

TOWN OF COTTESLOE



FULL COUNCIL MEETING MINUTES

**ORDINARY MEETING OF COUNCIL,
HELD IN THE COUNCIL CHAMBERS,
COTTESLOE CIVIC CENTRE,
7.00 PM, MONDAY, 22 SEPTEMBER, 2003**

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	1
2	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	1
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	1
4	PUBLIC QUESTION TIME.....	1
5	APPLICATIONS FOR LEAVE OF ABSENCE.....	3
6	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	3
7	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	3
8	PUBLIC STATEMENT TIME.....	3
9	PETITIONS/DEPUTATIONS/PRESENTATIONS.....	5
10	REPORTS OF COMMITTEES AND OFFICERS.....	6
11	DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 15 SEPTEMBER 2003.....	6
11.1	PLANNING.....	6
11.1.1	NO. 37 JOHN STREET - JOHN STREET CAFE	6
11.1.2	NO. 22 (LOT 32) PERTH STREET - SECOND STOREY ADDITION	12
11.1.3	NO 10 (LOT 801) NAILSWORTH STREET - DEVELOPMENT APPLICATION - TWO STOREY RESIDENCE	17
11.1.4	NO 10 (LOT 25) LILLIAN STREET - GARAGE IN THE FRONT SETBACK AREA	25
11.1.5	NO 9 VERA STREET – PROPOSED TWO STOREY SINGLE HOUSE	30
11.1.6	NO 471 (LOT 2) STIRLING HWY - SURVEY STRATA SUBDIVISION	38

	11.1.7	HERITAGE LOAN SCHEME	45
	11.1.8	MARINE PARADE – SECOND BEACHFRONT WORKSHOP	47
	11.1.9	URGENT BUSINESS – DEVELOPMENT SERVICES COMMITTEE MEETING TIME	50
12		WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 16 SEPTEMBER 2003	51
	12.1	ADMINISTRATION	51
	12.1.1	CARETAKER'S COTTAGE	51
	12.1.2	CONSTABLE CARE CHILD SAFETY PROJECT - DONATION REQUEST	55
	12.1.3	COTTESLOE - PEPPERMINT GROVE - MOSMAN PARK LIBRARY, BUDGET	57
	12.1.4	COTTESLOE TENNIS CLUB ASSISTANCE WITH EXTENSIONS TO CLUBHOUSE	58
	12.1.5	SHENTON CHRISTIAN COUNCIL - CHAPLAINCY PROGRAMME AT SHENTON COLLEGE - DONATION REQUEST	61
	12.1.6	COMMUNICATION & CONSULTATION PARTNERSHIP AGREEMENT - WALGA & STATE GOVERNMENT	63
	12.1.7	OUTSTANDING DEBTOR - REQUEST FOR A REDUCTION IN INVOICED AMOUNT	66
	12.2	ENGINEERING	71
	12.2.1	CURTIN AVENUE AT GRANT	71
	12.2.2	JARRAD STREET - PUBLIC SUBMISSIONS	73
	12.3	FINANCE.....	75
	12.3.1	STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 AUGUST, 2003	75
	12.3.2	SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 AUGUST, 2003	77
	12.3.3	ACCOUNTS FOR THE PERIOD ENDING 31 AUGUST, 2003	79

- 12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD ENDING 31 AUGUST, 2003 81
- 12.4 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN..... 83
 - 12.4.1 CURTIN AVENUE AT GRANT STREET 83
- 12.5 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING 85
 - 12.5.1 NORTH STREET ROUNDABOUT 85
- 13 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN..... 86
- 14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING 86
- 15 MEETING CLOSURE..... 86

1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.00 pm.

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

Mayor Robert Rowell (Chairperson)
Cr Daniel Cunningham
Cr Arthur Furlong
Cr Peter Jeanes
Cr Bryan Miller
Cr William Robertson
Cr Anthony Sheppard
Cr Victor Strzina
Cr John Utting
Cr John Walsh

Officers in Attendance

Mr Stephen Tindale	Chief Executive Officer
Mr Malcolm Doig	Manager Engineering Services
Mr Stephen Sullivan	Manager Development Services
Mr Alan Lamb	Manager Corporate Services
Ms Jodie Shore	Executive Assistant

Apologies

Nil

Leave of Absence (previously approved)

Cr Kevin Morgan

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4 PUBLIC QUESTION TIME

Ms V Frearson-Lane, 65 John Street – Jarrad Street – Item 12.2.2

Ms Frearson-Lane requested confirmation and the reasons why the WA Planning Commission doesn't support the closure.

The Mayor advised that the submission from the WA Planning Commission is to be made publicly available. It basically said that a road connection with the beach should be retained and that there were other ways of overcoming safety concerns.

Ms Frearson-Lane also stated that there is flowerhead debris piling up in John Street and requested that some clean-up arrangements be made.

Mr Doig advised that a clean-up will commence on Tuesday 23 September.

Mr S Phillips, 78 Eric Street – Sea View Golf Club Lease

Mr Phillips requested how the Town of Cottesloe will demonstrate that the proposed lease with the Golf Club will return the 'best value for money' to the residents and ratepayers of Cottesloe. How will they know that it is the best possible deal?

The Mayor replied that there will be a public consultation period with the lease and noted that not every decision is made on the basis of a best value for money result.

Mr J Davis, 91 Broome Street – Aquifer Sustainability at Sea View Golf Club

Mr Davis asked if there is any action regarding the survey and ongoing monitoring of the aquifer at the Sea View Golf Club.

The Mayor advised that Council will not sign a lease with the Sea View Golf Club until the sustainability of the aquifer, for the term of the lease, is confirmed.

Mr Doig stated that the Sea View Golf Club has been requested to provide a progress report.

Mr G Boland, 70 Napier Street - Jarrad Street – Item 12.2.2

Mr Boland questioned why Council adopted the incorrect procedure by calling for public submissions after the decision had been made to close Jarrad Street.

The Chief Executive Officer advised that Council has received legal advice and was following the requirements of the Local Government Act. The public submissions received are being taken into account.

Mr Boland asked why Council has not adopted the new code of conduct.

The Mayor advised that the full Council voted against it.

Ms S Carr Turle, 9 Henry Street - Sea View Golf Club Lease and Aquifer Sustainability

Ms Carr Turle raised concerns regarding the Councillors having vested interests. Ms Carr Turle is concerned about the Sea View Golf Club lease going ahead with the current sustainability issues being unresolved. She also noted the deterioration of the pine trees in the area.

The Mayor suggested that the Sea View Golf Club lease will not be signed until the sustainability issues are addressed.

Mr M Huston, PO Box 400 – Ocean Beach Hotel Public Building Assessment
Mr Huston raised concerns over the increase of patrons to the Ocean Beach Hotel. He asked that Council reconsider its support for the increase in numbers of patrons permitted in the ground floor from 1000 to 1285, with a view to rescinding resolution 11.2.1, of the meeting dated 25 August 2003. Mr Huston also requested that a review of the coastal development be undertaken with community participation.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Sheppard, seconded Cr Strzina

The Minutes of the Ordinary Meeting of Council held on Monday, 25 August, 2003 be confirmed.

Carried 10/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7.1 Strategic Planning

The Mayor reported that a Strategic Planning Workshop was held on Saturday, 20 September 2003. The major priorities identified by the workshop participants were:

- Town Planning Scheme No. 3 review is to proceed.
- Streetscapes within the whole of Cottesloe are to be considered.
- Councillor and staff education program to be implemented to develop further understanding of local government.

7.2 WESROC Board Meeting

At the recent WESROC Board Meeting discussion was held on the possibility of the joint use of a depot area by two or more WESROC local governments.

8 PUBLIC STATEMENT TIME

8.1 Mr C Wiggins, 50 John Street – Redevelopment of Cottesloe Beach Hotel & Marine Parade – Item 11.1.8

Mr Wiggins spoke in relation to the recent SOS meeting and correspondence circulated to Councillors regarding the potential redevelopment of the Cottesloe Beach Hotel. At the SOS meeting members unanimously opposed height increases along Marine Parade. Mr Wiggins requested that Council advise the SOS Committee if it were to support a height increase. He was also concerned about an email from Cr Jeanes stating that negotiations have been held with Multiplex.

The Mayor advised that there had been no negotiations with Multiplex.

Cr Jeanes clarified that his email to Mr Wiggins stated that Multiplex had made a presentation to Council and the Design Advisory Panel and that there had been robust discussion – not negotiation.

Cr Furlong left the meeting at 7.38pm.

The Mayor advised that a development application has yet to be received. The developer has been requested to undertake a public presentation of their proposal prior to presenting their development proposal to Council.

Cr Furlong joined the meeting at 7.40pm.

8.2 Mr M Hain, 1/27 Grant Street – Curtin Avenue at Grant – Item No. 12.2.1

Mr Hain stated that the public consultation conducted by Main Roads WA was biased and poorly addressed. The comment period was too short, and even though it has been extended a number of residents are most likely unaware of this extension. Mr Hain understands that there has been no analysis of other options for pedestrian access such as an under or overpass.

The Mayor replied that Main Roads WA had rejected previous requests from the Council and have advised that they are not really interested in other alternatives to traffic lights.

8.3 Mrs S Woodhill, 23A Grant Street - Curtin Avenue at Grant – Item No. 12.2.1

Mrs Woodhill spoke about the possibility of causing extra traffic flow along Marmion Street and about general safety concerns if traffic lights were installed.

The Mayor advised that this matter will be further discussed when additional information has been received from Main Roads WA.

8.4 Mr P Rattigan, 9b Grant Street - Curtin Avenue at Grant – Item No. 12.2.1

Mr Rattigan spoke on behalf of concerned residents of Grant Street. These residents have voiced concerns regarding the possible increase in east/west traffic movements.

8.5 Mr P Robinson, 254 Marmion Street – Jarrad Street Public Submissions – Item No. 12.2.2

Mr Robinson is the Captain of the Sea View Golf Club. Mr Robinson spoke in relation to the closure of Jarrad Street, providing a history of golf ball accidents and data from the Council traffic plan. Mr Robinson is concerned about the public's scrutiny of the water use and ground water sustainability at the Sea View Golf Club. The Sea View Golf Club have contracted a hydro geologist to look into the matter. Mr Robinson

assured Council that the Sea View Golf Club will keep Council apprised on the process.

8.6 Mr M Huston, PO Box 400 – Ocean Beach Hotel Public Building Assessment

Mr Huston spoke against the Council's proposal to support the increase of patron numbers to the Ocean Beach Hotel. Mr Huston raised issues in relation to this increase, especially regarding the matter of litter left in the street. He understands that the Ocean Beach Hotel is the subject of a development approach, however there has been no public consultation.

Mr Huston also voiced concern regarding the parks, verges and laneways within the town being in general disrepair.

The Mayor advised Mr Huston that he would reply to his statement by telephone. The Mayor also stated that there are no negotiations with developers taking place with respect to the Ocean Beach Hotel.

8.7 Cr Argyle, 2B Thomas Street, Nedlands – North Street Roundabout – Item No. 12.5.1

Cr Argyle is a Councillor in Nedlands and does not support the proposed sculpture in the North Street Roundabout. The Cottesloe Council views will be presented at the Nedlands Council Meeting on Tuesday 23 September.

The Mayor advised that a meeting had been held between the CEO's and Mayor's of Cottesloe and Nedlands to discuss the sculpture.

8.8 Mr D Bibby, 5 Rosser Street – Sea View Golf Club Lease

Mr Bibby requested Council's assurance that the public submission process for the Sea View Golf Club Lease be limited to ratepayers of Cottesloe. Mr Bibby also stated that his Freedom of Information request to see the draft lease agreement had been refused.

The Mayor replied that addresses are required with public submissions. Council could consider whether the public submission process should be limited to Cottesloe ratepayers.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

10 REPORTS OF COMMITTEES AND OFFICERS**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 15 SEPTEMBER 2003****11.1 PLANNING****11.1.1 NO. 37 JOHN STREET - JOHN STREET CAFE**

File No: 37 John Street
Author: Mr S Sullivan
Author Disclosure of Interest: Nil
Report Date: 3 September, 2003
Senior Officer: Mr S Tindale

SUMMARY

At last month's meeting, Council passed the following resolution:

"That the Chief Executive Officer be requested to recommend a course of action for the whole of the site to be included in the non-conforming right."

The relevant provisions of Town Planning Scheme No. 2 frustrate the achievement of this objective.

Three other options have been canvassed with the owner in terms of:

1. Doing nothing;
2. Amending the existing scheme; and
3. Changing the use within the provisions of the proposed Town Planning Scheme No. 3.

These options are not acceptable to the owner.

A recommendation is therefore made to advise the owner that Town Planning Scheme No. 2 does not permit the conversion of a conforming use into a non-conforming use.

Further that the owner be advised that for the time being Council will not enforce town planning scheme provisions in relation to the current unlawful use of the residence with respect to the non-conforming use of the shop.

Finally, that Council recommend to the owner that further consideration be given to the two other options available to the owner.

STATUTORY ENVIRONMENT

Town Planning and Development Act
Town of Cottesloe Town Planning Scheme No. 1
Town of Cottesloe Town Planning Scheme No. 2

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The following background is provided:

August 2003 Council Resolution

At its August, 2003 meeting, Council resolved as follows:

"That the Chief Executive Officer be requested to recommend a course of action for the whole of the site to be included in the non-conforming right."

Extent of Non-conforming Use

In response to that resolution, the CEO and the Manager Development Services, carried out a review of all the files relating to the property, the general town planning files and the scheme review file.

It appears that the wooden cottage at the rear of the property was built around 1903. In about 1915, the main house was built. This was followed by the construction of the shop during the 1930s.

In September 1988, a Council officer's report to Council advised that:

"This property formerly known as the "Arcadia Deli" has been gradually developed over the past four years from a take away shop into an alfresco restaurant and shop.

