

TOWN OF COTTESLOE



FULL COUNCIL MEETING

MINUTES

**ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 17 DECEMBER, 2007**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.05 pm.

1.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE**BACKGROUND**

At the September 2006 meeting of Council it was agreed that the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.

Standing Orders 12.1 and 21.5 read as follows:

Members to Rise

Every member of the council wishing to speak shall indicate by show of hands or other method agreed upon by the council. When invited by the mayor to speak, members shall rise and address the council through the mayor, provided that any member of the council unable conveniently to stand by reason of sickness or disability shall be permitted to sit while speaking.

Suspension of Standing Orders

- (a) The mover of a motion to suspend any standing order or orders shall state the clause or clauses of the standing order or orders to be suspended.
- (b) A motion to suspend, temporarily, any one or more of the standing orders regulating the proceedings and business of the council must be seconded, but the motion need not be presented in writing.

OFFICER RECOMMENDATION

Moved Cr Strzina, seconded Cr Miller

That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.

Carried 9/0

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

Mayor Kevin Morgan
Cr Jay Birnbrauer
Cr Greg Boland
Cr Patricia Carmichael
Cr Jo Dawkins
Cr Bryan Miller
Cr Victor Strzina
Cr Jack Walsh
Cr Ian Woodhill

Officers in Attendance

Mr Stephen Tindale	Chief Executive Officer
Mr Graham Patrick	Manager Corporate Services/Deputy CEO
Mr Andrew Jackson	Manager Planning & Development Services
Mr Geoff Trigg	Manager Engineering Services
Miss Kathryn Bradshaw	Executive Assistant

Apologies

Cr Daniel Cunningham
Cr John Utting

Leave of Absence (previously approved)**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Strzina, seconded Mayor Morgan

That Cr Strzina's request for leave of absence from the February round of meetings be approved.

Carried 9/0

Moved Cr Carmichael, seconded Mayor Morgan

That Cr Carmichael's request for leave of absence from the February round of meetings be approved.

Carried 9/0

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Boland, seconded Cr Strzina

The Minutes of the Ordinary Meeting of Council held on Monday, 26 November, 2007 be confirmed subject to the inclusion of a declaration of impartiality by Cr Boland based on a close working relationship with the applicant in relation to item 11.1.2.

Carried 9/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor conveyed Christmas wishes to elected members and the Council staff.

The Mayor also commented on the agenda item relating to Draft Town Planning Scheme 3 and his intention to deal with it at the end of the meeting.

8 PUBLIC STATEMENT TIME

Mr Jim Bennett, Unit 4, 6 Warnham Road. Item 12.1.1 Proposed Changes to Beachfront Car Park Time Limits

Also representing his wife, Ida, Mr Bennett spoke of his concerns regarding anti-social behaviour and proposed changes to car parking time limits.

Mr Bennett is in favour of any action intended to limit the numbers of patrons at the two hotels and stated that the situation is only going to get worse unless something is done about the two hotels. Excessive numbers of hotel patrons create problems and if the proposed parking restrictions help alleviate these problems then they are in full support of the recommendation.

Mr Bennett raised concern as to why Council provide parking for the hotels and argued the hotels should be made to purchase land nearby and provide their own.

Mr Bennett then provided a list of examples of the anti-social he and Ida deal with on a weekly basis such as intoxicated hotel patrons urinating on their house wall and bottles being smashed.

Mr Bannister, 16 Hurstford Close, Peppermint Grove. Item 10.1.1 No. 4 Henry Street – Municipal Heritage Inventory

Mr Bannister stated that he has withdrawn from a contract to purchase the property because of a misrepresentation of the facts when he found out it was affected by heritage listing. He was surprised that the matter was to be discussed at tonight's meeting when it was basically a private matter. He would not have signed a contract to purchase the property if he had known of its heritage listing and felt that the application to have it taken off the Municipal Inventory was an attempt to frustrate the refund of the \$50,000 deposit he had placed on the property.

Mr James Paxton, 4 Renown Avenue, Claremont. Item 10.1.1 No. 4 Henry Street – Municipal Heritage Inventory

Mr Paxton stated that matters had been clarified for him in correspondence from the Town dated November 9th 2007. He acknowledged the comments raised in the agenda item regarding its de-listing in response to his application by way of letter dated November 4th. However Mr Paxton advised he had made the application at the prompting of Council officers and queried why staff

would make such a suggestion to have it delisted if it wasn't the appropriate action to take.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

10 REPORTS OF COMMITTEES AND OFFICERS

Agenda item 10.1.1 was dealt with first and agenda item 10.1.2 dealt with last after the consideration of the Development Services Committee and Works and Corporate Services Committee items.

10.1 MANAGER DEVELOPMENT SERVICES

10.1.1 NO. 4 HENRY STREET – MUNICIPAL HERITAGE INVENTORY

File No:	PRO/679
Attachments:	Correspondence
Author:	Ms Delia Neglie / Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Report Date:	12 December 2007
Senior Officer:	Mr Andrew Jackson

SUMMARY

4 Henry Street is classified as a Category 5 place under the Municipal Inventory (MI). The landowner has recently found this classification an impediment to selling the property, so has requested that it be removed from the MI.

In the extenuating circumstances of a vendor-purchaser dispute in relation to the heritage classification, officers have agreed to put this late item to Council to determine the request, but have pointed-out that it may not be supported, as elaborated upon below.

STATUTORY ENVIRONMENT

The Heritage of Western Australia Act 1990 requires that local governments compile, (with public consultation) and maintain an inventory of buildings or places which are or may become of cultural heritage significance. Council's MI classifies 4 Henry Street as Category 5, which is defined as:

Significant in Contributing to Local Character: Significant but not essential to an understanding of the history of the district. Photographically record the place prior to any major redevelopment or demolition.

Category 5 is a lower-order of MI classification in terms of the spectrum of heritage values or worth. Nonetheless, the concept of character remains important to an appreciation of heritage and its contribution to streetscape and urban design, as well as to the social and historical dimensions of cultural heritage.

POLICY IMPLICATIONS

- Administration of the heritage system.
- Relationship of heritage to the planning system.
- Recognition of the MI and local character.

STRATEGIC IMPLICATIONS

- Fostering of local heritage and streetscape character.

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

Council has received a request to remove 4 Henry Street from the MI – refer attached letter. The landowner advises that many years ago she received a letter from the Town advising that the property had been removed from the MI; but no longer has the letter.

No such record has been found in the Town's files. However, it is recorded that the property was classified Category 3 under the 1995 MI, and re-classified to Category 5 under the 2002 review of the MI. This may be what the owner recalls.

It is claimed that inclusion of the property in the MI has been an impediment to the proposed sale of the property. It is understood that a prospective purchaser considered that the MI classification may prevent or complicate his intention to demolish the existing dwelling and replace it with a modern dwelling. This was complicated by apparent misunderstanding and disagreement amongst the parties regarding the heritage status and MI classification of the property, which has led to legal wrangling.

It is emphasised that real estate dealings are not a heritage or planning matter, nor a reason to arbitrarily remove a property from an MI. Notwithstanding that, to assist in the matter the Town provided the attached explanatory letter clarifying this situation and the bearing of the Category 5 classification.

OFFICER COMMENT

It is considered that the request does not automatically justify de-classification of the property from the MI. De-classifying a property from an MI simply to remove doubt or perceived disadvantage for the vendor or buyer would compromise the heritage system. Furthermore, it would not follow due process, as proper practice requires a review of the heritage worth of a place. In addition, the Manager Development Services has received a phone call from a subsequent prospective purchaser, who appeared assured by the letter and discussion in this regard.

As mentioned, the classification itself does not preclude demolition, subject to a planning application and approval. Also as other evidence of no overbearing impediment, Council does not have design guidelines which would require new development of a certain style, such as reproduction-historic or the use of particular materials. Any proposed new development would be assessed on merit and in terms of compliance with the Residential Planning Codes and Town Planning Scheme No 2. All of this implies that an acceptable replacement proposal is achievable via the planning process.

Turning to the question of heritage value, Henry Street is a small street with only eight properties fronting it. Three of these properties are on the MI, together with the

Peppermint trees lining both sides of the street. No. 4 and the adjacent No. 6 Henry Street (also on the MI) are single-storey period weatherboard cottages, in good condition and presenting attractively to the street. Newer, two-storey dwellings in the street tend to be sympathetically designed, well-setback and have established gardens. Hence Henry Street exhibits an overall cohesive and distinctive character, partly contributed to by the places identified on the MI.

According to the 1995 MI, No. 4 Henry Street is identified as an *Edwardian weatherboard [cottage] with its integrity intact. Close to railway and mill. History needed.* The 2002 MI review assessed the place as a *Typical cottage without any particular individual significance*; thereby downgrading the categorisation of the place, whilst still recognising and recording its contribution to character by retaining it on the MI.

Timber-framed or weatherboard cottages are part of the character of early housing in Cottesloe, as in other older suburbs. Where retained and maintained by sympathetic owners (as in the current case), this character is perpetuated and enjoyed. A Category 5 MI classification serves to recognise this intrinsic heritage value, at the same time as acknowledging that it is of comparatively lower-worth and that a number of similar dwellings exist.

In context, there are some forty-seven Category 5 properties on the Town's MI. This acknowledges their collective contribution to the character of their localities and the district overall. Municipality-wide, this is a relatively low quantity of such properties, meaning that they are significant in having been identified as representative examples of heritage worth; albeit categorised so as not to prevent demolition and redevelopment, provided an historical record is made. In other words, to dismiss the intent of the MI classification would short-change the heritage system and undermine the principles of character and streetscape.

Moreover, the appropriate process to reconsider any heritage classification is for a professional heritage assessment to be done. This may be performed on behalf of an owner or applicant at any time for a specific purpose, or by the Town when periodically reviewing its MI or other heritage listings. No such assessment and report has been prepared and submitted. It is not the Town's task in this instance to review the MI classification; and indeed, that has been done in relatively recent times. The Town's Heritage Advisor does not have the role of performing such reviews; however, this whole matter has been raised with that officer, who has reinforced that the low ranking of the place on the MI is not an undue impediment and that no property should be struck-off an MI without proper process. Council has followed proper process when considering other requests to review heritage classifications.

CONCLUSION

In conclusion:

- It is noted that Council is not being asked to consider demolition or redevelopment at this stage, "merely" de-listing.
- It is clear that the intent of the Category 5 MI classification for this property, the spirit of the Town's advice to the owner and prospective purchasers, and the track-record of Council's approach to heritage management do not stand in the way of potential future demolition or redevelopment.

- The letter supplied to the parties conveys this degree of comfort.
- The owner has not provided sufficient justification on heritage grounds to delete the property from the MI.
- No proper heritage assessment has been done to support a review of the MI classification.

On this basis it is recommended that Council decline to remove 4 Henry Street from the MI and reiterate the advice recently provided.

VOTING

Simple Majority

DECLARATION OF INTEREST

Cr Boland declared a proximity interest as the owner of property opposite 4 Henry Street and left the meeting at 7.18 pm

10.1.1 OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Strzina, seconded Cr Birnbrauer

That Council:

- (1) Decline the request from the owner of 4 Henry Street that the property be removed from the Municipal Inventory.**
- (2) Reiterate the advice in the Town's letter dated 9 November 2007 regarding the Municipal Inventory classification of this property.**

Carried 7/1

Cr Boland returned to the meeting at 7.27 pm

10.1.2 DRAFT TOWN PLANNING SCHEME NO. 3 - CONSENT TO ADVERTISE

File No: SUB/334
Attachment(s): [Minister's Correspondence](#)
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil
Report Date: 13 December, 2007
Senior Officer: Stephen Tindale

SUMMARY

Council has adopted draft TPS3 for the purpose of seeking the Minister's consent to advertise and the Minister has granted consent with conditions.

Council now needs to decide upon certain details and actions for the formal advertising of the scheme.

BACKGROUND

This report updates Council about the Minister's latest decision regarding advertising draft TPS3.

A copy of the Minister's letter dated 4 December 2007 has been circulated to elected members and a copy is enclosed with this agenda. The Minister's letter is in response to Council's initial resolutions, its deputation on 13 November 2007 and letter from the Mayor to the Minister dated 20 November 2007, also as circulated.

All this follows the letter from the WAPC to Council dated 29 August 2007 originally conveying the Minister's consent to advertise the scheme. The September 2007 DSC and Council Reports and Minutes regarding TPS3 contain the deeper background detail which resulted in Council's initial resolutions regarding the modifications and terms required by the Minister.

As provided for by the scheme review process, Council sought to settle some of the modifications, as advised in its letter to the Minister dated 8 October 2007.

The Minister's latest letter is intended to expedite the matter and hence this report concentrates on likewise facilitating advertising; including discussion of any implications and the next steps for Council.

It is emphasised that the Minister has issued and confirmed her decision for the scheme to be advertised subject to the previous and these final requirements, whereby Council is now obliged to follow suit.

COUNCIL'S PREVIOUS RESOLUTIONS

In summary, Council's September 2007 resolutions as underlined below were aimed at adopting the scheme for advertising, making a few refinements beforehand, reaching agreement regarding the central beachfront height limit, and endorsing the detailed changes as well as a consultation proposal for the beachfront.

The gist of it was to get the scheme to advertising, including some relatively minor modifications (which are desirable though not crucial at this stage) and to settle on a preferred beachfront height limit.

Council also saw the need to adopt the particulars of provisions and approve of any dedicated consultation initiative.

That Council:

A) In respect of the required modifications, apart from those requiring a five-storey height limit for the central beachfront:

1. Resolves to proceed with proposed Town Planning Scheme No. 3 and the Local Planning Strategy for the purpose of advertising, and advises the Western Australian Planning Commission and Minister for Planning and Infrastructure accordingly.
2. Agrees to the modifications and advertising requirements under the consent to advertise (as set out in the WAPC correspondence dated 27 August 2007), subject to settling the revisions recommended in this report as resolved by Council.
3. Settles these modifications with the WAPC and Minister.
4. Requests a further staff report on the actual modifications to the Scheme documents, for endorsement by Council, once they are settled.

B) In respect of the modifications requiring a five-storey height limit for the central beachfront:

1. Requests an extension of time, until 31 December 2007, to settle these modifications, towards advertising of the Scheme and LPS.
2. Settles with the WAPC and Minister the modifications regarding the central beachfront height limit, by conducting in conjunction with the WAPC a stakeholder and community engagement forum prior to advertising, in order to reach agreement on a solution to be reflected in the Scheme and LPS for the purpose of advertising.
3. Requests a further staff report on a brief for the central beachfront height limit consultation exercise, in liaison with the WAPC.
4. Appoint the Mayor, Deputy Mayor, Chief Executive Officer and Manager Development Services as a delegation to liaise with the WAPC and the Minister (with the power to co-opt experts) to discuss the stakeholder and community engagement forum, the beachfront height limit, the Forrest/Jones Beachfront Concept Plan and the re-alignment of Curtin Avenue.

MINISTER'S LATEST LETTER

In essence, the Minister's 4 December 2007 letter effectively does the following:

1. Confirms her consent to advertise the scheme, as conditioned.
2. Reiterates that this is subject to the modifications previously required (i.e., there is no settling of the minor modifications at this stage).

3. Advises of her determination as to what is advertised regarding the central beachfront height limit. Specifically, that there is a three-storey height limit for the Foreshore Centre and Restricted Foreshore Centre zones. Plus that the two hotel sites are Special Control Areas (SCAs) for a tailored approach to the further consideration of height limits and building design controls there (with the three-storey limit to Marine Parade). The details of the SCAs are to be addressed via an Enquiry by Design (EbD) process during the scheme advertising period (possibly including other areas and matters).
4. Fosters efficiency in the overall consultation for the scheme.
5. Encourages mechanisms to rejuvenate the beachfront and promotes its regional role.

ANALYSIS OF MINISTER'S LETTER

Constructively, it is apparent that the Minister has mostly acceded to Council's rationale and the information submitted in favour of a three-storey height limit for the central beachfront.

It is also apparent that the Minister has recognised the amenity factors affecting beachfront development.

In addition, the Minister has apparently taken on board Council's earlier resolution regarding planning measures for the beachfront, such as mixed uses and in particular Special Control Areas (SCAs).

SCAs are a mainstream technique from the Model Scheme Text as applied in draft TPS3, both generically as well as specifically in relation to heritage. This can be adapted to the two beachfront hotel sites and complements the Development zoning and structure planning provisions in the scheme for the OBH site.

In this respect the intended EbD process is akin to scheme provisions which trigger detailed work to arrive at a set of planning parameters – egg, structure planning, policies and guidelines – which are then enshrined in the scheme. Therefore, in terms of a method Council can be comfortable with the SCA approach and an EbD exercise.

Practically, these two SCAs would start with the consistent three-storey height limit on Marine Parade to avoid amenity impacts, then have prescriptive provisions to, by way of building design controls, manage development aspects and any additional height which may be allowed.

The EbD process is to explore and define such controls and provisions for the SCAs, ultimately to be determined at the final approval stage of the scheme, as part of the total consideration of public submissions and the scheme proposals.

Although this approach may be seen to shift any differences of opinion to the end of the scheme process, where the Minister could use her powers, it is felt that the joint EbD exercise, concurrent consultation phase and the formulation of SCA provisions would have a significant bearing on the outcome for these building height limits and design controls.

While the Minister's letter might be perceived as ambiguous and open to interpretation, it is deduced that this is not deliberate and that the letter ought to be taken at face-value as an endeavour to settle the matter, overcoming the present impasse.

It is fair to say that the implication in the Minister's letter is that height limits of more than three storeys may be examined for the SCAs. This does not necessarily mean that Council must agree to what may be formulated, as Council reserves its right to consider all submissions and inputs at the final adoption stage.

The EbD itself, while required as a process as part of the scheme advertising, is a non-binding method which would produce findings to be considered for inclusion in the scheme.

OVERVIEW OF SCAS

SCAs are provided for in Part 6 of draft TPS3.

SCAs do not replace zoning, density or other scheme provisions, but are an additional layer of control where special treatment is warranted. They apply particular parameters or requirements in respect of land use and development control, as well as any extra procedures. They can include restrictions or variations and involve incentives.

The Minister's letter outlines the nature of the required SCAs and leaves it to Council devise the detail. This has been raised with the DPI and Minister's Office, who advised that the detail should be confined to creation of the SCAs and an explanation as expressed in the Minister's letter. The DPI can check the detail in vetting the scheme documents for advertising.

BEARING ON PREVIOUS RESOLUTIONS

The Minister's determination means that Council can move towards the advertising phase, especially having reached a reasonable compromise in relation to the beachfront – Council's key objective of reinforcing a basic three-storey height limit has been achieved.

That is, Council may support the overall required modifications and terms, including for the beachfront, for the purpose of advertising the scheme. This course of action is advocated, as elaborated on below.

Given the essentially positive result for Council, a program can be produced to advertise the scheme and conduct the consultation exercise.

In so doing, Council has the opportunity to ensure that it is satisfied regarding content and procedures.

Fundamentally, in relation to the advertising phase and EbD exercise, Council will be able to consider the submissions and findings in refining the scheme for final approval.

An advantage is that Council, in overseeing the advertising phase as well as participating in the EbD process, will be in a position to appropriately influence the methods and outcomes.

