from external sources potentially affecting the development can be successfully attenuated by incorporation of noise abatement measures into the design and construction of the residences.
- (u) Clothes Drying Facilities to be provided in the form of an electrically powered clothes drying cabinet.

Footnote:

- (1) The applicant is advised that Council is of the view that revised plans should be submitted addressing the treatment of the parapet wall facing Jarrad Street. The applicant is advised that the lack of treatment and relief as a result of the nil setbacks are considered to adversely affect the adjoining neighbours and should be redesigned to allow for design elements and to reduce the impact of the height of the wall on adjoining developments.
- (2) A building licence is required prior to the commencement of construction works.
- (3) Detailed plans of stormwater disposal, including quantities, calculations, contours, levels, location and size of soak wells, sumps, etc, to be submitted for approval by the manager Works and Special Development.
- (4) To enable Council to perform an adequate refuse collection service, refuse bin storage areas are to be established close to development entrance. Alternatively, alter vehicle access through the site to facilitate the manoeuvring needs of Council's refuse vehicle.
- (5) The applicant is advised that the building should be designed to comply with the BCA and the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.

COMMITTEE COMMENT

As per the memo received by Committee, it was resolved to approve the applications subject to the addition of a new condition (q) (iv) relating to conformity with the plot ratio requirements of the Town Planning Scheme.

Cr. Birnbrauer noted the reduction in the number of car bays required.

The Manager, Development Services advised that due to the heritage aspect of the building the applicant has been given some concessions.

Footnote 1 of the Officer's recommendation was modified to become a condition of planning approval and the other footnotes were re-numbered accordingly.

TP176 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council:

GRANTS Planning Consent for a mixed use development comprising ten (10) residential units and three (3) showroom units at 583 – 585 (Lot 15) Stirling Highway and No 1 & 3 (Lot 3 & 4) Brixton Street, Cottesloe in accordance with the plans submitted on 26 September 2002 subject to:

- (a) **Details of colours and external materials shall be submitted prior to issue of a building license to the satisfaction of the Manager Development Services.**
- (b) **Approval is based on consent for ten (10) residential units and three (3) showroom units.**
- (c) **Rubbish storage areas for both the existing and proposed buildings to be provided and screened from public view to the satisfaction of the Manager Development Services prior to occupancy.**
- (d) **The provision of refuse bins to adequately service the development is required prior to occupancy to the satisfaction of the Manager Development Services.**
- (e) **The minimum private open space as required under the provisions of the Residential Design Codes should be provided for each residential unit to the satisfaction of the Manager Development Services.**
- (f) **For residential development, the manoeuvrable areas for car bays/carports, garages shall be designed to allow vehicles to turn in a single turning movement at a radius of not less than 5.5m and exit in forward gear.**
- (g) **Car bays to be a minimum of 2.5m x 5.5m with a 6.0m accessway between rows.**

- (h) Any car bay adjacent to a wall, rail, structure, etc, higher than 150mm shall be a minimum width of 2.8m.**
- (i) All stormwater shall be contained and disposed of on-site.**
- (j) All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (k) Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve, rights-of-way or adjoining properties. The gutters and downpipes used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings.**
- (l) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.**
- (m) The owner shall treat the roof surface to reduce glare (if applicable), if in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (n) The applicant applying to the Town of Cottesloe for approval to construct a new crossover, if applicable, in accordance with the local law, and be approved by the Manager, Works and Special Projects.**
- (o) The use of the "showroom" units shall be in accordance with the definitions as detailed in the Town Planning Scheme No 2. Any other use outside the definition of "showroom" is required to apply for a change of use through the submission of a formal planning application.**
- (p) A demolition plan indicating those buildings to be demolished to be submitted to the satisfaction of the Manager Development Services.**
- (q) The applicant shall submit revised plans and/or details for approval by Council which address condition: (1) (a) and**

 - (i) The lack of detail on the street façade;**
 - (ii) The lack of verticality in the design; and**
 - (iii) Redesign the roof structure to provide more verticality in its design.**
 - (iv) Plot ratio being reduced to 1215m².**
 - (v) the treatment of the parapet wall facing Jarrad Street.**
- (r) Signage does not form part of this approval. Details of all advertising signs shall be submitted to Council in the form of a separate planning application.**
- (s) Noise levels from plant and equipment, measured at the property boundary, shall not exceed permissible levels as outlined in the**

Environmental Protection (Noise) Regulations 1997. It is the responsibility of the developer to advise purchasers of the residential units within the development that the property is in close proximity to established commercial premises and major traffic routes. It is therefore subject to noise not associated with a typical residential environment and that in selecting to reside in this locality, purchasers must recognise and accept the noise, traffic (including service vehicles) and other factors that constitute normal city centre activity.

- (t) The development should be designed and constructed such that noise from external sources potentially affecting the development can be successfully attenuated by incorporation of noise abatement measures into the design and construction of the residences.
- (u) Clothes Drying Facilities to be provided in the form of an electrically powered clothes drying cabinet.

Footnote:

The applicant be advised:

- (1) A building license is required prior to the commencement of construction works.
- (2) Detailed plans of stormwater disposal, including quantities, calculations, contours, levels, location and size of soak wells, sumps, etc, to be submitted for approval by the manager Works and Special Development.
- (3) To enable Council to perform an adequate refuse collection service, refuse bin storage areas are to be established close to development entrance. Alternatively, alter vehicle access through the site to facilitate the manoeuvring needs of Council's refuse vehicle.
- (4) The applicant is advised that the building should be designed to comply with the BCA and the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.

Carried 10/0

TP177 NO. 1 (LOT 2) GADSDON STREET – THREE, TWO STOREY SINGLE HOUSES WITH UNDERCROFT GARAGES

File No:	No. 1 Gadsdon Street
Author:	Mr Daniel Heymans
Report Date:	28 November, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Mr D. Hawkins
Applicant:	Overman & Zuideveld Pty Ltd
Date of Application:	25 September 2002
M.R.S. Reservation:	Urban
Zoning (TPS No. 2):	Residential
Density:	R50
Lot Area:	630m²

Summary

The purpose of this report is to seek Council approval for the development of three, two storey single houses with undercroft garages.