The property is currently zoned Residential B and enjoys a non conforming use right as a shop...

The Planning Officer has requested the tenant to submit plans and specifications...designating the use of all portions of the building... and that the plans be accepted as a definition of the non conforming use."

Council subsequently resolved:

"That the owners and tenants of the John Street Café at 37 John Street be advised that a dining room licence will be issued for the shop and outside eating areas subject to the following conditions:

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

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

1. *Outside eating area.*
2. *Shop.*
3. *Dry Store.*
4. *Kitchen*

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

The plans lodged by the operator in 1988, Mr Cormack, identified certain areas that were being used at that time as part of the non-conforming use of “shop”.

The balance of the building and the property were identified as having a “residential” use. The actual use of certain residential areas at the time is now under dispute. The remaining residential building areas, such as the living room, dining room and the two bedrooms and the rear cottage, are not in dispute.

The 1988 resolution of Council clearly determines the non-conforming use and conforming use areas of the site and yet from a town planning point of view, seems to ignore the requirement to provide additional on-site toilet facilities for the non-conforming use.

These additional facilities were required in order to upgrade the premises to meet the new Eating House By-law that was gazetted by Council on 22 January 1988.

Furthermore, other areas (such as the verandahs that provide a link between the non-conforming use area and the outdoor eating area) - were also not included in the non-conforming use.

Given the above, it seems that the Council of the day sought to ensure the primacy of residential use of the house and the incidental use of the shop - notwithstanding the fact that some areas were used conjointly.

Non-conforming Use Provisions

The non-conforming use provisions of the Town Planning Scheme read as follows:

4.1 EXISTING USE RIGHTS

No provisions of the Scheme shall prevent -

- (a) The continued use of any land or building for the purpose for which it was being lawfully used at the time of the coming into force of the Scheme; or*
- (b) The carrying out of any development thereon for which, immediately prior to that time, a permit or permits required under the Town Planning and Development Act 1928 (as amended), the Town of Cottesloe Town Planning Scheme, gazetted 19th November 1976, or any other law authorising the development to be carried out had been duly obtained and was current.*

4.2 EXTENSION OF BUILDINGS

Where in respect of land zoned under Part III of the Scheme a non-conforming use lawfully exists or was authorised as mentioned in Clause 4.1 of this Part on that land, buildings may, at the discretion of the Council, be extended to the limits permitted by the Town of Cottesloe Town Planning Scheme gazetted 19th November 1976, or by any other by-laws made under the Act for the purpose of limiting the size, location and distance from boundaries and any other matter required by law for that class of use within the boundary of the lot or lots on which the use was carried out immediately prior to the coming into force of the Scheme. Provided that where the provisions of any by-law referred to in this section are inconsistent with the provisions of this Scheme then the provisions of this Scheme shall prevail.

4.3 DISCONTINUANCE OF NON-CONFORMING USE

- (a) Notwithstanding the preceding provisions of this Part when any land or building which has to that time been classified as having a non-conforming use has not been utilised for that use for a period of 6 consecutive calendar months, such land or building shall not thereafter be used other than in conformity with the provisions of the Scheme.*
- (b) Notwithstanding the provisions of Clause 4.1 of this Part, should any building or works comprised in such land be so damaged or destroyed that the cost of restoration or replacement is greater than 75% of the value of such building or works (as determined by the Valuer General or a licensed valuer appointed by Council) immediately prior to the damage to or destruction thereof, such land shall be used only in conformity with the provisions of the Scheme.*
- (c) The Council may effect the discontinuance of a non-conforming use by the purchase or resumption of the affected property, or by the payment of compensation to the owner or occupier or to both the owner and occupier of that property and may enter into an agreement with the owner of that property for that purpose.*

4.4 CHANGE OF NON-CONFORMING USE

Notwithstanding anything contained in the Zoning Table the Council may grant its planning consent to the change of use of any land from a non-conforming use to another use if the proposed use is in the opinion of the Council less detrimental to the amenity of the locality than the non-conforming use and is in the opinion of the Council closer to the intended uses of the zone or reserve.

In simple terms, the clauses:

- allow the continuance of a lawful non-conforming use (clause 4.1);
- allow an extension of the non-conforming use if an extension is made to the buildings to the limits set out prior to the gazettal of the Town Planning Scheme (Clause 4.2); and
- permit a change in the non-conforming use to another non-conforming use subject to certain considerations (Clause 4.4).

The provisions do not specifically permit the change in a conforming use to a non-conforming use.

More importantly, the 1988 Council resolution quite clearly excludes the potential operation of Clause 4.2 of the town planning scheme when it states that:

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

It should be noted that the non-conforming use provisions in the Model Scheme Text, which will be the basis for the proposed Town Planning Scheme, provides Council with the discretion to vary the non-conforming use. However, it is considered that an added use should be applied to the site under the proposed Town Planning Scheme so that the un-desirable aspects of the non-conforming use provisions are not applicable.

Conversion of site from conforming use (residential)/non-conforming use (shop) to non-conforming use (shop)

The Scheme only provides non-conforming use rights to properties that were **lawfully** operating at the time of the gazettal of the Town Planning Scheme. It is clear that the entire site (and certain parts of the house) did not have lawful non-conforming use rights for "shop " use at the time of the gazettal of the No. 2 Town Planning Scheme in December 1988.

This has been confirmed by a review of Council minutes from September 1988 to December 1988.

As a result, it is not possible to grant approval under Part 4 of the Town Planning Scheme for a change in use from a conforming use to a non-conforming use and therefore, it is not possible for the site to be converted to a non-conforming use only.

STAFF COMMENT

If the intent of Council's August resolution is to make lawful the current use of the land, then realistically there are two options open to it.

(1) Undertake An Amendment To The Current Town Planning Scheme

The amendment would focus on creating an added land use being applied to the site. The added land use would be a use such as a "café", which would need to be defined under the existing Town Planning Scheme. The definition would allow for the premises to operate as a combination of shop and dining room (similar to the current uses).

The amendment would then set the planning controls relating to the site, including such matters as seating capacity, hours of operation, floor area of added use and any other relevant matter.

This option provides certainty in terms of land use and development controls relating to the site.

(2) Make The Current Use A Conforming Use Under The Proposed No. 3 Town Planning Scheme

Similar to (1) above, but will only be resolved with the gazettal of the proposed Town Planning Scheme. The structure and details of the schedule have yet to be finalised.

CONCLUSION

It is not possible to extend the non-conforming use to the entire site. The site has a conforming use of residential and a non-conforming use of shop. The provisions of Part 4 do not specifically permit the conversion of the conforming use into a non-conforming use.

The only options available to Council are to carry out a scheme amendment or resolve this matter under the proposed new town planning scheme.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Advise the owner that Town Planning Scheme No. 2 and a previous Council decision does not permit the conversion of a conforming use into a non-conforming use.
- (2) Advise the owner that for the time being, Council will not enforce town planning scheme provisions in relation to the current unlawful use of the residence with respect to the non-conforming use of the shop.
- (3) Request the owner to give consideration to the two other options available to the owner, those being:
 - (a) seeking an amendment to the current Town Planning Scheme; or
 - (b) making a submission on the proposed No. 3 Town Planning Scheme when it is made available for public comment.

COMMITTEE COMMENT

Committee members commented that they were unhappy with the current situation and the findings of the report.

The Chief Executive Officer addressed the Committee and explained diagrammatically how the report conclusions were determined.

The Committee then deferred any further consideration on this matter. The Chief Executive Officer was to seek legal advice on the matter and then discuss this matter further with the owners of the property.

11.1.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That the matter be deferred.

Carried 10/0

11.1.2 NO. 22 (LOT 32) PERTH STREET - SECOND STOREY ADDITION

File No:	22 Perth Street
Attachment(s):	Location Plan Plans Submissions (2)
Author:	Mr S. Sullivan
Author Disclosure of Interest:	Nil
Report Date:	10 September, 2003
Senior Officer:	Mr S Tindale
Property Owner:	Ms Lisa Corser
Applicant:	WJ. Architects
Date of Application:	15 August, 2003
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	278m²
M.R.S. Reservation:	N/A

SUMMARY

It is proposed to construct a second storey addition to the single house at No. 22 Perth Street. The recommendation is to Approve the Application.

PROPOSAL

The second storey addition at No. 22 Perth Street is for 2 bedrooms, a bathroom, toilet and store. The addition sits above the middle of the existing single house.

No. 22 Perth Street is oriented north-south and therefore, the overshadowing based on the Residential Design Codes is to Perth Street.

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 Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1(c)	6.0m	6.15m

Town Planning Scheme Policy/Policies

Policy	Required	Provided
N/A	N/A	N/A

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 2 – Streetscape	Frontage: 6.0m	4.5m	Clause 3.2.1
No. 3 – Boundary setbacks	Side boundary setbacks: 1.5m	Nil and 1.2m	Clauses 3.3.1 and 3.3.2

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

N/A.

External

- Other

ADVERTISING OF PROPOSAL

The Application was advertised as per Residential Design Codes.

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. There were 2 submissions received, of which 2 were objections. Details of the submissions received are set out below:

The 2 submissions are from the owners of 24 Perth Street, Patrick and Marjorie Coleman. Mrs Coleman telephoned to discuss her further concerns on 15 August 2003.

Their concerns are:

- The additional storey will dominate our house at 24-the side boundary setback should be increased to make it less dominating;
- The ridged gable roof would completely overshadow our front courtyard for the whole of the winter months from about 2.00pm onwards – the front setback should be increased to 6 metres (ours is 8m);
- The scale of development in Perth Street is out of character with lot size; all the houses in the street should be on quarter acre blocks

In response the following matters are relevant:

The Residential Design Codes state “development should be designed so that it does not seriously affect solar access for neighbours.” (p. 84). Overshadowing is based on an assessment of the shadow cast by a building at midday on the 21 June.

At midday on the 21 June, the shadow from the development at No. 24 Perth Street is to the street front, and not to houses next to it.

The Building Licence for the house at 24 Perth Street was issued on 11 January 1982. At that time, the front boundary setback for single houses was 7.5m. This has been subsequently reduced over time.

A set of the submitted plans has the signatures of the adjoining property owners on them, however there are no annotations on those plans to indicate what the significance of the signatures mean.

BACKGROUND

On 25 October 1993 Council issued a Building Licence for a single storey house at No. 22 Perth Street. On 21 July 2003, Council received a supporting letter, photographs and plans from W.S. Architects for a second storey addition to this house.

The supporting letter states:

“Perth Street Cottlesloe is comprised of a number of two storey residences, most of which are zero lot lined on both their lower and upper storeys. A number of the two storey parapets are within six metres of the front boundary and extend to the full allowable building height, not just the eave height.

Several houses in the street have a setback of 4500mm or 5000mm.

The two remaining original cottages have a 4300mm setback and a number of the recently constructed two storey residences have a 4500mm setback whilst others appear to be set back 5000mm.

No. 21 Perth Street located exactly opposite the residence in question has a 4500mm setback for almost the entire frontage with a balcony forward of this setback at three metres from the front boundary.

House no 23 to the east of the lot has a raking parapet on the boundary to a height of 6150mm above FFL, House no 20 to the west has an eave line at 6125mm above the same FFL with a setback of 1000mm to the adjacent boundary and a parapet to their western boundary.”

Apart from the vent window for the upstairs toilet there are no other openings, which might have privacy impacts for neighbours.

STAFF COMMENT

Assessment of the application indicates non-compliance in the areas of wall height and boundary setbacks.

The applicant supplied photographs illustrating housing development setbacks and building heights in Perth Street, which indicate that there are many variations to the standards for development on land coded R20.

Council's discretion is sought to address the following areas of non-compliance:

Boundary setbacks

The majority of houses on the north side of Perth Street have reduced side and front boundary setbacks.

Recent examples include the 2-storey houses at 18, 18A and 20 Perth Street (conditionally approved on 26 August 1993, 27 October 1997 and 17 December 2001 respectively).

The addition to the single house at No. 22 Perth Street is in character with prevailing local residential development and is similar in appearance to the existing dwelling. Further, the additions do not encroach into the existing front boundary setback.

The reduced side boundary setbacks are in keeping with the setbacks provided to nearby housing development and do not significantly deviate from the RDC.

There will be no impact on the adjoining single house development.

Wall Height

Under the Town of Cottesloe Town Planning Scheme No. 2 (TPS 2) Council may permit building height variations for additions to existing buildings.

The increase in wall height is 150mm and is not considered to be a significant deviation from the permitted 6.0m. The wall height is designed to ensure that the additions blend in with the existing house.

The height at the top of the roofline - 8.382m is below the maximum of 8.5m specified under Town Planning Scheme No. 2.

The additions at No. 22 Perth Street have been designed to maintain the character and appearance of the existing single-storey house.

CONCLUSION

The proposed additions at No. 22 Perth Street are recommended for approval.

VOTING

Simple Majority

COMMITTEE COMMENT

The applicant would have to reduce the size of the additions to accommodate the 6m setback requested by the neighbour. The proposal will fit into the existing streetscape.

Manger, Development Services advised that if the front setback was increased to 6m it would not reduce the overshadowing to the neighbouring property.

