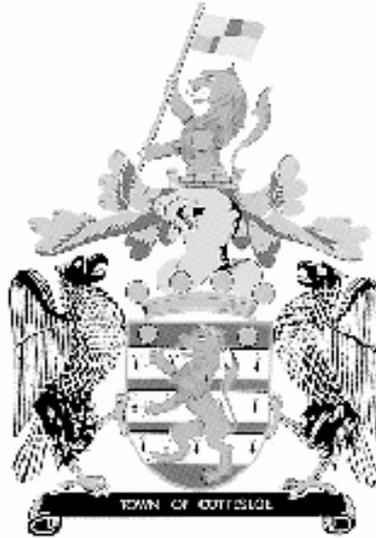


# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING MINUTES**

**ORDINARY MEETING OF COUNCIL  
HELD IN THE  
COUNCIL CHAMBER, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, MONDAY, 23 AUGUST, 2004**

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**1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS**

The Mayor announced the meeting opened at 7.01pm.

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

Mayor Robert Rowell (Chairperson)  
Cr Daniel Cunningham  
Cr Arthur Furlong (left at 8.20pm)  
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 Alan Lamb	Acting CEO/Manager Corporate Services
Mr Geoff Trigg	Manager Engineering Services
Mr Stephen Sullivan	Manager Development Services
Ms Ruth Levett	Principal Environmental Health Officer
Mrs Jodie Peers	Executive Assistant

**Apologies**

Cr Kevin Morgan  
Mr Stephen Tindale

**Leave of Absence (previously approved)**

Cr Arthur Furlong

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**4 PUBLIC QUESTION TIME**

Ms S Pyvis, 14A Forrest Street – Item 11.1.1, No. 88 (Lot 1) Marine Parade – Development Application – Change of Use From Residential to Tavern

Ms Pyvis addressed her question to Cr Jeanes in relation to his report to residents. How many liquor licenses do you view as appropriate for the Marine Parade precinct?

Cr Jeanes replied that he feels he was misrepresented in the SOS correspondence and the article in the Post Newspaper. There are currently six licenced premises within the precinct and five are run without any disturbance to residents.

Ms Pyvis reasked the question, as she believed that it wasn't answered.

The Mayor advised Ms Pyvis that it is not appropriate to ask Cr Jeanes this question. The Mayor asked Ms Pyvis to confirm whether she meant licenced premises or liquor licenses.

Ms Pyvis confirmed that she meant liquor licenses.

Cr Jeanes stated that he doesn't have a specific preferred number, however would prefer several small to medium sized premises rather than two large premises.

Mr M Huston, PO Box 400 – Item 11.1.1, No. 88 (Lot 1) Marine Parade – Development Application – Change of Use From Residential to Tavern

First please note my objection that despite this matter having been advertised for comment and considered at the July meeting that I was prevented by this Council from making a submission via a public statement to Council at that time.

While I support Council's decision to allow an AA Tavern Use at Council's discretion in the Foreshore Zone and indeed support the deregulation to allow all existing licensed restaurants the liberalised ability to serve alcohol without a meal being consumed, subject to responsible service of alcohol rules, what study has been done into such factors for this application? Such as total number of licensed patrons currently able to be served in Cottesloe, demand for an increased number, desirability of an increase, current parking demand and traffic control problems.

The Mayor advised that no study has been undertaken. A study will be undertaken in relation to the current parking demand.

If Council is to forgo the cash in lieu and allow parking on a street verge it is also intended to abandon better utilisation and upkeep of the existing Council beachfront carparks and to abandon the possibility of seeking permission from the Government for paid parking at Council beachfront carparks?

The Mayor advised that Council is not abandoning the possibility of seeking permission from Government.

Under what planning law or provision of the town planning scheme can part (3) of the committee recommendation be enforced? For example how can a planning approval once given be withdrawn some years later?

The Mayor stated that Councillors had concerns in relation to the management if development approval was given.

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Is it true that the Mayor used his casting vote to cast in favour of this proposal?

The Mayor replied that he used his casting vote to enable the item to go to the full Council meeting.

If paving of the Forrest Street verge is to be permitted for parking for the tavern how is the entanglement with the existing verge bus stop to be handled?

The Mayor replied that this matter hasn't been looked at.

Mr Huston asked an additional question. When did the Council act to carry out parts (2) and (3) of the resolution of June to adopt the revised draft Beachfront Objectives Report, to incorporate these proposals into TPS No.3, to release the report for public information and to advise the community of Council's decision?

The Mayor replied that there is a program for the progress of the TPS No. 3 and a copy was handed to Mr Huston.

Mr Huston said that despite the various agenda items in relation to the TPS No. 3 no community consultation has been undertaken.

The Mayor advised that community consultation will be undertaken when the whole document has been drafted.

## **5 APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

## **6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr Strzina, seconded Cr Miller

The Minutes of the Ordinary Meeting of Council held on Monday, 26 July, 2004 be confirmed.

Carried 10/0

## **7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

7.1 Speeches by both the Liberal and Labour Parties during the Local Government Week Conference raised the matter of amalgamation of western Suburbs Councils. The western suburbs Councils meet regularly to discuss how Council operations can be more efficient.

7.2 The Hon. Colin Barnett will address Parliament during the "Grievances" session between 9.00am – 10.00am on Thursday, 26 August, in relation to the public transport issues in Cottesloe (cessation of bus no. 72 in South Cottesloe). Residents are encouraged to support this address by attending on Thursday. Transport, through TAPSS and the Council is available for residents.

- 7.3 Council has put together a list of heritage properties in Cottesloe, approximately 80 listings. Correspondence will be sent to all residents on the list providing details.
- 7.4 The Cottesloe Groyne and Muderup Rocks have been in the media recently, residents will note that these items will be discussed as part of the Agenda at this evening's meeting.
- 7.5 In relation to the Sea View Golf Club management plan, water usage appears to be the major issue.
- 7.6 Council will be sending a letter of congratulations to Glen Loftus, Cottesloe resident, who was a member of the silver medallist mens lightweight four rowing team.
- 7.7 Recent unsocialable behaviour has been experienced in Cottesloe and this has been raised with local Police. The Police have undertaken some preventative measures, however speeding continues to be a problem. If this continues then Council may need to consider installing speed humps from North Street to the Grant Street roundabout.
- 7.8 In relation to correspondence from SOS and a motion on notice from Cr Walsh regarding meeting with the Cottesloe Beach Hotel, the Mayor advised that regular meetings are held with both of the hotels.
- 7.9 The Mayor noted his disappointment over inaccuracies in a recent article in the Post Newspaper in relation to the tavern. He requested that in future the journalists contact Council to confirm their information.

## **8 PUBLIC STATEMENT TIME**

Mr M Huston, PO Box 400 – Items 12.1.5, 13.1.1, 13.1.2, 14.1.1, 14.1.2, 14.1.5

Mr Huston expressed his shock that Council would pass a resolution to undertake community consultation, then move onto making changes to the town planning scheme. The proposed change of zonings along the beachfront from R50 to R160 goes against the undertakings made to the public at the June meeting. If you allow these changes how can the hotels be restricted from embarking on the same proposition.

Mr P Robinson, 254 Marmion Street – Item 12.1.1, Sea View Golf Club – Draft Management Plan

Mr Robinson addressed Council as the President of the Sea View Golf Club.

Sea View has received expert groundwater management advice from hydro geologists associated with Water Direct and the Department of Environment.

At the Works and Corporate Services Committee meeting on Tuesday evening it was pleasing to her Stephen Appleyard of DoE reinforce the advice that we have been receiving.

Yes, the club does need to spread its draw over a larger section of the aquifer and yes the draw from each bore needs to be reduced. To this end, the club applied for a licence to sink a new bore in January 2003. It has been a very long and frustrating process, but we are nearly there.

Stephen Appleyard's paper assessing water resources in the Cottesloe peninsula tells us that private bore use exceeds licenced bore use by a factor of 2 to 1 – domestic bores account for an estimated 65% of total usage. Mr Davis tells us that 40% of the licenced usage is attributable to the golf club. That means that Sea View uses less than 14% of the total usage.

Stephen Appleyard told us that bore usage is self regulating to the extent that if an individual or organisation overuses the resource, then upcoming will occur and the bore will be rendered useless for a period.

Recovery would take 2 to 5 years, the closer to the ocean the quicker the recovery.

If the golf club bores go saline, the Club's existence will be threatened. What greater incentive could there be for Sea View to professional manage the resource.

But there is no upward trend in salinity at the club bores – even over the last 6 years of drought. The Sea View bores have been under the gaze of the DoE and they are satisfied with the operating procedures and the year on year bore data.

Stephen Appleyard informed us that the Cottesloe aquifer has a limited capacity, above which the excess water flows into the ocean. The limestone under our suburb is very porous.

The club is grateful to the 151 members of the public who made submissions regarding our draft Management Plan. 147 of the submissions were in favour of the document. The club is currently working through the 16 pages detailing the more specific comments, preparing responses and considering changes to the draft document. Some of the comments we agree will enhance the document, others we have found to be contrary to expert advice that we have received over the last year. Either way, we will respond to each comment on it's merits.

The Royal Perth Golf Club was recently granted a 50 year lease by the City of South Perth. The lease negotiation was completed in a matter of months.

This Council laid down the lease renewal process in June 2002, some 27 months ago. Enormous effort has been applied to the process. What a pity that this effort was not targeted at the items discussed within the Management Plan, rather than the politics surrounding the Plan and the Lease.