In this respect it is observed that some of the refinements previously identified by Council (egg, short-stay, commercial ground floor, etc) could be incorporated into the consideration of beachfront controls, so would not be forgotten.

NON-SETTLED MODIFICATIONS

The question of non-settled modifications has been raised with the DPI and Minister's Office, who advised that the focus on the beachfront had pushed those lesser matters to one side rather than deliberately overridden them.

However, they agreed that it is not uncommon for schemes to be advertised with some minor matters still able to be reviewed, and considered that can be done for draft TPS3, instead of stalling the process.

In other words, they do not propose to further report to the WAPC and Minister on those minor matters at this juncture, as it would be undesirable to delay the scheme advertising process, which can accommodate attending to any minor refinements in the normal manner.

Nonetheless, it would be prudent for Council to bring this discrepancy to the attention of the WAPC and Minister when resubmitting the scheme and to ask for a commitment that those matters may be reviewed.

ENQUIRY BY DESIGN

In May 2007 Council endorsed a report from officers on using the EbD process to further explore the Foreshore Vision as a community-engagement exercise. It was explained that an EbD is usually a substantial undertaking needing sufficient lead-time to organise and multiple resources to conduct.

Officers were to devise a proposal in detail and the DPI has advised that it can assist and participate. However, action has been pending Council's deliberations regarding a similar exercise for the beachfront as mooted by the Minister in relation to TPS3, possibly leading to a combined, coordinated initiative.

The Minister's latest letter requires an EbD to help determine the beachfront SCA height and building design controls, to be carried out concurrently with the scheme advertising.

While the letter isn't explicit regarding the details of the EbD, discussion the DPI and Minister's Office has confirmed that the Minister would want to be satisfied with the EbD proposal, i.e. to ensure that this joint exercise adequately embrace the regional dimension.

Liaison with the DPI has confirmed that the Minister is keen for the EbD to happen and that the DPI would assist with personnel, expertise, mapping and other resources, including funding. Assuming consultants, a budget up of around \$50,000 is envisaged. Shared funding would be equitable and connote joint ownership and direction of the exercise. Council has not budgeted for this.

The Minister's letter also mentions the prospect of expanding the EbD to embrace the foreshore, town centre, east-west connectivity and realignment of Curtin Avenue – that is an option, rather than a requirement. This would make the EbD exercise larger, longer and complex, which may burden the community and tend to repeat earlier strategic exercises performed in creating the draft scheme. Further, the future of the Town Centre and Curtin Avenue, for example, are dependent upon much more than just the scheme, which can only go so far as a planning instrument. However, it is understood that the Minister was appreciative of the other regional planning-related matters facing the Town and saw the EbD process as a good way of also addressing those. Council should consider this as a second EbD, to maintain that goodwill and address those matters whilst not slowing the scheme review.

Therefore, it is important that Council, in attending to the requirement for the SCAs, negotiates an EbD which is efficient and effective. It is considered that the EbD should be confined to the beachfront and possibly foreshore areas, deal primarily with the SCAs, and not attempt to undo any aspects of the scheme consented to for advertising.

As to timing, it would be preferable that the EbD take place early or no later than midway in the advertising period, to inform submissions from the community and interested parties. The DPI envisages the EbD in March. Council and DPI officers are to meet in the week before Christmas to progress planning for the EbD. It would be beneficial to appoint consultants as a priority.

OUTLINE PROGRAM

Resubmission of scheme documents

- Under the Town Planning Regulations (TPR), Council, having received the Minister's final decision to advertise the scheme, is required to resubmit the scheme documents with the required modifications, within 42 days or any longer approved period. From the 4 December 2007 date of the Minister's latest letter, 42 days falls on 15 January 2008. As this is quite soon it is considered that Council needs to request an extension of time to 31 January 2008. It is understood that the Minister had thought the scheme might be advertised before Christmas, however, the Minister's staff have advised her that the logistics for that, and for the EbD, do require additional time; whereby the Minister's staff have advised they believe that the Minister would accept a short extension of time.

Carrying-out of advertising phase

- Under the TPR, advertising a scheme entails publication of notices in the Government Gazette, press, by display and to public authorities; scheme documents being made available for public inspection; any requirements of the

Minister or WAPC (i.e., as per the WAPC letter of 29 August 2007); and anything more a council considers it should do.

- The WAPC letter requires Council to write to owners regarding changes to the Foreshore Centre and Restricted Foreshore Centre zones; invite public comment on residential densities and building heights; and ensure that all bodies, owners and occupiers are made aware the draft scheme and invited to comment.
- Council may take other steps as it sees fit to disseminate the scheme proposals; e.g., website, leaflets, local press articles, open days/evenings, public meetings, etc. In view of the extensive consultations by a variety of means during the drafting of the scheme, Council may consider that there has been a relatively high level of exposure to the community, whereby the official advertising means may be minimised. By the same token, however, there may be community anticipation of a similar high level of advertising for the adopted scheme.
- Council will also recall the use of community engagement consultants to assist in communications, facilitate information forums and help collate submissions and assess them on a preliminary basis.
- The TPR stipulate a minimum advertising period of three months. The WAPC letter states *the scheme will be advertised for a period of three months* (i.e., implying only or that is all that's required). The Minister's staff consider that the Minister does not want any longer advertising period.
- Council staff need to prepare for the entire advertising phase and procedures. This includes handling public enquires by phone, email, mail or at the counter, and handling submissions as they are received. Advertising is anticipated to generate numerous and ongoing enquiries from landowners, residents, businesses, real estate agents, property developers, community groups, institutions, government agencies and so on. Experience with other schemes is that this is a major demand on Planning and Administrative staff and can also cause increased enquiries to elected members.

Conducting of enquiry by design

- Ideally the EbD would be conducted in the first month of advertising, i.e. February 2008.
- Considerable preparation is required. Consultants and support staff would be desirable. It will need to be carefully planned and managed.
- Realistically it will occur in March 2008.
- Council would want to consider the findings then liaise with the DPI and WAPC regarding any consequent changes regarding the SCA provisions, for final approval of the scheme by the Minister.

TASKS BEFORE COUNCIL

Council is faced with the following actions, which partially amend its previously intended steps, in order to meet the statutory and Minister's requirements and to achieve the milestone of advertising the scheme:

1. To prepare the scheme documents, resubmit them and make arrangements for the statutory advertising process – this is to include the SCA for the two sites, reflecting the Minister's requirements.
2. To with the DPI plan, and later conduct, the EbD, including its scope, ingredients and methodology – this most likely entails the use of use of consultants, and needs sufficient lead-time, expertise, staff, other resources and funding.
3. To prepare for and carry out the advertising process for the scheme, together with the additional EbD exercise.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Note the Minister's letter dated 4 December 2007.
- (2) Accept the Minister's determination therein that the draft scheme be advertised with the previously required modifications and the amended required modification regarding the central beachfront zones, Special Control Areas, height limit/s and building design controls.
- (3) Draw to the attention of the WAPC and Minister that the non-settled modifications remain to be addressed during the remainder of the scheme review process.
- (4) Agree to an Enquiry by Design process as part of the scheme advertising phase, confined to the central beachfront area at this stage, in order to give further consideration to building design controls for the required Special Control Areas for the subject sites.
- (5) Consider the need for any additional Enquiry by Design exercises with the DPI for other areas or matters separate from the scheme advertising process.
- (6) Request staff to prepare the scheme documents for advertising and to seek an extension of time to resubmit the documents by 31 January 2007.
- (7) Request staff to prepare for the Enquiry by Design process, in liaison with the DPI, for endorsement by Council.
- (8) Request staff to prepare for the scheme advertising phase to commence from February 2008.
- (9) Consider the need for any Council special meetings, delegations or authorisations to give effect to these resolutions and actions in the timeframe.
- (10) Advise the WAPC and Minister of Council's decisions.

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That the following amendments be made to the officer recommendation:

(1) At item (2):

- i) the words ‘the central beachfront zones’ and ‘height limit/s and building design controls’ be deleted**
- ii) the word ‘proposed’ be inserted before Special Control Areas with the words ‘for the two hotel sites at the central beachfront’ inserted after.**

(2) At item (3) ‘; and that these matters may warrant further public advertising in order to be properly determined’ be added.

(3) That item (4) be amended to read as follows:

“Agree to a jointly managed EbD process for the central beachfront and foreshore areas, in order to give further consideration to building design controls and permitted uses for the required special control areas for the two hotel sites. This is subject to:

a) The Marine Parade frontage of the two hotel sites not exceeding 3 storeys (12m); and

b) The EbD process:

- i) not presuming that more than 3 storeys is necessary for the remainder of these sites,**
- ii) will be subject to an absolute maximum of 5 storeys (21m);**
- iii) be followed by separate public advertising to finalise the outcome of the EbD process before being included in the final Town Planning Scheme; and**
- iv) will additionally address the following:**
 - the Foreshore (Public Domain) Concept Plan;**
 - the vacant railway land adjacent to the Town Centre;**
 - the east-west connectivity between the two activity centres; and**
 - the realignment and design of Curtin Ave and/or the railway.**

(4) That item (5) be deleted and the remaining items renumbered accordingly.

Carried 9/0

Mr Graham Patrick and Mr Geoff Trigg left the meeting at 9.00 pm and did not return.

Cr Boland left the meeting at 9.48 pm

Cr Boland returned to the meeting at 9.49 pm

Cr Carmichael left the meeting at 9.54 pm

Cr Dawkins left the meeting at 9.56 pm

Cr Carmichael returned to the meeting at 9.56 pm

Cr Dawkins returned to the meeting at 9.58 pm

10.1.2 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Note the Minister's letter dated 4 December 2007.**
- (2) Accept the Minister's determination therein that the draft scheme be advertised with the previously required modifications and the amended required modification regarding proposed Special Control Areas for the two hotel sites at the central beachfront.**
- (3) Draw to the attention of the WAPC and Minister that the non-settled modifications remain to be addressed during the remainder of the scheme review process; and that these matters may warrant further public advertising in order to be properly determined.**
- (4) Agree to a jointly managed EbD process for the central beachfront and foreshore areas, in order to give further consideration to building design controls and permitted uses for the required special control areas for the two hotel sites. This is subject to:**
 - a) The Marine Parade frontage of the two hotel sites not exceeding 3 storeys (12m); and**
 - b) The EbD process:**
 - i) not presuming that more than 3 storeys is necessary for the remainder of these sites,**
 - ii) will be subject to an absolute maximum of 5 storeys (21m);**
 - iii) be followed by separate public advertising to finalise the outcome of the EbD process before being included in the final Town Planning Scheme; and**
 - iv) will additionally address the following:**
 - the Foreshore (Public Domain) Concept Plan;**
 - the vacant railway land adjacent to the Town Centre;**

- the east-west connectivity between the two activity centres; and
 - the realignment and design of Curtin Ave and/or the railway.
- (5) Request staff to prepare the scheme documents for advertising and to seek an extension of time to resubmit the documents by 31 January 2008.
- (6) Request staff to prepare for the Enquiry by Design process, in liaison with the DPI, for endorsement by Council.
- (7) Request staff to prepare for the scheme advertising phase to commence from February 2008.
- (8) Consider the need for any Council special meetings, delegations or authorisations to give effect to these resolutions and actions in the timeframe.
- (9) Advise the WAPC and Minister of Council's decisions.

Carried 9/0

Note:

The amendments made to the Officer Recommendation were made in order to:-

- better define the height parameters for the Special Control Areas,
- enhance community consultation in relation to the Enquiry by Design outcomes and their incorporation into the scheme, and
- maximise the return to the Cottesloe community in addressing other significant planning matters.

11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 10 DECEMBER 2007

The agenda items were dealt with in the following order: 11.1.1, 11.1.2, 11.1.4, 11.1.5 and then the balance in numerical order en bloc.

11.1 PLANNING**11.1.1 NO. 52 (LOT 40) BROOME STREET – TWO-STOREY RESIDENCE WITH UNDERCOFT, CABANA, FRONT FENCE AND SWIMMING POOL**

File No: 1312
Author: Mr Lance Collison
Author Disclosure of Interest: Nil
Report Date: 23 November, 2007
Senior Officer: Mr Andrew Jackson

Property Owner: James & Olivia Gallucio

Applicant: Mr Blane Brackenridge
Date of Application: 25 October 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 885m²
M.R.S. Reservation: N/A

SUMMARY

A two storey residence with undercroft, cabana, front fence and swimming pool is proposed.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

In the undercroft a ramp leads down to a 4 car garage, underground water tanks, laundry, cellar, store and WC. Externally a drying yard and cabana can be found at this level.

On the ground floor a terrace, library, living/dining, kitchen, study, family, bedroom, ensuite, WC, bureau and pantry rooms are proposed. Externally three terraces, a new front and side boundary fence and swimming pool are proposed.

On the first floor, 4 bedrooms, 2 WIRs, two bathrooms, two WCs, an ensuite and a study are proposed. Externally two large terraces can be found. Several staircases and a lift provide access to the three levels.

URBAN DESIGN APPRECIATION

- The proposal is to replace an existing single-storey traditional-style dwelling with a two-storey modern-design dwelling (two storeys being the norm these days).
- The existing dwelling sits lower than its two-storey neighbours yet appears wide in comparison, due to being straight across, with a transverse roof ridgeline and solid wall low front fence.
- The proposal echoes the essential lowness and strong horizontality of the existing situation. Due to the wide verge plus the slope of the verge and site away from the street, the dwelling would still sit low the streetscape, being lower than those either side and in the locality generally.
- The street Pine trees and backdrop of trees/vegetation to the rear of the site and surrounds would serve to screen and soften the appearance of the dwelling.
- The somewhat bold design would actually appear more broken-up and visually permeable than the plans convey, owing to the various indentations/overhangs in the design, extensive glazing and the use of varied materials. The cantilevered forms and gently sloping angular wall and roof planes to the front would create a floating effect of the second level hovering over the crest of the verge, enlightening the sense of mass. The sides of the dwelling would recede into the site and tend to be obscured by the neighbouring dwellings and vegetation.
- This urban design and architectural-aesthetic outcome is demonstrated by the attached photos of the model of the proposal shown in relation to the neighbouring dwellings; as well as by the additional plans showing that the outline of proposal is significantly less than a comparative conventional pitched-roof dwelling – ie, the built envelope of the proposal occupies less airspace than the alternative, whereby its sense of scale and bulk is ameliorated.
- Importantly, the height variation sought is confined to only a portion of the upper-floor level as shown shaded on another plan provided. This L-shaped area steps back from the street and is afforded surrounding breathing-space by the setbacks, open terrace and void areas of the dwelling.
- The façade is similar to a number of contemporary designs approved in recent times, including along Marine Parade, in south Cottesloe, nearby on the SW corner of Broome/Pearse Streets and in the vicinity at this end of Broome Street.
- The architect has provided the attached written description/explanation of the proposal, regarding how the design was conceived and works in relation to the site and street, in order to justify the application and the variations requested in this context.
- The technical assessment, especially in relation to building height, elaborates on this urban design approach to the site and setting.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Planning Scheme No.2

Clause	Required	Provided
5.1.1 Building Height	6m wall height 8.5m ridge height	7.67m wall & roof height

Town of Cottesloe Local Law

Local Law	Required	Provided
Fencing Local Law	Solid to a maximum height of 900mm, open aspect between 900mm and 1800mm in height above natural ground level within front setback area.	Solid fencing to side boundary within front setback area to 2.1m in height. Solid front fencing to 1.12m in height. Pool edge fencing to 1.2m in height.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 3 - Boundary Setbacks	2m setback – ground south wall	1.2-6m setback	Clause 3.3.1 – P1
Element 3 - Boundary Setbacks	3.3m setback – 1 st floor south wall	1.2-2.5m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	1.3m setback – 1 st floor north wall	1.2m setback	Clause 3.3.1 – P1
Element 8 – Privacy	4.5m setback – Bed 4	3m setback	Clause 3.8.1 – P1
Element 8 – Privacy	7.5m setback – Front Terrace	4m setback	Clause 3.8.1 – P1
Element 8 – Privacy	7.5m setback – Rear Terrace	4.6m setback	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 and Residential Design Codes.

The advertising consisted of Letter to Adjoining Property Owners

Submissions

There were 4 letters sent out. There were 3 submissions received, of which none were objections.

Paul McQueen of 1 Webb Street

- *Have no objection*
- *Commend the applicant incorporating sustainability principles*

David & Barbara Wilcox of 54 Broome Street

- *Have no objection*

John Milne of 36 Pearse Street

- *Agree with the new boundary wall height between the two properties.*

BACKGROUND

An existing older and well established single storey cottage and garage can be found on the property. There have been no significant additions to the residence over time.

OFFICER COMMENT**Natural Ground Level**

The natural ground level has been determined using a 4-corner average. This method was used as the centre of the site level is not accurate due to the existing residence. The centre of the site has been determined at RL 30.15. The lot slopes approximately 2m from the north-west corner down to the south east. A site inspection confirms there is a consistent, gentle slope on the land, as confirmed by the contour data.

Undercroft

The undercroft is not considered a storey. The space is less than 1m above the footpath level measured at the centre of the site based on the level at the street frontage and complies with the Town Planning Scheme No. 2 height reference standard as shown below:

5.1.1 Building Height**(a) General Policy**

Council's general policy for development within the district favours low rise development of no more than 2 storeys to maintain privacy, views and general amenity notwithstanding that Council may consider the circumstances and merits of each case in terms of the amenity and development control provisions of this Scheme. In exercising height control policies Council will not regard as a storey undercroft space designed and used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartments, cellar, corridor, hallway, lobby, the parking of vehicles or any storeroom without windows or any workshop appurtenant to a car parking area where that space is not higher than 1 metre above the footpath level measured at the centre of the site along the boundary to which the space has frontage or where that space is below the natural ground level measured at the centre of the site as determined by Council.

It is noted that the undercroft space technically does not have frontage to this side, which is the only side with a footpath. Nonetheless, the garage door while side-facing is clearly designed/orientated for access from and to Broome Street, hence the undercroft can legitimately be assessed in relation to the front boundary and is not considered a storey due to its depth. Moreover, it would be detrimental to shift the garage door and extend the basement to the boundary, which would take away the desirable side setback to the building.

Building Height

The wall heights do not conform to the TPS 2 requirement of a 6m wall height for a conventional dwelling. The house comprises of a flat roof design, and as such roofs are not specifically addressed by TPS2, the RDC are referred to. The RDC allow a 7m wall height for walls with concealed roofs. This residence proposes a 7.67m (RL 37.82) wall and roof height. Where the building height does not meet the Acceptable Development standards of the RDC, the application can be assessed against the Performance Criteria as shown below:

P1- Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining properties, including, where appropriate:

- adequate direct sun to buildings and appurtenant open spaces;*
- adequate daylight to major openings to habitable rooms; and*
- access to views of significance.*

The building height will provide adequate sun to buildings and appurtenant open spaces and adequate daylight to major openings to habitable rooms due to the setbacks of this property to the side boundaries and the setbacks of the neighbours. It is also assessed that the wall height variation does not disrupt access to views of

significance. The house immediately to the rear does not currently have ocean views from the rear of the property.

Furthermore, this wall / roof situation is a design approach rather than being brought about by topography or some other basis for the specific exercise of discretion under the scheme, however, the form of the subject part of the dwelling is consistent with other similar dwellings approved taking into account the use of flat roofs and their interrelationship with wall heights. The split-level design of the dwelling increases the potential of a majority of the rooms to gain an ocean view.