11.1.2 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **GRANT its Approval to Commence Development for the Second storey addition at No. 22 (Lot 32) Perth Street, Cottesloe in accordance with the plans submitted on 15 August, 2003, subject to the following conditions:**
 - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) **The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
- (2) **Advise the submitters of this decision.**

Carried 8/2

**11.1.3 NO 10 (LOT 801) NAILSWORTH STREET - DEVELOPMENT APPLICATION
- TWO STOREY RESIDENCE**

File No: 10 Nailsworth
Author: Ms L Palermo
Attachments: Location plan
Plans
 Applicants correspondence
 Submissions (1)
Author Disclosure of Interest: Nil
Report Date: 27 August, 2003
Senior Officer: Mr S Sullivan

Property Owner: LK & HM Brady

Applicant: Emporio Homes
Date of Application: 27 August, 2003

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 440m²
M.R.S. Reservation: N/A

SUMMARY

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

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

- | | |
|-------------------------------------|-----|
| • State Register of Heritage Places | N/A |
| • TPS No 2 | N/A |
| • Town Planning Scheme Policy No 12 | N/A |
| • 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 - Text

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

Town Planning Scheme Policy/Policies

Policy	Required	Provided
N/A	N/A	N/A

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
3 – “Boundary Setbacks”			
Setbacks to South Western Boundary: Basement Ground Floor Upper Floor	1.5 1.5 1.5	0.5 0 – 0.5 0 – 0.5	P1 of the Design Element 3
Front Setback	6 – A1(i) - averaging	6.0m average	

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering
- Health

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 2 letters sent out. There was one submission received, which was an objection. A summary of the objection is reproduced below:

The objectors have raised concerns in regards to the following:

- Proposed reduced side boundary setback to the south western wall on Lot 801 Nailsworth Street will contribute to overshadowing of the objector's property.
- The lack of setback to the common boundary between two proposed new residences on Lot 800 and 801 Nailsworth Street will affect the views from No 8 Nailsworth Street.
- Proposed excavation works have a potential to compromise the integrity of the dwelling and other structures on No 8 Nailsworth Street.

BACKGROUND

Council is in receipt of an application for a two-storey residence on 10 (Lot 801) Nailsworth.

The proposed residence does not comply with a 6m front setback requirement under the Table 1 of the Residential Design Codes (RDC).

The applicant is also seeking a variation to the side boundary setback.

STAFF COMMENT**Front Boundary Setback**

The applicant proposes a front boundary setback of 4.0 metres. Under the Table 1 of the Residential Design Codes, a 6 metre setback applies to land coded R20. In addition, at its meeting of 28 October 2002, Council resolved to prepare a Streetscape Policy to require a 6 metre setback throughout the town in order to preserve established streetscape character.

The applicant provided a letter addressing the areas of non-compliance with the acceptable development standards of the RDC, which states the following:

"The western corner of the garage protrudes into the setback, but is with a greater portion of open space behind the setback in accordance with averaging provisions A3.5 and Fig. 1 of the R Codes".

The proposed variation to the front setback complies with the averaging provisions of the RDC under the Acceptable Development Standard A1(i) of the Design Element 2 – "Streetscape".

In close proximity of the subject site, development is setback a variety of distances. Also given the unusual shape of the proposed lot (triangular) and that only a small part of the house is located within the front setback it is recommended that the proposed development be approved with the average front setback of 6.0m.

Boundary Setbacks

A variation is being sought to the setback requirement from the south western side boundary to the basement, ground floor and first floor wall of the proposed residence.

The whole of the South Western wall is setback 0.5 m from the boundary with the 1.5m wide chimney having a Nil setback. Acceptable Development Standards for Design Element 3 – “Boundary Setback Requirements” specify that buildings with a wall height of 10m and less have to be setback in accordance with the Table 1 and 2 of the RDC. There are no major openings on the South Western Wall of the proposed residence therefore, as per Table 2a of the RDC, the required setback is 1.5 metres.

As the South Western wall is proposed to be setback only 0.5m from the side boundary, it should be considered a boundary wall under the RDC. Clause 3.3.2 (i) of the RDC states:

- “i. The term “up to a boundary” means either on the boundary or at any point closer than 0.75m between the boundary and the setback provide by the Table 1, table 2 and Figure 2 and Figure 3.”*

As the proposed side boundary setback does not comply with the acceptable development standards consideration under the Performance Criteria is required. Performance criteria Clause 3.3.2 of the RDC states the following:

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

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

Council received an objection from the adjoining property owners No 8 Nailsworth Street expressing concerns in regards to the proposed variation to the south western side boundary setback on the development site. The objectors stated that the proposed reduced setback will affect the views from their property and also would contribute to overshadowing.

The shadow cast from the proposed residence will be from the south eastern wall onto No 8 Nailsworth Street. The applicant provided an overshadowing diagram which showed the proposed development would overshadow the adjoining property to the south east by 22%. This is in accordance with the acceptable development standards of the Design Element 9 – Design for Climate.

The proposed reduced south western boundary setback does have a potential to affect the amenity of the adjoining property No 8 Nailsworth Street due to loss of views and the effect of building bulk on the common boundary.

Therefore it is considered that the proposed south western boundary wall does not comply with the performance criteria outlined above.

The objective *“to protect the amenity of adjoining residential properties”* is one of the general objectives of the RDC.

Town of Cottesloe Town Planning Scheme No. 2 Clause 5.1.2 (a) also states:

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

- (a) *The need for limitation of height or location of buildings to preserve or enhance views.”*

It is recommended that the applicant be required to submit revised plans showing compliance with the required setback of 1.5m to the south western wall.

The chimney protruding into the side setback can be considered an architectural feature, as it projects not more than 0.75 m into the side setback and therefore is in accordance with the acceptable development standard A1 (vi) of the Design Element 3.

Visual privacy

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

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

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

The cone of vision applied to the dining room balcony indicates that there is a potential to overlook the adjoining property at No. 8 Nailsworth Street. The required setback is 7.5m, however the applicant is proposing a 1.8m setback from the balcony to the south eastern boundary.

The overlooking is not a concern as it falls onto an area that is part of the front garden on No 8 Nailsworth Street and therefore, does not have a detrimental impact on the adjoining property.

The adjoining neighbour has not raised this as an issue.

The issue of potential overlooking from the south eastern side of the balcony was also addressed by the applicant by proposing to install a solid timberlap boundary fence, which would prevent overlooking of areas on the adjoining property No 8 Nailsworth Street behind its street setback.

Therefore the administration recommends that this variation be approved.

Proposed Excavation

The owners of No 8 Nailsworth Street expressed concerns in regards to the proposed excavation of No 10 Nailsworth Street, which might affect the integrity of the existing residence and other structures on No 8 Nailsworth Street. The applicant would be required to comply with the conditions of the building licence, which cover this issue.

CONCLUSION

It is recommended that the application be approved subject to the imposition of conditions addressing the side boundary set back.

VOTING

Simple Majority

OFFICER RECOMMENDATION

- (1) That Council GRANT its Approval to Commence Development for the Proposed two storey brick & tile residence at No 10 (Lot 801) Nailsworth Street, Cottesloe in accordance with the plans submitted on 5 August, 2003, subject to the conditions outlined below.
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) The existing lot being subdivided and a new certificate of title being issued for the proposed lots prior to the issue of a building licence.
 - (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 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.
 - (e) 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.
 - (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 by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
 - (h) Revised plans being submitted for approval by the Manager, Development Services, showing the design of the proposed residence being modified to comply with a 1.5m setback from the south western wall to the common boundary between proposed Lot 800 and Lot 801 Nailsworth Street.
 - (2) Advise the submitters of this decision.
-

COMMITTEE COMMENT

The Committee discussed the setback variation to the north-eastern boundary. Whilst supporting the recommendation, the Manager Development Services was requested to carry out a site inspection on the adjoining property to provide further information in terms of clarifying the potential impact that the setback variation would have on the adjoining property. This information was to be circulated to councillors before the September meeting of Council.

The condition (1)(h) of the officer recommendation was amended to refer to the north-eastern wall rather than the south-western wall.

11.1.3 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

- (1) **That Council GRANT its Approval to Commence Development for the Proposed two storey brick & tile residence at No 10 (Lot 801) Nailsworth Street, Cottesloe in accordance with the plans submitted on 5 August, 2003, subject to the conditions outlined below.**
- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) **The existing lot being subdivided and a new certificate of title being issued for the proposed lots prior to the issue of a building licence.**
 - (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 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.**
 - (e) **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.**
 - (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 by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.**
 - (h) **Revised plans being submitted for approval by the Manager, Development Services, showing the design of the proposed residence being modified to comply with a 1.5m setback from the north eastern wall to the common boundary between proposed Lot 800 and Lot 801 Nailsworth Street.**

- (2) Advise the submitters of this decision.

Carried 8/2

11.1.4 NO 10 (LOT 25) LILLIAN STREET - GARAGE IN THE FRONT SETBACK AREA

File No: 10 Lillian Street
Author: Mr D Heymans
Attach: Location Plan
 Plans
 Applicants correspondence
Author Disclosure of Interest: Nil
Report Date: 3 September, 2003
Senior Officer: Mr S Sullivan

Property Owner: Mr & Mrs Silbert

Applicant: Troppo Architects
Date of Application: 17 July 2003

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 390m²
M.R.S. Reservation: N/A

SUMMARY

The applicant is requesting approval to construct a garage in the front setback area. Conditional approval is recommended.

STATUTORY ENVIRONMENT

N/A

POLICY IMPLICATIONS

Policy No. 003 – Garages & Carports in the Front Setback Area

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 - Text

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

Town Planning Scheme Policy/Policies

Policy	Required	Provided
003 – Garages & Carports in the front setback area	6.0m	1.0m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
N/A	N/A	N/A	N/A

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

N/A

CONSULTATION

REFERRAL

Internal

- Building
- Engineering
- Health

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2.

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

There were 2 letters sent out and there were no submissions received.

BACKGROUND

The subject property is located on the northern side of Lillian Street. Currently there is an existing house on the lot with a parking area in the front setback.

STAFF COMMENT**Front Boundary Setback**

Town Planning Scheme Policy No. 3: Garages and Carports in Front Setback Area requires carports and garages to be positioned behind the front setback line in accordance with Table 1 of the Residential Design Codes, which on land coded R20, is 6 metres. The policy allows for lesser setbacks in certain circumstances.

The surrounding development in Lillian Street is characterised by open carport structures with setbacks to the front boundary varying from 1.0m - 4.5m depending upon the setback of the main dwelling.

The dwelling on the subject site is located 10.5m from the front boundary and the applicant is proposing to construct an open sided garage 1.0m from the front boundary. In this instance the administration believes that there is ample space to locate a parking structure 4.5m from the front boundary if the parking structure is located closer to the main dwelling as is the case in the surrounding development.

Further, the 4.5m setback allows for on-site visitor parking.

In addition Council has consistently required parking structures forward of the 6.0m front setback line to be open sided carports in accordance with Policy No. 003, however in this instance the applicant is proposing a garage with a door on the front. The applicant has stated that the door will not be solid, however the codes require doors to be visually permeable.

The administration therefore recommends that the garage be modified to a carport (without a door, or with a door that is visually permeable) and be setback 4.5m from the front boundary.

CONCLUSION

The proposed development be approved subject to the following conditions.

VOTING

Simple majority

DECLARATION OF INTEREST

Cr Sheppard declared an interest in the matter prior to the matter being discussed and did not take part in the debate or voting. Cr Sheppard left the meeting at 8.21pm.

OFFICER RECOMMENDATION

That Council GRANT its Approval to Commence Development for the carport at No 10 (Lot 25) Lillian Street, Cottesloe in accordance with the plans submitted on the 17 July 2003, subject to the following conditions:

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

- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
- (5) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (a) the garage being modified to a carport in accordance with the definition outlined in the Residential Design Codes;
 - (b) the carport being setback 4.5m from the front boundary.

COMMITTEE COMMENT

The majority of the Committee were of the opinion that the setback to garages and carports in Lillian Street were inconsistent and there are a number of carports setback only 1m in Lillian Street. It was felt a 4.5m setback would be more out of character in the street if it was enforced.

Cr Walsh commented that although there are different setbacks in Lillian Street, the development should be complying with the current Town Planning Scheme.

The majority of the Committee supported the deletion of Condition 5.

Further, the Committee accepted the additional plans tabled at the meeting showing the detail of the carport door. The approval was amended accordingly.

11.1.4 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the carport at No 10 (Lot 25) Lillian Street, Cottesloe in accordance with the plans submitted on the 17 July 2003 and the revised plans received on the 15 September 2003, subject to the following conditions:

- (1) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (2) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the**
-

stormwater runoff from roofed areas being included within the working drawings.

- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.

Carried 9/0

Cr Sheppard returned to the meeting at 8.22pm after the motion had been put and carried.

11.1.5 NO 9 VERA STREET – PROPOSED TWO STOREY SINGLE HOUSE

File No: 9 Vera Street
Author: Ms L Palermo
Attachments: Location plan
Revised Plans
Correspondence from applicant
Photos
Author Disclosure of Interest: Nil
Report Date: 8 September, 2003
Senior Officer: Mr S Sullivan

Property Owner: K. Montano

Applicant: APG Homes
Date of Application: 20 June, 2003

Zoning: Residential and Office
Use: P - A use that is permitted under this Scheme
Density: R40
Lot Area: 201m²
M.R.S. Reservation: N/A

SUMMARY

Council deferred consideration of this proposal at its August 2003 meeting.

Revised plans were received late on Monday 8 September. The revised plans are being re-assessed and further comments will be made to the Development Services Committee.

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

Committee to be advised following assessment of the revised plans.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering
- Health

External

N/A.

ADVERTISING OF PROPOSAL

The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 (TPS2) and Residential Design Codes (RDC).

The advertising consisted of:

- Letters to Adjoining Property Owners

Submissions

There were 2 letters sent out. No submissions were received.

BACKGROUND

The original 506m² lot was recently approved for subdivision into two lots with one lot fronting Forest Street and the other fronting Vera Street.

The application is for development of the Vera Street lot, which comprises 211m².

The applicant originally proposed to construct a two-storey residence with a reduced front setback of 1.9m to a double garage. The original application was considered by the Development Services Committee on 18 August 2003 and Council on the 25 August 2003. The Officer's recommendation to defer the application was indorsed by the Committee and Council.