ATTACHMENTS

- Location Plan
- Site Plan, Floor Plans and Elevations
- Submission
- Letter from Applicant

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

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

HERITAGE LISTING:

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

AREA OF NON-COMPLIANCE

Town Planning Scheme Text:

Clause	Required	Provided
5.1.1	Wall height of 14.29 RL	14.59 RL

Town Planning Scheme Policy:

Policy No.	Required	Provided
N/A	N/A	N/A

Residential Design Codes:

Design Element	Acceptable Standard	Provided	Performance Criteria Clause
3	Setback between lot boundaries 2.1m	Nil	3.3.2 – P2
3	Setback to southern boundary stairwell of 1.2m	Nil	3.3.2 – P2
3	Setback to northern boundary garage parapet wall of 1m	Nil	3.3.2 – P2
3	Setback to southern boundary dining room of 1.5m	1m	3.3.1 – P1
3	Setback to southern boundary upper floor bedroom 3 of 1.5m	0.915m	3.3.1 – P1

8	House 1 visual privacy setback to bedroom 1 of 4.5m	3m	3.8.1 – P1
8	All houses visual privacy setback to study of 6m	5.2m	3.8.1 – P1
8	All houses visual privacy setback to balconies of 7.5m	4.8m	3.8.1 – P1
8	House 3 visual privacy setback to bedroom 2 of 4.5m	4m	3.8.1 – P1

CONSULTATION

Adjoining neighbours were notified by registered post by the applicant. One submission was received from the following landowner:

No. 9 Eileen Street

The submitters are concerned about possible overlooking into their property from proposed House No. 3. In particular, they raise concern regarding potential overlooking from the balcony, living room, bedroom 1, bedroom 2 and stairwell windows. The owners believe this will significantly impact on their privacy as all of these windows face their principle entertaining area.

BACKGROUND

The subject property is located on the western side of Gadsdon Street and its southern end abutting John black Park and is currently developed with a single house. The lot has an east-west fall of approximately 2 metres. The proposal is for the demolition of the existing residence and the development of three green titled, two storey houses with undercroft garages. The three houses are mirror images of each other with parapet walls between them. Access to the proposed dwellings is via the Council owned right-of-way that abuts the southern boundary of the development site.

STAFF COMMENT

Parapet Walls

Clause 3.3.2 of the Design Codes state that, except where otherwise provided for in an adopted Local Planning Policy, it may be acceptable to build up to a boundary where the parapet wall abuts an existing or simultaneously constructed wall of similar or greater dimension. However, Council has resolved to prepare a Streetscape Policy that will enforce boundary setbacks throughout the Scheme Area in order to preserve streetscape character.

Notwithstanding the above, enforcing a setback between the houses will significantly limit the development potential of the site. Council's concerns with this type of development stem from instances where approvals have been given in the past for single houses joined by a parapet but only one of the dwellings constructed. However this development proposes three mirrored houses on the subject lot and all dwellings will be built simultaneously.

Two other parapet walls are proposed, one of which is the southern boundary stairwell wall, which abuts directly onto the right of way. This parapet wall is only a minor wall with a length of 2.5m. As such, it is considered that the wall does not impact on adjoining properties and therefore no objection is raised.

The other parapet wall is the northern boundary garage wall which directly abuts 9 Eileen Street. Most of the garage wall is setback 1.2m from the boundary, however a small portion has no setback. The purpose of this wall is unclear although it appears to be providing some additional storage space which is surplus to that needed. As a result, it is considered that the deletion of this parapet wall will not have a detrimental affect on the development and will also allay the concerns of the owners of 9 Eileen Street.

Boundary Setbacks

The application proposes two variations to setbacks as outlined in the Residential Design Codes.

Variations are being sought to the setback requirements for the dining room wall (lower level) and bedroom 3 (upper level) wall of house 1. As per Table 2a of the Residential Design Codes, the required setback in both instances is 1.5 metres. However, the proposed setback to the dining room is 1m and the proposed setback to bedroom 3 is 0.915m. The relevant performance criteria states:

“P1 - Buildings setback 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 and appurtenant open spaces;
- Assist with the protection of access to direct sun for adjoining properties;
- Assist in ameliorating the impacts of building bulk on adjoining properties; and
- Assist in the protecting privacy between adjoining properties.”

Administration considers that the proposed 1.0 metre and 0.915m setbacks fulfil the performance criteria as the southern boundary of this property abuts a right of way and beyond this a reserve for recreation. Adequate ventilation and sunlight will be available to the proposed dining room and bedroom windows as there is no development abutting the southern side of the development site and there is no possibility this development obstructing sunlight or ventilation to adjoining properties.

Visual Privacy

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. Where the acceptable setback standards are not met, compliance with the performance standards set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

“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 effective screening; and
- The lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.”

The cone of vision applied to bedroom 1 of house 1 indicates that there is the potential to overlook the right of way and the adjoining park. However as there is no potential for overlooking into private residences this variation is deemed to be acceptable under the above performance criteria.

The cone of vision applied to bedroom 2 of house 3 indicates there is potential to overlook the adjoining property at 9 Eileen Street. This overlooking is a concern as it falls into the principle outdoor entertaining area of the adjoining property. This can easily be overcome, however by either increasing the sill height of the window to 1.65m above the FFL or repositioning the window to the western wall of the room.

The cone of vision applied to the balconies of houses 1 & 2 indicate that there is potential to overlook the adjoining property at No. 1A Gadsdon Street. This overlooking is of little concern as the development proposes to screen these balconies with aluminium louvres at 45° which will provide views to the park and restrict overlooking of No. 1A Gadsdon Street.

The cone of vision applied to the studies of all houses indicates that there is potential to overlook the adjoining property at No. 1A Gadsdon Street. The overlooking can be overcome by either increasing the sill height of the window to 1.65m above the FFL or the deleting the windows altogether as the studies have alternative openings.