I request that you allow the Club to continue to work through the submissions, in consultation with the Town, over the next month and to present recommendations for changes to the Management Plan and the Lease at the September round of meetings. And I request that we bring the Lease and Management Plan discussions to a close at the September Council meeting by signing off both documents at that time.

Mr D Bibby, 5 Rosser Street – Item 12.1.1, Sea View Golf Club – Draft Management Plan

Mr Bibby addressed Council as the Chairman of the Reserves Review Group. In his statement to the Works and Corporate Services Committee meeting it was the Review Group's opinion that the draft Management Plan will not give either the club or the Council an effective means of protecting the environment. It requires a large number of alterations. There are over 100 points set down for the CEO's comments. The most important are of vital concern to all Cottesloe residents. They relate to water quality and quantity. Until they are properly dealt with Council should not approve the draft plan.

In relation to the lease, we do not accept the CEO's rejection of some of our earlier submissions and will resubmit them for further consideration. The most important are the "no rent and pay rates" provisions. No explanation has been given for the fundamental change from the current lease which provides that rent is paid and no rates are levied. This has applied satisfactorily for 15 years. To continue that arrangement would be acceptable. Why the change?

In relation to progressing the Lease, SVGC is anxious to install new bores and reticulation in line with the Department of Environment's requirements but can't raise the finance until the Management Plan and the Lease are signed off. As the Club's financial year corresponds with the calendar year I expect the club needs to have the documents signed by December 31<sup>st</sup>, to be able to set subscriptions and enrol new members. The time consuming system of submissions, reviews and no meetings between the parties will not get agreement in time. I suggest that a meeting, chaired by the CEO, of the Club President, myself and an independent Councillor be convened by Council to sort out the differences. The above two points should be given priority.

Mr J Davis, 91 Broome Street – Item 12.1.1, Sea View Golf Club – Draft Management Plan

Mr Davis tabled correspondence to Councillors in relation to the aquifer in Cottesloe and addressed Council in relation to key points in this letter.

Dr Steve Appleyard has recently recommended that major users of the Cottesloe Peninsula aquifer locate bores on the thicker parts of the aquifer (Curtin Avenue/Railway Reserve) and limit their usage. Mr Davis also understands that Council are working on an early replacement of the Civic Centre and Tennis Court bores.

The Sea View Golf Club's application to DoE for a second production bore was rejected, however he understands that the golf club have received temporary approval (18 months) until finance can be raised for the bore to be located in Curtin Avenue. Mr Davis stated that the existing Curtin Avenue bore is intended to draw off at higher levels and DoE are not able to restrict this.

Mr Davis asked the Mayor if he has a record of the Sea View Golf Club's liquidity?

The Mayor advised that the CEO has received and is satisfied with the financial information provided by the golf club.

Ms J Longden, 66 Forrest Street – Item 11.1.3, No. 66 (Lot 102) Forrest Street – Proposed Carport

Ms Longden has owned the property for five years and her primary concern is for the safety of her family as she is unable to park on the property. The property has a heritage listed street frontage, therefore the carport is proposed for the rear of the property. Ms Longden advised Councillors that she has liaised with Council during the planning process. Ms Longden asked Council to consider the application with a positive outcome.

Mr C Wiggins, 50 John Street – Item 12.1.5 Consultation Policy & Items 13 & 14 Strategic Planning

Mr Wiggins stated that the Councillors who are not members of the Strategic Planning Committee would not have had enough time to consider Agenda Items 13 & 14. He suggested that they should be noted, instead of approved at this meeting.

In response to Cr Jeanes comment in regard to SOS not supporting the development of the beer garden, he advised that SOS has not made any comment on this development.

In relation to the tavern proposal, Mr Wiggins stated that if there wouldn't have been any problem caused if the community had been assured that consultation would be undertaken.

Ms B Campbell, 14 Forrest Street – Item 11.1.1, No. 88 (Lot 1) Marine Parade – Development Application – Change of Use From Residential to Tavern

Ms Campbell stated that the Town of Cottesloe is not obligated to provide drinking venues for the people of Perth, however they do have the obligation to protect the residents and community and to provide easy access to the beach.

Mr J Squire, 25/97 Marine Parade - Item 11.1.1, No. 88 (Lot 1) Marine Parade – Development Application – Change of Use From Residential to Tavern

Mr Squire stated that his bedroom window is in close proximity to the proposed tavern and it would put their lifestyle in jeopardy. Last month he attended the Development Services Committee meeting and was disappointed with the minutes of the meeting in relation to the reasons for application refusal. It does not seem that a proper process is being followed. Mr Squire believes that Council should follow proper process, accept the recommendations of the committee and refuse the application.

The Mayor advised that the developers have deferred their application, for consideration of the issues, prior to presenting it to the September Council meeting.

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Mr J Birnbrauer, 64 Napier Street - Item 11.1.1, No. 88 (Lot 1) Marine Parade – Development Application – Change of Use From Residential to Tavern & Item 15.1.1 Cottesloe Beach Hotel – Notice of Motion

Mr Birnbrauer addressed Council as the Chairman of SOS. In relation to the proposed tavern SOS fully support the recommendation that it be refused and that Council will not consider any further proposals for taverns in Cottesloe prior to the parking study being completed. Traffic along the foreshore affects everyone and Council should not approve any further development that will bring more traffic into Cottesloe.

Mr Birnbrauer stated that he is please to hear the Council will hold meetings with the Cottesloe Beach Hotel, as requested in the Notice of Motion.

Ms S Pyvis, 14A Forrest Street - Item 11.1.1, No. 88 (Lot 1) Marine Parade – Development Application – Change of Use From Residential to Tavern

Ms Pyvis stated her opposition to the proposed tavern due to the following issues:

- the current surround landuse is residential;
- parking provision problems;
- Council is responsible for providing solutions for anti-social impacts to residents;
- turning grassed verges into parking goes against the philosophy of Cottesloe;
- Cottesloe is and should remain a residential suburb;
- the beach is there to be enjoyed by day, however don't turn the suburb into another Northbridge by night;
- damage to properties in Forrest Street would be exacerbated;
- there are currently six other liquor licenses;
- concerned that it would be encouraging more young drinkers;
- community consultation should not happen after the event.

## **9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

### **9.1 PROPOSED TAVERN**

Cr Utting presented a petition in objection to the proposed change of use from residential to tavern at No. 88 (Lot 1) Marine Parade Cottesloe. He stated that of the 160 signatories to the petition, 159 were Cottesloe residents. He read the prayer which follows aloud:

*"I am opposed to the proposed change of use from residential to tavern at No. 88 (Lot 1) Marine Parade Cottesloe (cnr Forrest Street)."*

### **COUNCIL RESOLUTION**

Moved Cr Utting, seconded Mayor Rowell

**That the petition be accepted and referred to the Development Services Committee for consideration and report.**

Carried

**10 REPORTS OF COMMITTEES AND OFFICERS****11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 16 AUGUST 2004****11.1 PLANNING****11.1.1 NO 88 (LOT 1) MARINE PARADE - DEVELOPMENT APPLICATION - CHANGE OF USE FROM RESIDENTIAL TO TAVERN**

**File No:** 88 Marine Parade  
**Author:** Ms Lilia Palermo  
**Attachments:** Location plan  
Correspondence from applicant – 05/08/04  
Correspondence from Chalmers & Partners  
Correspondence from BSD Consultants  
Submission (1)  
Plans

**Author Disclosure of Interest:** Nil  
**Report Date:** 9 August, 2004  
**Senior Officer:** Mr Stephen Sullivan

**Property Owner:** Sandalwoods Investments Pty Ltd

**Applicant:** Sandalwoods  
**Date of Application:** 9 August, 2004

**Zoning:** Foreshore Centre  
**Use:** A Use not listed in the Zoning Table  
Council determined at its meeting of 26 July 2004 that the “Tavern” use is in keeping with the objectives of the Foreshore Centre Zone.

**Density:** R50  
**Lot Area:** 1265m<sup>2</sup>  
**M.R.S. Reservation:** N/A

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**SUMMARY**

At the applicant's request, Council deferred consideration of the proposal at its meeting of 26 July 2004 as it was proposed to vary the application by reducing the number of patrons and changing the hours of operation.

The revised details were received by Council on the 5 August, 2004.

Legal advice was sought in relation to the matter of parking. That advice was circulated to all Councillors.

Based on the legal advice and the assessment of the amended proposal, the recommendation is to refuse the application.

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**STATUTORY ENVIRONMENT**

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

**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 Category 4
- National Trust N/A

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

**Town of Cottesloe Town Planning Scheme No 2 - Text**

Clause	Required	Provided
Table 2 – vehicle parking Requirements	45 minimum	Nil

**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
N/A	N/A		N/A

**STRATEGIC IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering
- Health

**External**

- Western Australian Planning Commission (does not object to the proposed development)

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letters to Surrounding Property Owners
- Sign on the property; and
- Newspaper notices.

**Submissions**

The submissions were discussed in the report to the July meeting of Council. Since that time, one further letter of objection was received from the owner of No. 31 John Street. (Copy attached)

**BACKGROUND**

The application was considered at the May 2004 meeting where Council resolved that that a Tavern use was acceptable within the Foreshore Centre Zone. In accordance with the Scheme requirements, the application was advertised. The applicant was also requested to submit additional information. This was received and the application was advertised for public comment.

Council received submissions during that process and a breakdown of those submissions was presented in the report to the July meeting of Council.