The applicant was advised of Council's decision of 25 August 2003, which was as follows:

"That Council:

- (1) Defer consideration of the application for Approval to Commence Development submitted by APG Homes for a two storey residence at No. 108 Forrest Street, Cottesloe:*
- (2) Request that the applicant submit revised plans incorporating the following changes to the proposed development:*
 - (a) The front setback being increased to an average of 4 metres in accordance with clause 3.2.1 A1 (i) of the Residential Design Codes of Western Australia;*
 - (b) Screening of retained areas higher than 0.5m;*
 - (c) Prevention of overlooking from bedroom 3 window on the southern side in accordance with 3.8.1 of the Residential Design Codes".*

The address of the property has been changed from the rear of No. 108 Forrest Street to 9 Vera Street.

STAFF COMMENT

The applicant submitted the revised plans, in accordance with Council's decision of 25th August 2003, on the 8th September 2003. The accompanying letter states the following:

" We have revised plans so that:

- 1. Front average setback is now 4m, utilizing 'ghost averaging on west side and measuring into porch/balcony area*
- 2. 1800mm high fencing is to be included on all boundaries for screening purposes*
- 3. Bedroom 3 window is now to be fixed/obscure 1650mm high above floor level with an awning window above.*

We ask for an approval, conditioned if required, eg deletion of porch/balcony if absolutely necessary".

The applicants were given till the 8th September 2003 to lodge the revised plans so that this matter could be considered at the September round of meetings.

There was not enough time to assess the revised plans and complete a report. A further report will be distributed to Councillors prior to the date of the Development Services Committee.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That further comments will be made to the Development Services Committee following completion of the assessment of the revised plans.

COMMITTEE COMMENT

The following information was presented to Council by Memo on 12 September 2003:

SUMMARY

Council deferred consideration of this proposal at its August 2003 meeting.

The applicant was advised of Council's decision of 25 August 2003, which was as follows:

"That Council:

- (1) Defer consideration of the application for Approval to Commence Development submitted by APG Homes for a two storey residence at No. 108 Forrest Street, Cottesloe:*
- (2) Request that the applicant submit revised plans incorporating the following changes to the proposed development:*
 - (a) The front setback being increased to*
 - (b) Screening of retained areas higher than 0.5m;*
 - (c) Prevention of overlooking from bedroom 3 window on the southern side in accordance with 3.8.1 of the Residential Design Codes".*

The applicant submitted the revised plans on the 8th September 2003.

COMMENT

Front Setback

The revised plans submitted by the applicant dated 8th September 2003 show the front setback to the garage being 2.556m and setback to the proposed residence being 3.763m. The setback to the garage and the proposed two-storey residence was increased by 0.5m

The applicant also submitted a letter dated 12 September 2003 addressing the following issues:

- Proposed screening for the purpose of preventing potential overlooking
- Modifications to the bedroom 3 to prevent overlooking of the lot the rear
- Front setback
- Setback to the store room (complies with acceptable development Clause 3.3.2 A2 iii.

Clause 3.2.1 A1 of the RDC states:

Buildings other than carports and garages set back from the primary street in accordance with Table 1: or

- (i) corresponding to the average of the setback of existing dwellings on each side fronting the same street; or in accordance with Figure 1, reduced by up to 50% provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of contiguous open space between the setback line and a line drawn parallel to it at twice the setback distance;*

Proposed development does not comply with the acceptable development standard A1 (i) of the Design Element 3.2 – "Streetscape" quoted above.

The adjacent properties on each side of the subject property back on to Vera Street, therefore the average of the setback of adjacent properties is not applicable in this case. Proposed reduced front setback is not in accordance with the Figure 1 of the RDC (see attached). The proposal requires consideration under the following performance criteria:

P1 Buildings setback an appropriate distance to ensure they;

- *Contribute to the desired streetscape*
- *Provide adequate privacy and open space for dwellings; and*
- *Allow safety clearances for easements for essential service corridors.*

Proposed variation to the front setback does not affect privacy and open space requirements for the proposed residence and allows for sufficient clearances for easements for essential service corridors.

The main consideration in this case should be the establishment of the parameters for the future streetscape on Vera Street. The following was previously discussed in the report to Council dated 8th August 2003.

- Varying setbacks along Vera Street; many residences back onto Vera Street
- What is the desired streetscape in the area;
- Majority of new dwellings have an average setback of 4m (2 to garages and 6 to houses);
- Non-compliance of the proposal with Local Planning Policy 003 – Setback of garages and Carports
- Potential future redevelopment of lots up to R40 density and more new residences on small lots fronting Vera Street being proposed;
- Approval of proposed variation to front setback may create a precedent
- Insisting on compliance with the 4m front setback would ensure consistent approach in assessing development applications on Vera Street.

Although the applicant provided revised plans for Council's consideration with the front setback to the garage and the house being increased by 0.5m the proposal still does not comply with the Acceptable Development Standards of the RDC (A1 i) and Council's decision of 25th August 2003 requiring the front setback to be 4m average.

It is acknowledged that lots developed under the R40 density coding on the southern side of the Vera Street are smaller (this site is 201m²) than the sites on the other side of the street (average 260m² under R35 density coding). Therefore it is more difficult to comply with all the requirements of the RDC on smaller lots.

The proposed development has a second storey above the proposed garage. Allowing a reduced front setback to a two storey building would have a greater impact on the streetscape due to building height and bulk, as compared to single storey structures.

The R40 density coding provides an opportunity for the properties that are currently backing onto Vera Street to be redeveloped. It is important to have a consistent approach in dealing with the new development applications proposing variations to the front setback to ensure that the future streetscape on Vera Street is not compromised.

Also having a reduced setback of the garage to the street alignment might create an unsafe situation for drivers and pedestrians due to the limited sight lines when a vehicle is reversing from the garage onto the street.

The proposal does not correspond with the average setbacks of recently built residences fronting Vera Street. It is considered that the proposed reduced front setback does not contribute to the desired Streetscape and therefore does not comply with the Performance Criteria P1 of the Design Element 3.2 –“Streetscape”.

Privacy issues

The applicant submitted a letter dated 8 September 2003 stating that “1800mm high fencing is to be included on all boundaries for screening purposes”.

Proposed fencing addresses Council’s decision of 25 August 2003, which deferred the consideration of the application subject to the applicant submitting revised plans addressing the following requirement:

- (b) *Screening of retained areas higher than 0.5m;*

As part of the deferral conditions Council also required the following:

- (c) *Prevention of overlooking from bedroom 3 window on the southern side in accordance with 3.8.1 of the Residential Design Codes”.*

The applicant submitted revised plans showing the Bedroom 3 window being made obscure and fixed up to the level of 1650mm from the floor level, which is in accordance with the RDC requirements and addresses the issue of potential overlooking from the adjacent property to the rear.

CONCLUSION

It is in the opinion of the administration that the proposed variation to the front setback should not be approved and the applicant should be required to comply with the 4m front average setback for the following reasons:

- The applicant did not comply with the previous decision of Council of 25th August 2003, which requested revised plans being submitted showing an average front setback being 4m;
- Proposed variation does not comply with the performance criteria P1 of the Design Element 3.2 –“Streetscape”, as it does not contribute to the “*desired streetscape*”;
- Approval of reduced setback from the garage to the street alignment might create an unsafe situation for vehicles and pedestrians;
- Approval of the proposal would create a precedent for applicants seeking approval of similar variations in the future, which might compromise the future streetscape.

OFFICER RECOMMENDATION

That Council:

Grant its Approval to Commence Development for the 2 Storey house at No. 9 Vera Street, Cottesloe in accordance with the application submitted on 20 June 2003 and the plans and correspondence received on the 8 September 2003, subject to the conditions outlined below.

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

- (2) The existing lot being subdivided and a new certificate of title being issued for the proposed lots prior to the issue of a building licence.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
- (8) The submission of revised plans to the satisfaction of the Manager Development Services showing compliance with the average front setback of 4m in accordance with clause 3.2.1 A1 (i) of the Residential Design Codes of Western Australia;

COMMITTEE COMMENT

A memo from the planning officer advised Councillors that a submission had been received late that day. The submission expressed concern in relation to the impact that the proposed overall height of the retaining and fencing would have on the future development of the adjoining property. A new condition was included requiring the retaining walls to be maximum of 500mm in height (Residential Design Codes Acceptable Standard height) to address the concerns of the neighbour.

The majority of the Committee supported the removal of condition 8 as they were of the opinion that the site was difficult to develop due to its size and the existing development in the street.

11.1.5 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Mr Strzina

That Council:

- (1) Grant its Approval to Commence Development for the 2 Storey house at No. 9 Vera Street, Cottesloe in accordance with the application submitted on 20 June 2003 and the plans and correspondence received on the 8 September 2003, subject to the conditions outlined below.**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) The existing lot being subdivided and a new certificate of title being issued for the proposed lots prior to the issue of a building licence.**
 - (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 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.**
 - (e) 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.**
 - (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 by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.**
 - (h) The submission of revised plans to the satisfaction of the Manager, Development Services, such plans showing a reduction in the levels of the site to achieve retaining walls that are a maximum height of 500mm high.**
- (2) Advise the submitters of this decision.**

Carried 9/1

11.1.6 NO 471 (LOT 2) STIRLING HWY - SURVEY STRATA SUBDIVISION

File No:	471 Stirling Hwy
Author:	Ms Lilia Palermo
Attachments:	Location plan Correspondence from WAPC
Author Disclosure of Interest:	Nil
Report Date:	5 September, 2003
Senior Officer:	Mr Stephen Sullivan
Property Owner:	David Keith Davidson
Applicant:	Guidice Surveys
Date of Application:	1 August , 2003
Zoning:	N/A
Density:	R30/60
Lot Area:	597m²
M.R.S. Reservation:	Primary Road Reservation

SUMMARY

The purpose of this report is to make a recommendation to the Western Australian Planning Commission with respect to the above subdivision application.

It is recommended that the proposal not be supported.

STRATEGIC IMPLICATIONS

The purpose of the R30/60 density coding is to:

- facilitate development at a higher density (R60) through the comprehensive re-development of two or more lots; and
- improve vehicular safety along Stirling Highway by prohibiting vehicular access directly to the site from Stirling Highway

Otherwise, development can only proceed in accordance with the R30 standards.

Approval of the proposed subdivision has a potential to create a precedent for similar applications in the vicinity, which might result in the ad-hoc redevelopment of the individual lots along Stirling Hwy and not achieve the objectives of the R30/60 density coding.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Metropolitan Region Scheme
- 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

CONSULTATION

Neighbour notification is not required for subdivision referrals from the Western Australian Planning Commission.

BACKGROUND

Council is requested to comment on a subdivision proposal by the West Australian Planning Commission by 12th September 2003. The proposed survey strata subdivision does not comply with the average site area requirement under the Residential Design Codes (RDC).

DISCUSSION

PROPOSAL

It is proposed to subdivide 471 Stirling Hwy (597m²) into two lots 300m² and 297m² in size. The subject lot has frontage to Stirling Hwy and also has access to a ROW at the rear.

METROPOLITAN REGION SCHEME

The site is reserved under the Metropolitan Region Scheme as a Primary Road Reservation. The reservation is currently 80m in width and affects land on both sides of Stirling Highway. The purpose of this reservation would be to allow the Western Australian Planning Commission to resume this land for road widening purposes.

There are no development standards for residential development within the Primary Road Reservation.

When the Town of Cottesloe No. 2 Town Planning Scheme was approved by the Minister of the day and subsequently gazetted, the Scheme Map did not show the Metropolitan Region Scheme Primary Road Reservation. There was an annotation on the map directing any person to the Metropolitan Regional Planning Authority for road widening requirements..

The Scheme map showed this land as being Residential. The Development Guide Map showed the land as having an R30/60 and Clause 3.4.1 of the Scheme had specific provisions in relation to the development of land which had been allocated the R30/60 density coding. This density coding extends from No. 121 Eric Street (south-west corner Stirling Highway) through to No. 505 Stirling Highway (second lot south of Burt Street).

Therefore, in considering the subdivision proposal, Council should consider the land as being coded R30/60 and the provisions contained within Clause 3.4.1 of the Town Planning Scheme text, as they relate to development within the R30/60 density coded areas.

STIRLING HIGHWAY PLANNING STUDY – REVIEW OF RESERVATION (AUGUST 2003)

The findings of the Stirling Highway Planning Study - Review of Reservation has been finalised and a copy of the report has been received. A report on this document will be presented to the October meeting of Council.

The study set out to define the desired road widening requirements for Stirling Highway. Currently, there is an 80m road reservation, which is considered excessive as shown in the report findings.

There has been a 5.0m development setback line in place since 1996. This was designed to protect land that may have been required for the future widening of Stirling Highway. The proposal in the final report indicates that a widening of 5.5m (measured along the side property boundary) will be required some time in the future.

Therefore, the building setback line would be in the order of 9.0m for any future development.

Development Control Policy 2.2 – Residential Subdivision (DC 2.2)

Clause 3.2.3 of the Western Australian Planning Commissions Development Control Policy 2.2 specifies the following which must be met by the subdivider when applying for subdivisions or survey strata subdivisions, which include a variation to the minimum or average lot size:

- *The variation only applies to one lot in the subdivision; and*
- *The variation reduces the area of that one lot by no more than 5% of the minimum area specified in Table 1 or elsewhere in the R – Codes; and*
- *The variation in the area of that one lot reduces the average lot size of the overall subdivision by no more than 5% of the average lot size specified in the table 1 or elsewhere in the R-Codes; and*
- *The variation has been demonstrated by the applicant to have a particular beneficial outcome for the community, or the Commission forms the opinion that it will have a particular beneficial outcome for the Community.*

The subdivision proposal complies with the first three criteria in relation to proposed variation to the required lot size.