This particular proposal deploys the wall height in a subtle manner which does not seek to significantly exceed the 7m wall height guide or maximum achievable roof height. The angled, sloping side walls and chamfered front edge of the roof largely remove the sense of bulk of the proposal; while from the street the first floor terrace is open-aspect and the upper-level of the dwelling is well setback from the street. Furthermore, the higher portion of the roof space is limited to an area of only approximately half the size of the building footprint, with large areas of the upper floor being open terraces which are well below the 7m height standard.

Overall, it can be seen that the height profile of the dwelling is lower than the 8.5m maximum building height. In terms of streetscape the proposed dwelling is significantly lower than its two immediate neighbours. The property is largely within a profile of a 6m wall and 8.5m ridge height and a variation could be supported.

It should be noted that none of the neighbours objected to the proposed wall height. Alternatively, if Council asked for the wall and roof heights to be lowered to be 7m (RL 37.15) to comply with the RDC, the floor plans would most likely have to be altered, resulting in an overall different built form and streetscape appearance.

In summary, the building height reflects a dwelling design which seeks to position the levels in order to gain a confined view-field over the crest of the road between the verge level and the under-storey of the Pine trees. At the same time, the design aims to achieve a basement in the usual manner, as well as to relate to the front and rear yards for effective use of those outdoor living spaces. This combination of the consideration of the NGL and topography, together with the performance guidelines under the RDC for concealed roof dwellings, is the justification for Council exercising the proposed degree of discretion in respect of the building height measure. Importantly in this regard, the dwelling is significantly lower than the 8.5m building height limit, sits lower than its neighbours and other houses in the street, and while modern is essentially a subtly recessive and restrained architectural expression which would tend to sink into the site and surrounding landscape, similar to the imprint of the existing situation.

Boundary Setbacks

The following side boundary setbacks of the proposed residence don't automatically comply with the Acceptable Development standards of the RDC. These setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC which are also below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground South	Library to stair	5.5m	18.5m	No	2m	1.2 to 6m
1 st floor South	All	7.5-8.5m	22.5m	No	3.3m	1.2 to 2.5m
1 st floor North	Bed 4 wall	7.5m	8.5m	No	1.3m	1.2m

3.3.1 – Buildings Set back from the Boundary

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

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

This proposal is to have a 1.2 to 6m setback to the side boundary for the ground south wall. This is usually required to be setback 2m from the boundary. The setback generally meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal does not affect privacy and ensures that direct sun to major openings to habitable rooms and outdoor living areas of the adjoining property is still provided. It should be noted the only section of the wall which is not in compliance is the lift shaft.

The proposal is to have a 1.2 to 2.5m setback to the side boundary for the first floor south wall. A majority of the wall is setback 2.5m from the boundary except for the lift shaft. This wall is usually required to be setback 3.3m from the boundary. The setback is penalized by the RDC as it requires the walls to be measured to the highest point from natural ground level.

However, the wall generally meets the Performance Criteria of the RDC. The proposal ensures that ventilation is adequate and that direct sun to major openings to habitable rooms and outdoor living areas of the adjoining property is not restricted. The staggered setback reduces the perception of bulk and the wall is not a privacy concern.

This proposal is to have a 1.2m setback to the side boundary for the 1st floor north wall for Bedroom 4. This is usually required to be setback 1.3m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal does not affect privacy and ensures that direct sun to major openings to habitable rooms and outdoor living areas of the adjoining property is still provided. This is a very minor variation.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't automatically comply with the Acceptable Development standards of the RDC. The

setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC which are also below:

Room	Required	Provided
Bedroom 4	4.5m setback	3m setback
Front terrace	7.5m setback	4m setback
Rear terrace	7.5m setback	4.6m setback (north and south directions)

“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 proposal asks for a variation to bedroom 4’s cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. The bedroom faces the east and overlooking to the northern property would only be possible on an acute angle in a north-easterly direction. The neighbouring property at 54 Broome Street does not have any windows from habitable rooms within the 4.5m cone of vision from the Bed 4 window. The northern neighbour has not objected to the proposal and it is recommended for approval.

The proposal asks for a variation to the upper floor front terrace’s cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. The terrace is largely screened to the northern boundary by a screen wall on the northern edge of the terrace and a second screen wall adjacent to the spiral staircase. It should be noted that overlooking is only possible on an acute angle in a north-easterly direction. The neighbouring property at 54 Broome Street does not have any windows from habitable rooms within the 7.5m cone of vision from the terrace. The northern neighbour has not objected to the proposal and it is recommended for approval.

The proposal asks for a variation to the upper floor rear terrace’s cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. The terraces’ main vista is to the east and the privacy variation is to the northern and southern properties. The proposed planter boxes restrict persons coming closer than 4.6m from the boundaries and the terrace is partly screened from the neighbours by a wall.

The neighbouring large and modern residence at 54 Broome Street does not have any windows from habitable rooms (just walls) within the cone of vision, while the southern neighbour has an open backyard area. Due to height of the terrace and the active open space on the southern neighbouring property, the existing screen walls could be extended to the east by 1.5m in length and up to 1.65m in height on the southern elevation of this terrace.

The proposal also has major openings from the ground floor study, ground floor living/dining and ground floor terrace which would usually be variations. However, there is no privacy variation as these windows will look onto a new high boundary wall. The new wall results in these windows meeting the Acceptable Development provisions of the RDC.

Side and Rear Boundary Walls (Fences)

New boundary walls (fences) are proposed on the northern side and rear boundaries. The walls are of varying heights and are wholly located within the lot boundary. These fences provide screening to neighbouring properties and none of the adjoining neighbours have objected to these new walls.

Fencing within the front setback area

Solid front and northern side fencing within the front setback area is proposed. The proposed fence ranges from 880mm to 1120mm high along the front boundary. The top of the fence is horizontal and the height difference is caused by the sloping natural ground level along the front boundary.

The boundary wall (fence) along the northern boundary within the front setback area is proposed to be solid up to 2.1m in height. The pool edge wall in the front setback area is 1.2m above natural ground level.

As the application does not readily comply with the Fencing Local Law, the standards may be varied if the following criteria are met. The Fencing Local Law states that Council may exercise discretion having regard to whether the fence affects:

- a) *the safe or convenient use of land;*
- b) *the safety or convenience of any person; and*
- c) *the impact of the fence on the streetscape.*

In respect to the front boundary fence, this may assist the safe use of land and persons because it will provide a barrier against unwanted visitors. Also, it is assessed that the streetscape would not be adversely affected. The front fence is only a very minor variation of 220mm at the highest point to the Fencing Local Law. This small variation of height will not give the sense of bulk due to the wide verge and larger than required front setback of the proposed residence.

In regard to the wall along the northern boundary within the front setback area, this will assist the safe use of land and safety of persons. This is because it will provide a barrier against falling into the swimming pool. However, approving a solid fence because a pool is proposed in the front setback could set an undesirable precedent.

At the same time, requiring the fence to be a maximum solid height of up to 900mm above ground level (which is the Fencing Local Law standard) shall not adhere to the swimming pool barrier standard AS 1926.1, which requires a fence of 1200mm height with no gap exceeding 100mm vertically or horizontally.

Therefore, it is recommended that the fence be amended to allow a solid portion to a maximum height of RL 31.92 with the portion above being of an open aspect design above. The fence shall also comply with the Swimming Pool standard AS 1926.1. This condition of approval would ensure that the fence strikes a balance between the

open-aspect requirements of the Fencing Local Law whilst providing a sufficient barrier to the swimming pool. The requirement of meeting both the Fencing Local Law and the Australian Standard is very possible with a well-designed and considered front fence.

In regard to the curved pool wall within the front setback, this cannot be altered. If the wall were lowered or made open aspect it would not hold water in the pool. The effect on the streetscape of this pool wall is negligible as it is proposed to be located behind the front boundary fence which is a similar height.

Swimming Pool

The proposed lap swimming pool against the northern boundary is not subject to setback requirements.

Cabana

A cabana is proposed against the rear boundary. The RDC in an R20 coded area allow buildings on the boundary of up to 9m in length and 2.7m in height on one side boundary. This proposal meets this requirement.

Overshadowing and Open Space

The application meets the overshadowing and open space requirements of the RDC. The application proposes 23% overshadowing (maximum 25% permitted) and 69% open space (minimum 50% required).

Sustainability

The application proposes three underground water storage tanks and 20 photovoltaic solar panels on the roof. It is also designed to be an inside-outside seaside dwelling with design for climate principles in terms of natural light, ventilation, shade and passive solar heating. These sustainable measures are commended.

CONCLUSION

The proposal has few variations and most of these meet the Performance Criteria of the RDC. The building height variation can be supported due to the dwelling being lower than the two side neighbours and it presenting well to the streetscape. It is also noted that the applicant has employed sustainable design. In regards to the front fencing, it is considered that the height can be supported subject to the side boundary being amended. It is recommended the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the aspects of the site, streetscape, height, setbacks and overall building design. It was felt that the flat roof height variation could be problematic yet also that it seemed to fit it with the topography and adjacent dwellings. The Manager Development Services elaborated on the urban design approach and performance assessment under the RDC.

11.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development to the Development Application for a Proposed Two-Storey Residence with Undercroft, Cabana, Front Fence and Swimming Pool at No. 52 (Lot 40) Broome Street, Cottesloe, in accordance with the plans received on 24 October 2007, 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) 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.**
 - (c) 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.**
 - (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) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (f) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (g) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.**
 - (h) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.**
 - (i) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.**

- (j) Revised plans being submitted at building licence stage for approval by the Manager Development Services showing:
- (i) the northern boundary fencing within the front setback area shall be of an open-aspect design above RL31.92 in accordance with the Fencing Local Law. Due to the swimming pool adjacent, the design of the fence must also comply with Australian Standard 1926.1 for swimming pool barriers. The applicant should liaise with the Planning Department to fulfil this condition; and
 - (ii) the screen wall on the southern edge of the first floor rear terrace shall be extended by 1.5m towards the east at a height of 1.65m above the finished floor level.

Advice Note:

The applicant is encouraged to retain as many of the mature trees on the property as possible.

(2) Advise submitters of Council's decision.

Carried 7/2

Mayor Morgan requested that the votes be recorded:

For: Mayor Morgan, Cr Birnbrauer, Cr Boland, Cr Carmichael, Cr Dawkins,
Cr Miller, Cr Strzina

Against: Cr Walsh, Cr Woodhill

**11.1.2 NO. 172 LITTLE MARINE PARADE – TWO-STOREY RESIDENCE,
BASEMENT AND ACTIVE ROOFSpace AREA**

File No: 1311
Author: Mr Lance Collison
Author Disclosure of Interest: Nil
Report Date: 28 November 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Rick & Belinda Brine

Applicant: Brooking Design
Date of Application: 28 November, 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 410m²
M.R.S. Reservation: N/A

SUMMARY

A two storey residence, basement and active roof space area are proposed.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

In the basement, a 4 car garage, car lift, storage, laundry and lift mechanical room are proposed. On the ground floor a balcony, 3 ensuites, 3 bedrooms, study, lounge, activity room are proposed.

On the first floor are a front and rear balcony, an open kitchen/ living/ dining/ pantry area, a small study, sunken living, powder, ensuite, and master bedroom. Within the roof space, a sundeck and spa area are proposed. The roof over part of this roof space area is retractable.

A lift links the basement, ground and upper floors while a staircase links all four levels. The proposed car lift allows cars to move between the ground floor level and the basement.

URBAN DESIGN APPRECIATION

- Little Marine Parade is in a dunal depression and contains truly an eclectic collection of dwellings, which are typically “long-houses”, ie extruded or elongated buildings, as well as multi-level structures in order to capture the much-sought-after ocean views by peeping over the elevated Marine Parade in front.
- Diverse roof forms abound, including flat, skillion, curved, pagoda and chateau, rather than traditional pitched. The individualistic dwelling designs also typically exhibit undercrofts, with often stepped levels above; yet due to the narrow lot

widths and sunken topography appear diminutive in the landscape of the backdrop of urban development rising along the higher streets inland.

- This built-form pattern and architectural vernacular is reflected in the two adjacent dwellings to the north, plus echoed in the massing of the two dwellings on the southern side. In this way the proposal is in keeping with the bulk/scale and stylistic treatments of the established streetscape character.
- Importantly, because the street is only one-sided and the row of houses is sunken and secluded, the resultant streetscape is unique to the immediate locality and a distinguishable environment.
- On this basis the proposal can be seen as reasonable in urban design terms.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2

Clause	Required	Provided
5.1.1 Building Height	6m maximum wall height 8.5m maximum building height	6.56m wall height Building height compliant

Town of Cottesloe Council Resolution

Resolution	Required	Provided
TP 128a	Generally insist on a 6m setback for residential development in the District	6m averaged setback

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 8 – Privacy	7.5m setback – front balcony	2.8m northwest & 2.8m southwest setback	3.8.1 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 9 – Design for Climate	Maximum 25% overshadowing	31.8% overshadowing	3.9.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 and Residential Design Codes.

The advertising consisted of a Letter to Adjoining Property Owners.

Submissions

There were 5 letters sent out. There were 3 submissions received, of which 3 were objections. Details of the submissions received are set out below:

Jane Vince-Jones of 3 Margaret Street, Cottesloe

- It is unclear whether there will be privacy issues regarding the upper deck.
- Concerned about overlooking into their property.
- Request the deck (roof space) complies with privacy provisions of the RDC.

Jane Vince-Jones of 3 Margaret Street, Cottesloe, 2nd submission

- Object to colour of proposed roof (white) due to glare implications.
- Object to position of spa on upper deck due to noise implications given their bedrooms are positioned at the rear of our home.
- Request partitioning surrounding spa and upper deck (east side), due to privacy implications.

Phillip Jackson of 174 Little Marine Parade, Cottesloe

- The design is excellent.
- Requests the first floor windows to the east of the alfresco balcony are obscured in order to comply with the RDC.
- The existing retaining wall on the boundary is tilting onto his property.

- Request confirmation that the retaining wall will be removed to construct the basement.
- Request confirmation that the replacement wall will be entirely within 172 Little Marine Parade.
- Requests an indication of material used to construct this wall and finish.

BACKGROUND

An existing two storey residence which was approved by Council in 1977 can be found on the property. There have been no significant additions to this residence. The residence is located in a valley on Little Marine Parade.

STAFF COMMENT

Natural Ground Level

The natural ground level has been determined using an average of a 4-corner average method and from Council's GIS data. These two methods were used as the centre of the site level is not accurate due to the existing residence. The centre of the site has been determined at RL 8.03. The lot slopes approximately 1.4m from the west down to the east. A site inspection confirms the site has been largely levelled/retained and the site survey verifies this.

Basement

The basement is not considered a storey. The space is wholly located below natural ground level at the centre of the site and complies with Town Planning Scheme No. 2 in this regard.

Building Height

The proposed maximum wall height does not comply with TPS 2. The Scheme requires:

The maximum building height shall be measured from the natural ground level at the centre of the site as determined by Council to the crown of the roof and shall be -

*Two Storey - Wall Height: 6.0 metres
 - Roof Height: 8.5 metres*

The application proposes a wall height of 6.52m (RL 14.58) above natural ground level at the centre of the site. The 6.52m wall height calculation is performed at the first point where the gable wall meets the roof at the eastern elevation. This is consistent with how officers have measured gable wall heights in previous applications. The gable wall meets the roof at a point of RL 13.68 on the three other elevations which is noted by the applicant.

It should be noted the wall height is not calculated to the highest point of the gable which is just below the apex of the roof. Furthermore, the RDC do not calculate gables as part of the wall heights where they are less than 9m in length. The walls in question are on the rear and front elevations and are less than 9m in length, so satisfy the RDC standard.

It should be noted the design is of a similar ilk to other residences in Cottesloe. Comparison may be made with more recent planning applications for two storey dwellings with third levels in their roof spaces. In May 2005, Council approved a third level of 49sqm atop a two storey dwelling for 2/1 Pearse Street, which had walls slanted to appear as part of the overall roof structure. In February 2002, Council approved greater wall heights for a dwelling with a third level in the roof space at 186 Little Marine Parade. In December 2006, a bedroom, bathroom and study within the roof space were approved by Council at 43 Curtin Avenue.

It is noted that the variation is only located on the eastern elevation and comprises generally of clear glass windows. The wall height variation does not present as a bulk issue. The wall height variation does not directly cause any privacy or overshadowing and is not an impact on the streetscape.

However, the wall height variation is not supported. This is because the Town Planning Scheme only allows habitable areas within the roof space if the proposal is in compliance with a 6m wall and 8.5m roof height.

It is recommended that Council requests a wall height not exceeding 6m (RL 14.03). It is observed the angle of the curved rooves could be changed without significantly altering the floor plan or design of the residence. A similar design solution was required in Council's approval to a recent proposed dwelling with a curved roof and third level space at 43 Curtin Avenue.

The overall building height to the top of the curved roof at the rear of the residence is 8.23m (RL 16.29). This is in compliance with Town Planning Scheme No. 2 which allows a maximum roof height of 8.5 metres.

Roof space

Officers are satisfied that the roof space is not considered a storey, if the wall heights are revised to meet Scheme height requirements. Town Planning Scheme No. 2 describes how a roof space may not be considered a storey. This is shown below:

Residential Zone - The maximum building height shall be two storeys except 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 at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity.

The third level is well setback from the street and due to the view lines from street level it would not be apparent that the residence is three levels above ground. The height of the roof above the spa/ sundeck area is only marginally higher than the remainder of the residence and is open to the elements. Also, it is noted the basement is wholly below ground level. Because of these design elements it could be considered the dwelling will retain the appearance of a two storey dwelling.

The roof space level will not adversely affect local amenity. The useable areas of the roof space are well setback from neighbours. The area is well setback from the street and is satisfactorily screened on both the northern and eastern sides. Screening on the eastern edge can be improved with a condition of planning approval.

Privacy

The following privacy (cone of vision) setback of the proposed residence seek variation from the Acceptable Development standards of the RDC and therefore are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are also below:

Room	Required	Provided
First floor front balcony	7.5m setback	2.8m northwest, 2.8m southwest

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

The first floor front balcony complies with the Performance Criteria of the RDC. The balcony is proposing a frosted glass balustrade to the north and south sides to a height of 1.6m. It is assessed that overlooking is possible to the north-west and south-west from the balcony.

To the north-west, the balcony overlooks a sunken carport. The front yard is open to the street and it is recommended that no additional screening be provided. However it is recommended that the screens be amended to 1.65m rather than the 1.6m proposed. This is the usual height Council recommends for screening.

Looking from the balcony to the southwest, it overlooks a partially open front setback area. The RDC acknowledge that there is a lesser need to provide screening to front yards and that no additional screening be provided. However it is recommended that the screens be amended to 1.65m rather than the 1.6m proposed. This is the usual height Council recommends for screening.

In clarification to the northern neighbours' concern, the proposal does not ask for a cone of vision variation to the first floor kitchen/pantry and small study area. The applicant has agreed to revise the plans to make this long window obscured. This is a condition of planning approval and shall be reflected in the application for a building licence. This satisfies the privacy requirements of the RDC.