The application was recommended for refusal by Council officers and the Development Services Committee on the basis that the application did not comply with the car parking requirements of the Town Planning Scheme and concerns in relation to noise.

Council deferred the original application for the Change of Use from Multiple Dwellings to Tavern at its meeting of 26<sup>th</sup> July 2004 following a request from the applicant.

The Council received a letter and the amended plans from Sandalwood Investments Pty Ltd dated 5<sup>th</sup> August 2004. The letter in summary stated that the following changes were incorporated into the proposal:

1. A breakfast menu will be available daily (weather permitting) from the deck areas;
2. Food will be served during all opening hours of the cocktail bar using the dumb waiter control;
3. Proposed opening hours are:
  - Daily (weather permitting) buffet breakfast 7am – 11am
  - Sunday – Wednesday – cocktail bar and food menu 11am – 10pm

- Thursday – Saturday – cocktail bar and food menu 11am – 12.00 midnight
4. The deck areas were reduced in size, which reduced the number of patrons from 225 to 175 people. The required number of parking spaces is now 46 bays.
5. The following is proposed to help reduce the noise issue:
- Brick wall to the north side of the stairs;
  - Brick wall to the south side of the stairs;
  - Glass wall and trees to the northern side of the deck;
  - Reduction in patron numbers from 225 to 175 people.

### STAFF COMMENT

The following comments are made:

#### Parking

Clause 3.4.4(c)(ii) (which relates to the combined Business/Entertainment Uses with Residential Use within the Foreshore Centre Zone) in Part III of the Town Planning Scheme text states the following:

*“Car parking spaces shall be provided in accordance with the requirements of Table 2 - Vehicle Parking Requirements of the Scheme Text. As a general policy, no more than one level of parking shall be placed directly above another.”*

Clause 5.5.2 of the Town Planning Scheme text states the following:

*“5.5.2 Number of Parking and Loading Spaces to be Provided*

*Subject to the provisions of Part III of this Text, where a site is to be used for a purpose stipulated in the first column of Table 2 - Vehicle Parking Requirements, car parking spaces of the number specified in the second column of that Table shall be provided.”*

The amended application proposed the reduction in the number of patrons from 225 to 175 people.

Based on this provision and the parking standard in Table 2 of the Town Planning Scheme text for seated patrons, the development requires a minimum of 46 car parking spaces to be provided on-site.

The applicant is not proposing to provide any car parking spaces on site. Instead, in their letter they are suggesting two options:

#### Option 1

Sandalwood Investments Pty Ltd will pave, drain and landscape the required number of bays on the road verge in Forrest Street to the east of the existing Forrest Street parking area.

#### Option 2

Sandalwood Investments Pty Ltd will pay the Cottesloe Town Council cash in lieu figure of \$ 40,000 being your engineers estimate for your council to complete the

identical work to pave, drain and landscape a car park area of this size in the location of your choice.

The proposed two options above are not in accordance with the TPS 2 requirements. Clause 5.5.4 of the TPS 2 states:

**“5.5.4 Cash in Lieu of Parking**

*Where land is proposed to be developed for a use which may be permitted in the Town Centre, Foreshore Centre, Business and Hotel Zones, Council may approve the development without the required number of parking spaces being provided on or (in Council's opinion) sufficiently near the land, subject to the applicant making arrangements satisfactory to the Council for the provision of off-street parking in the vicinity. In this regard Council may accept cash in lieu of parking spaces subject to the following -*

- \* the cash in lieu payment shall not be less than the estimated cost to the owner of providing and constructing the parking spaces required by the Scheme plus the value as estimated by the Council of that area of his land which would have been occupied by the parking spaces;*
- \* before the Council agrees to accept a cash payment in lieu of the provisions of parking spaces the Council must either have approved a public parking station nearby or must have proposals for providing a public parking station nearby;*
- \* payments made under this clause shall be paid into a special fund to be used to provide public parking stations anywhere in the district.”*

The Scheme specifies that the parking for the development should either be provided on-site, arrangements being made for the off-street parking in the vicinity or cash in lieu payment based on certain criteria.

Option 1, suggests the use of Council's road verge for construction of the required parking spaces. It is considered that this option does not satisfy the requirements of Clause 5.4.4, which requires the parking to be provided off the street.

Council sought legal opinion in relation to the street parking issue and other matters. The advice indicated that the verge should be considered as part of the street and therefore, parking on the verge would not be considered off-street parking.

The second option presented by the applicant to address the shortfall in car parking was a cash payment of \$40,000.

As advised in the July report, Council requested and received an updated valuation on the cash-in-lieu parking calculation from the Valuer General's Office. The cost per sq metre has risen to \$5,000, with a total cost of \$125,000 per car parking space.

For the purposes of determining the value for this land as required by Clause 5.5.4, it is considered that the valuation provided by the Valuer Generals office be accepted.

Given this valuation and the shortfall in parking of 45 bays, then the applicant would be required to contribute approximately \$5,625,000 in a cash in lieu payment.

The figure of \$40,000 suggested by the applicant in this option as a payment of Cash In Lieu of Parking is substantially less than the estimates provided by the Valuer Generals Office.

If Council has concerns with the valuation, a further independent valuation could be sought. If this was sought and say there was a 10% variation, the revised estimate would still be about \$5,062,500 dollars. This is substantially more than the \$40,000 offer for the cash in lieu payment by the applicant.

Therefore, it is recommended that the application be refused on the basis that the applicants have not met the requirements of Clauses 3.4.4(c)(ii), 5.5.2 or 5.5.4 of the Town Planning Scheme text in that:

- there has been no on-site parking spaces provided for the development;
- no arrangements are proposed for the provision of off-street parking; and
- the cash in lieu proposal does not meet with the requirements and values determined by Council.

#### Noise

As mentioned previously in the report, the following is proposed by the applicant to be done to reduce the impact of noise on the surrounding residential properties:

- Brick wall to the north side of the stairs;
- Brick wall to the south side of the stairs;
- Glass wall and trees to the northern side of the deck;
- Reduction in patron numbers from 225 to 175 people.

Council previously received an Acoustic Report from the applicant prepared by Gabriel's Environmental Designs. The report was discussed in the previous report to Council. It was previously concluded that a full enclosure of the upper deck would be the only solution to containment of noise from the crowd and music.

Notwithstanding that the numbers of patrons were reduced to 175 people, it is still considered that the proposed development in its current form is likely to produce noise levels in excess of the Environmental Protection (Noise) Regulations 1997.

Full enclosure of the deck areas is not an option as it would increase the plot ratio of the development, which would be in conflict with the statutory requirement of the Scheme.

As advised in the July report to Council, if Council is of the opinion that this application and applications of a similar nature should be supported within the Foreshore Centre Zone, a Scheme Amendment would be required to allow Council to exercise discretion in regards to the required plot ratio under the Scheme.

#### Proposed Use

The applicant stated in the letter dated 5<sup>th</sup> August 2004 submitted with the amended plans that *"the concept and the operation of this proposal has changed significantly and is now aligned to a licensed café type of operation with meals available ....and a buffet breakfast...."*. In spite of this, the classification of the proposed use still remains as a "Tavern".

The applicants in their letter of the 5 August advise that they have amended their plans for the change in use of the dwelling to a Tavern.

The applicant has not lodged a new application form for the development. The application was advertised and is still being assessed as a proposed "Tavern".

In accordance with the liquor Licensing Act 1988 and "Standards of Licensed Premises – A policy of the Director of Liquor Licensing March 2001, all tavern licensed premises *"shall be constructed to meet the same requirements as for hotels, and to meet the same expected standards with regard to the consumption and supply of liquor. However there is no requirement to provide accommodation or food."*

Whilst the current applicant may be proposing to operate the Tavern in a particular way, there is nothing to stop them from modifying the operation of the Tavern.

A "Tavern" use would attract a different type of clientele in comparison to a restaurant, where patrons would not be served drinks unless a meal is ordered. An extended trading permit can be applied for under a Restaurant Licence, which enables 20% of the capacity of the building to be used for serving persons with alcohol without the need to provide a meal.

Even if the use changed to a restaurant, parking still remains a critical issue.

Council received objections to the proposal from some of the surrounding property owners to the proposed use due to the perceived negative impact on the amenity of the area, which was discussed in the previous report to Council.

## **CONCLUSION**

It is recommended that the amended application for a change of use from Residential to Tavern be refused due to the following:

- (a) The proposal does not comply with the parking requirements under the TPS 2, as:
  - (i) provision of parking on the street verge is not considered to be off-street parking and,
  - (ii) the suggested amount of \$40,000 for cash in lieu of parking is not in accordance with the TPS 2 requirement under the Clause 5.5.4
  
- (b) The proposed Tavern use will affect the amenity of the surrounding residential uses due to potential noise emissions due to:
  - (i) the number of patrons;
  - (ii) the open roof nature of the development;
  - (iii) proposed hours of operation;
  - (iv) location of surrounding residential properties.

If Council is of the opinion that this particular proposal and other proposals of a similar nature warrant support with parking concessions, then a Town Planning Scheme amendment should be carried out to vary the current controls.

In doing so, it is considered that Council should undertake a study of the beachfront locality before the amendment is carried out. The population of Perth is going to continue to grow and there will be a natural increase in the demand to access and use Cottesloe and North Cottesloe Beach. With limited land available for parking and the reduced provision of on-site parking and the potential for further major developments (Cottesloe Hotel [withdrawn proposal proposed a 100 car parking space shortfall] and the Ocean Beach Hotel) Council and its residents are going to be confronted with even greater problems of traffic movement and demand for parking in the future. Strategies will be needed to address these problems if Council wants to maintain or improve the amenity of the locality and have consistency in its decision making based on factual information, especially when it comes to applicants seeking car parking concessions which will ultimately become the responsibility of the Council to address.