Submissions

The submission from No. 9 Eileen Street raised a number of concerns in relation to potential overlooking from the balcony, stairwell window, bedroom 1 window and the living room window of house 3. In particular, the submitter states that even with the 1.65m high screening on the balcony, future occupants will still be able to see directly into their entertainment area. This concern is difficult to substantiate as the eyeline of most individuals is not higher than 1.65m and to overlook a screen of that height would require an individual to stand upon an elevated platform. In any case, it is considered that at most times, people will be seated on the balcony.

In relation to the overlooking potential from the living room, bedroom 1 and the stairwell windows of house 3, the plans show that all of these openings are not major openings and that they conform with the acceptable setback standards. Administration believes however, that in the case of the larger stairwell window, it would be reasonable to request that it be glazed with obscure glass.

Conclusion

Preliminary assessment of the plans indicates that there may be further concerns with proposed site works and height of the dwellings. Following

assessment of these issues, further comments will be made to the Development Services Committee.

VOTING

Simple Majority.

OFFICER RECOMMENDATION

Further comments will be made to the Development Services Committee following completion of the assessment.

COMMITTEE COMMENT

Committee considered the memo received at the beginning of the meeting and the Manager, Development Services explained the main issues of the application which related to heights, windows and the submission from the neighbour.

The applicant addressed the Committee and stated that he cannot reduce the height at the rear because of the grade of the adjoining driveway and the heights do not impact upon neighbouring property.

The Committee deleted the requirement to comply with wall heights and added a condition relating to the subdivision of the land.

TP177 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council:

- (1) **GRANT its Approval to Commence Development for three, double storey single houses at No. 1 (Lot 2) Gadsdon Street Cottesloe, as shown on the plans received on the 31 October, 2002, 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 to Gadsdon Street being of an "Open Aspect" design and the subject of a separate application to Council.
- (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (i) Bedroom 2 window of house 3 being modified to prevent overlooking into the adjoining property be either:
 - being repositioned to the western side of the bedroom; or
 - being built 1.65m above FFL.
 - (ii) The stairwell window of house 3 on the northern side being modified to prevent overlooking into the adjoining property be being glazed with fixed obscure glazing.
 - (iii) Bedroom 1 windows of house 3 on the northern side being modified to prevent overlooking into the adjoining property be being glazed with fixed obscure glazing.
- (h) The site being subdivided to create individual lots for each dwelling. The development is to reach the first floor slab before a clearance of the conditions of subdivision approval being cleared.

(2) Advise the submitters of this decision.

Carried 10/0

TP178 PROPOSED NO. 3 TOWN PLANNING SCHEME

File No:	D2.5
Author:	Mr Stephen Sullivan
Report Date:	6 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale

SUMMARY

To seek the adoption of the proposed No. 3 Town Planning Scheme.

STRATEGIC IMPLICATIONS

The proposed Town Planning Scheme will guide the development of the District following its gazettal.

STATUTORY ENVIRONMENT

Town Planning and Development Act

POLICY IMPLICATIONS

The proposed Town Planning Scheme will contain policies that are required to be prepared or modified to support the proposed Town Planning Scheme.

FINANCIAL IMPLICATIONS

Costs associated with the process have previously been budgeted.

CONSULTATION

The Scheme and accompanying documents have been developed over a number of years. This has included consultation with the community at different stages. The draft Town Planning Scheme has been reviewed by the Town Planning Scheme Review Committee.

BACKGROUND

The draft Town Planning Scheme has been reviewed by the Town Planning Scheme Review Committee. Council resolved to adopt the densities for the proposed Town Planning Scheme based on the principles used in the formulation of the Town Planning Scheme Amendment No. 31. The Scheme map has been prepared by the Consultant and the Manager, Development Services based on Amendment No. 31, including some variation to densities in specific areas.

The documentation for the draft Town Planning Scheme has been circulated separately from this report.

STAFF COMMENT

The draft Town Planning Scheme has now reached a stage where it is before Council for consideration and adoption so that it can be referred to the Department of Environmental Protection to be assessed for environmental conditions and the Western Australian Planning Commission for approval to advertise the Scheme for public comment.

Options

There are various options that could be considered, however, the following two options are presented:

Option 1

The first option is outlined below:

- (a) Proposed Town Planning Scheme be accepted by Council at its December 2002 meeting;
- (b) Staff and Council's solicitors review the proposed Scheme documents for inconsistencies and proper legal drafting – prepare final version of Scheme;
- (c) Adoption of Town Planning Scheme by Council (anticipated February 2003);
- (d) Refer documents to Department of Environmental Protection for environmental assessment and Western Australian Planning Commission for approvals to advertise; and
- (e) Proposed Scheme on three month public submission period.

This provides Councils agreement to the draft Town Planning Scheme and allows the final vetting of the document prior to adoption of the proposed Town

Planning Scheme. Following adoption of the Scheme, the document can then be referred to the Department of Environmental Protection for assessment and the Western Australian Planning Commission for approval to advertise.

Option 2

The second option proposed is, subject to further investigation by staff into the statutory process set out in the relevant Act, outlined below:

- (1) That Council resolve to:
 - (a) adopt the draft Town Planning Scheme documents, subject to (2) and (3);
 - (b) seek approval from the Western Australian Planning Commission to advertise the Town Planning Scheme;
- (2) The Manager, Development Services vet the adopted Town Planning Scheme documents for minor inconsistencies;
- (3) Council's solicitors vet the draft Town Planning Scheme documents for legal drafting;
- (4) Following completion of (2) and (3), the adopted documents being executed as required by legislation.

This option results in the adoption of the draft Town Planning Scheme followed by the vetting of the documents for minor inconsistencies by staff and reviewed by solicitors for legal drafting.

Once these have been carried out, the Mayor and Chief Executive Officer would then execute the documents and they are then forwarded to the relevant authorities for approval to advertise.

CONCLUSION

The Scheme has now reached the point where Council can consider the documents for adoption and to seek approval by the Western Australian Planning Commission for approval to advertise. Following a review of the Town Planning Scheme by the Western Australian Planning Commission (and assuming that there are no major issues associated with that review), a formal three month public submission will be required to be undertaken.