In clarification to the eastern neighbours' concern, there is no overlooking issue when looking in an eastern direction from the spa area within the roof space. This is the area directly to the west of the spa and up the small flight of stairs. The proposed spa is not below the ground level and acts as a barrier when looking to the east from the spa deck. Furthermore, a screen on the eastern edge of the spa to 1.8m above finished floor level will prevent overlooking to the east.

The sundeck is also screened to the north and south to a height of 1.8m. This satisfies the RDC for privacy.

Fencing to car lift

A car lift is proposed to transport cars from street level to the basement. After liaison with Council, the applicant has agreed to remove the visually permeable fence around the car bay facing Little Marine Parade. If it is found that additional security to the car lift is needed, the applicant could apply for a visually permeable front and side boundary fence at a later date.

Earthworks

The proposed cut required to allow for the below-ground garage will entail substantial earthworks. The northern neighbour has concerns regarding the possible removal of the boundary fence/ retaining wall and the possible replacement of such walls and fencing.

In this regard Council has received numerous applications for functional basement spaces and many of these have been against a side boundary. A dilapidation report and other normal construction requirements would be involved in the building licence process to address these aspects. It is also indicated that all costs relating to any new northern boundary fencing (if required) will be borne by the applicant. An advice note can convey this.

Design for Climate

As the overshadowing of the proposed residence on a neighbouring residence doesn't comply with the Acceptable Development standards of the RDC, the variation is required to be assessed under the Performance Criteria of Clause 3.9.1 (P1) of the RDC, which are:

P1 Development designed with regard for solar access for neighbouring properties taking account the potential to overshadow:

- *outdoor living areas;*
- *major openings to habitable rooms;*
- *solar heating devices; or*
- *balconies or verandahs.*

The Acceptable Development provisions allow a maximum 25% overshadowing on a neighbouring property in an R20 coded area. The proposal asks for 31.8% overshadowing. This calculation is based on the shadow cast at midday June 21 when the maximum shadow can be expected for the year. The application proposes 147.6m² of overshadowing out of the 465m² southern neighbouring property.

The proposal does not readily meet the Performance Criteria of the RDC. There is currently considerable overshadowing generated by the existing dwelling, and the additions will overshadow the northern windows of the neighbouring property, however, these windows are actually overshadowed by the existing property.

Although this amount of overshadowing is generally not acceptable, a variation could be applied here as experience has shown that a majority of two storey developments in this area on the western side of Little Marine Parade are unlikely to easily satisfy the Performance Criteria. This is because of small lot sizes and the east-west

orientation. The width between the north and south boundaries is only 11.2m and inevitably any development greater than single storey will cause significant overshadowing.

Council has generally recognised these constraints in other such situations and noted that when a westerly exposure and outlook to the ocean are the main aims, virtually unavoidable overshadowing is tolerated to a greater degree.

Front Setback

The front balcony is proposing to be setback 5.5 to 6.5m from the front boundary. The RDC do allow a 6m setback for R20 coded dwellings which includes averaging; however, Council has adopted a resolution requiring a preferred 6m front setback for residential development for the district generally.

It is noted that the main wall (windows) face of the dwelling is actually setback a minimum of 6.8m, but the upper level balcony is slightly overhanging the ground floor, hence the effect of the dwelling is to occupy a built envelope to the lesser (albeit strictly compliant) setback. However, the applicant has provided an average front setback of 6m to the balcony.

It also should be noted most of the houses in this section of Marine Parade are not parallel with the front setback. These are because the blocks are slanted to the street.

In assessing the impact of the proposed front setback, neighbouring properties along Marine Parade were examined. To the north, the front setback of the neighbour at 174 Little Marine Parade is setback a minimum of 6.8m to the balcony of the main residence while a sunken carport is found within the front setback area. To the south, 170 Little Marine Parade has a setback between 2.8 and 5.5m from the front boundary. The proposed balcony would not project forward of the two neighbouring properties due to the slanted lot alignments.

In summary, Council has in certain circumstances supported less than 6m front setbacks where the streetscape, built form and amenity considerations have been assessed as acceptable. In this circumstance a front setback variation is supported due to minimal change to view lines and the slanted front setback line which reduces the impact of this variation on the streetscape.

Reflectivity

The eastern neighbour has concerns regarding possible reflection from the proposed white roof. A condition requiring the roof to be treated if there is a future glare issue is proposed.

Water features

The proposed water features are not subject to planning controls.

CONCLUSION

The application is recommended for approval subject to conditions. The residence is well designed, and the number of variations is minimal. The wall height variation is not supported and it is recommended this be revised to a maximum 6m wall height as

required in the Town Planning Scheme. It is noted the residence is less than 8.5 metres in overall height and there are no side setback variations. The slight projection of the front setback does meet the RDC for an average 6m setback.

It is also assessed that the residence has the appearance of being two storeys due to the view lines from the street and roof design treatments. In regards to privacy, minor changes are requested to protect the amenity of neighbouring properties without reducing the amenity of this proposal. The residence should be an acceptable addition to the streetscape which features numerous architectural styles.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee expressed overall support for the proposal with no particular concern, given the condition to ensure compliance.

AMENDMENT

Moved Cr Dawkins, seconded Cr Birnbrauer

That at item (1) (d) the words "of low reflectivity (ie, not Zincolume or similar, white or off-white, but a darker, less-reflective hue) to the satisfaction of the Manager Development Services, and" be deleted.

Lost 2/7

11.1.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development for a two-storey residence, basement and active roof space area at No. 172 Little Marine Parade, Cottesloe, in accordance with the amended plans dated 7 November 2007 and the roof plan dated 29 November 2007, 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 of low reflectivity (ie, not Zincolume or similar, white or off-white, but a darker, less-reflective hue) to the satisfaction of the Manager Development Services, and treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development. Full details shall of the material and colour are required to be submitted as part of the application for a building licence.
- (e) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) Any front boundary fencing to the site being of an "Open Aspect" design in accordance with Council's local law and the subject of a separate application to Council.
- (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) Revised plans being submitted for approval by and to the satisfaction of the Manager Development Services, showing:
 - (i) The first floor kitchen, pantry and small study window being modified to prevent overlooking into the northern adjoining property by having fixed and obscure glazing to a minimum height of 1650mm above the finished floor level.
 - (ii) The first floor front balcony frosted glass screens being modified to a height of 1650mm above finished floor level on the southern and northern edges of the balcony.
 - (iii) The wall height on the eastern and western elevations being no higher than RL14.3, which is 6m above natural ground level at the centre of the site.

Advice Note:

Construction of the earthworks, basement, retaining walls, boundary walls, dwelling and in-ground services will be required to follow all necessary building applications, approvals and procedures in order to ensure structural integrity and protect the interests of adjacent properties.

- (2) Advise submitters of the decision.

Carried 9/0

11.1.3 NO. 34 (LOT 15) MANN STREET – ADDITIONS AND ALTERATIONS TO AN EXISTING GROUPED DWELLING

File No: 6192
Author: Mr Ed Drewett
Author Disclosure of Interest: Nil
Report Date: 3 December, 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Mark & Felicity Henderson

Applicant: A T Brine and Sons Pty Ltd
Date of Application: 18 October 2007

Zoning: Residential
Use: P – A use that is permitted under this Scheme
Density: R20
Lot Area: 954m² (total lot area)
M.R.S. Reservation: N/A

SUMMARY

This application is for an upper floor addition, a double garage, front boundary wall and a modest-sized gatehouse which is proposed to be situated off an existing Right of Way (ROW).

PROPOSAL

To consider modifications and additions to an existing single-storey grouped dwelling requiring minor variations to the Town Planning Scheme provisions and the Residential Design Codes.

The additions are generally of contemporary design to compliment other dwellings in the locality and they will contribute towards an overall upgrade of the property.

APPLICANTS JUSTIFICATION

The applicant has submitted a letter in support of the application and the main points are summarised below:

- The gatehouse is required because the home has only one entry, which is off the rear lane. At present it is very difficult for visitors to the home to actually find it. The idea of the gatehouse is primarily to attract people's attention when they are looking down the lane from Mann Street to find the home;
- Being off the rear lane the home is a high security risk. There is no street lighting and most of the neighbours face the surrounding streets. Thus potential burglars etc have very concealed access at present. The gatehouse will assist in the security of the house;

- The garage and portico will offset the visual effect of the two storey addition and be more attractive from the lane;
- We are hoping that by improving the visual appearance of the lane it will encourage neighbours to not use the lane as a storage area or for refuse dumping;
- Essentially the extensions have been designed to incorporate the old structure on the block. Because the lane is relatively steep and there are numerous two-storey structures along it, it is our belief that this new addition will compliment and blend into the current built environment;
- None of the neighbours have complained and the building will fit neatly into the surrounding natural contours of the land as well as the built environment it sits amongst;
- We have in the design process consulted with an environmentally-aware architectural firm. Their comments have been incorporated into the current design to make the home a “green” and aesthetically-pleasing one.

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2
- Residential Design Codes

POLICY IMPLICATIONS

N/A

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Provided
5.1.1 Building Height	6m wall height although variations may be permitted in the case of extensions to existing buildings.	6.65m wall height above average NGL (or 6.4m above the existing floor level to top of wall)

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary setbacks	1.6m setback	1.5m (east elevation)	3.3.1 – P1
No 3 – Buildings on boundary	Buildings built up to one boundary	The existing dwelling is built up to an internal strata boundary and therefore the proposed additional wall on boundary needs to be assessed under performance criteria.	3.3.2 – P2
No 8 - Privacy	7.5m cone of vision to balcony	5m	3.8.1 – P1
No 8 – Privacy	6m cone of vision to retreat (northern elevation)	5.6m	3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

N/A

CONSULTATION

The application was advertised as per Town Planning Scheme No 2. No objections to the proposed additions were received on planning grounds.

COMMENT

The application complies with the Town Planning Scheme provisions and Residential Design Codes with the exception of the following:

Building Height:

Town Planning Scheme No 2 states:

The maximum building height shall be measured from the natural ground level at the centre of the site as determined by Council to the crown of the roof and shall be:

<i>Two Storey</i>	<i>Wall Height:</i>	<i>6.0 metres</i>
	<i>Roof Height</i>	<i>8.5 metres</i>

The centre of the site was determined at RL: 31.45 based on the contours provided by the applicant in a site survey as well as a comparison to Council's GIS information.

The proposed upper floor addition has a wall height of approximately 6.65m above the natural ground level, which is 0.65m above the permitted height. However, such variations for extensions to existing buildings may be permitted under the Scheme.

In this regard, the overall height of the proposed curved roof is 7.45m above NGL and therefore is 1.05m below the maximum roof height permitted.

The existing house is orientated towards a right of way (ROW) and has been strata titled. Due to the natural topography of the land, a portion of the lot adjoining the ROW has been filled and retained whereas the existing dwelling has been cut by approximately 0.8m to give a FFL of RL: 31.7. Therefore, although a height variation is sought in this case the actual wall height would only appear approximately 5.6m above the height of the adjoining ROW (RL:32.5) and it would not impose on the existing streetscape.

Furthermore, the proposed increased wall height will not impact on direct sun to adjoining buildings as the lot is orientated north-south so most overshadowing will occur within the lot/ROW and the increased wall height will not impact on any views of significance or amenity of adjoining properties as the upper floor is well setback from the adjoining north and western boundaries (5.6m & 5m respectively). The single storey house on the eastern side of the lot has no windows along its western elevation and as such will not be adversely affected by the proposed height variation.

Setback variation

Based on the levels/contours indicated on the site plan the required setback to the proposed upper floor from the eastern boundary should be 1.6m, whereas 1.5m is proposed. However, this is a very minor variation which will have no negative impact on the adjoining house as there are no windows or major openings affected by this proposal. Furthermore, it appears that most of the boundary between these properties has already been retained to a higher level on the eastern side of the application site and therefore if the wall height for the purposes of calculating setbacks is taken from the higher level then the proposed upper floor setback would comply with the RD Codes.

Buildings On Boundary

The 'Acceptable Development' standards of the RD Codes only permit one wall to be built on a boundary as of right. As the existing house is already built up to an internal strata boundary the proposed garage wall on the boundary has to be considered under Performance Criteria of the Codes. However, its location makes effective use of space and it will not have any significant adverse effect on the amenity of the adjoining property as it will be abutting a similar sized carport on the adjoining lot. It is therefore deemed to meet the Performance Criteria of the R-Codes.

The proposed double-garage will replace an existing carport on the lot and be setback 1m from the existing ROW to provide the minimum required 6m vehicle manoeuvring area. The ROW is concrete paved and drained for its full length and appears well-used by other abutting properties. No additional ROW contribution is

required for the new access to the proposed garage as it is replacing an existing access to the lot.

Visual Privacy

The 'Acceptable Development' standards of the RD Codes require a 7.5m cone of vision from the proposed balcony, whereas a 5m setback from the western boundary is proposed. However, overlooking of habitable rooms in the adjoining property has largely been avoided due to the setback and juxtaposition of the proposed balcony.

Furthermore, the main outdoor living area and pool on the adjoining property is at a lower level to the subject lot and will therefore be predominantly screened by an existing boundary wall on the western side of the subject lot, together with a large shed that is located on the eastern side of the adjoining lot and a patio structure located at the rear of the house. As such, the proposed reduced setback should not significantly impact on the neighbour's privacy or amenity and, in any event, no objections have been received from the adjoining owners. It should be noted that an existing carport located on the western side of the subject lot will have to be removed to ensure that open space requirements are met for the proposed additions.

The proposed window to the 'retreat' shown on the northern elevation requires a 6m cone of vision to the boundary, whereas a 5.6m setback is proposed. To avoid potential overlooking of the rear of the adjoining house it is recommended that this window be fixed and obscured or have a minimum 1.6m sill height to comply with the RD Codes. The proposed retreat has an alternative major opening in its western elevation to satisfy light and ventilation requirements.

Front Wall and Gatehouse to Lane

A 1.8m high wall is proposed along the frontage of the lot abutting the ROW which will replace an existing closed timber-picket fence with a new entry and small gatehouse to be centrally located along this frontage.

The Council's Fencing Local Law and Council resolution regarding street setbacks do not apply to lots fronting a ROW so the replacement solid wall and gatehouse can be supported. Furthermore, the proposed gatehouse is relatively small with a width and depth of only 1.95m x 1.95m and a maximum height of approximately 2.5m. The top of the gatehouse will therefore only project approximately 0.7m above the wall and will not impact on the streetscape along the ROW or adjoining properties.

CONCLUSION

The proposed alterations and additions are relatively minor and will not negatively impact on adjoining houses or the existing streetscape along the right of way and can therefore be supported.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee considered that the small gatehouse to the lane could be allowed in the circumstances.

11.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council GRANT its Approval to Commence Development for the proposed alterations and additions at No. 34 (Lot 15) Mann Street, Cottesloe, subject to the following conditions:

- (a) 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.
- (b) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (c) Revised plans being submitted for approval by the Manager, Development Services, showing:

The window to the retreat (northern elevation) being modified to prevent overlooking into the adjoining property by either:

- (i) having opening sill heights of not less than 1650mm above the FFL, or
 - (ii) being constructed of fixed obscure glazing or screening to a height of at least 1650mm above the FFL;
- (d) The existing carport being removed from the lot prior to completion of the development;
 - (e) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (f) 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.
 - (g) 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.

Advice Note:

The applicant/owner is reminded of their obligation under the Strata Titles Act which may require the consent from the adjoining strata owners and/or strata company before commencing any works on site. This is separate from the planning approval process.

Carried 9/0

11.1.4 NO. 48 (LOT 45) MARGARET STREET – EXTENSION TO PORTICO ROOF

File No:	1301
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Report Date:	2 November 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Jodie McIntosh
Applicant:	as above
Date of Application:	2 November, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	417m²
M.R.S. Reservation:	N/A

SUMMARY

A portico extension is proposed on an unusual shaped lot.

Given the assessment that has been undertaken, the recommendation is to Approve the Application.

PROPOSAL

The recently approved and constructed portico is proposed to be extended to provide additional weather protection for the owners. The portico is to be extended to the front boundary. If approved, it is proposed to be 4m wide along the front boundary and 3.35m deep. The porticos' roof height is the same as the ceiling of the ground floor of the residence. It should be noted the application is for an extension to the roof canopy only for the portico.

The applicant would like to extend the portico to give better weather protection from the wind and rain.

Currently the portico is approved to be setback 1.9m from the front boundary.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

- State Register of Heritage Places N/A
 - TPS No 2 N/A
-

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Council Resolution

Resolution	Required	Provided
TP 128a – October 28 2002 -	6m front setback without averaging	Nil front setback to portico, currently setback 1.9m to front boundary

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal
Building

External
N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 and Residential Design Codes.

The advertising consisted of a Letter to Adjoining Property Owner.

Submissions

There was 1 letter sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

Mr Chris Ross of 46 Margaret Street

- *The portico in its current location has a 1.9m front setback which is a concession*
- *The proposed changes is another concession*
- *The proposal to build to the front boundary will alter the streetscape*
- *46 Margaret Street and other properties have complied to the 6m front setback*
- *Extending the portico to the front boundary would make the design aesthetically unappealing*

- *The underground garage allows direct access to the house*
- *It can be assumed this entrance would be used more frequently than the front entrance*

BACKGROUND

A two storey residence was approved at an Ordinary Council Meeting in August of 2005. A chimney addition was approved under delegated authority in June 2006, which was conditioned to be lower than the ridgeline. Minor changes to the roofline, windows as well as new gates and porch roof were approved under delegated authority in February 2007.

A below ground swimming pool was approved on the site under delegated authority in May 2007. All related building approvals have been issued and the residence is nearing completion.

STAFF COMMENT

Streetscape Analysis

As a forerunner to the technical assessment presented further below, a site inspection has found as follows:

- Overall, the extended portico roof would have limited impact.
- This is because it would tend to “fade away” into the backdrop of the dwelling, which rises above with its angular walls and eaves, rendering the portico a subservient feature.
- From the north, the as-constructed portico and proposed extension are effectively obscured against the dwelling and verge trees/planting, not reading as obtrusive.
- From the south, the extension would protrude, yet be legible as a logical element of the total structure and built form/aesthetic; the cantilevered canopy or awning-type roof looking like a thin slice or slab hanging in the air.
- To the southern neighbour, the portico would be visible; however, this would be at an acute NW outlook towards the dwelling, rather than blocking a key view. Also, in time the redevelopment of that property may be anticipated to seek its own small lot/built-up design in response to the opportunities and constraints of that site.
- Nonetheless, the combination of the portico, boundary wall/fence and elevated porch would be a distinctive entry statement that defines and in a sense commandeers the street presence of the dwelling.
- In this respect it is observed that there are several front wall/fences and some front carports in the vicinity, albeit none to the extent of the proposal.
- From standing on the porch, it was revealed that the portico roof extension would indeed provide some additional shelter from the weather, more-so shade from the western sun than from strong wind or driving rain. It is noted that the applicant has claimed their experience of such weather, even though the dwelling is unoccupied. Moreover, it was detected that the extended roof would actually close-in the view of the westerly sky-line beyond the roofs of the row of houses across the road.