The applicant did not demonstrate that the proposed variation to the average lot size would have a particular beneficial outcome to the community. The aspects that could be included as a particular beneficial outcomes to the community are outlined on page 6 of the DC 2.2, which are also contained as performance criteria of the Design Element 3.1 –“Housing Density”.

The proposal will be considered under the provisions of the Residential Design Codes (RDC).

RESIDENTIAL DESIGN CODES

The subject lot has a density coding of R30/60 under the TPS 2.

The proposal does not comply with the average site area requirement (300m²) for R30 density coding. The proposal is considered under the relevant performance criteria of the Design Element 3.1 – “Housing Density” of the RDC, which is as follows:

“The Commission may approve the creation of a lot of a lesser area and the Commission or Council may approve a minimum site area of a Grouped Dwelling on a site area less than that specified on Table 1 provided that the proposed variation would meet the following criteria:

- *be no more than 5 per cent less in area than that specified on Table 1; and*
- *facilitate the protection of an environmental or heritage feature; or*
- *facilitate the development of lots with separate and sufficient frontage to more than one public street; or*
- *overcome a special or unusual limitation on the development of the land imposed by its size, shape or other feature; or*
- *allow land to be development with housing of the same type and form as land in the vicinity and which would not otherwise be able to be developed; or*
- *achieve specific objectives of the local government Scheme and, where applicable, the Local Planning Strategy”.*

The above criteria will be used as heads of consideration.

Proposed lots being no more than 5% less in area than that specified in Table 1

It is proposed to subdivide 471 Stirling Hwy into two lots (300m² and 297 m²). The RDC specify an average site area of 300m² for R30 density. It is proposed to create lots that don't comply with the average site area requirement under the RDC. The proposed variation is 0.5%, which is in compliance with 5% variation specified under the performance criteria.

Facilitate the protection of an environmental or heritage feature

Proposed subdivision does not facilitate the protection of any environmental or heritage feature.

Facilitate the development of lots with separate and sufficient frontage to more than one public street

Proposed lots have frontage to only one public street – Stirling Highway. There is a ROW located at the rear of the proposed lots, as distinct from a public street.

Overcome a special or unusual limitation on the development of the land imposed by its size, shape or other feature.

Proposed subdivision does not help to overcome any unusual limitation in the development of the land. The subject lot is of regular shape and size and does not have any other unusual features restricting its development.

Allow land to be development with housing of the same type and form as land in the vicinity and which would not otherwise be able to be developed.

There is an existing single residence on 471 Stirling Hwy. The properties along Stirling Hwy to the south also contain single residential houses with a similar lot sizes. The adjoining property to the north contains a unit development. The proposal to subdivide the property into two small single residential lots of 300m² and 297 m² with approximately 8m frontage to Stirling Highway does not facilitate development similar to existing development in the vicinity.

Although the proposed subdivision is for the purpose of development single residential dwellings, the proposed two new lots are considerably smaller than the majority of lots in the vicinity.

Achieve specific objectives of the local government Scheme and, where applicable, the Local Planning Strategy.

The subject lot was zoned R30/60 under the Town of Cottesloe Town Planning Scheme No. 2, when it was gazetted. Clause 3.4.1 (b) of the TPS 2 states the following:

"In the areas coded R30/60 on the Development Guide map development shall be in accordance with the R30 development standards unless –

- (i) the development excludes direct vehicular access from and to Stirling Highway; and*
- (ii) the development is a comprehensive redevelopment of more than one lot abutting Stirling Highway;*

in which case it may be in accordance with the R60 development standards".

The purpose of the split density coding is to allow for higher density development up to R60, which would incorporate an amalgamation of two or more lots and include a comprehensive redevelopment of the site to ensure safe access and egress, attractive streetscape and compliance with other main provisions of the RDC.

Supporting the proposed subdivision of No. 471 Stirling Hwy into two lots is not in line with Council's intention for the area to provide for comprehensive redevelopment of the area up to its maximum potential (R60). The development of affordable dwellings on small lots, or potential rental accommodation is more suitable along such a busy road as Stirling Hwy than development of single residences on small lots.

The proposed subdivision may also result in ad-hoc development of the area. The following properties are part of the R30/60 density coding. The table shows the lot size of those properties and identifies the development potential of each individual lot, including those that need an exercise of discretion to achieve development at a higher density:

Address	Lot Size	Potential
No. 39 Boreham street (corner Stirling Highway)	696m ²	Already developed with 2 grouped dwellings
471 Stirling Highway (Subject of report)	597m ²	Single house (unless discretion is applied)
473 Stirling Highway	503m ²	Single house only
475 Stirling Highway	602m ²	Two single houses
477 Stirling Highway	536m ²	Single house only
479 Stirling Highway (corner Edward Street)	556m ²	Single house (unless discretion is applied)

No. 475 Stirling Highway is the only lot that has any development potential without the need for the direction of the Western Australian Planning Commission to permit development of the site. If No. 471 is allowed to be developed with the exercise of the discretion, it could possibly leave No. 473 Stirling Highway without any development potential. The site has no development potential as a single lot as the discretion is restricted to 5% of the requirements.

The proposed subdivision does not achieve the “*specific objectives of the local government Scheme*” in regards to facilitating a comprehensive redevelopment of the area along Stirling Hwy up to its maximum potential (R60 density). Higher residential densities are more appropriate type of development on lots fronting an important regional road and located within a public transport precinct.

CONCLUSION

It is considered that the proposed survey strata subdivision does not comply with the performance criteria of the Design Element 3.1 – Housing Density.

The proposal is not in line with the specific objective of the Town of Cottesloe Town Planning Scheme No 2 to encourage comprehensive redevelopment of the area assigned R30/60 density up to its maximum potential, which would provide suitable housing types on lots fronting a Stirling Hwy and within direct access to public transport.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council advise the Western Australian Planning Commission that it objects to the proposed survey - strata subdivision at No. 471 (Lot 2) Stirling Highway, Cottesloe (WAPC Ref: 869-03) for the following reasons:

- (1) The proposal does not comply with the performance criteria of the Design Element 3.1 of the Residential Design Codes;

- (2) The proposal is not in keeping with the objective of Clause 3.4.1 of the Town Planning Scheme Text – which is to facilitate comprehensive redevelopment of the areas along Stirling Highway assigned split density coding R30/60 up to their maximum potential and improve safety along Stirling Highway;
- (3) Approval of the proposed subdivision might result in ad-hoc development along Stirling Highway;
- (4) The proposed subdivision may affect the potential of the adjoining land to be redeveloped with the higher density type housing in accordance with Council's objective;
- (5) The applicant did not demonstrate that the proposed variation to the average lot size requirement under the R-Codes would have a particular beneficial outcome to the community in accordance with the Development Control Policy 2.2 – "Residential Subdivision".

COMMITTEE COMMENT

The Committee supported the subdivision proposal with standard conditions plus the following special conditions:

- vehicular access to the property to be from the right of way, not from Stirling Highway; and
- the right of way to the rear of the site being paved and drained.

The Committee were of the opinion that the remaining properties in the street block to the south, still had the potential to amalgamate with other properties.

11.1.6 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council advise the Western Australian Planning Commission that it supports the proposed survey - strata subdivision at No. 471 (Lot 2) Stirling Highway, Cottesloe (WAPC Ref: 869-03) subject to the following conditions:

- (1) All existing dwellings and outbuildings on the site being demolished.**
- (2) The site being levelled and stabilised to the satisfaction of Council's Building Surveyor.**
- (3) Vehicle access not being permitted from Stirling Highway; and**
- (4) The right of way to the rear of the site being drained and paved to the satisfaction of the Manager, Engineering Services.**

Carried 7/3

11.1.7 HERITAGE LOAN SCHEME

File No: X11.16
Author: Mr S Sullivan
Attachments: Letter from WALGA and accompanying information
Author Disclosure of Interest: Nil
Report Date: 4 September, 2003
Senior Officer: Mr S Tindale

SUMMARY

The Western Australian Local Government Association has advised Council of a Heritage Loan Scheme. The Scheme is a partnership between State and Local Government and is administered by a recognised financial institution.

It is recommended that Council contribute to this fund to allow community groups or private residents to have access to a loan scheme with a subsidised interest rate, interested in the preservation of local heritage.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Encourages conservation works to properties that have been identified as being of heritage value to the district.

FINANCIAL IMPLICATIONS

The minimum cost to the Town is \$20,675 - based on 0.5% of the rateable income for the Town in 1999/2000. It is a once off, non-recoverable payment.

There is currently \$30,000 in the Town Planning Budget for Heritage Initiatives - General.

BACKGROUND

The details of the Scheme are set out in the attachment from the Western Australian Local Government Association.

STAFF COMMENT

The Scheme will allow residents with properties on the:

- Municipal Inventory,
 - State Register of Heritage Places,
 - Commonwealth Register of the National Estate; or
 - the National Trust of Australia (WA) List of Classified Places of the District;
- to access a loan with a subsidised interest rate to carry out conservation works on those properties.
-

The minimum cost to Council is \$20,675, although there is \$30,000 in the Heritage Initiatives budget account. The amount of the contribution to the Heritage Loan Scheme is submitted to Council for determination.

VOTING

Simple majority.

OFFICER RECOMMENDATION

That Council:

- (1) Advise the Western Australian Local Government Association that it is prepared to participate in the Heritage Loan Scheme;
- (2) Contribute \$_____ to the Heritage Loan Scheme;
- (3) Delegate to the Chief Executive Officer authority to facilitate Council's inclusion in the Scheme; and
- (4) Advise the public of its participation in the Heritage Loan Scheme.

COMMITTEE COMMENT

Cr Jeanes moved that Council contribute \$25,000 towards this scheme.

11.1.7 COMMITTEE RECOMMENDATION AND COUNCIL RECOMMENDATION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) Advise the Western Australian Local Government Association that it is prepared to participate in the Heritage Loan Scheme;**
- (2) Contribute \$25,000 to the Heritage Loan Scheme;**
- (3) Delegate to the Chief Executive Officer authority to facilitate Council's inclusion in the Scheme; and**
- (4) Advise the public of its participation in the Heritage Loan Scheme.**

Carried 10/0

11.1.8 MARINE PARADE – SECOND BEACHFRONT WORKSHOP

File No: D4.14
Author: Mr S Sullivan
Attachments: Beachfront Workshop Outcomes
Author Disclosure of Interest: Nil
Report Date: 5 September, 2003
Senior Officer: Mr S Tindale

SUMMARY

The outcome for the workshops would provide Council with a range of issues to consider when developing a strategy for the long term use and development of the public domain in Marine Parade (including the coastal land) and the interface between the public domain and public/private land abutting Marine Parade, between Forrest Street and Grant Street (for ease of reference in the report, this area will be referred to as the "study area").

It is recommended that a second workshop be held to finalise the work carried out from the first workshop, with the findings being referred to the Strategic Planning Committee for consideration.

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2
Metropolitan Region Scheme
Land Administration Act
Local Government Act

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

If Council agrees to develop a strategy for the study area, it will result in a strategic approach to the co-ordination, promotion and control of the use and development of the public domain in the study area. As part of this, the interface between the public domain and the private properties is an important aspect that needs to be addressed as both areas interact with each other.

Having finalised the study for this area, a further study could encompass the remaining coastal area along the western boundary of the District.

FINANCIAL IMPLICATIONS

The estimate for the next step in the process is anticipated to be about \$2,600.

BACKGROUND

At the request of the Mayor, a meeting of councillors, members of the Design Advisory Panel and staff was organised to have a general discussion on "icon sites" within the District. The half-day workshop focussed on the study area.

The public and private land abutting the eastern side of Marine Parade was included in the workshop discussions as this provided the eastern edge to the public domain. Further, the role, use and built form of the development on the eastern side of Marine Parade impacts on the public domain.

The workshop outcomes are attached to this report - excluding the appendixes which have previously been circulated to Councillors.

STAFF COMMENT

The workshop resulted in a general consensus of the issues that influence the function of the public domain, the interaction between the public and private areas and the built form of the study area. However, there were certain areas that still require further discussion and therefore, a second workshop is required to finalise the discussion on these points.

The second workshop would focus on:

- consolidating the objectives for the beachfront, drawing on the outcomes from the first workshop;
- the public domain; and
- building envelopes.

Following the completion of the second workshop, the findings and recommendations will be presented to the Strategic Planning Committee. The Committee would consider the findings of the workshop and then recommend to Council whether the process should be stopped or continued.

If Council resolves that the process should continue, then the details of progressing the study, including such matters as community consultation, funding, timeframe and the process, should be determined and adopted by Council.

VOTING

Absolute Majority

OFFICER RECOMMENDATION

That Council:

- (1) Engage Mr Patric De Villiers to facilitate the second beachfront workshop; and
- (2) Request the facilitator to present a report on the results of the workshops and his recommendations to the Council via the Strategic Planning Committee.

COMMITTEE COMMENT

The Committee believed the report should be presented direct to Councillors rather than being referred to Council via the Strategic Planning Committee.

11.1.8 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) Engage Mr Patric De Villiers to facilitate the second beachfront workshop;
and**
- (2) Request the facilitator to present a report on the results of the workshops
and his recommendations to Council.**

Carried 10/0

11.1.9 URGENT BUSINESS – DEVELOPMENT SERVICES COMMITTEE MEETING TIME

Some of the Committee members requested the meeting time for the Development Services Committee be moved from 5.00 pm to 6.00 pm due to work commitments.

11.1.9 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That:

- (1) The meeting time for the ordinary meeting of the Development Services Committee for the October meeting and future ordinary meetings of this Committee be changed from 5.00 pm to 6.00 pm; and**
- (2) The Chief Executive Officer make arrangements for the advertising of the change in the meeting time of the Development Services Committee meeting.**

Carried 10/0

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 16 SEPTEMBER 2003**12.1 ADMINISTRATION****12.1.1 CARETAKER'S COTTAGE**

File No: C4.2
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 8 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to bring to Council's notice that the lease between Council and the Centre for Attitudinal Healing, for the Cottage, expires 30 September, 2003.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The current rental is \$1996 per year and was calculated to cover operating costs in accordance with Council's resolution C77 of September 2002. Actual operating costs for 2002/03 were \$1795.70.