The consequences of not planning for the future will be that residents will have problems accessing the beachfront and the overflow will extend into the surrounding residential areas, thereby reducing the amenity of those areas. Untimely, it will be the residents that will be required to fund the works that may be required to address these problems.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

The Mayor asked the members of the committee for their comments.

Cr Walsh – saw two problems. View of residents around the proposal were against it and would need their approval of the proposal before he would support it. Second problem was car parking – felt cash-in-lieu had to be provided, probably not as much as required in report, but a substantial sum.

Cr Miller – agreed with Cr Walsh's points. Needs support of local residents. Unless Council is going to build a car parking station, Council cannot approve any future development.

Cr Robertson – queried whether anyone had paid \$125,000 for a car bay.

Mayor – advised that no business on the beachfront has paid for car bays. Saw a need to look at developing Napier Street and also to look at the verge in Forrest Street. Legal advice was not definite as to whether verge is considered street parking or not.

Cr Robertson – advised verge parking between Jarrad and Forrest Street was reduced by 14 bays some years ago. No solution can be found in regards to parking.

Cr Jeanes – advised that he was diligent about the Cottesloe Hotel and OBH. Considered everything is blamed on hotels and was unfair to the applicant. Cottesloe Hotel gets about 2000 young people who cause problems. Saw a need for a mix of ages in the area and did not want just bookshops and newsagents on Marine Parade. Owners have a vested interest not to cause too many problems because they own

the restaurant building and residential units on the site. Requires some sort of business plan and something to prevent the business from being changed. Requires a guarantee on noise levels. Believes that parking can occur on the verge in Forrest Street and it would cater for more cars. Did not want a repeat of what is there, parking should be brick paved and landscaped on the street end. If guarantees received, would be happy with application. Felt the Cottesloe Hotel will not be operating as a hotel in the near future.

Cr Strzina – Personally believed such a venue, if was a mature age venue, would enhance the area. Because of the open air aspect and the residents were against it, he would not support it.

Mayor Rowell – Would like to see more outlets such as this in the area rather than 2 hotels with 2000 outsiders drinking there. See this as a chance to have a bar looked after by a proprietor who will evict people that are too intoxicated. The two hotels are busy on certain nights only. Mature people would have a place to drink at. Have a management plan to address noise, with enough enforcement areas that if the noise is louder than stipulated, you could close the place. To get the licence required by the applicants is that it has to be called a tavern. Parking issues can be solved, redevelopment of Cottesloe Hotel would look after parking issues. Forrest Street verge requires some attention. This application is the beginning of have some more sophisticated venues to go to and have a drink. Most objections can be addressed. The letter to the lawyers - the questions were prompted with a response we wanted. Parking has options, valuers generals amount is too much. Applicant is trying to address the objections he has received. Application could be a good example. People making the application have plans to redevelop the property after 5 years, once Tropicana's lease expires.

### **OFFICER RECOMMENDATION**

That Council:

- (1) For the purposes of Clause 5.5.4, determines that the cash in lieu payment for the proposed development is \$5,625,000.
  - (2) REFUSE its Approval to Commence Development for the Development Application - Change of Use from Multiple Dwelling to Tavern at No 88 (Lot 1) Marine Parade, Cottesloe in accordance with the revised plans submitted on 5<sup>th</sup> August 2004, as Council is of the opinion that:
    - (a) The proposed development does not comply with the requirements of Clauses 3.4.4(b)(c)(ii), 5.5.1, 5.5.2 and 5.5.4 of the Town Planning Scheme text in that:
      - (i) parking for the proposed use is to be provided on the street, which is contrary to the requirements of the Town Planning Scheme text; and
      - (ii) the cash-in-lieu payment is insufficient based on the value of the land as determined by Council.
    - (b) Council, having regard to the provisions of Clause 3.4.4(b) and 5.1.2(k), is of the opinion that the proposed development will, due to the:
      - (i) size, layout and design of the tavern;
-

- (ii) elevated nature of the outdoor area;
  - (iii) proposed hours of operation;
  - (iv) number of patrons to be accommodated (175);
  - (v) location of the entrance\exit point and the adjoining residential property; and
  - (vi) location of surrounding residential properties
- will have an adverse and detrimental effect on the amenity of surrounding and adjoining residential properties due to noise.

(3) Advise the submitters of Council's decision.

### **COMMITTEE RECOMMENDATION**

Moved Cr Jeanes, seconded Cr Miller

That the Manager, Development Services prepare an approval to present to the Council meeting on 23 August 2004 to commence development for the Change of Use from Multiple Dwelling to Tavern at No. 88 (Lot 1) Marine Parade, Cottesloe in accordance with the revised plans submitted on 5<sup>th</sup> August 2004 and addressing the following the matters:

- (1) An adequate solution to the parking issue and cash amount to be paid;
- (2) Require a management plan to be drawn up to address the issues of noise and hours of trading;
- (3) The approval for the tavern to expire on 30 June 2009 and any continuance of the tavern use requiring a new application for Planning Consent for consideration by Council.

### **AMENDMENT**

Moved Cr Furlong, seconded Cr Miller

That the Officer Recommendation be put.

That Council:

- (1) For the purposes of Clause 5.5.4, determines that the cash in lieu payment for the proposed development is \$5,625,000.
- (2) REFUSE its Approval to Commence Development for the Development Application - Change of Use from Multiple Dwelling to Tavern at No 88 (Lot 1) Marine Parade, Cottesloe in accordance with the revised plans submitted on 5<sup>th</sup> August 2004, as Council is of the opinion that:
  - (a) The proposed development does not comply with the requirements of Clauses 3.4.4(b)(c)(ii), 5.5.1, 5.5.2 and 5.5.4 of the Town Planning Scheme text in that:
    - (i) parking for the proposed use is to be provided on the street, which is contrary to the requirements of the Town Planning Scheme text; and

- (ii) the cash-in-lieu payment is insufficient based on the value of the land as determined by Council.
- (b) Council, having regard to the provisions of Clause 3.4.4(b) and 5.1.2(k), is of the opinion that the proposed development will, due to the:
  - (vii) size, layout and design of the tavern;
  - (viii) elevated nature of the outdoor area;
  - (ix) proposed hours of operation;
  - (x) number of patrons to be accommodated (175);
  - (xi) location of the entrance\exit point and the adjoining residential property; and
  - (xii) location of surrounding residential propertieswill have an adverse and detrimental effect on the amenity of surrounding and adjoining residential properties due to noise.
- (3) Advise the submitters of Council's decision.

Carried 9/1

#### 11.1.1 COUNCIL RESOLUTION

##### That Council:

- (1) For the purposes of Clause 5.5.4, determines that the cash in lieu payment for the proposed development is \$5,625,000.
- (2) **REFUSE its Approval to Commence Development for the Development Application - Change of Use from Multiple Dwelling to Tavern at No 88 (Lot 1) Marine Parade, Cottesloe in accordance with the revised plans submitted on 5<sup>th</sup> August 2004, as Council is of the opinion that:**
  - (a) **The proposed development does not comply with the requirements of Clauses 3.4.4(b)(c)(ii), 5.5.1, 5.5.2 and 5.5.4 of the Town Planning Scheme text in that:**
    - (i) parking for the proposed use is to be provided on the street, which is contrary to the requirements of the Town Planning Scheme text; and
    - (ii) the cash-in-lieu payment is insufficient based on the value of the land as determined by Council.
  - (b) Council, having regard to the provisions of Clause 3.4.4(b) and 5.1.2(k), is of the opinion that the proposed development will, due to the:
    - (xiii) size, layout and design of the tavern;
    - (xiv) elevated nature of the outdoor area;
    - (xv) proposed hours of operation;
    - (xvi) number of patrons to be accommodated (175);
    - (xvii) location of the entrance\exit point and the adjoining residential property; and

(xviii) location of surrounding residential properties

will have an adverse and detrimental effect on the amenity of surrounding and adjoining residential properties due to noise.

(3) Advise the submitters of Council's decision.

Carried 9/1

Cr Furlong left the meeting at 8.20pm.

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**11.1.2 NO 39 (LOT 2) GRANT STREET - PROPOSED TWO STOREY EXTENSIONS AND A GARAGE WITH A LOFT ROOM**

<b>File No:</b>	<b>No 39 (Lot 2) Grant Street</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Plans Correspondence from Owners dated 16/06/04 Submissions (3) Correspondence from Owners dated 30/07/04</b>
<b>Report Date:</b>	<b>10 August, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>T &amp; A Bartlett</b>
<b>Applicant:</b>	<b>National Estate Builders</b>
<b>Date of Application:</b>	<b>10 August, 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>893m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

Council is in receipt of an application on 39 Grant Street for two-storey additions/alterations to the existing residence and a construction of a new garage with a loft room.

Given the assessment that has been undertaken, the recommendation is to approve the proposed additions/alterations and require the proposed garage and loft room to be modified to comply with the acceptable standards of the Residential Design Codes.