Front Setback

In assessing this application it is important to note the unique site constraints. The subject lot is triangular in shape with the bulk of the residence being confined to the southern portion of the site. The site is bound by Margaret Street to the west, Ozone Parade to the east and an adjoining residence to the south. There are no northern neighbours. The neighbouring property is a single storey dwelling on a very small lot (218m²) which is setback approximately 7m from its front boundary to Margaret Street.

The portico is presently setback 2.2m to the posts and 1.9m to the eaves (roof) from the front boundary. The proposal will extend the roof to the front boundary. No additional posts are proposed and the applicant will provide structural details with the building licence if the planning application is approved.

The issue before Council is whether the proposed setback variation is warranted and whether it will negatively affect the neighbouring property and the streetscape in the area, as well as the basis for assessment of such a proposal.

Existing Setbacks

In order to assess whether this setback can be approved, the existing setbacks within the immediate vicinity could be explored. No.44 Margaret Street (two storey dwelling) has a front setback of approximately 6.0m and No.46 (neighbour, single storey dwelling) has a setback of 7m. The approved residence has staggered setbacks to reduce the effects of building design on the street and is setback between 2.1 and 5.7m from the front boundary.

The portico is setback 7.4m from the side boundary. In this respect, the forward projection of the portico will have limited effect on the streetscape, of which is already disjointed.

Town Planning Scheme Requirements

The application could also be assessed against the Town Planning Scheme in regard to amenity. These clauses are found in 5.1.2 of the Scheme. In this case only points (a), (c) and (f) are applicable. These are shown below.

- (a) *the need for limitation of height or location of buildings to preserve or enhance views;*
- (c) *the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally;*
- (f) *the location and orientation of a building or buildings on a lot in order to achieve higher standards of daylighting, sunshine or privacy or to avoid visual monotony in the street scene as a whole;*

The application meets some of the above criteria. The proposal would slightly reduce the view line of the southern neighbour to the north-west. The additional projection to the front boundary would further reduce the presence of the southern neighbouring property to the street being setback 7m more than this property. The application is neutral to Clause (c) as the local character of Margaret Street is continually changing. In respect to Clause (f) the portico extension does not affect sunshine or privacy and assists to avoid visual monotony.

Residential Design Codes Requirements

The application could also be assessed against the RDC. The Acceptable Development standards regarding Minor Incursions into Street Setback area is shown below:

- i. A porch, balcony, verandah, chimney, or the equivalent may (subject to the Building Code of Australia) project not more than one metre into the building setback area, provided that the total of such projections does not exceed 20% of the frontage at any level.*
- ii. Any eaves to project not more than one metre into the street setback area for the full width of the building.*

The application does not meet the above standards and then the RDC requires the application to be assessed against the Performance Criteria. This is shown below.

- *Minor incursions and projections not to detract from the character of the streetscape.*

As discussed previously the streetscape is disjointed and there may be an allowance to approve the “floating” appearance of the canopy extension.

Given the special site characteristics, being the triangular shape of the block and there only being one neighbour of which this application is setback 7m from the side boundary, it is considered that the front setback may be further varied.

Alternatively, if Council is not satisfied with the application, there are grounds for refusal. This would be due to the proposed nil front setback, which is much less than the 6m standard. It is also noted that the owner has access to the residence via the garage, whereby the portico would only be used occasionally.

CONCLUSION

On the one hand, the proposal may be seen to generate considerations similar to buildings on boundaries, carports/garages in the street setback area and front fences/gatehouses. On the other hand, it is really none of these, but is a comparatively simple portico structure, comprising a suspended canopy roof although the relative solidity of the roof, rear pillar, boundary wall and main building do tend to accentuate its sense of mass; however, this is partially ameliorated by the soft tones of the stone cladding and other external finishes now being applied to the dwelling (ie, the red brick wall in the photos is now of muted greys/browns).

Where the proposal works from a streetscape perspective is that this front setback to the lot is so wide, hence the portico does not present as overly-dominant against the backdrop of the elongated dwelling. On balance, therefore, the application is recommended for approval, as the extension of the portico roof is assessed to not unduly affect the amenity of other properties or the streetscape generally, having regard to the unusual lot characteristics and constrained design of the dwelling.

As indicated, the alternative decision would be to not support the proposal on the basis of the planning principles relating to setbacks, streetscape, urban design and amenity, as well as in order to ensure consistency and avoid creating an undesirable precedent.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee considered that the proposal was neither necessary nor desirable and represented an intrusion to the setback area and streetscape. It had not been justified and the dwelling was already quite imposing with various features and projections.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the extension to portico roof at No 48 (Lot 45) Margaret Street, Cottesloe, in accordance with the plans submitted on 18 October 2007 and 12 November 2007, 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) 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.

Advice Note:

At building licence stage, full structural details of the portico roof extension, certified by a practicing structural engineer, are required to be submitted to the satisfaction of the Principal Building Surveyor.

- (2) Advise submitter of Council's decision.

11.1.4 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council REFUSES TO GRANT its Approval to Commence Development for the extension to portico roof at No 48 (Lot 45) Margaret Street, Cottesloe, in accordance with the plans submitted on 18 October 2007 and 12 November 2007, for the following reasons:

- 1. The proposal is not necessary, would be of limited benefit and would be an undesirable intrusion into the setback area as well as to the streetscape.**
- 2. Insufficient justification has been provided to demonstrate that the proposal has merit or is capable of being assessed as acceptable.**
- 3. The dwelling and portico as already approved will function effectively and be an attractive form to the streetscape, without the proposed portico roof extension.**

Carried 8/1

11.1.5 NO. 9 (LOT 2) GRANT STREET – ALTERATIONS TO ROOFLINE, STAIRCASE/BALCONY WALKWAY AND GATEHOUSE (CONSIDERATION OF AMENDED PLANS)

File No: 1215
Author: Mr Ed Drewett
Author Disclosure of Interest: Nil
Report Date: 27 November, 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Mr Peter Rattigan

Applicant: Mr Peter Rattigan
Date of Application: 4 July 2007
27 November, 2007 (Amended Plans)

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 370m²
M.R.S. Reservation: N/A

BACKGROUND

This application was originally considered by Council on 27 August 2007 which resolved:

That Council at the request of the owner defers determination of this application pending further consideration by Council at a future meeting (Item: 10.1.7)

A copy of the previous report detailing the original proposal is attached for information and should be read for a fuller appreciation.

On 15 November 2007 the applicant submitted a letter and amended plans showing proposed changes to the walkway levels and gatehouse in response to the Officer's recommendation to Council detailed in paragraphs (e)(i,ii,iii) in the previous report. These amended plans are the subject of this report.

APPLICANT'S JUSTIFICATION

As described in the attached letter from the applicant, the following comments are made regarding the proposal:

- Since the application was lodged on 4 July 2007 the neighbour at 7 Grant Street has raised the height of their eastern wall to RL: 12.450;
- In the last 3 months a gatehouse has been completed at 6 Grant Street which is considerably larger and more imposing than that currently proposed. Despite its bulk the gatehouse at 6 Grant Street is not readily noticeable and it follows that the gatehouse for 9 Grant Street will not be noticeable;

- The proposed gatehouse will not impede the view of the ocean from 11 Grant Street. If a person is seated in the entertainment area of the adjoining property their view of the ocean is only impeded at a height above RL: 12.852;
- The design of the gatehouse is a modern flat roof design with minimal slope to allow water run-off;
- The roof will be of non-reflective Colorbond rather than glass or Perspex;
- A dividing fence is proposed to the height of the eastern wall (RL: 12.707) and will continue to the northern end of the gatehouse; and
- The stairs in the walkway are to be staggered.

PROPOSAL

To consider amended plans for the walkway levels and gatehouse, for determination of this relatively minor application.

STATUTORY ENVIRONMENT

- Fencing Local Law
- Residential Design Codes
- Town Planning Scheme No 2

POLICY IMPLICATIONS

N/A

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Local Law

Policy	Required	Provided
Fencing Local Law	Fences in the front setback may be of solid construction to 900mm, open aspect between 900mm and 1800mm and piers to 2100mm above NGL at the boundary.	Gatehouse with a maximum height of 2.4m – the Fencing Local Law is focussed on fencing to the front or side boundaries or within the front setback area and does not address pedestrian access legs.

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

N/A

CONSULTATION

ADVERTISING OF PROPOSAL

The original application was advertised as per Town Planning Scheme No. 2. The amended plans are for relatively minor changes and therefore have not been advertised, as they are in response to the neighbours and officer aspects raised.

OFFICER TECHNICAL ASSESSMENT**Walkway Level Alterations**

The applicant has made a minor modification to the steps in the proposed walkway to provide a more gradual rise than that shown on the original proposal. However, as mentioned in the previous report, a gradual ramp (or series of ramps) would be a safer and more convenient option than steps, especially as the walkway would be unlit at night, may be used by young children or older persons, and is needed for wheelie-bin access (to avoid the necessity of having to wheel bins through the adjoining park as at present).

As such, whilst it is acknowledged that the proposed levels of the walkway will not impact on adjoining properties as they are based on existing levels in the walkway (affected by remnants of retaining walls from the original house at No. 9 Grant Street, which has been demolished), it is nevertheless appropriate to apply a condition to ensure that the walkway is adequately screened for visual privacy and is ramped rather than stepped to provide safer and more convenient access.

Gatehouse Improved Design

The proposed gatehouse has been significantly modified from a pitched roof to a flat roof design following the recommendations made in the original report and subsequent liaison by the owner and architect with officers.

The roof has been designed to have a slight fall to allow for drainage although it's height will not exceed 2.4m (RL: 12.852) so as to not unduly restrict ocean views currently enjoyed from 11 Grant Street. It is still proposed to be setback 2.45m from the front boundary with a length (depth) of 3.6m and has been designed with a minimum clearance height of 2.1m as required under the BCA.

A detailed discussion was provided in the original report to Council regarding relevant planning considerations and the rationale for gatehouses and therefore it is not necessary to reiterate these same considerations.

Whilst it may normally be preferable to reduce the length of the gatehouse to be more reflective of traditional gatehouse sizes (as originally recommended) it is nevertheless

acknowledged that in this case the gatehouse may appear less intrusive if it is seen as a continuation of the adjoining rear wall rather as a separate detached structure.

The boundary fence between the proposed gatehouse and 11 Grant Street generally increases in height from the front to rear. Based on the submitted plans the overall height of the proposed gatehouse will be approximately aligned to the top of the portion of existing wall at RL 12.707. It is therefore estimated that 0.74m would be visible above the existing lower portion of fence, which is relatively minimal.

The applicant has attempted to avoid disrupting any views of significance from the adjoining property by reducing its height and as such, it is not considered that the gatehouse itself would unduly affect the visual amenity of No. 11.

The gatehouse will project approximately 0.4m above the existing wall on the western side but again, it is not considered that this will significantly impact on the adjoining owner's visual amenity or views of significance and therefore can be supported.

The gatehouse floor level was discussed previously and is not proposed to be changed.

CONCLUSION

The proposed alterations to the roofline and staircase/balcony have previously been considered by Council and therefore are not discussed further in this report.

The amended plans are for changes to the walkway levels and to the design of the proposed gatehouse only.

Whilst not addressing all of the Officer's original recommendations it is nevertheless considered that the revised plans have merit, subject to appropriate conditions, and on this basis can be supported as the proposed development now satisfies the relevant provisions of the Town Planning Scheme No 2 and the streetscape considerations of the Residential Design Codes.

Overall and on this basis it is appropriate that the revised proposal be approved and the matter finalised.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee expressed general concern regarding gatehouses and also discussed some of the details of this overall proposal, and felt that the revised proposal was an improvement. The Manager Development Services advised that the proposal had been modified to be lower-key and more in keeping with the adjacent dwellings, whereby the proposal was capable of support and is not the sort of matter that should be too difficult for Council to approve with any conditions.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the alterations to roof, staircase, walkway and gatehouse at No. 9 (Lot 2) Grant Street, Cottesloe, in accordance with the plans submitted on 4 July 2007 and the amended plans submitted on 15 November 2007, 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 portion of the development or 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 for a building licence.
 - (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 walkway being ramped or designed as a series of long, gentle steps, with no section being raised more than 0.5m above existing levels, to the satisfaction of the Manager Development Services, with the details being included in the Building Licence plans.
 - (f) The privacy screening to the eastern sides of the staircase, first floor balcony and walkway being of a fixed, opaque or solid (non-perforated) material with a minimum height of 1.65m above the finished floor levels.
 - (g) The gates to the gatehouse/walkway being of an open-aspect metal-rung design to the satisfaction of the Manager Development Services.
- (2) Advise the submitters of this decision.

AMENDMENT

Moved Mayor Morgan, seconded Cr Miller

That item (g) of the Officer Recommendation replace item (g) of the Committee Recommendation.

Lost 2/7

11.1.5 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council:

- (1) **GRANT its Approval to Commence Development for the alterations to roof, staircase, walkway and gatehouse at No. 9 (Lot 2) Grant Street, Cottesloe, in accordance with the plans submitted on 4 July 2007 and the**

amended plans submitted on 15 November 2007, 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 portion of the development or 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 for a building licence.
 - (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 walkway being ramped or designed as a series of long, gentle steps, with no section being raised more than 0.5m above existing levels, to the satisfaction of the Manager Development Services, with the details being included in the Building Licence plans.
 - (f) The privacy screening to the eastern sides of the staircase, first floor balcony and walkway being of a fixed, opaque or solid (non-perforated) material with a minimum height of 1.65m above the finished floor levels.
 - (g) The gatehouse is deleted from this approval and any gate to the walkway shall be of an open-aspect metal-rung design to the satisfaction of the Manager Development Services.
- (2) Advise the submitters of this decision.

Carried 9/0

11.1.6 PROPOSED AMENDMENT NO. 44 TO TOWN PLANNING SCHEME NO 2 – UN-ZONED LAND SOUTH OF JARRAD STREET

File No:	Sub/653
Author:	Mr Ed Drewett
Author Disclosure of Interest:	Nil
Attachments:	Current Scheme Plan of Area Proposed Scheme Plan of Area
Report Date:	29 November, 2007
Senior Officer:	Mr Andrew Jackson

BACKGROUND

On 23 July 2007 Council made the following resolution:

In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2, by amending the Scheme Map to zone land currently un-zoned within the area bounded by Stirling Highway, Jarrad Street and Brixton Street, as Town Centre Zone with a residential density coding of R100.

Request the Manager Development Services to prepare the amendment documents, upon which the Chief Executive Officer shall adopt and endorse the amendment documents on behalf of Council.

Pursuant to section 81 of the Planning and Development Act 2005, refer the proposed amendment to the Department of Environment for clearance prior to advertising.

Advertise the proposed amendment for public comment for a period of 42 days by:

- Placing a copy of the notice in the Post newspaper, on the Council notice boards at the Council Offices and the Town Centre, and in the Library.*
- Placing a copy of the proposed amendment on display at the Council Offices and in the Library.*
- Notifying nearby landowners by letter as determined by the Manager Development Services.*
- Arranging for a sign notifying of the details of the proposal and the opportunity to make a submission, to be placed on site, the Stirling Highway frontage in a prominent position, for the duration of the advertising period.*

Provide the Western Australian Planning Commission with a copy of the proposed scheme amendment

COMMENT

Advertising of the amendment concluded on 7 November 2007. No public submissions were received.

The Department of Environment (EPA) raised no concerns to the proposal.

This report is to process the Scheme amendment towards final approval.

STATUTORY ENVIRONMENT

The *Planning & Development Act 2005* empowers amendment of town planning schemes and the *Town Planning Regulations* govern the procedure for this.

Town Planning Scheme No. 2 is the current scheme by which land use and development in the district are controlled and which is able to be amended.

As previously mentioned, this is a necessary technical amendment to zone the land and ensure Council has development control, as a result of removal of the MRS road widening reservation for Stirling Highway.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The proposed amendment is in accordance with the intent for the area under current TPS 2 and proposed TPS 3.

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

COMMITTEE COMMENT

Committee readily supported completion of this necessary scheme amendment.

11.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 text by amending the Scheme Map to zone land currently un-zoned within the area bounded by Stirling Highway, Jarrad Street and Brixton Street, as Town Centre Zone with a residential density coding of R100.**
- (2) Adopt the amendment for the purpose of seeking the final approval of the Minister for Planning and Infrastructure.**
- (3) Authorise the Mayor and Chief Executive Officer to sign the amendment documents and affix the Town's seal thereto.**
- (4) Forward the amendment documents, together with a copy of Council's resolution on final approval and particulars of the steps taken to advertise**

the Amendment to the Western Australian Planning Commission for presentation to the Minister for Planning and Infrastructure for final approval of the Amendment.

Carried 9/0

11.2 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**11.2.1 DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE HOLIDAY PERIOD RECESS OF COUNCIL**

File No: SUB/39
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil.
Report Date: 30 November, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to delegate authority to the Manager Development Services and Chief Executive Officer to make determinations on those applications for planning consent that are received during the period from Tuesday 18 December 2007 to Friday 1 February 2008 while the Council is in recess.

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2.
Residential Design Codes
Fencing Local Law

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The following resolution was passed by Council at its November 2006 meeting:

That Council:

- (1) *In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, hereby further delegates to the Manager Development Services and the Chief Executive Officer under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 19 December 2006 to Friday 2 February 2007.*
 - (2) *The exercise of those powers referred to in (1) is granted subject to:*
 - (a) *The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the*
-

Development Services Committee or the Deputy, prior to a decision being made on the applications; and

- (b) A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:*
- (i) circulated on a weekly basis to all Councillors; and*
 - (ii) subject to the current call in arrangements for Delegated Authority Items.*

STAFF COMMENT

It is requested that the Manager 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 or the Deputy during the Christmas and January recess.

In practice this arrangement works well and ensures that the processing of applications is not unduly delayed (as there is a right of appeal after 60 days). Also, during the holiday period there are usually fewer applications and any significant or problematic ones can be identified for referral to Council from February onwards.

This special delegation is only useful if the Chair and/or Deputy are available during the holiday period.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee was supportive of the delegation again and the Presiding Member confirmed that he would be available.

11.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, hereby further delegates to the Manager Development Services and the Chief Executive Officer under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 18 December 2007 to Friday 1 February 2008.**
 - (2) The exercise of those powers referred to in (1) is granted subject to:**
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and**
 - (b) A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:**
-

- (i) circulated on a weekly basis to all Councillors; and**
- (ii) subject to the current call in arrangements for Delegated Authority Items.**

Carried 9/0

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 11 DECEMBER 2007

The agenda items were dealt with in the following order: Item 12.1.1, 12.1.3, 12.1.5 and then the balance in numerical order en bloc.

12.1 ADMINISTRATION**12.1.1 PROPOSED CHANGES TO BEACHFRONT CAR PARK TIME LIMITS**

File No: SUB/551
Author: Mr Stephen Tindale
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 6 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Following community consultation, this report recommends that Council introduce three hour parking restrictions at both the No.1 and No.2 car parks on a 24 hours a day, 7 days a week basis.

STATUTORY ENVIRONMENT

Part 3 of Council's *Parking and Parking Facilities Local Law* provides the following.