This statutory consultation process will provide Council with clear direction from the Community in relation to their aspirations in relation to the Local Planning Strategy and the content of the proposed Town Planning Scheme.

Council now needs to seek the approval of the Western Australian Planning Commission for approval to advertise the draft Town Planning Scheme for public comment.

VOTING

Simple Majority.

OFFICER RECOMMENDATION

Option 1

That:

- (1) Council accept the draft Town Planning Scheme documents;

- (2) The Manager, Development Services finalise the vetting of the draft Town Planning Scheme documents;
- (3) The draft Town Planning Scheme documents be referred to Council's solicitors for vetting;
- (4) Following completion of the vetting of the draft Town Planning Scheme documents, submit those documents for adoption by Council and then seek approval from the Western Australian Planning Commission to advertise the adopted Town Planning Scheme.

OR

Option 2

That Council adopt the draft Town Planning Scheme documents and seek approval from the Western Australian Planning Commission to advertise the Town Planning Scheme subject to:

- (1) The Manager, Development Services vetting the draft Town Planning Scheme documents for minor inconsistencies;
- (2) Council's solicitors vetting the draft Town Planning Scheme documents for legal drafting;

COMMITTEE COMMENT

The Committee considered the two options and recommended Option 1.

COMMITTEE RECOMMENDATION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That:

- (1) Council accept the draft Town Planning Scheme documents;
- (2) The Manager, Development Services finalise the vetting of the draft Town Planning Scheme documents;
- (3) The draft Town Planning Scheme documents be referred to Council's solicitors for vetting;
- (4) Following completion of the vetting of the draft Town Planning Scheme documents, submit those documents for adoption by Council and then seek approval from the Western Australian Planning Commission to advertise the adopted Town Planning Scheme.

AMENDMENT

Moved Cr. Morgan, seconded Cr. Whitby

That part (1) of the motion be amended by deleting the word "*accept*" and replacing it with "*receive*".

Moved Cr. Ewing, seconded Cr. Birnbrauer that the amendment be put.

Carried 7/3

The amendment was put.

That part (1) of the motion be amended by deleting the word "*accept*" and replacing it with "*receive*".

Carried 9/1

Moved Cr. Miller, seconded Cr. Birnbrauer that the amended motion be put.

Lost 4/6

Following further debate the amended motion was put.

TP178 **COUNCIL RESOLUTION**

That:

- (1) Council receive the draft Town Planning Scheme documents;
- (2) The Manager, Development Services finalise the vetting of the draft Town Planning Scheme documents;
- (3) The draft Town Planning Scheme documents be referred to Council's solicitors for vetting;
- (4) Following completion of the vetting of the draft Town Planning Scheme documents, submit those documents for adoption by Council and then seek approval from the Western Australian Planning Commission to advertise the adopted Town Planning Scheme.

Carried 8/2

TP179 **NO. 45 (LOTS 1 AND 2) BROOME STREET – PROPOSED DEMOLITION OF EXISTING SINGLE HOUSE**

File No:	No. 45 Broome Street
Author:	Mr Stephen Sullivan
Report Date:	4 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale
Property Owner:	Mr David Paganin
Applicant:	Hardy Bowen
Date of Application:	25 September, 2002
M.R.S. Reservation:	N/A
Zoning (TPS No. 2):	Residential
Density:	R30
Lot Area:	451m² each

SUMMARY

To advise Council of an application for approval to demolish an existing building.

It is recommended that the application be refused based on the heritage assessments and having regard to Clause 5.1.2(b) of the Town Planning Scheme text.

ATTACHMENTS

- Location plan
- Report from Ronald Bodycoat
- Correspondence from Hardy Bowen Lawyers date 25 September 2002
- Correspondence from Heritage Council of WA dated 14 October 2002
- Correspondence from Heritage Council of WA dated 29 October 2002
- Submission from Leonie Garnett – 31 Beach Street
- Correspondence and report from Considine and Griffiths Architects dated 29 November 2002.

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2

POLICY IMPLICATIONS

Property is on the list that forms part of Town Planning Scheme Policy No. 12.

FINANCIAL IMPLICATIONS

The cost of the assessment was \$2,949.37. Planning fees for the demolition application and the development application for the new house on the site totals \$905.

HERITAGE LISTING:

State Register of Heritage Places -	N/A
TPS No. 2 – Schedule 1	N/A
Town Planning Scheme Policy No. 12	Yes
Draft Heritage Strategy Report -	N/A
Municipal Inventory -	Category 2
National Trust -	N/A

AREA OF NON-COMPLIANCE

Town Planning Scheme Text

Clause	Required	Provided
See Report		

Town Planning Scheme Policy:

Policy No.	Required	Provided
012 - Places of Cultural and Heritage Significance	See Report	

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
N/A			

CONSULTATION

The Heritage Council of Western Australia and the engagement of consultants Considine and Griffiths Architects.

BACKGROUND

The applicants have sought approval for the demolition of the existing house.

The development application was referred to the Heritage Council as the building had previously been referred to the Heritage Council for consideration for inclusion on the State Register at its meeting held on the 25 October, 2002. The Heritage Council considered the property and have advised that the building is unlikely to meet the threshold for entry on the State Register of Heritage Places.

At its October, 2002 meeting, Council agreed to engage the services of a consultant to do a full assessment of the property.

The assessment has been completed and the detailed report has already been circulated to Councillors.

An appeal to the Town Planning Appeal Tribunal has been lodged by the applicant on behalf of the owner based on the deemed refusal provisions of Clause 7.9 of the Town Planning Scheme text.

STAFF COMMENT

The definition of "Development" includes demolition.

Clause 5.1.2 (b) of the No. 2 Town Planning Scheme text states the following:

"5.1.2 General

Notwithstanding the specific provisions of this Scheme in considering a proposed development, Council shall have regard to and may impose conditions relating to the following -

- (a)
- (b) the need for preservation of existing trees or areas or buildings of architectural or historical interest;"

The issue before Council is whether there is a need for this building, based on its architectural and historical interest to the District, should be preserved or not.

The Heritage Council in their letter of the 29 October, 2002 advised Council that they were of the opinion that the building:

"...has a very high level of local heritage significance."