**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               | Category 3 |

- 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
No 10 – Incidental Development	Outbuilding wall height – 2.4	Garage wall height – 3.2	Clause 3.10.1 – P1
	Outbuilding Roof Ridge height – 4.2	Garage roof height – 6.0	Clause 3.10.1 – P1

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

**Submissions**

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

28 Hawkstone Street

- We object to the structure proposed particularly in height of 6.0m above the (average) existing ground level;
- All existing garages/carports along the lane are single story structures;
- The roof of the proposed garage structure will significantly interrupt the view lines in a north easterly direction from the main indoor and outdoor living areas of our property;
- We are also concerned about the precedent that such a tall structure would set;
- We are also concerned about the potential glare from the .....Custom Orb roofing in our line of site;
- Our ability to screen such a structure is limited as we are restricted as to what type of trees we can plant due to the proximity of sewer line;
- What is the intended use of the proposed loft space above the garage?
- I have no objection to the proposed renovations and additions to the existing residence.

30 Hawkstone Street

- We would like to rescind.... our previous approval;
- We have no objections to the plans for the house...;
- The height of the proposed garage and loft will negatively affect us in terms of privacy, shade and aesthetics;
- The upstairs window will look directly into our backgarden and house;
- The proposed garage would be hard to screen;
- The height of the garage & loft would ruin the feeling of space and light....

32 Hawkstone Street

- *We strongly object to the garage being a 6 metre structure*

**STAFF COMMENT**

Acceptable Development Standards of the RDC for Outbuildings

The application is for the 2-storey alterations/additions to the existing residence and a garage/loft.

The proposal is required to be considered under the requirements of the Residential Design Codes. The Acceptable Development Standards of the Design Element 10 – Incidental Development are as follows:

*“Outbuildings that:*

- I. Are not attached to a dwelling;*
  - II. Are non-habitable;*
  - III. Do not exceed 60m<sup>2</sup> in area or 10% in aggregate of the site area, whichever is lesser;*
  - IV. Do not exceed a wall height of 2.4m;*
  - V. Do not exceed ridge height of 4.2m;*
  - VI. Are not within the primary street setback area;*
  - VII. Do not reduce the amount of open space required in Table 1;*
-

- VIII. Are setback in accordance with Design Element 3; and  
IX. Comply with the siting and design requirements for the dwelling, but do not need to meet rear setback requirements of Table 1.”*

The outbuilding does not comply with the following acceptable standards of the R-Codes:

II Are non-habitable

It was specified by the applicant that the proposed garage/loft space will not be used for habitable purposes.

The comment received from the council's Building Surveyor in regards to what would constitute a habitable room under the BCA stated that *“habitable room would imply “fit for the purpose” under the performance requirements”*.

The proposed loft has windows, which would serve a means of getting natural light into this space. The proposed garage also contains a bathroom and a separate storeroom. There aren't any set ceiling height requirements for lofts under the BCA, they can be at the discretion of the Building Surveyor. The proposed loft space appears to be designed for habitable purposes.

IV Do not exceed a wall height of 2.4m;

The wall height of the proposed development is 3.3m, which considerably exceeds the height of 2.4m.

V Do not exceed the ridge height of 4.2m

The ridge height of proposed garage/loft is 5.7m, which is considerably higher than required 4.2m.

VIII Are setback in accordance with the Element 3; and

The proposed garage/loft does not comply with the western side boundary setback.

The proposed Nil setback to the western boundary does not comply with the acceptable development standards of the R-Codes, as the height of the wall is more than 2.7m average.

The applicant is also proposing to have walls built up to two boundaries which is not in accordance with the acceptable development standards under the Design Element 3 – Setbacks. The proposed structure has a Nil setback to the southern boundary from the store room and 0.5m setback from the garage on the ground floor and 0.5m from the loft - room on the upper floor. When the setback is less than 0.75m the wall is considered to be built up to the boundary under the RDC Clause 3.3.2 – Boundary walls – Notes (page 59).

IX Comply with the siting and design requirements for the dwelling, but do not need to meet rear setback requirements of Table 1.

The rear setback is Nil – 0.5m. As the garage will have access from the ROW it will have to achieve a 6.0m turning circle to the garage door. It was determined that the proposed rear setback would be sufficient to accommodate access of vehicles into the proposed garage.

As mentioned earlier, the proposed loft appears to be designed for use for habitable purposes. The proposed loft also has windows. The adjoining neighbours are concerned with the potential privacy issues if the loft is to be used for habitable purposes.

The property is orientated north/south and the shadow from the proposed garage/loft falls mainly on the ROW and shadow print is considerably below 25% of the adjoining property site area (30 Hawkstone Street) at the winter solstice.

The proposed height of the building is considerably more than what is permitted under the acceptable standards of the R-Codes for an outbuilding.

### **Performance Criteria of the RDC for Outbuildings**

If the proposed loft is used for habitable purposes the proposed development would not comply with the definition of an outbuilding under the RDC, which is:

*“An enclosed **non-habitable** structure that is required to meet the standards of the Building Code of Australia and is detached from any dwelling.”*

If the Council is of the opinion that the proposed development should be classed as an outbuilding, the proposal would also be required to be assessed against the performance Criteria under the Clause 3.10.1 – Outbuildings, as the development does not comply with the Acceptable Development Standards under this Clause.

The Performance Criteria P1 (clause 3.10.1) is:

*“Outbuildings that do not detract from the streetscape or the visual amenity of residents of neighbouring properties.”*

The proposed garage/loft would not detract from the streetscape as it is located at the rear of the existing house.

Three adjoining property owners across the ROW at the rear objected to the proposed garage/loft. (Refer to the summary of the objections).

The main reasons for objections were:

- The structure is overweight;
- The loft appears to be designed to be used for habitable purposes;
- There might be privacy issues as the loft is a habitable room;
- Due to the height of the building it will affect visual amenity of the neighbouring properties;
- The structure would be hard to screen with vegetation.

The proposed structure would be visible from the rear of the adjoining properties across the ROW due to its considerable height (Ridge at 6.0m from NGL at the boundary).

It is considered that the proposed two storey garage/loft does not comply with the Performance Criterion as the objectors are in the opinion that the amenity of their properties would be affected.

The proposal does not comply with the General objective of the RDC to protect the amenity of adjoining residential properties.

### **TPS 2 General Objectives**

The proposed garage will be also considered under the general objectives of the TPS 2.

Under the Clause 5.1.2 Council shall have regard to and may impose conditions relating to the following:

- *The need for limitation of height or location of buildings to preserve or enhance views;*
- *The location and orientation of a building or buildings on a lot in order to achieve higher standards of daylighting, sunshine and privacy or to avoid visual monotony in the street scene as a whole.*

The proposed garage/loft exceeds the height requirements under the RDC and is considerably higher than the normally expected height for an outbuilding.

As previously discussed, the proposed loft appears to be designed for habitable purposes. If the loft space is used in the future for human habitation it might cause privacy issues for adjoining properties.

### **Additions to the existing residence**

The proposed 2-storey additions to the existing house were supported by all the adjoining property owners.

The proposed additions/alterations were considered to comply with the height restrictions under the TPS 2. The assessment did not show any concerns with the proposed additions in regards to privacy or overshadowing for the adjoining properties.

### **CONCLUSION**

It is recommended that the proposed additions to the existing house be approved by Council subject to the standard conditions.

It is recommended that the proposed outbuilding not be supported by Council and the applicant be requested to submit amended plans showing compliance with the acceptable development standards for outbuildings under the RDC.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Nil.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Jeanes, seconded Cr Miller

That Council:

- (1) GRANT its Approval to Commence Development for the Proposed two Storey Extensions and a Garage/loft at No 39 (Lot 2) Grant Street, Cottesloe in accordance with the plans submitted on 19 June 2004, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) The right of way located at the rear, adjacent to the property, being paved and drained to the satisfaction of the Manager, Engineering Services, details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.
  - (f) Revised plans being submitted for approval by the Manager, Development Services, showing the wall and ridge height of the proposed outbuilding being modified to comply with the requirements of the acceptable development standards of the R-Codes for wall and roof ridge height.
- (2) Advise the submitters of this decision.

**AMENDMENT**

Moved Cr Walsh, seconded Cr Miller

That the motion be amended by removing clause (e).

Lost 3/6

**11.1.2 COUNCIL RESOLUTION**

That Council:

- (1) GRANT its Approval to Commence Development for the Proposed two Storey Extensions and a Garage/loft at No 39 (Lot 2) Grant Street, Cottesloe in accordance with the plans submitted on 19 June 2004, subject to the following conditions:**

  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
  - (e) The right of way located at the rear, adjacent to the property, being paved and drained to the satisfaction of the Manager, Engineering Services, details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.**
  - (f) Revised plans being submitted for approval by the Manager, Development Services, showing the wall and ridge height of the proposed outbuilding being modified to comply with the requirements of the acceptable development standards of the R-Codes for wall and roof ridge height.**
- (2) Advise the submitters of this decision.**

Carried 9/0

**11.1.3 NO 66 (LOT 102) FOREST STREET – PROPOSED CARPORT**

<b>File No:</b>	<b>No 66 (Lot 102) Forest Street</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Attachments:</b>	<b>Location plan Plans Submission (1) Correspondence from owner Plan</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>11 August, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>J. Longden</b>
<b>Applicant:</b>	<b>J. Longden</b>
<b>Date of Application:</b>	<b>23 June 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>637m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

**SUMMARY**

Council is in receipt of an application to construct a carport at the rear of the subject property with the vehicle access from the ROW.