3.1 Determination of parking stalls and parking stations

The local government may by resolution constitute, determine and vary and also indicate by signs:

- (a) parking stalls;
- (b) parking stations;
- (c) permitted time and conditions of parking in parking stalls and parking stations which may vary with the locality;
- (d) permitted classes of vehicles which may park in parking stalls and parking stations;
- (e) permitted classes of persons who may park in specified parking stalls or parking stations; and
- (f) the manner of parking in parking stalls and parking stations.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Objective 1 of the *Future Plan* notes that:-

...Cottesloe and North Cottesloe beaches are very popular. The fact that the immediate community shares them with other western suburbs residents and those from wider Perth and, that they are also a tourist destination is accepted. This is due

to their picturesque nature, accessibility, and predominantly low-rise facilities that cater to a range of age groups and activities, including the two historic hotels and some short-stay accommodation.

However, the presence of the many visitors causes disruption to the lifestyle of residents – in particular anti-social behaviour associated with liquor consumption, late trading hours, traffic congestion, pollution and car parking are problems...

The council is open to a number of inter related strategies to maintain and enhance the lifestyle of residents by engaging the community in ownership of solutions to problems caused by visitors attracted to the beach and hotels and to augment the existing outdoor recreational lifestyle with opportunities for more cultural formal events and activities.

Two of the major strategies identified in the *Future Plan* for protecting and enhancing the lifestyle of residents and visitors are:

- Develop an 'integrated transport strategy' that includes park and ride, Cott Cat, Travelsmart, limited parking and meeting the needs of pedestrians, cyclists and other non-vehicular traffic.
- Reduce beachfront hotel patron numbers to a sustainable level.

FINANCIAL IMPLICATIONS

There will be some costs associated with signage and the enforcement of parking time limits however these will be recovered through the issue of fines fairly quickly.

As the installation of Meter Eye is unlikely to proceed in the Town Centre in the current financial year, funds set aside in the current budget can be directed towards their installation in the No.2 carpark instead.

BACKGROUND

At the October 2007 Community Safety and Crime Prevention Services Committee meeting there was some discussion on how to limit the time that drinkers can spend at the beachfront by extending time limits to the two main beachfront car parks.

Currently the 3 hour time limit in the No.1 car park only applies at certain times during the day. In the No.2 car park there is no time limit.

At the October 2007 meeting of Council it was decided to undertake community consultation on the proposal to introduce three hour parking restrictions at both the No.1 and No.2 car parks on a 24 hours a day, 7 days a week basis.

CONSULTATION

Council's *Community Consultation* policy indicates that for changes to site specific areas Council will, in most circumstances, undertake community consultation by way of inviting submissions through advertisements in the *Post* and correspondence with adjoining land owners.

In accordance with Council's *Community Consultation* policy, advertisements were placed in the *Post* newspaper on the 10th and 24th November 2007 seeking submissions by the 10th December 2007 on the proposal.

Correspondence was also dispatched to all electors residing on or within close proximity of the Marine Parade car parks between Eric Street and Forrest Street.

At the time of writing this report (6th December 2007), a total of ten submissions (11 respondents) had been received. The attachment to this report provides copies of the submissions.

Any submissions received between now and the closing date will be copied by email and to elected members and tabled at the Works & Corporate Services Committee for further consideration.

STAFF COMMENT

The current practice for some drinkers is to 'fuel up' in the car parks prior to attending the hotel sessions where the purchase of alcohol is more expensive. In the event of being too alcohol affected, drinkers can spend time in the car parks before or after closing time sobering up and/or creating a disturbance and/or engaging in anti-social behaviour.

As previously advised, staff believe that the implementation of round-the-clock 3 hour time limits will act as a deterrent to anti-social behaviour.

Of the eleven respondents who made submissions, three (and possibly four) were opposed to the proposal on the basis of:

- Employees of beachfront businesses and surf club volunteers being forced to find alternative long-stay parking if the No.2 car park is given over to three hour parking.
- Pub patrons having to park further way from the hotels in residential areas with all the attendant problems of anti-social behaviour.
- Potential vehicle drivers who are under the influence having their choices reduced in terms of the opportunity to safely lock and leave a vehicle overnight without penalty.
- Lack of time to undertake recreational activities within a 3 hour time limit.

The following points are made in response to the above.

- In terms of providing alternative long-stay parking, there is more than sufficient available of a typical Saturday or Sunday in Hamersley Street, Eileen Street, Marine Parade north of Napier Street, Eileen Street, Marine Parade south of Forest Street and the Forest Street car park near Marine Parade. Verge parking is also available on the northern side of Napier Street, the western side of Broome Street adjoining the Tennis Club and the southern side of Forest Street. The OBH also has a carpark that is available for the use of OBH patrons and employees. While the parking may be stretched on particularly hot days, the fact that people have to park miles away from the beachfront may in fact discourage the very act of parking.

- The three-hour car parking limit is intended to discourage those congregations of people who gather in car parks to engage in acts of anti-social behaviour. To the extent that residential streets are less likely to encourage similar congregations of people, it makes good sense to discourage anti-social behaviour by making things harder rather than tacitly making things easier with car-parks with no time limits.
- It is not the Town of Cottesloe's role to provide free parking for drunk drivers. Individuals should take responsibility for their own actions and plan ahead accordingly.
- It is not the Town of Cottesloe's role to provide free parking for four thousand pub patrons.

Of the remaining respondents, arguments advanced in favour of three-hour car parking were:

- Greater turnover of car parking bays allowing more people to visit the beach.
- Greater turnover of car parking bays generating more business for local firms.
- The potential use of residential parking permits and/or more time limits in the event that parking becomes a problem in residential streets.
- Discouragement of loiterers
- Discouragement of sustained and heavy drinking in the hotels.
- More parking spaces for the general public as employees and pub patrons are forced to park away from the public car parks.
- Encouragement of alternative ways of getting to and from Cottesloe rather than relying on private motor vehicle transport.
- Beach patronage should be encouraged at the expense of hotel patronage.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council introduce three hour parking restrictions at both the No.1 and No.2 car parks on a 24 hours a day, 7 days a week basis.

Cr Strzina left the meeting at 8.02 pm.

Cr Woodhill left the meeting at 8.03 pm

Cr Strzina and Cr Woodhill returned to the meeting at 8.04 pm

COMMITTEE RECOMMENDATION

That Council:

- (1) Introduce three hour parking restrictions at the No.1 car park on a 24 hours a day, 7 days a week basis.
- (2) Trial three hour parking restrictions at the No. 2 car park with Council staff to prepare a report on establishing a permit system for the No. 2 car park for those people requiring longer term parking.

AMENDMENT

Moved Cr Miller, seconded Cr Birnbrauer

That item (2) of the recommendation be deleted.

Lost 4/5

AMENDMENT

Moved Mayor Morgan

That item (3) be added to the recommendation to read:

- (3) That Council be provided with a report from staff, within 4 months, on the creation of a residential parking precinct bounded by Grant Street, Forrest Street, Marmion Street and Marine Parade with the following conditions governing the enforcement of permits:
- (a) to be in effect from 12.00 pm Thursday to 6.00 am Monday from 1 October to 30 April annually
 - (b) for residents of John Street, permits only to apply after the close of business of the John Street Café
 - (c) that all roads within the precinct are clearly sign posted of the requirements and fines
 - (d) residents are limited to a specified number of permits per household
 - (e) that permits are made available to the local surf clubs to ensure their members and volunteers have access to parking

Mr Andrew Jackson left the meeting at 8.15 pm

DECLARATION OF INTEREST

Cr Walsh, Cr Woodhill and Cr Carmichael declared proximity interests as owners of property in the proposed precinct and left the meeting at 8.15 pm

The amendment subsequently lapsed for want of a seconder.

Cr Walsh, Cr Woodhill and Cr Carmichael returned to the meeting at 8.20 pm

AMENDMENT

Moved Cr Walsh, seconded Carmichael

That item 2) be amended to read:

Trial three hour parking restrictions in the No. 2 car park with Council staff establishing a permit system for those residents, local business employees and community organisations who require longer term parking.

Carried 5/4

Mr Andrew Jackson returned to the meeting at 8.26 pm

AMENDMENT

Moved Cr Boland, seconded Cr Strzina

That item (3) be added to the recommendation as follows:

That Council actively promote the use of public transport and non-motorised vehicle transport for those using the Cottesloe beachfront area.

Carried 7/2

12.1.1 COUNCIL RESOLUTIONS

Moved Cr Strzina, seconded Cr Walsh

(1) That Council introduce three hour parking restrictions at the No.1 car park on a 24 hours a day, 7 days a week basis.

Carried 7/2

Mayor Morgan requested that the votes be recorded:

For: Cr Birnbrauer, Cr Boland, Cr Carmichael, Cr Dawkins, Cr Strzina, Cr Walsh, Cr Woodhill

Against: Mayor Morgan, Cr Miller

Moved Cr Strzina, seconded Walsh

(2) Trial three hour parking restrictions in the No. 2 car park with Council staff establishing a permit system for those residents, local business employees and community organisations who require longer term parking.

Carried 5/4

Mayor Morgan requested that the votes be recorded:

For: Cr Boland, Cr Carmichael, Cr Strzina, Cr Walsh, Cr Woodhill

Against: Mayor Morgan, Cr Birnbrauer, Cr Dawkins, Cr Miller

Moved Cr Strzina, seconded Walsh

(3) That Council actively promote the use of public transport and non-motorised vehicle transport for those using the Cottesloe beachfront area.

Carried 8/1

12.1.2 PROPOSAL TO AMEND PARKING & PARKING FACILITIES LOCAL LAW

File No: SUB/176
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 5 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to advertise an amended *Parking and Parking Facilities Local Law* in compliance with the requirements of the *Local Government Act 1995*.

STATUTORY ENVIRONMENT***Local Government Act 1995*****3.5. Legislative power of local governments**

(1) A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

(2) A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 3.6.

(3) The power conferred on a local government by subsection (1) is in addition to any power to make local laws conferred on it by any other Act.

(4) Regulations may set out —

(a) matters about which, or purposes for which, local laws are not to be made;
or

(b) kinds of local laws that are not to be made,

and a local government cannot make a local law about such a matter, or for such a purpose or of such a kind.

(5) Regulations may set out such transitional arrangements as are necessary or convenient to deal with a local law ceasing to have effect because the power to make it has been removed by regulations under subsection (4).

3.12. Procedure for making local laws

(1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

(2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

(3) The local government is to —

(a) give Statewide public notice stating that —

(i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice;

(ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

(b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and

(c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

(3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.

(4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.

** Absolute majority required.*

(5) After making the local law, the local government is to publish it in the *Gazette* and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.

(6) After the local law has been published in the *Gazette* the local government is to give local public notice —

(a) stating the title of the local law;

(b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and

(c) advising that copies of the local law may be inspected or obtained from the local government's office.

(7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

(8) In this section —

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

9.15. Infringement notices

In this Subdivision —

“authorised person” in section 9.16, 9.17, 9.19 or 9.20 means a person appointed under section 9.10(1) by the local government to be an authorised person for the purposes of the section in which the term is used;

“local government” means the local government that could, or an employee of which could, prosecute for the offence concerned;

“owner” in relation to a vehicle means the person who holds the licence for the vehicle that is required under the *Road Traffic Act 1974* or, if the vehicle is not licensed under that Act, the person who owns the vehicle or is entitled to its possession;

“prescribed” means prescribed by a local law or, if the alleged offence is against a regulation, prescribed by regulations or by a local law.

9.16. Giving a notice

(1) An authorised person who has reason to believe that a person has committed a prescribed offence against a regulation or local law made under this Act may, within 28 days after the alleged offence is believed to have been committed, give an infringement notice to the alleged offender.

(2) A local government can only prescribe an offence for the purposes of subsection (1) if a prosecution for the offence could be commenced by the local government or any of its employees and the local government is satisfied that —

(a) commission of the offence would be a relatively minor matter; and

(b) only straightforward issues of law and fact would be involved in determining whether the offence was committed, and the facts in issue would be readily ascertainable.

Regulation 3 of the *Local Government (Functions and General) Regulations* provides the following.

3. Notice of purpose and effect of proposed local law — s. 3.12(2)

For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that —

(a) the purpose and effect of the proposed local law is included in the MINUTES for that meeting; and

(b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.

POLICY IMPLICATIONS

See attached revised *Parking and Parking Facilities Local Law* with changes in red.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The *Parking and Parking Facilities Local Law* is due for review. The revision has taken into consideration the introduction of Meter-Eye. There were also inconsistencies with the penalties detailed in Schedule 2. These inconsistencies primarily related to Sector B and the seriousness of the offence compared to the penalties applied.

There were changes required to the parking permit system. By adding detail to the local law it is intended to simplify the issuing of residential permits and remove any ambiguity in the process.

CONSULTATION

Required

STAFF COMMENT

The revised document has been reviewed by our lawyers, McLeods. The revision includes the changes requested during this process. The Manager of Corporate Services and the Senior Ranger have reviewed the penalties detailed in Schedule 2 to ensure there is a degree of consistency between Sector A and B for both the type of infringements and the level of penalty imposed.

VOTING

Simple majority

12.1.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That the Town of Cottesloe:

- (1) **Give Statewide public notice stating that -**
 - (i) **the Town of Cottesloe proposes to amend the *Parking and Parking Facilities Local Law*:-**

the purpose of which is to;

 - constitute a parking region,
 - enable the Town to regulate the parking of vehicles within the parking region; and
 - provide for the management and operation of parking facilities occupied or controlled by the Town,

and the effect of which is to;

- have persons parking a vehicle within the parking region comply with the provisions of the local law that exists under the *Local Government Act 1995*.
- (ii) a copy of the proposed amended local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed amended local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- (2) As soon as the notice is given, give a copy of the proposed amended local law and a copy of the notice to the Minister; and
 - (3) Provide a copy of the proposed amended local law, in accordance with the notice, to any person requesting it.

Carried 9/0

12.1.3 EMPLOYEE FRINGE BENEFIT CONTRIBUTIONS

File No: SUB/182
Author: Mr Graham Pattrick
Author Disclosure of Interest: The Manager of Corporate Services has a vehicle supplied by the Council and will receive additional superannuation if this proposal is approved.
Report Date: 28 November, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to endorse a proposal to increase the salaries of those staff who receive the benefit of a Council-supplied vehicle subject to those staff making an employee contribution towards the use of the vehicles so as to minimise the Fringe Benefits Tax liability of the Town of Cottesloe.

STATUTORY ENVIRONMENT

See attached tax advice from auditors in relation to tax issues.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The estimated net saving to the Town of Cottesloe is \$12,357.94 (see Attachment for breakdown of saving). The saving is directly attributable to differences in the income tax rates paid by employees and the fringe benefits tax rates paid by employers.

BACKGROUND

In June 2007 Council staff were made aware of the potential savings following a 'Light Vehicle Review' conducted by Uniqco consultants. Amongst other things, the Uniqco report recommended that the Town of Cottesloe introduce vehicle contributions for those staff receiving the benefit of private use of Council vehicles. However there was a qualification and it was that the employee contributions be introduced in such way that it did not reduce staff remuneration as this would be counterproductive.

This report recommends increasing the salaries of those staff with private use of Council vehicles by the amount needed to cover their FBT liabilities and then taking it back off them post tax.

The proposal envisages:

- the FBT amount normally showing on the staff member's group certificate being reduced substantially,

- an increase in salary resulting in an increase in the employee's and employer's superannuation contributions, and
- a nett saving overall as the individual tax rate is invariably less than the FBT rate of 46.5% (notwithstanding the added salary and superannuation costs).

The Uniqco report said that while the Town of Cottesloe cannot fully address the skills shortage crisis, it can ensure its actions, in regard to the management of light vehicles for private use, do not disadvantage the Council in comparison to its industry competitors.

CONSULTATION

This matter has been discussed with our auditors, UHY Haines Norton.

STAFF COMMENT

The proposed increase in salaries and requiring staff to use these funds to contribute to vehicle costs takes advantage of a perfectly legitimate option that is available under Australian taxation legislation. Employee contributions towards a vehicle supplied by an employer must be taken into consideration when calculating Fringe Benefits Tax and can be structured in such a way as to make the FBT impost negligible.

The potential saving of \$12,357.94 makes the change administratively and financially worthwhile. Staff are not disadvantaged in making the contributions. They will receive a small benefit with increases in superannuation contributions on their increased salary levels however their net pay will remain the same.

This approach was recommended by consultants and confirmed as valid by our auditors. It has the potential to generate significant financial savings and provides financial benefits for both the employee and the employer.

VOTING

Simple majority

DECLARATION OF INTEREST

The CEO and Managers declared their financial interests as the recipients of the benefits of Council supplied vehicles.

12.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council endorse a proposal to increase the salaries of those staff who receive the benefit of a Council supplied vehicle subject to those staff making a employee contribution towards the use of the vehicles so as to minimise the Fringe Benefits Tax liability of the Town of Cottesloe.

Carried 8/1

12.1.4 BAD DEBT WRITE OFF

File No: SUB/145
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 4 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

That Council approves the write off of a minor debt.

STATUTORY ENVIRONMENT

Local Government Act 1995
Part 6-Financial management
Division 4-General financial provisions

6.12. Power to defer, grant discounts, waive or write off debts

(1) Subject to subsection (2) and any other written law, a local government may —

- (a) when adopting the annual budget, grant* a discount or other incentive for the early payment of any amount of money;
- (b) waive or grant concessions in relation to any amount of money; or
- (c) write off any amount of money,

which is owed to the local government.

** Absolute majority required.*

(2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.

(3) The grant of a concession under subsection (1)(b) may be subject to any conditions determined by the local government.

(4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

POLICY IMPLICATIONS

The Council has given delegated authority to the CEO to write off amounts up to \$100. This debt falls just over the limit.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Write off \$113.

BACKGROUND

Mr Della was invoiced \$113 for damaging a street sign. The rangers managed to get a post office box address however Mr Della has not responded to invoices and final demand notices. The debt collectors have been approached by the Accountant and they have recommended this debt is written off given the amount and their inability to track down Mr Della.

CONSULTATION

Nil

STAFF COMMENT

The Manager of Corporate Services agrees with the recommendation given the amount of time and cost involved in trying to recover this small amount. The individual in question does not want to be found and it is more practical to write this debt off.

VOTING

Absolute majority

12.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council approve the write off of a debt of \$113 for John Della.

Carried by absolute majority 9/0

12.1.5 SEA VIEW GOLF CLUB

File No: PRO/1802-02
Author: Ms Ruth Levett
Author Disclosure of Interest: Nil
Report Date: 6 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of the report is to seek the Council's support for an amendment to the approved licensed areas of the Sea View Golf Club. It is recommended that the proposed changes to the licensed areas of the club house and a licence for the entire course be supported.

STATUTORY ENVIRONMENT

Liquor Control Act 1988

POLICY IMPLICATIONS

This application will require the issue of a Section 40 and a Section 39 certificate and therefore the Council will have regard to the *Liquor (Licensed Premises) Policy* when assessing this application. The aim of the Policy is "to properly manage the impacts of licensed premises on the community and the environment."

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Sea View Golf Club currently holds a Club Licence which permits the sale of alcohol to club members and guests for consumption on the approved part of the premises, part of the club house, between specified hours. The permitted hours of trading are Monday to Saturday from 6.00am to 12.00 midnight and Sunday from 10.00am to 10.00pm. The club is seeking an amendment of the licensed area of the club house and an additional licence for the entire course, refer to the attached letter.