BACKGROUND

The Caretaker's Cottage is a part of the historically significant Cottesloe Civic Centre complex and is located in the south-western corner of the grounds. It abuts Warnham Road. It has been used for a number of purposes including staff accommodation and more recently as an "artist in residence" facility.

In December 1998 the Centre for Attitudinal Healing (CFAH) was advised that Council had resolved to accept its offer to utilise the building, subject to there being no significant objections from residents. Files indicate that thirty one near by residents were sent a letter (21/12/88) setting out Council's decision to consult with them prior to entering into a rental agreement, some information on CFAH and how it would operate at the Cottage, and setting out the procedure for lodging objections. Few responses appear to have been received, one resident expressed some concern over possible parking problems. Another expressed concern over hours of operation, parking and a need to know more about the proposed tenant. A Memorandum of Understanding (MOU) setting out terms and conditions for the use of the Cottage was

signed by CFAH representatives 1 January, 1999. This document served as the tenancy agreement and provided for the CFAH to bear the cost of redecorating the premises, no rental charge for the first six months of occupancy with a nominal rental to be negotiated with the CEO after this time and an expectation that this rental would be in the order of \$100 per month. The agreement was for a term of twelve months and the MOU included the following; "Both parties acknowledge that the Town of Cottesloe may have a requirement to use the cottage for its own purposes after the initial 12 month period. If this occurs, CFAH will be given a minimum of 2 months notice to vacate the cottage." In August 1999 CFAH was advised that the rent would be \$25 per week commencing from 1 August, 1999.

Council dealt with items on the renewal of the tenancy agreement at its meetings in May and June 2000 and July 2000. At the latter meeting Council resolved to extend the agreement for a further 12 months at a rental of \$25 per week plus GST. In April 2001 the tenancy was again review by Council and it resolved to invite proposals from local environmental and/or community groups to submit proposals for the use of the Cottage as an environmental centre. The file contains no proposals from local groups and in August 2001 Council resolved to extend the current arrangement with CFAH for a further 12 months with a weekly rental of \$30 plus GST. CFAH was advised in September 2001 that its tenancy had been approved for further 12 months. Council reviewed the matter again at its September 2002 meeting and the officer recommendation was as follows;

That Council:

- (1) Advise the Centre for Attitudinal Healing that it will not renew the tenancy agreement on the Caretaker's Cottage and that the last date to vacate the premises be 2 December, 2002;
- (2) Thank the Centre for Attitudinal Healing for their relationship with Council over the time of their occupancy of the Caretaker's Cottage and the work they have done within the district; and
- (3) Request Administration to make arrangements to relocate the Ranger's office to the Caretaker's Cottage in the current calendar year.

The Works and Corporate Services Committee noted the work of the Centre for Attitudinal Healing in the community and preferred to see Ranger accommodation included with the review of administration accommodation, and so made the following recommendation which was subsequently adopted by Council:

That Council renew the lease of the Caretaker's Cottage for the Centre of Attitudinal Healing for a period of 12 months, to 30 September 2003, at a rental calculated to cover operating costs for the cottage which are in the order of \$2,000 per year.

Council's Ranger staff were relocated to the Beach Ranger's office in the north west corner of the Indiana Tea House building some years ago as part of a re-jig of Council's office accommodation. The move was a temporary measure until more suitable arrangements could be made. The Beach Ranger occupied the lower level of the accommodation and another office was created in the tower above this.

The Cottage was set up as residential accommodation, but appears to have been modified internally to suit more commercial purposes. No measurements have been taken however the current layout consists of two rooms approximately 3m by 7m, a smaller room approximately 2.5m by 2.5m, a kitchen, and toilet and bathroom facilities. It also has secure storage at the rear and four parking bays at the front.

CONSULTATION

Nil.

STAFF COMMENT

The following is an extract of the staff comment to the September 2002 report:

CFAH has, from an administrative prospective, been model tenants with accounts being paid on time, no noted problems with parking and the like or complaints in relation to aspects of its operation. They carried out significant redecoration works in 1999 at their cost (\$8,000). They currently run five groups at the Cottage, consisting of a men's group on Monday nights, a women's group Tuesday afternoons, young adults group Wednesday evenings, a parenting support group Thursday afternoons and a community group on Saturday mornings. CFAH is a registered not for profit organisation that provides services at no cost to participants. CFAH points out that it has taken some time to establish themselves at the Cottage and they are about to embark on a promotional program to let the Cottesloe Community know more about the centre and services they provide. They also advise that their services go some way to meeting the short fall between what the community needs and what government agencies provide. They say that their centre is providing valuable frontline support to people who are struggling with their lot in life.

Problems with the current location of the Ranger's office include constant interruptions from beach-goers looking for or handing in lost property, seeking first aid and seeking general information. The size and layout of the office space is not adequate in summer when staff numbers are increased with temporary officers. The upper level has an air-conditioner however the expanse of westward facing glass and no air-conditioning on the lower level makes the area hot in summer. There is not sufficient space to store gear such as the Ranger's cycle. There is no water connection to the area and so no wash up facilities. There are also no toilet facilities other than the public conveniences located on the upper level, this can become a security problem at weekends. Vehicle parking is an occasional problem and the practice of parking on the paved area in front of the boat shed is not desirable given the high numbers of people in the area in summer. There is a history of irritating computer problems that appear to primarily relate to links to the main office server.

Benefits of moving Rangers to the Cottage include reduced cost for computer connection. Current costs for an ISDN connection to the beach office of \$4,200 could be replaced with a \$2,000 PABX voice link for phone lines with a once off cost of \$6,000 cabling and other connections. The Cottage is closer and well within walking distance of the office reducing the need for vehicular travel. The increased presence of Rangers in the grounds should have a beneficial impact on the level of vandalism and other crime at the Civic Centre. The secure storage area could be used to store temporary signs and other such bulky items that Rangers need to access quickly from time to time and are currently stored at the depot. The current Ranger's Office could be used by contract lifeguards for lockable gear storage, and observations from the northern tower. This tower could also be accessed by Cottesloe Surf Life Saving Club patrols on summer weekends where necessary.

Additionally it would provide a facility that Rangers (and perhaps Police) could use as a command post for beach functions and the like. It is not suggested that this facility be given over to another body on a permanent basis, rather that it be used as required by Council or for Council related purposes.

It is envisaged that the Rangers would require one of the larger rooms, all or part of the small room for storage and part of the secure storage area, and access to the facilities. The other larger room and part of the smaller room could be utilised for another, yet to be determined, purpose. The four bay parking area at the front of the Cottage would be more than adequate for Ranger vehicles and provide visitor parking opportunities.

The lease arrangement ends at the end of this month and Council now has the option to offer a renewal of the lease or to utilise the facility for its own purposes. The officer recommendation is for the latter option.

VOTING

Simple majority

OFFICER RECOMMENDATION

That Council

- (1) Advise the Centre for Attitudinal Healing that it will not renew the tenancy agreement on the Caretaker's Cottage and that the last date to vacate the premises be 31 December, 2003
- (2) Thank the Centre for Attitudinal Healing for their relationship with Council over the time of their occupancy of the Caretaker's Cottage and the work they have done within the district; and
- (3) Request Administration to make arrangements to relocate the Ranger's office to the Caretaker's Cottage at the first available opportunity.

12.1.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council

- (1) Advise the Centre for Attitudinal Healing that it will not renew the tenancy agreement on the Caretaker's Cottage and that the last date to vacate the premises be 31 December, 2003;**
- (2) Thank the Centre for Attitudinal Healing for their relationship with Council over the time of their occupancy of the Caretaker's Cottage and the work they have done within the district;**
- (3) Request Administration to make arrangements to relocate the Ranger's office to the Caretaker's Cottage at the first available opportunity; and**
- (4) Invite the Centre for Attitudinal Healing to use the Lesser Hall, in accordance with the hire policy , for their meetings in the future.**

Carried 10/0

12.1.2 CONSTABLE CARE CHILD SAFETY PROJECT - DONATION REQUEST

File No: C5.1
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 9 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the donation request from the Constable Care Child Safety Project.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Provision was made in Council's 2003/04 budget for a donation of \$800 (net of GST) for this purpose. This year donation request is \$935 inclusive of GST. This amount is \$850 net of GST and so \$50 more than the amount provided. The GST is treated as an input tax for this item and claimed back.

BACKGROUND

The Constable Care program has been conducted at the Cottesloe and North Cottesloe Primary Schools for a number of years now and Council has made a practice of providing financial assistance for this.

This year's program is for a total of five early intervention live presentations and 100 merit awards and Council is asked to contribute part of the cost (\$935 including GST). Last year hats were given out as merit awards and water bottles will be given out this year. The bottles will have Council's logo and an appropriate Constable Care message.

CONSULTATION

The report author spoke to representatives at both Primary Schools regarding the Constable Care programs. Both advised that they were very happy with the programs and were keen to see them continue.

STAFF COMMENT

The Constable Care puppet show presentations at the two primary schools that service Cottesloe have, according to the Schools and the service providers, been a great success. They have become a regular part of the School's programs.

Provision was made in the current budget for a donation.

VOTING

Simple majority

12.1.2 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council donate \$935 (inclusive of GST) to Constable Care Child Safety Project (Inc) toward its programs at Cottesloe and North Cottesloe Primary Schools for 2003/04.

Carried 10/0

**12.1.3 COTTESLOE - PEPPERMINT GROVE - MOSMAN PARK LIBRARY,
BUDGET**

File No: C11.1
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 8 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Cottesloe -Peppermint Grove - Mosman Park Library Budget for 2003/04 to Council for ratification.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The Library Committee Budget is based on a contribution of \$270,768 from this Council and Council's 2003/04 Budget contains a provision for that amount.

BACKGROUND

The Joint Library Agreement provides that the final draft of the Library budget is to be ratified by all parties. At its May 2003 meeting, the Library Committee approved the draft budget.

CONSULTATION

The draft budget was discussed at the May 2003 Library Committee meeting.

STAFF COMMENT

The budget appears to be in order. Operating expenditure and the combined contributions from Councils are up by 3.6% on the previous years Budget which is in line with inflation predictions for 2003/04.

VOTING

Simple majority

**12.1.3 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL
RESOLUTION**

Moved Cr Miller, seconded Cr Cunningham

That Council ratify the Cottesloe-Peppermint Grove-Mosman Park Library Budget for 2003/04 as presented.

Carried 10/0

12.1.4 COTTESLOE TENNIS CLUB ASSISTANCE WITH EXTENSIONS TO CLUBHOUSE

File No: E10.11
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 8 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the request from the Cottesloe Tennis Club (Inc) for assistance with its clubhouse extensions.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The financial implications will depend on the extent of assistance provided. At this stage though, the recommendation is to agree in principal to provide assistance, so there is no immediate financial impact. It should be noted that no provision was made in the current Budget for this project, also that the assistance may be spread over a number of financial years (ie if an interest free loan is provided).

BACKGROUND

The Tennis Club wrote to the Mayor to thank Council for approving its plans to renovate and extend its clubhouse, and to ask for Council's assistance. The Club noted that the works are expected to cost between \$350,000 and \$400,000 and suggest that Council's assistance could be in the following areas;

- Connecting to the deep sewerage.
- Providing an outright grant, or and interest free loan for 4 or 5 years.
- Waiving or reimbursing building licence fees.

Plans are being drawn up and the Club expects to have quotes for the cost of construction by the end of September. The Club is making an application for a Department of Community Sport and Recreation grant and will not know the extent of its borrowing requirements till the outcome of its application is known.

CONSULTATION

Nil.

STAFF COMMENT

Based on the information provided by the Club, and addressing the areas of assistance sought, it is not possible to estimate the cost of the sewerage connection and it is expected that this would be known once the Club has obtained its quotations. The amount of the grant or loan will be known once the Club has its quotations and response from the grant provider. However if Council were to provide an interest free loan of \$400,000 over 5 years then presumably it would have to borrow the funds and the interest cost would be in the order of \$69,000. Building licence, BCITF levy Builders Registration Board Levy and footpath/kerb deposit for a \$400,000 construction would be \$1,886.

It is noted that the Club, largely with its own resources, plans to carryout extensive improvements to a building that ultimately is owned by Council/the community (the clubhouse is located on a reserve under the care, control and management of Council). Based on this and the service that the Club provides to the community (in terms of sporting activities and maintenance of a reserve) it is suggested that Council provide the Club with some assistance toward its clubhouse project. The extent of assistance should be determined once the Club has quotes for the works and has a response from its grant funding application.

VOTING

Simple majority (absolute majority where fees are waived).

DECLARATIONS OF IMPARTIALITY

Cr Furlong declared impartiality.

OFFICER RECOMMENDATION

That Council advise the Cottesloe Tennis Club Inc that it will provide some assistance with its clubhouse project and that the level of assistance will be determined once construction costs and the outcome of its grant application is known.

COMMITTEE COMMENT

Cr Utting noted that lower interest rate loans have not been provided to other clubs.

The Committee noted that the conditions of approval may include the building to be connected to sewerage.

Cr Walsh suggested that Council waive the statutory building fees and provide \$5000 towards deep sewerage.

The Committee noted that an absolute majority vote is now required.

DECLARATION OF IMPARTIALITY

Cr Furlong made a Declaration of Impartiality with respect to his wife being a life member of the Cottesloe Tennis Club.

12.1.4 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council advise the Cottesloe Tennis Club Inc that it will waive statutory local government fees and that when construction costs and the outcome of grant application are known, may consider other forms of assistance.