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owner

**Submissions**

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

68 Forest Street

- The proposed carport will overshadow *the upper balcony and lower garden courtyard areas*;

- The carport will *be visually overpowering will dominate our view from our balcony and courtyard areas*;
- The existing garage and driveway can accommodate a small car;
- A native tree at the rear will be removed as a result of the proposed development;
- Council has a duty of care to preserve the rear outlook of the heritage listed properties.

### STAFF COMMENT

A site inspection was carried out by the Planning Officer on 11<sup>th</sup> August 2004. During the site inspection it was noted that there is already an existing elevated terrace at the rear of the property at the similar level as the ROW. The rest of the rear garden area is at a considerably lower level.

There is an existing single width garage as shown on the site plan, which is currently used as a storage area. The existing driveway running from the street to the existing garage is narrow (2.5m), which makes it difficult to use.

It is proposed to extend the existing terraced area to accommodate the parking of two vehicles. The applicant is proposing to construct the following retaining wall:

East – 2.6 m long, 1.5m from the boundary;

West – 2.6 m long, 8.0m from the boundary;

South – 5.5 m long, front setback (N/A), behind the existing house.

The height of the retaining wall is approximately 1.4m from the level of the existing sunken back garden. The proposal is required to be assessed under the Acceptable Development Standards of the Design Element 6 – “Site Works.”

Clause 3.6.2 (A2) states:

“Retaining walls setback from common boundaries in accordance with the setback provisions of table 1, Table 2 and Figure 3.”

In accordance with the above Clause and the Notes on page 72 of the RDC the proposed retaining wall is required to be either setback 1.8m from the eastern boundary without screening or 1.5m and be screened to prevent views into the adjoining property.

It is considered that additional screening of the retained area would not be required as the existing vegetation and fences already provide sufficient screening.

Also the carport is merely designed to accommodate parking of vehicles and therefore it is not a major viewing area and will not pose privacy issues.

It considered that the proposal complies with the acceptable development standards of the RDC – Design Element – “Site Works.”

It is also preferred under the RDC that the vehicle access is gained from the ROW rather than from the street. Clause 3.5.4 - “Vehicular Access” states:

*“Access to on-site parking to be provided, where available, solely from a right-of-way available for the use of the relevant lot...”*

The applicant also proposed to pave and drain the portion of the ROW abutting the rear property boundary.

The height of the columns of the carport is 2.3m and the roof ridge height is 4.0m, which is under the requirements for an outbuilding under the RDC.

The proposed carport is an open structure and is not likely to affect the visual amenity of the adjoining property to the east or overshadow any sensitive areas. The rear yard of the adjoining property has a lot of mature trees, which would considerably restrict the sunlight into the property. The balcony being referred to in the objectors' letter is located a long distance away from the proposed carport.

The applicant does not have any alternative locations for the proposed parking structure due the location of the terraced garden and existing retaining walls at the rear.

The proposal complies with the Clause 3.5.3 – “Design of Parking Spaces” in regards to carport depth, width and manoeuvring depth.

## **CONCLUSION**

The proposed carport is considered to be in compliance with the requirements of the R-Codes and the relevant provisions of the TPS 2.

It is recommended that the application for the proposed carport at the rear with the vehicle access from the ROW be approved subject to the standard conditions.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Nil.

## **11.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Jeanes, seconded Cr Miller

**That Council:**

- (1) GRANT its Approval to Commence Development for the carport at No 66 (Lot 102) Forest Street, Cottesloe in accordance with the plans submitted on 23<sup>rd</sup> June 2004, subject to the following conditions:**
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for**

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

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) Details of the proposed paving and draining of the portion of the ROW abutting the rear boundary of the subject property being submitted to Council for approval by the Manager Engineering Services prior to the commencement of works.
- (2) Advise the submitters of this decision.

Carried 9/0

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**11.1.4 PROPOSED TOWN PLANNING SCHEME AMENDMENT NO. 35 –  
CHANGES TO CLAUSE 5.1.1**

**File No:** D 2.4  
**Author:** Ms Lilia Palermo  
**Attachment:** TPS 2 Amendment 35 Text  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 August, 2004  
**Senior Officer:** Mr Stephen Sullivan

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**SUMMARY**

Council considered this at its meeting of 26<sup>th</sup> July 2004. Council resolved to defer the item for consideration at the August 2004 meeting. The Manager Development Services was requested to seek further legal advice concerning the alternative options for the wording of the amendment.

It is recommended that the original wording be accepted and the draft Amendment be adopted.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Council will be responsible of the cost of the process which will include advertising costs. It is anticipated that the direct cost of such an amendment would be about \$3000.

**BACKGROUND**

The provisions of Clause 5.1.1(a) of the Town Planning Scheme text states the following:

*5.1.1 Building Height*

*(a) General Policy*

*Council's general policy for development within the district favours low rise development of no more than 2 storeys to maintain privacy, views and general amenity notwithstanding that Council may consider the circumstances and merits of each case in terms of the amenity and development control provisions of this Scheme.*

*In exercising height control policies Council will not regard as a storey undercroft space used for lift shafts, stairways, or meter rooms,*

*bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles where that space is not higher than 1 metre above the footpath level measured at the centre of the site along the boundary to which the space has frontage or where that space is below the natural ground level measured at the centre of the site as determined by Council.*

There were two options presented to Council for possible wording of the amended Clause 5.1.1 (a). The wording for the proposed Scheme Amendment suggested by Ken Adam in the letter to Council dated 17 June 2004 was as follows:

Clause 5.1.1 – Building Height (General Policy)

Delete the second sentence and substitute the following:

*“In exercising height control policies the Council will not regard as a storey any undercroft space both designated and located and designed as not to fall within the category of a habitable Room or space, as defined in the Residential Design Codes of Western Australia, where that space is not higher than 1 metre above the footpath level measured at the centre of the site along the boundary to which the space has frontage or where that space is below the natural ground level measured at the centre of the as determined by Council.”*

In the previous report to Council the Planning Department recommended to amend the Clause 5.1.1 (a) by deleting the following in the second sentence in the clause:

*"used for lift shafts, stairways, or meter rooms, bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles"*

and substituting with the following:

*"designed and used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartments, cellar, corridor, hallway, lobby, the parking of vehicles or any storeroom without windows or any workshop appurtenant to a car parking area"*

The Manager Development services sought further legal opinion on the relative merits of the two proposed options.

The Building Surveyor has advised that under the Building Code of Australia, there is no minimum floor area required for a habitable room. The Codes were changed in 1988. A habitable is required to have a floor to ceiling height of 2.4m and 2.1m for a kitchen. Further there must be an opening to that room of at least 10% of the floor area for light and 5% for ventilation.

#### **STAFF COMMENT AND CONCLUSION**

A letter from the Council's solicitors was received on 5<sup>th</sup> August 2004 in relation to this matter, which has been previously circulated to councillors. Based on that advice, it is recommended that the amendment as originally proposed be adopted.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Jeanes, seconded Cr Miller

That Council:

- (1) In pursuance of Section 7 of the Town Planning and Development Act (as amended) hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 text by modifying the second sentence of Clause 5.1.1(a) by
  - (a) deleting the following words;
    - (i) "used for lift shafts, stairways, or meter rooms, bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles"
    - (ii) substituting the following in lieu thereof:
    - (iii) "designed and used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartments, cellar, corridor, hallway, lobby, the parking of vehicles or any storeroom without windows or any workshop appurtenant to a car parking area"
- (2) Adopt the Draft Amendment No. 35 of the Town of Cottesloe Town Planning Scheme No. 2 attached to and forming part of these minutes.
- (3) Refer the proposed amendment to the Department for Environmental Protection for comment prior to advertising;
- (4) Advertise the draft Town Planning Scheme amendment for public comment for a period of 42 days by:
  - (a) Placing a copy of the notice:
    - (i) in The Post Newspaper;
    - (ii) on the Council notice board at the Council Offices and the Town Centre;
    - (iii) in the library; and
  - (b) Placing a copy of the draft amendment on display at the:
    - (i) Council offices: and
    - (ii) Cottesloe/Peppermint Grove Library.
- (5) Provide the Western Australian Planning Commission with a copy of draft Town Planning Scheme Amendment No. 35.

**AMENDMENT**

Moved Cr Cunningham, seconded Cr Strzina

That the words "without windows" in the second last line of (2)(a)(iii) be deleted.

Carried 6/3

**11.1.4 COUNCIL RESOLUTION**

**That Council:**

- (1) In pursuance of Section 7 of the Town Planning and Development Act (as amended) hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 text by modifying the second sentence of Clause 5.1.1(a) by**
  - (a) deleting the following words;**
    - (i) "used for lift shafts, stairways, or meter rooms, bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles"**
    - (ii) substituting the following in lieu thereof:**
    - (iii) "designed and used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, water closet, other sanitary compartments, cellar, corridor, hallway, lobby, the parking of vehicles or any storeroom or any workshop appurtenant to a car parking area"**
- (2) Adopt the Draft Amendment No. 35 of the Town of Cottesloe Town Planning Scheme No. 2 attached to and forming part of these minutes.**
- (3) Refer the proposed amendment to the Department for Environmental Protection for comment prior to advertising;**
- (4) Advertise the draft Town Planning Scheme amendment for public comment for a period of 42 days by:**
  - (b) Placing a copy of the notice:**
    - (i) in The Post Newspaper;**
    - (ii) on the Council notice board at the Council Offices and the Town Centre;**
    - (iii) in the library; and**
  - (c) Placing a copy of the draft amendment on display at the:**
    - (i) Council offices; and**
    - (ii) Cottesloe/Peppermint Grove Library.**
- (5) Provide the Western Australian Planning Commission with a copy of draft Town Planning Scheme Amendment No. 35.**

Carried 9/0

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 17 AUGUST 2004****12.1 ADMINISTRATION****12.1.1 SEA VIEW GOLF CLUB - DRAFT MANAGEMENT PLAN**

**File No:** E10.10  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 August, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council comments received in relation to the draft Management Plan with the recommendation that the matter lay on the table until September, 2004 when Council is scheduled to deal with the draft lease.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

At its June meeting Council passed the following resolution:

That Council:

- (1) Agree to the draft Management Plan, as amended, for the management of the Sea View Golf Course; and
- (2) Make the draft available for public comment for the period up to 4.00pm on Monday, 2 August, 2004.