CONSULTATION

Nil

STAFF COMMENT

The Sea View Gold Club has submitted two proposed changes to the existing approved licensed area.

Proposed Changes to Club House (refer to plans):

Upper Level Include the front foyer/terrace to provide a smoker's 'break-out' area.
Include the external BBQ, pergola and grassed area on the western side of the club house.

Lower Level Include the Pro-Shop, undercover paved area immediately on the eastern side of the club house and the paved area immediately in front of the Pro-Shop leading to the steps to the BBQ area.

Proposed Licence for entire course:

A licence for the entire course which will include all areas of the club house and course grounds up to the fence line bordered by Pearse Street, Marine Parade, Forrest Street and Broome Street, is sought.

The club is also seeking permission to licence one motorised golf cart to be used on the course during Corporate golf events. Participants could purchase a drink from the cart for consumption on the course.

Although the permitted trading hours are the same as hotel trading hours as stated above, the club trades only between the hours of 11.00am to 7.00pm on Monday to Sunday and occasionally in the evening for a function.

By supporting the licensing of the entire course, club members and guests would be permitted to purchase a drink and consume it on the course during a game. However, it is not the intention of the club to allow or promote the consumption of alcohol on the course during everyday competitions and casual golf.

The club would not have to apply to the Office of Racing, Gaming & Liquor each time a corporate or social function is held at the club house or on the course grounds.

With regard to the Town's *Liquor (Licensed Premises) Policy*, the application does not contravene any of the points in Clause 5 (a) (i) – (ix) and it is considered that a Management Plan is not warranted for this application.

It is recommended that Council support both proposals to amend the existing club house licensed area and for the additional licensing of the entire course grounds. These changes will facilitate the better use of the club and grounds by members and will enable the club to promote corporate events. These expanded services to members and guests are in keeping with other liquor licences held by many golf clubs in Western Australia and what is expected by club members and visitors to the course.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

1. Supports the proposal by Sea View Golf Club to amend the liquor licensed area of the club house in accordance with the attached plans.
2. Supports the proposal by Sea View Golf Club to licence the entire course and grounds in accordance with the attached plans.
3. Issue a Section 40 and a Section 39 Certificate for submission to the Office of Racing, Gaming & Liquor.
4. Place a copy of the liquor licensing approval and amended plans on the Lease or the Sea View Golf Club.

COMMITTEE RECOMMENDATION

Part (A)

That Council:

1. Supports the proposal by Sea View Golf Club to amend the liquor licensed area of the club house in accordance with the attached plans.
2. Supports the proposal by Sea View Golf Club to licence the entire course and grounds in accordance with the attached plans.
3. Issue a Section 40 and a Section 39 Certificate for submission to the Office of Racing, Gaming & Liquor.
4. Place a copy of the liquor licensing approval and amended plans on the Lease or the Sea View Golf Club.

Part (B)

That residents and property owners directly adjacent to the Sea View Golf Club be advised by mail of the club's application and be invited to make submissions to the Town of Cottesloe.

DECLARATION OF INTEREST

Mayor Morgan declared a proximity interest and left the meeting at 8.41 pm

Cr Strzina and Cr Walsh declared an interest of impartiality as members of the Sea View Golf Club

AMENDMENT

Moved Cr Boland, seconded Cr Woodhill

That item (2) of Part A be deleted.

Carried 7/1

AMENDMENT

Moved Cr Miller, seconded Cr Woodhill

That Part B be deleted.

Carried 8/0

12.1.5 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Supports the proposal by Sea View Golf Club to amend the liquor licensed area of the club house in accordance with the attached plans.**
- (2) Issue a Section 40 and a Section 39 Certificate for submission to the Office of Racing, Gaming & Liquor.**
- (3) Place a copy of the liquor licensing approval and amended plans on the Lease or the Sea View Golf Club.**

Carried 8/0

Mayor Morgan returned to the meeting at 8.58 pm

12.2 ENGINEERING**12.2.1 REQUEST FOR SHARED COST OF BOUNDARY FENCE - 25/27 MARGARET STREET, COTTESLOE**

File No: PRO/2245
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 5 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

This matter was last considered at the February 2007 Works & Corporate Services Committee meeting where the committee recommendation to Council was:

That Council:

- (1) Agree to contribute to the cost of a section of new solid boundary fence between 25 Margaret Street and 27 Margaret Street to a maximum value of \$1,800.
- (2) Inform the owner of 27 Margaret Street of Council's decision in this matter.

This matter was then withdrawn at the request of the owner of 27 Margaret Street and not considered by Council for a final resolution.

The owner of 27 Margaret Street has now written to Council requesting a contribution of \$1,800 towards the supply and installation of a joint boundary fence as per the Committee recommendation of February, 2007.

STATUTORY ENVIRONMENT

The *Dividing Fences Act 1961* does not apply to the Crown or to land used for 'public purposes' such as roads, parks and reserves under the control of local governments. The use of the land at 25 Margaret Street for a drainage sump is considered to be a 'public purpose'.

Council's *Fencing Local Law* provides the following minimum standards for a residential side or rear boundary fence.

1. Any type of professionally manufactured timber fence, erected in accordance with the manufacturer's specifications.
2. Any corrugated fibre reinforced pressed cement sheet fence, erected in accordance with the manufacturer's specifications.
3. Any type of masonry or brick fence that is constructed in accordance with relevant Australian Standards, finished plumb, true and level and appropriately jointed, cleaned and of good general appearance.
4. A steel sheet colourbond fence, erected in accordance with the manufacturer's specifications.

5. Dense brushwood erected in accordance with the manufacturer's specifications.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The following background and comment was provided to Council at its February 2007 Council meeting:

Background

Council has owned and used the land at 25 Margaret Street as a drainage sump for many years.

There is a possibility that it may be sold within the next year by Council for residential purposes as and when the drainage sump is made redundant with the installation of road drainage soakwells under the National Water Initiative program.

The owner of 27 Margaret Street is interested in purchasing the property at 25 Margaret Street for residential purposes but knows that there is no guarantee of a sale in the near future. He is also aware that with any future sale, he may not end up being the owner.

Nonetheless and with the recent redevelopment of his own property, the owner is keen to upgrade the boundary fence (which is in poor condition) with the drainage sump at 25 Margaret Street.

Staff Comment

Council has agreed in principle to sell the drainage sump land by auction as a residential block. It is intended that income from the sale be directed towards the upgrade of the Civic Centre.

If the sale proceeds, then the land will be made ready for sale through the removal of any debris from the site, subsequent filling with clean fill and compaction of same.

As the condition of the property's fences is likely to have a strong bearing on the presentation of the block when it goes to auction, Council also has a strong commercial interest in seeing the fences brought up to an acceptable standard.

The owner of 27 Margaret Street is requesting a shared contribution arrangement for a steel 'see-through' fence which is not prohibited by the *Fencing Local Law*.

The new fence is composed of two sections, 19m and 16.5m, which are to be connected to the house wall, a total of 35.5 metres in length. The total quoted cost to supply and install this fencing is \$9280.

This cost is much higher than a standard, but basic solid fence i.e. 'Super Six' type, which can be supplied and installed with fence capping for a cost of approximately \$100 per metre or \$3550 for the 35.5m proposal.

It is likely that the redevelopment of 27 Margaret Street will be completed before the proposed sale of the drainage sump at 25 Margaret Street occurs.

With a view to maximising the return on the sale of the drainage sump land, it is recommended that a solid fence, rather than an open-aspect fence, form the basis for any proposed cost-sharing arrangement.

The new house on 27 Margaret Street is completed and all fencing is installed.

CONSULTATION

Nil – Apart from discussion with the applicant.

STAFF COMMENT

The existing shared boundary between the two properties is composed of approx 2/3rds chain mesh fencing and 1/3rd house parapet wall / solid rendered wall.

The committee discussion has centred on a possible contribution of up to \$1,800 for a solid fence.

See attachment for Committee agenda comment.

VOTING

Simple Majority

12.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council resolve to contribute \$1800 towards the constructed boundary fence between 25 and 27 Margaret Street, Cottesloe.

Carried 9/0

12.2.2 NAPIER STREET CAR PARKING

File No: SUB/582
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 5 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At its November meeting, Council resolved the following:

- (1) That Council agree to the extension of existing time limits for the 21 car bays on the western side of the Marine Parade road reserve between the Forrest Street and the Napier Street intersections, to one hour.
- (2) That Council request the Manager of Engineering Services to prepare plans and cost estimates for off-street parking including an ACROD parking bay on the northern side of the Napier Street road reserve between Broome Street and the westernmost fence of the Cottesloe Tennis Club and that Council give further consideration to the matter during 2008/2009 budget deliberations.

This report deals with this resolution and recommends that Council:

- (1) Consider the inclusion of \$25,000 in the 2008/09 budget for the construction of a 90m long asphalt car parking area on the north side of Napier Street, running east from the western tennis court fence.
- (2) Consider the inclusion of the cost to complete the upgrading of the Civic Centre car parking provision on the south side of Napier Street in the 2008/09 budget, to the same quality and design as the initial section of the existing upgraded car parking.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There is no budget allocation in the 2007/08 for any car park works in Napier Street.

The proposal is for possible expenditure in 2008/09.

BACKGROUND

This matter was brought up in November when Council considered the results of consultation for the proposed roll out of Meter Eye units on the beachfront area and the extension to one hour of the parking limit for 21 car bays in Marine Parade.

The public consultation process included the consideration of the northern verge of Napier Street being built as formal parking bays, from Marine Parade to Broome Street. No comments on this proposal were received.

Council resolved that only the section of Napier Street verge, on the north side, between the western end of the tennis court fencing east to where the reticulated verge lawn becomes better quality be considered for formal parking bay construction.

CONSULTATION

Public consultation occurred in regards to the beachfront car parking issue, which included Napier Street.

STAFF COMMENT

As shown in the attached plan, the length of parking area proposed is 90 metres plus the retention of the two concrete access crossovers.

An allowance of 7m depth is proposed, which provides for approx 1.5 to 2.0m from the kerb line to the rear of parked vehicles. This construction would include an asphalt surface, kerbing, drainage and linemarking provisions.

The estimated construction cost is \$25,000.

If this construction was proposed for inclusion in 2008/09 budget, the completion of the upgrading of parking bays on the south side of Napier Street along the frontage of the Civic Centre and lawns should also be considered. Stage 1 of that upgrade occurred in 2006/07 in conjunction with the Broome Street / Napier Street intersection.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Consider the inclusion of \$25,000 in the 2008/09 budget for the construction of a 90m long asphalt car parking area on the north side of Napier Street, running east from the western tennis court fence.
- (2) Consider the inclusion of the cost to complete the upgrading of the Civic Centre car parking provision on the south side of Napier Street in the 2008/09 budget, to the same quality and design as the initial section of the existing upgraded car parking.

COMMITTEE COMMENT

Part 1 of the Officer Recommendation was withdrawn as the matter had already been dealt with at the October 2007 meeting of the Council.

DECLARATION OF INTEREST

Cr Dawkins and Cr Boland declared an interest of impartiality as members of the Cottesloe Tennis Club

12.2.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council consider the inclusion of the cost to complete the upgrading of the Civic Centre car parking provision on the south side of Napier Street in the 2008/09 budget, to the same quality and design as the initial section of the existing upgraded car parking.

Carried 9/0

12.2.3 STREET LIGHTING - MARINE PARADE, NORTHERN END

File No: SUB/319
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 3 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in July 2007, Council resolved to:

- (1) Contact affected residents of properties on Marine Parade between Vera View Parade and North Street to provide relevant information on the *Street Lighting Study Report* relating to this street section, requesting comment on the proposal to relocate street lights to the western side of Marine Parade and modify light pole positions to provide more regular lighting for that section.
- (2) Support the submission of a grant application to the WA Sustainable Energy Development Office for a project to test and demonstrate solar powered options for public footpath lighting.
- (3) Progressively improve the street lighting to Australian Standards at all roundabouts, complex intersection treatments, traffic control treatments and streets with higher levels of risk (e.g. alignments through vertical and horizontal changes).

All properties on the northern end of Marine Parade affected by this lighting report have been sent a copy of the applicable portion of the report and have been asked to comment.

This report details the residents' response and recommends that Council:

- (1) Not undertake any changes to the layout, spacing or type of lighting for the northern end of Marine Parade.
- (2) Inform all affected residents of this decision.

STATUTORY ENVIRONMENT

Apart from four private street lights owned by Council in Napoleon Street, all public street lights in the Town of Cottesloe are owned by Western Power.

Any relocation or repositioning affecting these street lights would be at Council cost and must be approved by Western Power.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

No recent quotes have been obtained from Western Power for the relocation of any lights on Marine Parade.

\$20,000 has been included in the 2007/08 budget for possible street light relocations in Marine Parade.

BACKGROUND

The current study is, in part, a response to a 2005 petition from residents at the northern end of Marine Parade requesting a downgrade in lighting levels. Other street lighting concerns were debated and Council subsequently adopted a brief for the current study in May, 2006.

The brief required an assessment of several lighting concerns, including:

1. Marine Parade – the existing street lighting fronting residential properties has caused a degree of glare and light intrusion. Is the current lighting the correct standard, including the type and power of luminaire, location of poles and height of luminaire, regarding vehicle use of the street and residential expectation?

With regards to the northern end of Marine Parade, the study found that the poles and lamps are smaller in both size and wattage and the lighting levels are a lot lower than highway/freeway lighting, with the existing lighting not being up to appropriate standards.

One reason for appropriate lighting levels not being met by the existing arrangement is that the spacing between poles is not standard, ranging from 40 to 80 metres.

The report recommends the re-spacing of the existing poles and lights to comply with Australian Standard lighting category V5. This would decrease the contrast between light and dark areas and improve lighting on adjacent pathways.

At the same time, such re-spacing should include relocation to the western side of Marine Parade, which would provide the most significant reduction in light spill into adjacent properties.

The applicable section of the report was sent to potentially affected residents, with a closure date at the end of November for a response.

CONSULTATION

This agenda item deals with the response received from a letter sent to all affected residents.

STAFF COMMENT

Six written comments were received from properties on this section of Marine Parade within the required time period. Of these comments, one was in favour of the relocation proposal, one comment left it to Council to make the decision, and four comments were against the proposal.

Two of the 'against' comments came from the same property, with the husband providing advice that Council should employ a lighting designer to provide a more aesthetic streetscape outcome. It would appear that this comment also came from a lighting designer.

The mixture of comments, with the pre dominance of feeling to not relocate the four lights involved to the west side of Marine Parade provides a strong indication that the status quo should remain.

Bollard lighting as suggested by one of the letters received, receives major vandal damage as a general rule, when installed in similar high use public areas.

The classification of Marine Parade, as a road type, does not have an impact on the level of existing lighting. The road carries a lot of pedestrians and vehicles and therefore requires good lighting levels. It is not, nor will it ever be, a quiet residential street, with a low level of lighting.

Council has several options with this matter:

- (1) Do nothing.
- (2) Regardless of the majority resident view of being against the proposal, carry on and have Western Power relocate the poles to the west side at a regular spacing as per the consultant report.
- (3) Undertake another study using a lighting designer, to eventually adopt some form of aesthetic changes using different lights, including bollard lights for the footpath.

Given that the majority of streets in Cottesloe are below Australian Standards for lighting and the majority of residents being against the consultant study recommendations, it is recommended that this section of Marine Parade receive no changes in the existing lighting layout.

VOTING

Simple Majority

12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) **Not undertake any changes to the layout, spacing or type of lighting for the northern end of Marine Parade.**
- (2) **Inform all affected residents of this decision.**

Carried 9/0

12.3 FINANCE**12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 NOVEMBER 2007**

File No: SUB/137
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 November 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 November 2007, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 41 of the Financial Statements:

- \$13,836.76 to WA Local Govt Super Fund for staff deductions
- \$13,329.95 to WA Local Govt Super Fund for staff deductions
- \$11,026.71 to LGIS Property for insurance premiums
- \$53,505.25 to Town of Mosman Park for road construction costs
- \$38,044.86 to Trum P/L for waste collection
- \$17,794.20 to Ocean IT for on-site IT support and purchase of equipment
- \$18,288.87 to Claremont Asphalt for road construction work
- \$21,792.10 to Porter Consulting Engineers for traffic study
- \$31,322.96 to Town of Mosman Park for road construction costs

- \$31,350.06 to Shire of Peppermint Grove for library contribution
- \$110,983.40 for staff payroll in November 2007

VOTING

Simple Majority

12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 November 2007, as submitted to the 11 December, 2007 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 30 NOVEMBER 2007

File No: SUB150 & SUB151
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 November 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 November 2007, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

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

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 11 of the Financial Statements shows that \$3,425,113.44 was invested as at 30 November, 2007

Reserve Funds make up \$1,243,541.57 of the total invested and are restricted funds. Approximately 51% of the funds are invested with the National Australia Bank, 18% with Home Building Society and 31% with BankWest.

The Schedule of Loans on page 12 shows a balance of \$277,234.02 as at 30 November, 2007. There is \$151,392.23 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 November 2007, as submitted to the 11 December 2007 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.3 ACCOUNTS FOR THE PERIOD ENDING 30 NOVEMBER 2007

File No: SUB/144
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 November 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 30 November 2007, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$906,422 as at 30 November 2007. Operating Revenue is ahead of budget by \$102,438 (1.6%). Operating Expenditure is \$850,441 (24.3%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 30 November 2007 is shown on pages 7 & 8.

The main causes of the lower than anticipated expenditure are:

- Depreciation – the depreciation process has not yet been run in the new software. This means that there is no charge against the budgeted \$500,928 for the YTD depreciation estimate. The focus of the accounting team at the moment is to transfer the assets from the old system into Civica. This is anticipated to be finalised in December.

- Community Amenities — are \$267,486 with a \$100,257 timing difference for waste contractor payments and \$114,528 for Town Planning legal and consulting expenses that are lower than budgeted.
- Employee costs — are \$111,925 under budget mainly due to staff shortages at the depot and in planning.

The main variance in revenue is a timing difference in grant recoups in Transport resulting in a variance of \$51,217.

The Capital Works Program is listed on pages 16 & 17 and shows total expenditure of \$879,162. The timing of the projects has not been broken down for the budget so the variance shown is comparing YTD to total budget for the year.

VOTING

Simple Majority

12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 30 November 2007, as submitted to the 11 December 2007 meeting of the Works and Corporate Services Committee.

Carried 9/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 30 NOVEMBER 2007**

File No: SUB/145
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 30 November 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 November 2007, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 13 to 14 of the Financial Statements shows a balance of \$179,359.28 of which \$25,574.16 relates to the current month. The balance of aged debt greater than 30 days stood at \$153,785.12 of which \$130,154.52 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

Property Debtors are shown in the Rates and Charges analysis on page 15 of the Financial Statements and show a balance of \$1,490,589.09. Of this amount \$199,054.09 and \$170,283.22 are deferred rates and outstanding Emergency Services Levy respectively.

VOTING

Simple Majority

12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 30 November 2007; and**
- (2) Receive the Sundry Debtors Report for the period ending 30 November 2007.**

Carried 9/0

12.4 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**12.4.1 ANTI SOCIAL BEHAVIOUR - BEACHFRONT HOTELS**

File No: SUB/202
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 7 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Following the meeting of the Community Safety and Crime Prevention Committee on the 10th December 2007 recommendations are made to gather a higher standard of evidence to better enable a Section 117 complaint against the beachfront hotels and to support the case for a reduction in the number of hotel patrons that may be admitted into the beachfront hotels.