The Heritage advisor for the applicant has stated in the second last paragraph of his letter as follows:

"In my opinion, the place at 45 Broome Street, Cottesloe, has some cultural Heritage significance...."

The report by the applicants heritage consultant has indicated that the building does have local heritage significance. However, the report indicates that the significance does not warrant conservation and previous assessments carried out do not take into account other matters outlined in his report such as the cost of upgrading, suitability of building to owners needs (refer to report).

The report did not make reference to the requirements of clause 5.1.2(b) of the Town Planning Scheme text, which is the principal criteria for this assessment.

The report by Considine and Griffiths has indicated that in their opinion, the building should be preserved under clause 5.1.2(b) based on Architectural considerations, if not historical considerations.

The report then considers the scarcity value of the building. From the report, it appears as though there are a small number of these types of buildings left that retain a high level of authenticity, which Westward Ho would be included.

CONCLUSION

Clause 5.1.2(b) refers to imposing conditions of approval on developments. In this instance, it is proposed to demolish the existing building. Based on the request to demolish the existing building, it is considered appropriate to use clause 7.8.1 of the Town Planning Scheme text to refuse the application, based on the assessment made under Clause 5.1.2(b) of the Town Planning Scheme text.

Having regard to the provisions of Clause 5.1.2(b) and 7.8.1 of the Town Planning Scheme text and the two heritage reports on the building, it is recommended that demolition should not be supported.

VOTING

Simple Majority.

TP179 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council hereby REFUSES its Approval to Commence Development for the proposed demolition of the existing building on No. 45 (Lots 1 and 2) Broome Street, in accordance with the application and supporting documentation submitted on 25 September, 2002 as Council believes that the existing building is:

- (1) Of Architectural and Historical interest to the District; and**
- (2) Due to the scarcity of this type of building with a high level of authenticity;**

believes that there is a need for the preservation of the building.

Carried 7/3

TP180 NO. 45 (LOTS 1 AND 2) BROOME STREET – PROPOSED CONSTRUCTION OF TWO STOREY HOUSE

File No:	No. 45 Broome Street
Author:	Mr Stephen Sullivan
Report Date:	4 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale

Property Owner: Mr David Paganin
Applicant: Hardy Bowen
Date of Application: 25 September, 2002

M.R.S. Reservation: N/A
Zoning (TPS No. 2): Residential
Density: R30
Lot Area: 451m² each

SUMMARY

To advise Council of an application for approval to construct a two storey single house.

Having regard to item TP179, it is recommended that the application for Planning Consent be refused for the development.

ATTACHMENTS

- Plans and elevations

STRATEGIC IMPLICATIONS

N/A

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2

POLICY IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

N/A

HERITAGE LISTING:

State Register of Heritage Places -	N/A
TPS No. 2 – Schedule 1	N/A
Town Planning Scheme Policy No. 12	Yes
Draft Heritage Strategy Report -	N/A
Municipal Inventory -	Category 2
National Trust -	N/A

AREA OF NON-COMPLIANCE

Town Planning Scheme Text

Clause	Required	Provided
See Report		

Town Planning Scheme Policy:

Policy No.	Required	Provided
012 - Places of Cultural and Heritage Significance	See Report	

Residential Design Codes:

DE	Acceptable Standard	Provided	Performance Criteria Clause
Nil			

CONSULTATION

Three letters sent by registered mail – 1 objection received. This submission has been included as an attachment for item TP179.

BACKGROUND

This application is the second application to be dealt with for this site. The first relates to the demolition of the existing building (Refer to TP179). This application is for development of the site with a new two storey dwelling.

STAFF COMMENT

The precursor to determining this application for Planning Consent is the need to determine whether the building at No. 45 Broome Street should be preserved under Clause 5.1.2(b) of the Town Planning Scheme text.

CONCLUSION

Having regard to the officer recommendation in TP179, it is recommended that this application for Planning Consent be refused.

VOTING

Simple Majority.

TP180 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council hereby REFUSE its Approval to Commence Development for the proposed construction of a two storey dwelling on No. 45 (Lots 1 and 2) Broome Street, in accordance with the application and plans submitted on 25 September, 2002 as Council believes that the existing building is:

- (1) Of Architectural and Historical interest to the District; and**
- (2) Due to the scarcity of this type of building within the District;**

therefore there is a need for the preservation of the building and approval of the proposed development would result in the demolition of that building.

Carried 8/2

TP181 **NORTH STREET DELI**

Cr. Utting sought to introduce a late item dealing with the operation of the Deli.

Cr. Morgan declared an interest and left the Chamber at 8.35pm.

The Mayor asked for a vote on whether or not this matter should be dealt with now.

For: 2
Against: 7

The Manager, Development Services advised that an item on this matter would be put to the February meeting of Council. The Mayor directed the meeting's attention to the agenda item.

Cr. Morgan returned to the Chamber at 8.36pm.

WORKS & CORPORATE SERVICES COMMITTEE

10 December, 2002

C107

STATUTORY FINANCIAL STATEMENTS

File No.: C7.14
Applicant: N/A
Author: Mr Alan Lamb
Report Date: 6 December, 2002
Author Disclosure of Interest: Nil
Senior Officer: Mr Stephen Tindale

SUMMARY

The Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 November, 2002, are presented for perusal and it is recommended that they be received.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

N/A.

STAFF COMMENT

It will be noted from the Operating Statement on page three that expenditure continues to be lower than expected and revenue higher. Whilst this appears to be largely due to activity occurring at a different time to year to date predictions, some areas where actual income and expenditure does deviate from budget predictions. Expenditure in the area of Law Order and Public Safety is higher than expected due to the Fire and Emergencies Services contribution requirement being higher than provided for. Costs in this area are

currently \$3,540 over budget and will be \$7,080 over at the end of the year. Revenue in the area of General Purpose Funding variance is due in part to an unplanned for ATO refund of \$4,913, an unplanned long service leave reimbursement from another Council of \$5,168, and an unplanned WALGA rebate of \$2,356 relating to the joint advertising scheme. Revenue in the area of Recreation and Culture is up due to the net of unplanned revenue from reimbursement of legal fees of \$38,869, less lower than expected lease revenue from the North Cott Café of \$7,000 (the budget anticipated an earlier commencement of this stream of income) and lower than expected revenue from the Civic Centre of \$5,000 (hirings down on expectations). Revenue in the area of Transport is up on expectations partially due to higher than planned revenue from crossovers of \$7,315. Economic Services revenue is higher than expected partially due to increased revenue from building licence fees.