Carried 10/0

12.1.5 SHENTON CHRISTIAN COUNCIL - CHAPLAINCY PROGRAMME AT SHENTON COLLEGE - DONATION REQUEST

File No: C7.7
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 9 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the Shenton Christian Council's \$1,200 donation request toward its chaplaincy programme at Shenton College.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Provision was made in Council's 2003/04 budget for a donation of \$250 for this purpose.

BACKGROUND

The Shenton Christian Council lodged a donation request for \$1,200 for 2003/04. The request set out that the total expenses for the chaplaincy for 2003/04 is expected to be \$87,100. Also that the \$83,585 of expenses for the previous year were met by donations from the Shenton College P&C (\$10,000), City of Nedlands (\$8,000), private donors (\$6,721), Cottesloe Golf Club (\$5,000) and the balance from local community churches. The Council notes that the City of Nedlands has approved of a \$10,000 donation for 2003/04. Also that 2.9% of Shenton College students reside in Cottesloe and the \$1,200 request is calculated on this.

Swanbourne and Hollywood Schools were closed and amalgamated into Shenton College in 2001.

Council commenced the practice of making a donation (\$250 annually) for the Swanbourne High School chaplaincy in 1998 and donated each year except for 2002/03 when provision was made in that year's budget but no donation request was received. The current request was received 1 September, 2003 and so after Council had adopted its budget for the year.

CONSULTATION

Nil.

STAFF COMMENT

Council has supported the chaplaincy in past years by making a donation of \$250 each year, except for 2002/03. The annual donation did not increase however the current submission indicates that costs increased annually from \$70,385 in 99/2000 to an anticipated cost of \$87,100 for 2003/04. The value of the service provided by the chaplaincy is not doubted and it is noted that some of the College students reside in Cottesloe.

The timing of the request is unfortunate given the size of the donation requested relative to the budget provision. If Council decides to make a donation that significantly exceeds the provision it is advised that the resolution should include an amendment to the budget and that the motion then must be carried by an absolute majority.

It is recommended that a donation of \$250 be made and that consideration be given to making a larger donation when formulating the 2004/05 budget.

VOTING

Simple majority

OFFICER RECOMMENDATION

That Council donate \$250 to the Shenton Christian Council for the Shenton College Chaplaincy.

COMMITTEE COMMENT

Cr Cunningham suggested an amendment to the motion to increase the donation to \$600, and include in the next year's budget \$1200.

12.1.5 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council donate \$600 to the Shenton Christian Council for the Shenton College Chaplaincy and that consideration be given to giving a larger donation when formulating the 2004/2005 budget.

Carried 10/0

**12.1.6 COMMUNICATION & CONSULTATION PARTNERSHIP AGREEMENT -
WALGA & STATE GOVERNMENT**

File No: X11.16
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 9 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The WA Local Government Association (WALGA) has sent a copy of a draft partnership agreement between the State Government, WALGA and Local Government Managers Australia.

The agreement is aimed at improving levels of communication and consultation between the three bodies and WALGA is seeking Council's comments on the agreement.

A recommendation is made to support the agreement.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Chief Executive Officer of WALGA has written to Council as follows:

Resulting from the signing of the State-Local Government Partnership Agreement in December 2002, a draft *Partnership Agreement on Communication and Consultation* has now been developed.

Communication and consultation represents a key component in the working relationship between State and Local Government. A lack of clearly defined and mutually agreed processes has historically generated practices that are often inconsistent, ineffective and contrary to the spirit of true partnership between both spheres of government.

The intent behind this partnership agreement is to effect positive changes by promoting a shared understanding of what constitutes effective communication and consultation and establishing best practice principles. The agreement provides principles and guidelines aimed at assisting all levels within State and Local Government in employing

meaningful practices in these areas, the result of which should be greater inclusion in decision making and policy formulation.

The draft Communication and Consultation Partnership Agreement has been developed to cover all employees and representatives within State and Local Government, including officers, managers, executives, Ministers and Elected members.

A copy of the draft partnership agreement is enclosed for the consideration of all Member Local Governments. Comments on the draft agreement must be received by 10 October 2003. All submissions will be referred to the State-Local Government Partnership Steering Group for deliberation.

Please note that the existing draft pre-dates the outcomes of the WALGA Annual General Meeting on 3 August 2003. As such, the resolution which was carried at that meeting requesting a 6 month time allocation and consensus when consulting on new legislation has yet to be considered by the Partnership Steering Group for inclusion in the agreement. This will occur at the next meeting of the Steering Group on 26 September 2003.

CONSULTATION

Nil.

STAFF COMMENT

The aims, objectives and principles of the report are fully endorsed.

If, as and when the report is signed off, the real test will come in how many times the agreement is breached rather than observed.

Historically the State Government has promised full consultation on a range of various matters.

In practice however, we have seen the State Government implement action with little or no consultation.

A classic example was the downgrading/closure of the Grant Street railway station where, despite the existence of a transport communications strategy, decisions were made with absolutely no local government consultation.

A charitable view of things might be that the new partnership agreement is meant to overcome communication difficulties that have sometimes plagued our relationships with State Government in the past.

VOTING

Simple Majority

COMMITTEE COMMENT

Nil.

12.1.6 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council advise the WA Local Government Association of its support for the draft Partnership Agreement on Communication and Consultation.

Carried 10/0

12.1.7 OUTSTANDING DEBTOR - REQUEST FOR A REDUCTION IN INVOICED AMOUNT

File No: C7.9
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 9 September, 2003
Senior Officer: Mr Stephen Tindale

Note: This item was dealt with at the end of the meeting after the public gallery had cleared.

SUMMARY

A recommendation is made to

1. Enforce the contractual arrangements between the Town of Cottesloe and Beachfront Enterprises and to
2. Waive an amount of \$9000 in rent owing as a gesture of goodwill.

STATUTORY ENVIRONMENT

The Local Government Act provides as follows:

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

FINANCIAL IMPLICATIONS

Beachfront Enterprises has been invoiced a total amount of \$42,602.33 for the legal fees associated with the preparation of the lease agreement for the North Cottesloe Café. Of that amount \$24,434 has been paid leaving an amount of \$18,168.33 in dispute.

BACKGROUND

This matter was last raised with the Council in March 2003.

At the time, Council was informed that the lease agreement between Beachfront Enterprises and the Town of Cottesloe contained the following clause:

12.2 Payment Of Costs

- (a) The Lessee must pay to the Lessor all the costs, outgoings, fees, Legal Fees and disbursements, and payments, which the Lessor pays or is liable to pay in connection with or incidental to:

- (1) (from 22 May 2000 onwards) the instructions for and the preparation, execution, stamping, and any necessary registration, of this Document;
- (2) the Money Payable;
- (3) any breach of the Lessee's Covenants;
- (4) the exercise or purported or attempted exercise of the Lessor's Rights;
- (5) any work done at the request of the Lessee; and
- (6) obtaining or attempting to obtain payment of the Money Payable;
- (7) any action, suit or proceeding arising out of, concerned with, or incidental to:
 - (A) any of the matters referred to in subparagraphs (1) to (7); or
 - (B) any other matter connected with, incidental to or arising out of this Document;unless costs are awarded to the Lessee against the Lessor in that action, suit or proceeding; if they are of a reasonable amount and have been reasonably incurred, which costs will be presumed to be:
 - (8) reasonably incurred if incurred with the express or implied approval of the Lessor;
 - (9) reasonable in amount if the amount is expressly or impliedly approved by the Lessor; and
 - (10) reasonable in amount if calculated in terms of an agreed hourly rate as stated in a written agreement between the Lessor and its solicitors; and
- (b) the Lessee must pay, or if demand is made by the Lessor, must pay to the Lessor:
 - (1) all filing and registration fees in connection with this Document; and
 - (2) all duty, fines and penalties payable under the Stamp Act 1921, if not caused by any act or omission of the Lessor, financial institutions duty, debits tax, and other statutory duties or taxes on or in respect of:
 - (A) this Document;
 - (B) the Money Payable; and
 - (C) payment to, or receipt by, the Lessor of the Money Payable.

By letter dated 11th February 2003 (see enclosed), Beachfront Enterprises sought a reduction in the legal fees associated with the preparation of the lease agreement.

Council decided that further advice was needed from Freehills and as a result the CEO wrote to Freehills as follows.

Please find enclosed a copy of correspondence received from the lessee of the North Cottesloe Café.

Clause 12.2 of the lease agreement essentially provides that the lessee shall meet all legal costs relating to the preparation of the lease agreement.

Can you please confirm that all legal costs raised by Freehills and charged to the Town of Cottesloe in relation to this matter are captured by clause 12.2 of the lease agreement?

Can you also comment on Mr Gamble's advice that "...other matters such as the investigations in the tender process, state planning approvals, new members of your staff familiarising themselves with the legal aspects and toilet cleaning requirements – should be born (sic) by the Council."

On the 25th July 2003 Freehills advised the following:

We cannot confirm that all legal costs raised by Freehills and charged to the Town of Cottesloe in relation to the North Cottesloe Café are covered by clause 12.2 of the lease. It appears to us that matters involving the integrity of the tender process fall outside clause 12.2

Investigations in the tender process and staff familiarisation are likely to fall outside clause 12.2
State planning approvals can be categorised as being a matter in connection with or incidental to the preparation of the lease and therefore fall within clause 12.2

The CEO subsequently wrote to Beachfront Enterprises as follows:

As you know (and in accordance with a direction from Council) I was asked to obtain legal advice from Freehills on whether all the legal expenses raised by Freehills and invoiced to Beachfront Enterprises were legitimately caught by clause 12.2 of the lease agreement.

The advice of Freehills is now to hand and in summary they state that in their view matters involving the integrity of the tender process and staff familiarisation fall outside the intent of clause 12.2 of the lease agreement.

I accept their advice and am prepared to recommend same to Council.

However all is not as simple as it appears.

The integrity of the tender process was raised and concluded as an issue with Council prior to 30 June, 2000. The accounts you have queried post date the event.

Indeed, Council's legal advice on the integrity of the tender process came from Minter Ellison – not Freehills.

In other words it appears that Freehills were deliberately confined to those matters relating to the negotiation of the lease agreement. They were not asked by the Town of Cottesloe to provide advice on due diligence (or lack thereof) by the Town of Cottesloe in awarding the tender to Beachfront Enterprises.

As you know, the lease agreement was amended many times before it reached its final shape.

The references in the accounts that you have questioned relate mainly to the legitimacy of the agreed amendments in the context of the original tender. Freehills were instructed by us to ensure that the agreed amendments were consistent with the original tender and that neither party was at risk of compromising the other party (or other agencies such as the Department of Land Administration) during the negotiation process.

I am therefore of the view that our instructions to Freehills were prudent and reasonable in this regard and are properly caught by the intent of clause 12.2 of the lease agreement.

It also appears that what you describe as staff familiarisation was simply a continuation of the amending and checking process described above. In other words the players changed, but not the play.

Given the above, my recommendation to Council is likely to be that Council seek payment of the legal fees in full.

However before I put that recommendation to Council, you may wish to enter into further discussions as to how the matter might be best resolved.

To that end, please accept this letter as an invitation to discuss the matter further.

A meeting was held with Kim Gamble (of Beachfront Enterprises) on 25th August.

Mr Gamble is still of the view that he has been unfairly charged for costs incurred in getting Council and Freehills staff up to speed during negotiations at a time of high staff turnover/absence.

CONSULTATION

Kim Gamble.

STAFF COMMENT

The legal agreement is quite clear on who is responsible for the payment of the legal costs and in this regard there is no dispute.

It is the fairness of these costs, which is in dispute.

There was certainly a high degree of staff turnover/absence at Freehills during lease negotiations. Indeed those that were there when the lease was finally signed off have

since moved on as well. There was also a fair degree of staff turnover/absence at the Cottesloe end – but not of an amount that one would think would be material.

Given an hourly rate of \$400/hour for the involvement of one of Freehills senior partners in the lease negotiations, a bill of \$8,000 could easily be generated over a two and half day period.

The question is whether the Town of Cottesloe should carry perceived “duplication” costs or whether Beachfront Enterprises should.

I see no joy whatsoever in attempting to redress the matter with Freehills.

Council has a number of options available to it. They include the following.

- (1) Insist on the payment of legal fees in full as per the terms of the lease agreement,
- (2) Instruct the CEO to negotiate a settlement with Beachfront Enterprises (with or without an upper limit in mind) and bring the results of those negotiations back to Council for further consideration.
- (3) Delegate power to the CEO to negotiate a settlement with Beachfront Enterprises (with or without an upper limit in mind) and write off the agreed amount without further reference to Council (requires an absolute majority decision).
- (4) Agree to the write off of an amount fixed by Council (requires an absolute majority decision).
- (5) Agree to the write off of the amount in dispute (requires an absolute majority decision).

It should be noted that our records indicate an outstanding amount of \$18,168.33 and not an amount of \$17,162.71 as indicated by Beachfront Enterprises.

If options 2 to 5 are entered into, then the lease agreement will need to be varied by deed. Clause 12 quite clearly places responsibility for the payment of legal fees on the lessor and the lease agreement may be varied only by deed executed by the parties.

The preparation of a deed will incur more legal fees.

Alternatively Council may insist on the payment of legal fees in full (as per the terms of the lease agreement) and waive a nominated rental amount for the North Cottesloe Café as a gesture of goodwill.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Beachfront Enterprises has been invoiced a total amount of \$42,602.33 for the legal fees associated with the preparation of the lease agreement for the North Cottesloe Café. Of that amount \$24,434 has been paid leaving an amount of \$18,168.33 in dispute.

VOTING

Absolute majority where an amount is being written off or a Council power is delegated to the CEO.