A recommendation is also made to direct the CEO to engage additional human resources to assist in gathering a higher standard of evidence and implementing the proposed strategy to reduce the number of patrons that may be admitted into the beachfront hotels.

STATUTORY ENVIRONMENT

The following provisions apply under the Liquor Control Act 1988.

64. Power of licensing authority to impose, vary or cancel conditions

(1) Subject to this Act, in relation to any licence, or to any permit, the licensing authority may at its discretion impose conditions —

(a) in addition to the conditions specifically imposed by this Act; or

(b) in such a manner as to make more restrictive a condition specifically imposed by this Act,

and may vary or cancel any condition previously imposed by the licensing authority, having regard to the tenor of the licence or permit and the circumstances in relation to which the licensing authority intends that it should operate.

(1a) The licensing authority may impose, vary or cancel a condition under subsection (1) —

(a) of its own motion; or

(b) on the application of the licensee; or

(c) at the written request of the parties to a liquor accord.

(1b) In subsection (1a) —

“liquor accord” means a written agreement or other arrangement —

(a) that is entered into by 2 or more licensees in a local community, and persons who represent the licensing authority, departments of the Public Service, State agencies or local government, and other persons; and

(b) that has the purposes of minimising the harm caused in the local community by the excessive consumption of liquor and promoting responsible practices in the sale, supply and service of liquor in the local community; and

(c) that is approved by the Director.

(2) The power conferred by subsection (1) may, subject to compliance with section 31(6)(b), be exercised at any time, but a condition takes effect on —

(a) the date of the grant of the licence or the issue of the permit in relation to which it was imposed; or

(b) such other date as is specified in the notice setting out the particulars, or in the endorsement or revised version of the licence or permit made, under section 31(6),

whichever is the later.

(2a) If the licensing authority proposes to impose, vary or cancel a condition under this section, the licensing authority may, by notice in writing, require the licensee to show cause to the licensing authority why the condition should not be imposed, varied or cancelled.

(2b) Subsection (2a) does not apply in relation to a condition proposed to be imposed, varied or cancelled in accordance with an application under subsection (1a)(b).

(3) Without derogating from the generality of the discretion conferred on the licensing authority, the licensing authority may impose conditions which it considers to be in the public interest or which it considers desirable in order to —

(a) ensure that the noise emanating from the licensed premises is not excessive; or

(b) minimize the offence, annoyance, disturbance or inconvenience that might be caused to those who reside or work in the vicinity of the licensed premises, or to persons in or making their way to or from a place of public worship, hospital or school, in consequence of activities on the licensed premises or the conduct of those making their way to or from the licensed premises; or

(ba) ensure that local laws of a local authority under the *Local Government Act 1995* or by-laws of an Aboriginal community under the *Aboriginal Communities Act 1979* are complied with; or

(c) ensure that the safety, health or welfare of persons who may resort to the licensed premises is not at risk; or

(ca) ensure that liquor is sold and consumed in a responsible manner; or

(cb) ensure that all persons involved in conducting business under the licence have suitable training for attaining the primary objects of this Act; or

(cc) minimize harm or ill-health caused to people, or any group of people, due to the use of liquor; or

(cd) limit or prohibit the sale of liquor on credit; or

(d) ensure public order and safety, particularly where circumstances or events are expected to attract large numbers of persons to the premises or to an area adjacent to the premises; or

(e) limit —

(i) the kinds of liquor that may be sold;

(ii) the manner in which or the containers, or number or types of containers, in which liquor may be sold;

(iii) the days on which, and the times at which, liquor may be sold;

or

(ea) without limiting paragraph (e)(iii), limit the times when packaged liquor may be sold on and from the licensed premises to those times when liquor may be purchased for consumption on those premises; or

(f) prohibit persons being, or limit the number of persons who may be, present on, or on any particular part of, the licensed premises or any area which is subject to the control or management of the licensee and is adjacent to those premises; or

(fa) prohibit entry to the licensed premises after a specified time; or

(g) prohibit the provision of entertainment, or limit the kind of entertainment that may be provided, on, or in an area under the control of the licensee adjacent to, the licensed premises; or

(ga) prohibit promotional activity in which drinks are offered free or at reduced prices, or limit the circumstances in which this may be done; or

(gb) prohibit any practices which encourage irresponsible drinking; or

(h) otherwise limit the authority conferred under a licence or permit; or

(j) require action therein specified to be undertaken by the licensee —

(i) within a time or at times therein specified; or

(ii) on occasions or in circumstances therein specified,

in relation to the licensed premises or any part of those premises, the conduct of the business carried on under the licence, or otherwise in the public interest; or

(k) prevent improper arrangements or practices calculated to increase any subsidy payable; or

(m) ensure compliance with the requirements of, or with terms fixed or conditions imposed by or under, this Act.

(4) If there is an inconsistency between a condition imposed under this Act and a requirement of, or made under, any other written law, the condition or requirement which is more onerous for the licensee shall prevail.

[(5) repealed]

(6) A condition imposed under this section may relate to —

- (a) any aspects of the business carried on under the licence; and
- (b) any activity carried on at the licensed premises, at any time and whether or not related to the business carried on under the licence.

(7) Where a condition imposed under this section in relation to a licence has been contravened the licensing authority may —

- (a) impose a more restrictive condition in relation to that licence; or
- (b) impose on the licence holder a monetary penalty not exceeding \$500 for each day on which the contravention continues, which shall be payable to the Crown by that person,

or both.

(8) The imposition, variation or cancellation of a condition, or the imposition of a monetary penalty, under this section is not to be regarded as the taking of disciplinary action for the purposes of section 96.

117. Complaints about noise or behaviour related to licensed premises

(1) A complaint in writing may be lodged with the Director alleging —

- (a) that the amenity, quiet or good order of the neighbourhood of the licensed premises is frequently unduly disturbed by reason of any activity occurring at the licensed premises; or
- (b) that any —
 - (i) behaviour of persons on the licensed premises;
 - (ii) noise emanating from the licensed premises; or
 - (iii) disorderly conduct occurring frequently in the vicinity of the licensed premises on the part of persons who have resorted to the licensed premises,

is unduly offensive, annoying, disturbing or inconvenient to persons who reside or work in the vicinity, or to persons in or making their way to or from a place of public worship, hospital or school.

(2) A complaint under subsection (1) may be lodged by —

- (a) the Commissioner of Police;
 - (b) the local government of the district in which the licensed premises are situated, or of any other district adjacent to the licensed premises and appearing to the Director to have an interest in the amenity, quiet or good order of the neighbourhood of the licensed premises;
 - (c) a government agency or statutory authority; or
 - (d) a person claiming to be adversely affected by the subject matter of that complaint who —
 - (i) resides, works or worships;
 - (ii) attends, or is a parent of a child who attends, a school; or
 - (iii) attends, or is a patient in, a hospital,
-

in the vicinity of the licensed premises concerned.

(2a) If a complaint is lodged by a person referred to in subsection (2)(d), the complaint is to be signed, unless the Director otherwise approves, by 3 unrelated adults (including the complainant).

(2b) In subsection (2a) —

“3 unrelated adults” means 3 adults each of whom —

(a) resides at different residential premises; and

(b) is not —

(i) a child; or

(ii) a parent; or

(iii) a brother or sister; or

(iv) an aunt or uncle; or

(v) a spouse or former spouse; or

(vi) a de facto partner or former de facto partner,

of either of the other 2 adults.

(3) The Director shall give notice of each complaint lodged to the licensee of the licensed premises with respect to which the complaint is made.

(3a) When a complaint is lodged with the Director under subsection (1), the Director is to attempt to settle the matter by conciliation or negotiation.

(3b) If the Director determines at any stage of the proceedings under this section that the complaint is frivolous or vexatious, the Director is to dismiss the complaint.

(4) If the matter referred to in a complaint is not settled by conciliation or negotiation, the Director is to give the complainant, the licensee and any other person appearing to the Director to have a relevant interest in the matter a reasonable opportunity to be heard or to make submissions.

(4a) Having complied with subsection (4), the Director —

(a) subject to subsection (4c), may determine the matter; and

(b) if of the opinion that the allegation in the complaint is established on the balance of probabilities and that the licensee has failed to show cause why an order should not be made under this section — may make an order under this section,

but otherwise the Director is to dismiss the complaint.

(4b) Without limiting the matters that the Director may have regard to when making a determination under subsection (4a), the Director may have regard to —

(a) any alteration, including any structural change, made —

(i) to the licensed premises; or

(ii) if the complainant is a person referred to in subsection (2)(d) — to any relevant premises where the complainant (or, if subsection (2)(d)(ii) applies, the complainant's child) resides, works, worships, attends or is a patient;

and

(b) any changes that have taken place over time to the activities that take place on the licensed premises; and

(c) the kind of business conducted under the licence and how that business is managed; and

(d) if the complainant is a person referred to in subsection (2)(d) — whether the complainant (or, if subsection (2)(d)(ii) applies, the complainant's child) began to reside, work, worship, attend or be a patient at any relevant premises before or after the licensee began to conduct business at the licensed premises; and

(e) any provision of the *Environmental Protection Act 1986*, or of any regulations made under that Act, that is relevant to the subject matter of the complaint.

(4c) The Director —

(a) may defer making a determination under subsection (4a) for any period the Director considers appropriate; and

(b) may make an interim order that has effect for that period for any purpose for which an order may be made under subsection (5).

(5) For the purposes of this section, whether pursuant to conciliation or negotiation or by way of an order, the Director may —

(a) vary the existing conditions of the licence;

(b) redefine, or redesignate a part of, the licensed premises;

(c) prohibit the licensee from providing entertainment or any other activity of a kind specified by the Director during a period specified by the Director or otherwise than in circumstances specified by the Director, and impose that prohibition as a condition to which the licence is to be subject; or

(d) otherwise deal with the matter in such a manner as is likely, in the opinion of the Director, to resolve the subject matter of the complaint.

(6) Where, under section 25, a determination made by the Director under this section is to be reviewed by the Commission —

(a) effect shall be given to any determination made by the Director; and

(b) any order made, or other action taken, by the Director under subsection (5) remains in force until revoked by the Director or quashed by the Commission,

unless the Commission, by way of interim order, otherwise directs.

(7) A licensee who contravenes an order made under this section commits an offence.

Penalty: \$10 000.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Objective 1 of the *Future Plan* notes that:-

...Cottesloe and North Cottesloe beaches are very popular. The fact that the immediate community shares them with other western suburbs residents and those from wider Perth and, that they are also a tourist destination is accepted. This is due to their picturesque nature, accessibility, and predominantly low-rise facilities that cater to a range of age groups and activities, including the two historic hotels and some short-stay accommodation.

However, the presence of the many visitors causes disruption to the lifestyle of residents – in particular anti-social behaviour associated with liquor consumption, late trading hours, traffic congestion, pollution and car parking are problems...

The council is open to a number of inter related strategies to maintain and enhance the lifestyle of residents by engaging the community in ownership of solutions to problems caused by visitors attracted to the beach and hotels and to augment the existing outdoor recreational lifestyle with opportunities for more cultural formal events and activities.

One of the major strategies identified in the *Future Plan* for protecting and enhancing the lifestyle of residents and visitors is to:

- Reduce beachfront hotel patron numbers to a sustainable level.

To this end, Council's *Action Plan* envisages that we will:

1. Change Legislative Framework

Convene meeting of Community Safety & Crime Prevention Committee with Mayor and CEO to determine a public and political strategy to change the liquor licensing laws to reduce patron numbers at the hotels

2. Continue to monitor the hotels within existing licensing regime

- Collect objective data during summer 2007/08 of incidents of anti-social behaviour
- Review data and determine whether there are sufficient grounds to appeal to Liquor Licensing

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

At the meeting of the Mayor, elected members of the Community Safety & Crime Prevention Committee, the CEO, the Manager of Corporate Services, Mr Bill Marmion and Paul Bowen held on the 24th October it was agreed that the Town of Cottesloe should adopt a three staged approach in working up a public and political

strategy to change the liquor licensing laws to reduce patron numbers at the hotels i.e.

1. Obtain legal advice on what legislative or regulatory changes could be effected in order to reduce hotel patron numbers.
2. Develop a succinct communications strategy to promote the need legislative or regulatory change.
3. Lobby the State Government to effect the necessary changes.

In relation to part 1 of the strategy, John Woodhouse has provided some preliminary legal advice (see attachment) and has said that section 64 and section 117 of the Liquor Control Act 1988 already provide two mechanisms by which hotel patron numbers may be reduced.

The question is whether they are adequate or not. The presumption is that they are inadequate and hence the need for legislative change. However this presumption is open to challenge in the absence of any concerted effort by the Town of Cottesloe in the last six years to prosecute a section 117 complaint.

CONSULTATION

Nil.

STAFF COMMENT

The reality is that the prosecution of section 117 complaint is currently likely to fail given that:

1. the Town's online anti-social behaviour complaint forms are poorly constructed and allow subjective rather than objective judgements to be made which will not withstand any close examination by lawyers acting on behalf of the hotels,
2. there is a fundamental difficulty in directly linking individual anti-social behaviour to patronage of the hotel i.e. residents are located to the sides and rear of the hotel and are usually unable to categorically vouch that offenders have come from the hotels,
3. no distinction is made between pub patrons and others on the beachfront who may be responsible for anti-social behaviour i.e. we have to demonstrate that the behaviour could only have originated from the hotels if no one is in the car parks or on the beach – drinking or otherwise,
4. resident complaints are currently confined to perhaps less than a dozen residents over any summer period but we know for certain that the amenity of others is being adversely affected but not being documented, and
5. there are hot-spots (e.g. the bottom of Napier Street) where we could galvanise community-based action to redress the situation but have not done so.

The CEO and Senior Ranger have met with a company that specialises in live CCTV and monitoring and the hardware costs are much less than anticipated i.e. \$1,600 per camera and \$5,500 for a digital video recorder.

At the present time the CEO is able to monitor 4 places in Croatia, Singapore, Macau and Osborne Park using the new CCTV technology which allows the CEO to zoom and pan the cameras from his desktop computer.

By installing the cameras in the No.1 car park and panning them from the hotel up John Street, Forrest Street, Napier Street etc it should be possible to gather video footage of anti-social behaviour that can be directly attributed to hotel patronage e.g. public urination.

Good evidence will be critical to either a successful section 117 complaint or successful legislative change.

Video evidence may in fact allow the Director of Liquor Licensing to launch a section 64 action of his own accord.

At the meeting of the Community Safety and Crime Prevention Committee held on the 10th December 2007 there was some discussion about the lack of staff resources to gather evidence in a comprehensive manner and to prosecute case for a reduction in the number of hotel patrons that may be admitted into the beachfront hotels.

The CEO advised the meeting that the Mayor had voiced his disappointment at the lack of progress being made with the campaign to develop and implement a strategy to change liquor licensing laws to reduce hotel patron numbers.

In particular, a May 2008 decision of Council's to "develop and implement a strategy to change liquor licensing laws so as to significantly reduce patron numbers at Cottesloe's two beachfront hotels and any other large hotels that are located outside of entertainment precincts and are not properly serviced by public transport."

VOTING

Simple majority for the first part and an absolute majority for the second part.

12.4.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Gather a higher standard of evidence to better enable a Section 117 complaint against the beachfront hotels and to support the case for a reduction in the number of hotel patrons that may be admitted into the beachfront hotels.**

Carried 9/0

Moved Cr Miller, seconded Cr Strzina

That Council:

- (2) Direct the CEO to engage additional human resources to assist in gathering a higher standard of evidence and implementing the proposed strategy to reduce the number of patrons that may be admitted into the beachfront hotels.**

Carried by absolute majority 9/0

12.4.2 BEACHFRONT SIGNAGE - NO DRINKING

File No: SUB/202
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 11 December, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to introduce new beachfront access signage to comply with the 'Aquatic and Recreational Signage Manual Style Guide' which would signpost the prohibition of drinking on the beachfront.

STATUTORY ENVIRONMENT

Council's *Local Government Property Law* has application.

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Objective 1 of the *Future Plan* notes that:-

...Cottesloe and North Cottesloe beaches are very popular. The fact that the immediate community shares them with other western suburbs residents and those from wider Perth and, that they are also a tourist destination is accepted. This is due to their picturesque nature, accessibility, and predominantly low-rise facilities that cater to a range of age groups and activities, including the two historic hotels and some short-stay accommodation.

However, the presence of the many visitors causes disruption to the lifestyle of residents – in particular anti-social behaviour associated with liquor consumption, late trading hours, traffic congestion, pollution and car parking are problems...

The council is open to a number of inter related strategies to maintain and enhance the lifestyle of residents by engaging the community in ownership of solutions to problems caused by visitors attracted to the beach and hotels and to augment the existing outdoor recreational lifestyle with opportunities for more cultural formal events and activities.

FINANCIAL IMPLICATIONS

Funding for the proposed signs can be found from within the beach maintenance budget.

BACKGROUND

At the Works and Corporate Services meeting held on the 20th November, 2007 Cr Utting raised his concerns over the lack of signage prohibiting the consumption of alcohol on Cottesloe Beach.

At the November meeting of Council it was decided to refer the matter of signage prohibiting the consumption of alcohol on Cottesloe Beach to the Crime Prevention and Community Safety Committee.

The Crime Prevention and Community Safety Committee met on the 10th December 2007 to discuss the matter. At the meeting, the CEO displayed examples of proposed signs for the beachfront. Sgt Scott Halvorson said that he believed the format would facilitate the enforcement of no drinking at the beachfront.

The CEO stated that the proposed signs would simplify and standardise signage at the beachfront. Signs can carry advisory, regulatory and interpretive information. The proposed signs were designed to carry advisory and regulatory signs while being visually attractive and easy to understand by locals and overseas visitors.

A copy of the proposed signage is attached.

CONSULTATION

The matter has been discussed at the Crime Prevention and Community Safety Committee and has the support of local police and the Manager of Engineering Services.

STAFF COMMENT

Signage plays an important role in risk and safety management of recreational areas and beach locations in Cottesloe.

Signage is important for three reasons:-

- it informs, users of dangers, safety issues and other relevant information,
- it offers some protection to the Town of Cottesloe from litigation because of the duty of care owed by the Town of Cottesloe to warn users of dangers, prohibitions and other safety information, and
- it provides an economical alternative to that of employing a person to stand at every access point to the beach to inform people of dangers.

Over many years, the Town of Cottesloe has introduced signage that has taken many different shapes, sizes and colours. Symbols, wording and sign location have differed greatly.

The Aquatic and Recreational Signage Manual Style Guide presents best practice signage that uses existing standards. Rather than erecting more signs for individual issues, a comprehensive and consolidated update is advocated.

VOTING

Simple Majority

12.4.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council introduce new beachfront access signage to comply with the 'Aquatic and Recreational Signage Manual Style Guide' which would signpost the prohibition of drinking on the beachfront.

Carried 9/0

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

Nil

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

Nil

15 MEETING CLOSURE

The Mayor announced the closure of the meeting at 10.24 pm

CONFIRMED: MAYOR DATE: / /