VOTING

Simple Majority.

C107 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Ewing

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the month ending 30 November, 2002, as submitted to the December meeting of the Works & Corporate Services Committee.

Carried 10/0

C108 SCHEDULE OF INVESTMENTS & SCHEDULE OF LOANS

File No.:	C7.12 & C7.13
Applicant:	N/A
Author:	Mr Alan Lamb
Report Date:	6 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale

SUMMARY

The Schedule of Investments and Schedule of Loans for the period ending 30 November, 2002, are presented for perusal and it is recommended that they be received.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

N/A.

STAFF COMMENT

As will be seen from the Investments statement on page 33, \$2,445,518.42 was invested as at 30 November, 2002. Of this \$577,118.41 related to reserves (restricted funds) and \$1,868,400.01 to unrestricted funds. 66.61% was invested with the National Bank, 25.15% with Home Building Society and 8.24% with Bankwest.

VOTING

Simple majority.

C108 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Ewing

That Council receive the Schedule of Investments and Schedule of Loans for the month ending 30 November, 2002, as submitted to the December meeting of the Works & Corporate Services Committee.

Carried 10/0

C109 ACCOUNTS

File No.:	C7.8
Applicant:	N/A
Author:	Mr Alan Lamb
Report Date:	6 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale

SUMMARY

The List of Accounts for the period ending 30 November, 2002, are presented for perusal and it is recommended that they be received.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts are presented monthly.

CONSULTATION

N/A.

STAFF COMMENT

Significant payments brought to Council's attention include:

- **\$35,337.42 to Roads and Robinson Rubbish and Recycling for collection services**
- \$73,2378.79 to the Shire of Peppermint Grove for the quarterly contribution toward the joint library service
- \$36,272.50 to Municipal Liability Scheme for the second instalment on public liability cover
- \$29,258.33 to Municipal Workcare Scheme for the second instalment on the workers compensation cover
- \$41,513.55 to Major Motors for the purchase of a truck
- \$17,329.34 to the Australian Taxation Office for the October BAS
- \$10,728.85 to Claremont Asphalt for various works
- \$19,315.55 to WA Local Government Super Plan for staff superannuation
- \$40462.54 and \$41,182.71 for payroll for November.

VOTING

Simple majority.

C109 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Ewing

That Council receive the List of Accounts for the month ending 30 November, 2002, as submitted to the December meeting of the Works & Corporate Services Committee.

Carried 10/0

C110 **PROPERTY & SUNDRY DEBTORS REPORTS**

File No.:	C7.9
Applicant:	N/A
Author:	Mr Alan Lamb
Report Date:	6 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale

SUMMARY

The Property & Sundry Debtors Reports for the period ending 30 November, 2002, are presented for perusal and it is recommended that they be received.

STATUTORY ENVIRONMENT

Financial reporting is a statutory requirement.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Property & Sundry Debtors Reports are presented monthly.

CONSULTATION

N/A.

STAFF COMMENT

It will be noted from the Sundry Debtors report on page 33 and 34 that the sundry debtors balance at November 30 was \$73,686.99. \$12,316.38 related to November. Prior month accounts are being dealt with as indicated on the statement.

VOTING

Simple majority.

C110 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Ewing

That Council:

- (1) Receive and endorse the Property Debtors Report for the month ending 30 November, 2002; and
- (2) Receive the Sundry Debtors Report for the month ending 30 November, 2002.

Carried 10/0

C111 TOWN OF COTTESLOE STRATEGIC PLAN – PROCESS AND TIMETABLE

File No.: X12.4
Author: Mr Stephen Tindale
Report Date: 3 December, 2002
Author Disclosure of Interest: Nil

SUMMARY

A recommendation is made on the process and timetable for the development of Council's strategic plan.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

100%.

FINANCIAL IMPLICATIONS

Nil - if the need for a strategic plan facilitator is dispensed with. Otherwise \$2,500 to \$5,000 as a ballpark figure. This sum can be met with funds set aside in this year's budget for consultants.

BACKGROUND

At the November meeting of Council, it was put to the meeting that the issues and results of the community services survey could now be incorporated into Council's strategic plan.

Council subsequently resolved:

- “(1) That the results of the Services Survey be received;
- (2) That the CEO set out a process and a timetable for the review of Council's strategic plan; and
- (3) That the process and a timetable be presented to the December meeting of Council.”

CONSULTATION

Nil.

STAFF COMMENT

The following process and timetable has been set with a view to the strategic plan becoming a working document for the adoption of the 2003/2004 budget.

As a result of this time constraint, the proposed community workshop to be held under step 6 of the documented process has been deleted. Two other considerations that support the deletion of the community workshop are the relatively recent community consultation that has occurred with the community services survey and the “sustainability” workshop held on 30 November, 2002. It is possible to over-consult the community and at some point, words must be translated into action.

On the other hand, if high levels of community consultation are deemed to be a priority and the community workshop is seen as a necessity, it may be possible to save time and retain the proposed community workshop by collapsing steps 5.1 and 5.2. This would entail a joint senior staff and Councillors' workshop rather than two separate workshops.

There are pluses and minuses with a joint senior staff and Councillors workshop. On the plus side, the final product is more likely to be jointly owned by both senior staff and Councillors. On the minus side, a joint workshop is likely to be more taxing in terms of rehashing and developing issues “afresh” in the absence of a documented starting point.

Even if the community workshop is deleted, limited community input into the strategic plan will still be achieved through a public comment period.

VOTING

Simple majority.

C111 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Ewing

That Council adopt the recommended process and timetable for the development of Council's strategic plan.