OFFICER RECOMMENDATION

1. That Council insist on the payment in full of legal fees in full as per the terms of the lease agreement with Beachfront Enterprises
2. That Council waive an amount of \$9,000 in rent owing by Beachfront Enterprises for the North Cottesloe Café in the current financial year as a gesture of goodwill.

COMMITTEE RECOMMENDATION

1. That Council insist on the payment in full of legal fees in full as per the terms of the lease agreement with Beachfront Enterprises.
2. That Council waive an amount of \$4,500 in rent owing by Beachfront Enterprises for the North Cottesloe Café in the current financial year as a gesture of goodwill.

Lost at Committee for lack of an absolute majority 3/2

12.1.7 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council insist on the payment in full of legal fees as per the terms of the lease agreement with Beachfront Enterprises.

Carried 10/0

Moved Cr Sheppard, seconded Cr Furlong

That in the light of high legal costs, some involving Council staff changes, that Council without prejudice waive an amount of \$9,000 in rent owing by Beachfront Enterprises for the North Cottesloe Café in the current financial year as a gesture of goodwill.

Carried by Absolute Majority 6/4

The vote was recorded:

Against:

Cr Walsh

Cr Utting

Cr Cunningham

Cr Strzina

For:

Cr Sheppard

Cr Miller

Cr Jeanes

Cr Robertson

Cr Furlong

Mayor Rowell

12.2 ENGINEERING

12.2.1 CURTIN AVENUE AT GRANT

File No:	E 17 11 2
Author:	Mr Malcolm Doig
Author Disclosure of Interest:	Nil
Report Date:	9 September, 2003
Senior Officer:	Mr Stephen Tindale

SUMMARY

To receive the Grant Street Traffic Assessment prepared for Council by David Porter Consulting Engineer, pending receipt of the resident survey.

STATUTORY ENVIRONMENT

Local Government Act

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In June 2003 Council considered a notice of motion (ref minute item 11.2.2) and resolved:

That Council engage a traffic consultant to assess traffic conditions in Grant Street, from Marine Parade to Curtin Avenue, with a view to advising Council on all aspects of traffic flow and safety including proposed new lights at Curtin Avenue.

The report details the role of Grant Street in the current road network and traffic management proposals, which include the construction of roundabouts at both Grant/Marmion and Grant/Broome.

The consultants have advised that Council should support the introduction of the Curtin Avenue signals but also request that roundabouts at Broome Street and Marmion Street be included as part of the programme and that main roads should be encouraged to treat the improvements as part of a complete package.

Applications for "2004/5 State Black Spot Funding", for the construction of two roundabouts in Grant Street have therefore been prepared and submitted in anticipation as the applications needed to be lodged by mid August. An application has also been resubmitted for improved pedestrian island treatments at the Grant Street/Curtin Avenue intersection as a fall back position if all else fails.

In the meantime Main Roads WA have undertaken a public consultation process relating to the proposal to install traffic lights. The results of the consultation, which was to close on 25 August, 2003, has now been extended to 6 October 2003.

CONSULTATION

There has been no consultation in respect of the roundabouts suggested for Broome/Grant and Marmion/Grant. If funding is approved for 2004/5 more detailed design concepts can be prepared to allow informed debate. Consultation in regard to the proposed traffic lights is ongoing and residents will need to be informed when Council has all the information to hand and in a position to reach a decision.

STAFF COMMENT

The Grant Street Traffic Assessment provides a very useful overview of traffic movement and safety issues that will assist Council in consideration of some of the issues being raised by residents. The cost of constructing both the roundabouts has been estimated at \$220,000 of which council would need to contribute \$56, 236.

VOTING

Simple Majority

12.2.1 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council receive the Grant Street Traffic Assessment pending receipt of the data from the resident survey currently being conducted by Main Roads WA.

Carried 9/1

12.2.2 JARRAD STREET - PUBLIC SUBMISSIONS

File No: E 17 10 50
Author: Mr Malcolm Doig
Author Disclosure of Interest: Nil
Report Date: 9 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

To consider the submissions received in response to Council's public notices and to confirm the decision of 28 July, 2003 to close a section of Jarrad Street to the passage of vehicles at all times for a period not exceeding four years commencing on 29 July, 2003.

STATUTORY ENVIRONMENT

Local Government Act section 3.50 (1)

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In May 2003 Council resolved to invite submissions, prior to 8 July, on a proposal to permanently close for reasons of public safety a section of Jarrad Street between Marine Parade and the Sea View Golf Club entry for a period not exceeding four years commencing on 29 July and to additionally request the Minister for Lands to order this section of Jarrad Street to thereafter be closed permanently and instead used for the purposes consistent with the reserves either side.

In July, after receiving legal advice, Council resolved to rescind the May resolution and invite further submissions and also decided that all petitions and submissions to Council received since 26 May, 2003 be taken into account when next dealing with this matter

Council then published a public notice inviting written submissions in respect of the resolution which ordered that for reasons of public safety the section of Jarrad Street between Marine Parade and the Sea View Golf Club Entry is closed to the passage of vehicles at all times for a period not exceeding four (4) years commencing on 29 July, 2003. The second consultation period closed on August 14.

STAFF COMMENT

All submissions received during the period 26 May, 2003 to 14 August were copied and distributed to Councillors in July and August.

During the first submission the 332 persons were represented in the 314 submissions addressed to Council, and submitted prior to 8 July, 237 were in favour of full closure and 72 against and 23 made more general comment.

In addition the Jarrad Street "A" Class Reserve Group submitted 440 form letters, which opposed the closure. Such form letters are probably comparable to a petition, although they are addressed to the reserve group and were not submitted by an elected member

At the July meeting Council received two petitions on the subject, as detailed in the July Minutes of Council. One petition had 1349 signatories supporting the Council proposal the second had 294 signatories opposing the permanent closure of Jarrad Street (west).

During the second submission period which closed on 14 August a further 190 submissions were received of which 138 were in favour of the closure and 50 opposed the closure.

Council is now in a position to resolve on the matter as all councillors have had the opportunity to consider each of the submissions.

VOTING

Simple Majority

DECLARATIONS OF IMPARTIALITY

Crs Walsh, Strzina, Robertson, Sheppard and Furlong made Declarations of Impartiality with respect to their being members of the Sea View Golf Club.

Cr Jeanes made a Declaration of Impartiality as a former social member of the Sea View Golf Club.

12.2.2 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That the submissions to Council be received and Council confirm the decision made at the meeting of 28 July, 2003 to order that the section of Jarrad Street between Marine Parade and the Sea View Golf Club entry is closed to the passage of vehicles at all times for a period not exceeding four (4) years commencing on 29 July, 2003.

Carried 7/3

12.3 FINANCE

12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 AUGUST, 2003

File No: C7.14
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 August, 2003
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 31 August, 2003, 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

Most of the variances between the year to date actuals and budget figures, as shown on the Operating Statement (page 3), appear to relate to differences in the timing of the actual activity to the predictions. The \$15,543 variance in expenditure in the area of Other Property and Services relates to under allocations of Public Works Overheads (PWOH) and Plant Operating Costs (POC). Both of these areas of costs are allocated to works at predetermined rates. PWOH are allocated as a percentage of direct labour costs and POC are allocated at a rate per hour of use of plant and machinery. The allocation rates are set in order to ensure that all costs are allocated to works over the year. An under allocation is to be expected in the first part of the year because costs such as insurance and motor vehicle registrations are incurred at this time as a lump sum and not spread evenly over the year. Allocation rates will however be monitored and adjusted as need be.

Administration Revenue Operating Statement page 3) is substantially higher than predicted and this is due to a sustainability project being conducted by Cottesloe on behalf of WESROC. The project entails a government grant of \$34,000 and contributions from other Councils of around \$7,000 and, as invoices have been raised, these are reflected in the revenue. The project will result in all of the funds being expended and it is expected that the September statements will show high than expected expenditure as invoices are received for good and services relating to this project. Revenue in the areas of Transport and Economic Services is higher than expected due to more income than expected from parking and building licence fees. It is too early in the year to make any predictions however it is possible that both areas will again exceed predicted results for the year.

The Balance Sheet, on page 7, shows rate debtors higher and cash and investments lower than for the same time last year. This is due to the rate notices being sent out later than anticipated, and later than they were last year, as a result of complications of the FESA levy and the new computer system installed to handle it. As an aside, Council's rating system was upgraded as part of the FESA levy implementation at no cost to Council

VOTING

COMMITTEE COMMENT

Nil.

12.3.1 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 August, 2003, as submitted to the September, 2003, meeting of the Works and Corporate Services Committee.

Carried 10/0

12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 AUGUST, 2003

File No: C7.14
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 August, 2003
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 31 August, 2003, 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

As will be noted from the Schedule of investments on page 36 of the August Financial Statements, \$1,257,769.24 was invested as at 31 August 2003. Of this \$514,137.88 was reserved and so constituted restricted funds. 60.18% was invested with the National Bank, 23.29% with Home Building Society and 16.53% with Bankwest.

VOTING**COMMITTEE COMMENT**

Nil.

12.3.2 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 August, 2003, as submitted to the September, 2003, meeting of the Works and Corporate Services Committee.

Carried 10/0

12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 AUGUST, 2003

File No: C7.8
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 August, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 August, 2003, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

Significant payment brought to Council's attention include:

- \$10,000 to North Cottesloe Primary School for a donation toward their playground up grade.
- \$12,483.55 to TAPSS for Cottesloe's half yearly contribution.
- \$10,157.40 to the WA Electoral Commission for the final half payment of the postal election conducted May 2003.
- \$10,182.94 and \$10,125.00 to WA Local Government Super Plan for staff super.
- \$13,006.20 to WALGA for subscriptions for 2003/04.
- \$57,516.70 to Town of Mosman Park for various works (primarily Forrest Street).
- \$16,681.80 and \$10,885.37 to WMRC for transfer station fees.
- \$31,157.50 to Municipal Liability Scheme for part payment of Public Liability insurance (a final payment of a similar amount to be paid in December).

- \$30,172.90 to Municipal Workcare for part payment of workers compensation insurance (a final payment of a similar amount to be paid in December).
- \$36,323.10 to Dell Computer Limited for laptop computers.
- \$11,545.14 to Municipal Insurance Broking Service for motor vehicle insurance.
- \$74,233.63 to Shire of Peppermint Grove for first quarter contribution to the joint library scheme.
- \$40,617.80 to Wasteless for rubbish collection services.
- \$44,624.32 and \$44,239.03 for staff payroll for August, 2003.

VOTING**COMMITTEE COMMENT**

Nil.

12.3.3 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council receive the List of Accounts for the period ending 31 August, 2003, as submitted to the September, 2003, meeting of the Works and Corporate Services Committee.

Carried 10/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 AUGUST, 2003**

File No: C7.9
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 August, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 August, 2003, 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 page 34 of the August, 2003, Financial Statements shows a balance of \$85,196.94 as at 31 August, 2003. Of this \$47,621.43 relates to August.

VOTING

Simple majority

COMMITTEE COMMENT

Cr Cunningham requested a graph to compare the annual budget compared to actual expenditure to date.

Mr Lamb agreed to include this graph in future reports.

12.3.4 OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 31 August, 2003; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 August, 2003.**

Carried 10/0

12.4 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**12.4.1 CURTIN AVENUE AT GRANT STREET**

File No: E 17 11 2 & X 4.10
Author: Mr Malcolm Doig
Author Disclosure of Interest: Nil
Report Date: 9 September, 2003
Senior Officer: Mr Stephen Tindale

SUMMARY

Cr Walsh has given notice that he intends to move the following motion at the next Full Council meeting:

“That Council advise Main Roads WA that Cottesloe Council does not support the installation of traffic lights at the Grant Street/Curtin Avenue intersection, due to overwhelming safety concerns.”

STATUTORY ENVIRONMENT

Government Act 1995

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Cr Walsh has provided the following notes in support of a notice of motion:

A meeting of 30 or so residents asked that this motion be moved in Council.

They have major concerns about safety in Grant Street under the current traffic regime. If lights are installed directing 30% more vehicles down the street they consider accidents will go up by at least 30%, particularly as the lights proposed also direct cyclists down Grant Street. With extra cars and bikes on this dangerous street they feel a fatal accident is waiting to happen.

Several of the residents close to the intersection already go around the block and access their house from the right of way for fear of rear end collisions.

The residents ask that Council support their request as being directly affected. All have contacted Main Roads WA and have little faith in the process being carried out. One had an overhead bridge costed – similar to the bridge at Cottesloe School which was about \$120,000 against the \$1,000,000? quoted by Main Roads WA.

This meeting asked that the residents be asked for their views as the first step in a review process rather than at a later stage when planning is well advanced.

CONSULTATION

The Main Roads consultation process is still in progress.

STAFF COMMENT

Council is yet to consider either the Grant Street Traffic Assessment prepared by traffic engineers engaged by Council or the results of the public consultation process being undertaken by MRWA.

VOTING

Simple Majority

COUNCILLOR'S NOTICE OF MOTION

That Council advise Main Roads WA that Cottesloe Council does not support the installation of traffic lights at the Grant Street/Curtin Avenue intersection, due to overwhelming safety concerns.

OFFICER RECOMMENDATION

That Council receive the Notice of Motion submitted by Councillor Walsh pending consideration of the resident survey being conducted by Main Roads WA and the Grant Street Traffic Assessment prepared for Council by independent consultant traffic engineers.

12.4.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Miller

That Council receive the Notice of Motion submitted by Councillor Walsh pending consideration of the resident survey being conducted by Main Roads WA and the Grant Street Traffic Assessment prepared for Council by independent consultant traffic engineers and that Council give further consideration to the issue of public consultation at its October 2003 meeting.

Carried 9/1

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

12.5.1 NORTH STREET ROUNDABOUT

12.5.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Nedlands Council be advised that Council does not agree to the proposed artwork for the roundabout at Marine Parade and North Street.

Carried 10/0

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 9.40 pm.

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