151 submissions were received up to 4pm on 2 August and these are summarised (see attachment). More detailed comments are recorded on the second attachment. Seven submissions were received after the closing date and are recorded for information only.

**CONSULTATION**

The Author has spoken with the Chairman of the Jarrad Street "A" Class Reserve Action Group and the President of the Sea View Golf Club.

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**STAFF COMMENT**

It is recommended that Council receive the information on the submissions lodged and resolve to leave the matter on the table until it deals with the Lease Agreement in September, 2004. Further, that in the interim the Sea View Golf Club be asked to comment on the submissions, especially those listed separately where specific clauses of the document are addressed. It is quite possible that the Club will find no difficulties with some of the suggested amendments and it would be better for these less contentious matters to be identified before Council deals with the submissions.

**VOTING**

Simple Majority

**DECLARATIONS OF IMPARTIALITY**

Councillors Sheppard, Strzina and Robertson made declarations of impartiality.

**COMMITTEE COMMENT**

Nil.

**12.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council:**

- (1) Receive the submissions lodged prior to the advertised closing date and that the matter lay on the table until September, 2004 and be dealt with in conjunction with the Sea View Golf Club Lease Agreement; and**
- (2) Invite the Sea View Golf Club to make comment on the submissions received, for the purpose of determining areas of agreement, before Council deals further with the matter in September, 2004.**

Carried 9/0

**12.1.2 KITESURFING - COTTESLOE BEACHES**

**File No:** E 2. 2  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 August, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put the application from the Western Australian Kitesurfing Association Inc (WAKSA) to operate kitesurfing back before Council following a meeting of the Kitesurfing Committee.

In accordance with Council's resolution of June, 2004 the Committee made recommendations of conditions that might be applied if approval were to be given. It is now recommended that approval be given subject to these conditions.

**STATUTORY ENVIRONMENT**

Beach and Beach Reserves Local Law applies. Clause 10 deals with restrictions that apply to the use of "Watercraft" and 10.6 under provides:

- 10.6 Other than as provided in Local Laws 10.1-10.5 inclusive, all sail and motor craft, including personal watercraft, are not permitted within a distance of two hundred metres from the low tide mark as measured at ordinary spring tides, except with the written approval of Council.

10.1 and 10.5 read as follows:

- 10.1 Surf life saving craft, used in their capacity as training and competition Boats of a Life Saving Club, are permitted at both Cottesloe Beach and North Cottesloe Beach within areas set by the Council from time to time.
- 10.2 Motorised surf life saving boats being used for water rescue by a Surf Life Saving Club or authorised person are permitted in the defined Area.
- 10.3 Subject to Local Law 10.4 (below) surf skis may be used at all beaches.
- 10.4 Surf skis may only be used at Cottesloe Beach and North Cottesloe Beach within an area from time to time designated by the Council and only for the purposes of entering and leaving the beach to a distance of one hundred metres seaward from the low water mark as measured at ordinary spring tides.
- 10.5 Sailing craft and sail boards are not permitted within two hundred metres from the low tide mark at any point between the Cottesloe Groyne and the northern boundary of the North Cottesloe Surf Life Saving Club building and may only be launched south of the Cottesloe Groyne or north of the North Cottesloe Surf Life Saving Club building.

The local law provides the following applicable definitions:

- "Bathing Appliances: means a float of any material, including surf skis, surf boards, kickboards, malibu boards, paddle boards, body boards, boats or any other device whether motorised or not, used or capable of use for bathing or surf riding.

“Boat”	means any structure or vessel whether propelled manually or by the wind or power or wave, used to float and travel upon or above the water.
“Watercraft”	means any bathing appliance or boat as defined above.

The local law also provides that surfboarding is permitted south of the Cottesloe Beach Groyne at all times (6.10).

**POLICY IMPLICATIONS**

Beach Policy has application.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

At its June meeting Council considered WAKSA's application and resolved as follows:

That Council:

- (1) Establish a committee to report to the Works and Corporate Services Committee on conditions that might be imposed if approval were to be given to Western Australian Kitesurfing Association Inc in relation to kitesurfing in Cottesloe; and
- (2) The committee to be chaired by Cr Sheppard and have one representative each from Cottesloe CoastCare, Western Australian Kitesurfing Association Inc together with one invited representative from each of the resident surf lifesaving clubs.

Invitations were sent to each of the entities set out in (2) above and all but North Cottesloe Surf Life Saving Club fielded a representative at the committee meeting held on 29 July, 2004. The committee discussed conditions that might be imposed.

**CONSULTATION**

Consultation consisted of discussions at the Kitesurfing Committee meeting.

**STAFF COMMENT**

As suggested in the previous report on this matter, it is the author's opinion that it would be better to approve of the proposed activity being conducted by WAKSA (where members are covered by public liability insurance, are controlled by rules and the like), subject to conditions, than to prohibit the sport entirely due to difficulties in adequately policing the latter option. According to WAKSA, the majority of its members who would use Cottesloe beaches live in or near to Cottesloe and have a reasonable degree of proficiency.

The Kitesurfing Committee discussed conditions that might be imposed and the results of its deliberations are contained in the minutes of its meeting.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**OFFICER RECOMMENDATION**

That Council, in accordance with provisions of the Beach Policy and Beach Reserves Local Law, approve the application made by WAKSA, subject to the following conditions:

- (1) Shore based activities be restricted to beach areas between Rosendo Street and the Town's southern boundary;
- (2) WA Kitesurfing Association to be incorporated under the Association's Incorporations Act;
- (3) Provision of a risk management plan;
- (4) Public liability insurance cover of at least \$10,000,000 being maintained at all times by WA Kitesurfing Association; and
- (5) WA Kitesurfing Association members to display identification that Council staff can readily identify at a distance.

**COMMITTEE RECOMMENDATION**

Moved Cr Miller, seconded Cr Strzina

That Council, in accordance with provisions of the Beach Policy and Beach Reserves Local Law, approve the application made by WAKSA, subject to the following conditions:

- (1) All shore based activities conducted by WAKSA and/or its members be restricted to beach areas between Rosendo Street and the Town's southern boundary;
- (2) WAKSA to be incorporated under the Association's Incorporations Act, to maintain this status and to provide Council with evidence of its incorporation;
- (3) WAKSA to compile a risk management plan and provide Council with a copy;
- (4) Public liability insurance cover of at least \$10,000,000 be maintained at all times by WAKSA; and
- (5) WAKSA members to display identification that Council staff can readily identify at a distance.

**AMENDMENT**

Moved Cr Strzina, seconded Cr Sheppard

That the Committee Recommendation be amended to include:

- (6) Appropriate signage to be installed.

Carried 9/0

**12.1.2 COUNCIL RESOLUTION**

That Council, in accordance with provisions of the Beach Policy and Beach Reserves Local Law, approve the application made by WAKSA, subject to the following conditions:

- (1) All shore based activities conducted by WAKSA and/or its members be restricted to beach areas between Rosendo Street and the Town's southern boundary;
- (2) WAKSA to be incorporated under the Association's Incorporations Act, to maintain this status and to provide Council with evidence of its incorporation;
- (3) WAKSA to compile a risk management plan and provide Council with a copy;
- (4) Public liability insurance cover of at least \$10,000,000 be maintained at all times by WAKSA;
- (5) WAKSA members to display identification that Council staff can readily identify at a distance; and
- (6) Appropriate signage to be installed.

Carried 9/0

**12.1.3 STATION STREET SUMP – PROPOSED REDEVELOPMENT**

**File No:** X4.15  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 August, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council the results of a call for expressions of interests from land developers or consultants willing to manage the development of Council land in Station Street.

**STATUTORY ENVIRONMENT**

Sections 3.57 to 3.59 of the Local Government Act 1995 have particular application and are reproduced in full below.

**3.57. Tenders for providing goods or services**

(1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply or services.

(2) Regulations may make provision about tenders.

*(Note: Except in certain circumstances, the regulations require that tenders are to be publicly invited before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$50,000.*

*In addition, if a local government thinks that there is good reason to make a preliminary selection from amongst prospective tenderers as a preliminary to making a decision to tender, it may seek expressions of interest with respect to the supply of the goods or services.*

*Good reason to make a preliminary selection can exist where —*

- (a) the nature of the goods or services required; or*
- (b) the cost of preparing plans, specifications or other information for the purpose of adequately describing the goods or services required,*

*makes it advantageous to the local government if tenders were invited from persons it considers to be capable of satisfactorily supplying the goods or services.)*

**3.58. Disposing of property**

(1) In this section —

“dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“property” includes the whole or any part of the interest of a local government in property, but does not include money.