Carried 10/0

C112 CEO'S EMPLOYMENT CONTRACT – PERFORMANCE REVIEW

File No.:	X9.12
Applicant:	N/A
Author:	Stephen Tindale
Report Date:	3 December, 2002
Author Disclosure of Interest:	Nil

SUMMARY

Council is required to nominate a person or persons to undertake a performance review of the CEO on behalf of the Council and to make a recommendation to Council on an increase in remuneration, if any.

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

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

“4. PERFORMANCE DEVELOPMENT AND REVIEW**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. REMUNERATION PACKAGE

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."

CONSULTATION

Nil.

STAFF COMMENT

Three options would seem to present themselves:

- (1) Engage an independent outside consultant to undertake the performance and remuneration review and prepare a report for Council’s consideration.
- (2) Appoint a small committee of, say, three elected members to undertake both reviews and prepare a report for Council’s consideration.
- (3) Engage an independent consultant to manage the performance and remuneration review process (working with, say, a small committee of three elected members) and prepare a report for Council’s consideration.

Option 1 is the simplest and easiest option - subject to Council determining who the consultant should be.

Option 2 is supported only if all of the proposed committee members have completed the “Performance Appraisal of the CEO” elected member development module provided for by the WA Local Government Association. Option 3 is recommended as it is the most likely option to generate meaningful feedback between Council and the CEO.

VOTING

Simple majority.

OFFICER RECOMMENDATION

That Council:

- (1) Engage an independent consultant to manage the performance and remuneration review process for the CEO (working with a committee of three elected members) and prepare a report for Council’s consideration.
- (2) Appoint the following elected members to the CEO’s Performance Appraisal Committee:
 - (a)
 - (b)
 - (c)

C112

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Ewing

That Council:

- (1) Engage an independent consultant to manage the performance and remuneration review process for the CEO (working with a committee of three elected members) and prepare a report for Council’s consideration.**
- (2) Appoint the following elected members to the CEO’s Performance Appraisal Committee:**
 - (a) Mayor Hammond;**
 - (b) Cr. Sheppard;**
 - (c) Cr. Miller.**

Carried 10/0

C113 **WESROC REGIONAL SENIORS' NEEDS STUDY**

File No.: X11.20
Applicant: N/A
Author: Mr Alan Lamb
Report Date: 3 December, 2002
Author Disclosure of Interest: Nil
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put the WESROC Regional Seniors' Needs Study Report to Council for adoption as recommended by the WESROC Board of Management.

STATUTORY ENVIRONMENT

N/A.

POLICY IMPLICATIONS

Council's Regional Cooperation Policy has relevance.

STRATEGIC IMPLICATIONS

The study and the thrust of its recommendations are in line with the Management section of the Strategic Plan where under the heading "Innovation/Improvement" the strategy is "*We constantly seek new ways of delivering high quality services and seek ways to share resources with adjacent Councils*".

FINANCIAL IMPLICATIONS

It is expected that there will be a requirement for Cottesloe to contribute towards aspects of reviews of the Report's recommendations and subsequent implementation. Any costs incurred in the current financial year would be met from current provisions for WESROC initiatives. The project team, working under supervision of the City of Nedlands as the lead council for this WESROC project, should be in a position to provide costs projections for the next financial year in time for each Council to consider as part of their annual budget process for 2002/03.

BACKGROUND

At its May 2001 meeting, WESROC agreed that the six (6) local government authorities would participate in a Regional Seniors' Needs Study. It was also agreed that the City of Nedlands would coordinate the study with the assistance of a project team comprised of representatives from each local government authority. The Office of Seniors' Interests also provided a representative for this team.

An Expression of Interest was developed in consultation with all WESROC Councils and put out to tender in October 2001. Seventy-two requests for a copy of the tender document were processed, resulting in 18 submissions being received. Of these, 5 submissions were short listed for interview by the WESROC project team.

At its meeting of 4 December, 2001 WESROC resolved the following:

"That the Aged Strategy Committee select the successful tenderer and make a recommendation to the WESROC Executive of the successful tenderer."

The project was awarded to Lee Phillips and Associates. Dr Lee was the inaugural Director of the Office of Seniors' Interests and is currently a member of the Active Ageing Taskforce. Ms Phillips was formerly Deputy Director of the Office of Seniors' Interests.

The Regional Seniors' Needs Study Report was endorsed by the WESROC Board on 23 September, 2002 and the Board recommended that Member Council adopt the Report. The Report was formally launched on 7 October by Julie Bishop, MP on behalf of WESROC.

WESROC has delegated lead council status for the progress of the recommendations of the report to the City of Nedlands. Work on developing appropriate policy and strategies will be undertaken by the Project Team which managed the initial consultancy.

A copy of the Report was delivered to Elected Members on 24 October, 2002.

CONSULTATION

The report sets out its preparation took account of the views of over 800 people in the WESROC region via a community survey, multiple consultative forums and the opportunity for residents to submit issues or comments for consideration.

STAFF COMMENT

With the first of the baby boomers (those born between 1946 and 1964) about to enter their retirement years, the WESROC Councils recognised the need to plan collaboratively to support positive ageing "in place".

Planning for the future for all senior residents within the community, both well aged and frail aged is important to ensure that WESROC Councils meet community needs. This includes the identification of resource sharing opportunities, possible rationalisation of programmes, services and facilities, opportunities for outsourcing, and the provision of new programmes, services and facilities through direct service delivery, or facilitation of other providers. The report provides a number of recommendations that are being reviewed by the City of Nedlands (as lead council for this project) through the Project Team and will provide progress reports to WESROC. It is expected that some of the recommendations will be deemed to be local and so for individual Councils to consider and that others will be deemed regional and so be taken up by WESROC.

VOTING

Simple Majority.

C113 OFFICER RECOMMENDATION

That Council adopt the WESROC Regional Seniors' Needs Study Report.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Ewing

That Council receive the WESROC Regional Seniors' Needs Study Report.

Carried 10/0

C114 **FORREST STREET - PARKING RESTRICTIONS**

File No.: C15.9
Applicant: N/A
Author: Mr Alan Lamb
Report Date: 4 December, 2002
Author Disclosure of Interest: Nil
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to seek Council approval to impose parking restrictions in Forrest Street between Railway Street and Stirling Highway.

STATUTORY ENVIRONMENT

The Local Government Act and Council's Parking Local Law apply. The Local Law is made under the Act and the Local Law provides, in clause 1.8, as follows:

"Powers of Local Government

The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law."

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Costs associated with making and signage for the proposed restrictions would be met from current budget provisions.

BACKGROUND

Prompted by a request from a Forrest Street medical practitioner for parking restrictions in Forrest Street, east of the railway line, a survey of residents and business proprietors was conducted. The survey was restricted to Forrest Street between Railway Street and Stirling Highway and it sought comments to a proposal to restrict parking on the south side of Forrest Street, between No. 89 and Unit 7, No. 91, to half an hour. Options included on the survey sheets were:

- (1) Leave the parking as it is.
- (2) Introduce a half hour time limit on the south side between No. 89 and Unit 7, No. 91 Forrest.
- (3) Any other options may be suggested in the space below.

Currently there are no parking restrictions in that section of Forrest Street other than some bays on the southern side near the Railway Street intersection.

CONSULTATION

Comments were sought from all residents and business proprietors in Forrest Street between Railway Street and Stirling Highway.

STAFF COMMENT

There appears to be a mix of all day parkers (employees, residents and the like) and shorter term parkers (visiting various medical practitioners, trades people etc.) that use street parking space on Forrest Street. It is apparent that on street parking in Forrest Street, east of the railway line, has increased since the new medical centre opened.

Thirty responses were received to the request for comments. Ten respondents wanted to see no change, six preferred a half hour restriction, three a two hour restriction and eleven suggested restrictions of between two and four hours. Some of the respondents wanting no change noted that other all day parking opportunities were not as secure. Two respondents who favoured restrictions wanted to see them applied to the whole of the south side and five wanted restrictions on both sides of the street. A number expressed concerns about cars blocking driveways and sought street markings, signage and patrols to alleviate this.

Eleven responses were received from residents and proprietors at No. 89 and No. 91 Forrest Street. One called for no change, noting that the proprietor's client appointment times were generally one and a half hours. Two favoured half our restrictions and one a one-hour restriction, the latter noting that half an hour was too short. Three sought a two-hour restriction, one thought this should apply to the whole of the south side and one wanted the restrictions extended to other units at No. 91 Forrest Street. Four respondents wanted three to four hour limits applied to both sides of the street.

In summary, responses suggest that restrictions should apply to the area from

No. 89 Forrest Street to Unit 7, No. 91 and that half an hour would not be sufficient. It is therefore recommended that a two-hour restriction be imposed. If approved, the plan is to issue cautions only for the first month and for the situation to be monitored to see if further changes are required.

It is planned that markings and signage be erected where appropriate to reduce the problem of vehicles being parked such that they block driveways.

VOTING

Simple Majority.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr. Miller, seconded Cr. Ewing

That Council impose a two-hour parking restriction in Forrest Street between No. 89 and Unit 7, No. 91 Forrest Street.

AMENDMENT NO. 1

Moved Cr. Birnbrauer, seconded Cr. Ewing

That the motion be amended by deleting the words after the first "*Forrest Street*" and inserting "*between Stirling Highway and Railway Street on North & South sides for a 3 months trial period*".

Carried 9/1

AMENDMENT NO. 2

Moved Cr. Morgan, seconded Cr. Rattigan

That the motion be amended by replacing "2" hours with "3" hours.

Lost 4/6

The amended motion was put and carried.

C114 **COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Ewing

That Council impose a two-hour parking restriction in Forrest Street between Stirling Highway and Railway Street on north & south sides for a 3 months trial period.

Carried 10/0

Note: Council sought to provide better parking control.

C115 **ADMINISTRATION POLICY MANUAL**

File No.:	C14.3
Applicant:	N/A
Author:	Mr Alan Lamb
Report Date:	4 December, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to seek to delete the Council Purchase Orders Policy from Council's Policy Manual and for it to be amended as required and included in the CEO's Administrative Policy Manual.

STATUTORY ENVIRONMENT

The Local Government (Financial) Management Regulations provide in 5(1)(e) that efficient systems and procedures are to be established by the CEO to

ensure proper authorisation for the incurring of liabilities and the making of payments.

POLICY IMPLICATIONS

This item seeks to delete the Council Purchase Orders Policy.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The current policy was adopted by Council in July 1998. It sets an order authorisation limit of \$1,000 for the Works Superintendent and this is now considered to be too low for efficient operation. The policy also contains incorrect references to the Local Government Act and non-current titles for employees.

CONSULTATION

Relevant staff were consulted.

STAFF COMMENT

The current policy is no longer required following changes to the Act. Prior to the introduction of the Local Government Act 1995, the Act required Councils to decide who was to sign orders. The new Act imposed such financial management duties on the CEO.

The current policy requires amendments to correct references to the Act, update position titles, increase the Works Supervisor's authorisation limit and add limited authorisation for the IT Manager. It is proposed that the amended policy be included in the CEO's Administration Policy Manual.

VOTING

Simple Majority.

C115 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Ewing

That Council delete the Council Purchase Order Policy from its Policy Manual.

Carried 10/0

11 ELECTED MEMBERS' MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

(a) **ELECTED MEMBERS**

DELEGATED AUTHORITY

Cr. Morgan raised the matter of delegated authority to the Mayor and CEO. The CEO advised that the November resolution of Council did not delegate specific powers to the CEO and Mayor and needed to be reworded if that was the intention. He took the resolution to mean that during the recess, urgent issues could be resolved in line with previous decisions of the Council in a general sense.

BEACH FRONT INCIDENT

The Mayor reported receiving a verbal complaint in relation to misconduct in the area of the beach front. He urged residents to lodge written complaints and to contact the Police at the time the incident occurred.

(b) **OFFICERS**
Nil.

13 MEETING CLOSURE

The Mayor wished everyone a Merry Christmas and a Happy New Year and announced the closure of the meeting at 8.51pm.

CONFIRMED: MAYOR _____

DATE: ____/____/____