- (2) Except as stated in this section, a local government can only dispose of property to —
- (a) the highest bidder at public auction; or
  - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) it gives Statewide public notice of the proposed disposition —
    - (i) describing the property concerned;
    - (ii) giving details of the proposed disposition; and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- And
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned;
  - (b) the consideration to be received by the local government for the; and
  - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of land under section 29 or 29B of the Public Works Act 1902;
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;

- (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
- (d) any other disposition that is excluded by regulations from the application of this section.

### 3.59. Commercial enterprises by local governments

- (1) In this section —

“acquire” has a meaning that accords with the meaning of “dispose”;

“dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“land transaction” means an agreement, or several agreements for a common, under which a local government is to —

- (a) acquire or dispose of an interest in land; or
- (b) develop land;

“major land transaction” means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,

is more, or is worth more, than the amount prescribed for the purposes of this definition;

“major trading undertaking” means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve, expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

“trading undertaking” means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of “land transaction”.

- (2) Before it —
-

- (a) commences a major trading undertaking;
  - (b) enters into a major land transaction; or
  - (c) enters into a land transaction that is preparatory to entry into a major land transaction,
- a local government is to prepare a business plan.
- (3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —
- (a) its expected effect on the provision of facilities and services by the local government;
  - (b) its expected effect on other persons providing facilities and services in the district;
  - (c) its expected financial effect on the local government;
  - (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56;
  - (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
  - (f) any other matter prescribed for the purposes of this subsection.
- (4) The local government is to —
- (a) give Statewide public notice stating that —
    - (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;
    - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed undertaking or transaction may be made the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- and
- (b) make a copy of the business plan available for public inspection in with the notice.
-

- (5) After the last day for submissions, the local government is to consider any submissions made and may decide\* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.
- Absolute majority required.
- (5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.
- (6) If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.
- (7) The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.
- (8) A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.
- (9) A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.
- (10) For the purposes of this section, regulations may —
- (a) prescribe any land transaction to be an exempt land transaction;
  - (b) prescribe any trading undertaking to be an exempt trading undertaking.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil at this time.

**BACKGROUND**

Council has looked at redevelopment of the Station Street sump site on a number of occasions since 1999 and has passed the following resolutions in relation to it:

**COUNCIL RESOLUTIONS FOR STATION STREET SUMP SITE**

April, 1999

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

That Council invite BP/McDonalds to present a detailed proposal for the development of the existing BP site and adjacent land in Station Street, Cottesloe including signage to Council's satisfaction, on the understanding that a financial return to Council will be required.

July, 1999

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

That information provided by BP and McDonalds be received for further consideration by Works & Corporate Services Committee in August.

August, 1999

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

That Council advise the BP/McDonalds consortium that:

- (1) it will invite a formal planning application to improve the Station Street sump and existing BP sites subject to community acceptance of a business plan which will be advertised as soon as possible in accordance with the Local Government Act (1995); and
- (2) subject to (1) above, a rental will be charged on the final development after negotiation between the parties based on the proposal put to the Works and Corporate Services Committee at its July, 1999 meeting

November, 1999

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

That the Works and Corporate Services Committee receive further information from BSD Consultants in December in relation to the Station Street sump development proposal from BP McDonalds.

December, 1999

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

That Council advise BSD that it will further consider the proposal for the Station Street site on receipt of the relevant information including social, environmental and financial issues and not before the Council meeting in February, 2000.

February, 2000

**COUNCIL RESOLUTION**

That Council advise BP Australia that Council invites a formal development application for the Station Street sump site following discussions on design options, and that Council will support the application on the condition that all statutory obligations can be met and subject to satisfactory negotiations on the terms of the associated lease and design detail.

July, 2000  
COUNCIL RESOLUTION

That Council:

- (1) Invite BP Australia to submit a formal development application and lease proposal for the service station site and adjoining land on Stirling Highway and Station Street Cottesloe, based on revised design proposals dated 11 July, 2000 and financial proposals put to Council in February 2000, which includes a commitment to environmental sustainability by establishing the same trial as it is conducting at Broadmeadows in Newcastle, N.S.W.;
- (2) Delegate to the Chief Executive Officer the power to sign the application on behalf of Council as owner of part of the site; and
- (3) Ensure that the design of the structure include an engineer's design of the sump so that the capacity meets requirements.

December 2000  
OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

That BSD Consultants be advised that:

- (1) subject to confirmation from the relevant vesting authority that the proposed development can proceed over Reserve No. 40348, Council will require the following advertising/notification process to be carried out:-
  - (a) a sign is to be erected on each of the main street frontages (Stirling Highway and Station Street), and is to be of sufficient size to be visible and readable from those streets, and shall be erected in locations to be determined by the Manager of Development Services. The notice on the signs shall explain the proposed development, and such signs being erected for not less than twenty one (21) days;
  - (b) a double width column newspaper notice to appear once a week for two consecutive weeks in a local newspaper circulating in the district, giving at least a twenty one (21) day submission period from the date of the first notice. The notice is to be within the first five pages of that newspaper ;
  - (c) give written notice to the owners and occupiers in Station Street and only the owners and occupiers on the southern side of Forrest Street, and providing at least twenty one (21) days for comment from the date of notification; and
  - (d) copies of the newspaper notice are to be placed in Council's notice boards during the notification/advertising period.
  - (e) give written notice to the Cottesloe Business Association.
- (2) Details of the advertising/notification referred to in (1)(a) - (e) above should be submitted for approval by the Manager of Development Services, prior to the process commencing.

April 2001  
OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

- (1) That consideration of this matter be deferred to the May 2001 meeting of Council.
- (2) A report on the proposal and the submissions be prepared by the Manager, Development Services.

May 2002

COMMITTEEE RECOMMENDATION & COUNCIL RESOLUTION

- (1) That consideration of this matter [proposed urban design study for Station Street] be deferred to the June 2002 meeting of the Development Services Committee; and
- (2) That Administration circulate to Councillors a copy of the 1985 Cottesloe Village Design development report and other related documents.

July 2002

COMMITTEEE RECOMMENDATION & COUNCIL RESOLUTION

- (1) That BP be advised that Council does not support its proposed purchase and development of the site
- (2) That an investigation be made of alternative uses of the Station Street sump site, that fits the long term strategic development of Cottesloe and its town centre.

November 2002

COMMITTEEE RECOMMENDATION & COUNCIL RESOLUTION

That Council engage consultants to:

- (1) prepare conceptual plans and an artist's impression of a two-storey car park on the Station Street sump site; and
- (2) provide a valuation for the sale of the existing car park on the corner of Station Street and Railway Street as a mixed-use development.
- (3) prepare conceptual plans and an artist's impression of a park on the Station Street Sump site.

June 2003

COMMITTEEE RECOMMENDATION & COUNCIL RESOLUTION

That Council note that concept plans have been received for a 115 bay parking development on the Station Street drainage sump and that the concept is to be reported to the July meeting.

July 2003

OFFICER & COMMITTEEE RECOMMENDATION & COUNCIL RESOLUTION

That Council defer the decision to invite public comment on the design concept for a two level 115 bay car park over the drainage basin in Station Street and the potential sale of the existing 46 bay car park to fund the project until other development options have been explored.

February 2004

OFFICER & COMMITTEEE RECOMMENDATION & COUNCIL RESOLUTION

That Council seek registrations of interest closing at 4.00pm on Thursday, 13<sup>th</sup> May, 2004 from land developers or consultants willing to manage the development of Council land in Station Street.

In accordance with Council's February 2004 resolution, expressions of interest were called by advertising in the West Australian's property section on two consecutive Wednesdays (April 7 and 14, 2004). Six expressions of interest were received by the closing time/date (4.00pm 8 July, 2004) and they were from the following entities:

- Nu West Property Systems Ltd
- Olympic Holdings Pty Ltd

- Property Resources Consulting
- Jamac Properties
- Edit Developments
- Australian Development Consultants

The briefing note supplied to entities intending to lodge and expression of interest is attached for information.

### **CONSULTATION**

Given the time since Council's resolution to call for expressions of interest and the writing of this report, and the number of officers dealing with the matter, it is not clear what consultation may have been conducted. It is however assumed that the matter was discussed with the entities prior to their lodgement of expressions. The author of this report has consulted with no external persons on this matter.

### **STAFF COMMENT**

Before addressing the expressions of interest received, it is noted that Council is embarking on a town centre study which is scheduled to be completed in June 2005. The study will be addressing significant issues, such as development controls, parking and streetscapes, which should be taken into account when dealing with the proposed development of Council land in that area. It is therefore suggested that the two matters be progressed concurrently, as far as practicable, with final decisions on land development being left till the town centre study is completed and so can provide guidance as to matters such as the number of public parking car bays that should be provided for within Councils developments.

The call for expressions of interest was for "developers willing to manage the development of Council land in Station Street". Two companies saw this as entailing the sale of Council lands for development with one offering to purchase the existing carpark as part of their submission and another offering their sales expertise as part of their submission. Whilst none of the six fully addressed the selection criteria it is suggested that all appear to have experience in managing developments, either their own or on behalf of others, and so it is suggested that all could be invited to tender.

Before progressing the matter though it is suggested that there is a need to clarify what is required. It is further suggested that the intention is for Council to be the developer of its lands and that it may then sell or lease parts (that is residential and/or commercial units of the development), in accordance with legislative constraints, and that it will do all of this with assistance from the successful tenderer. Development options include public parking, commercial, residential and community use facilities. The latter could include public toilets and provision for the relocation of the Cottesloe Peppermint Grove Mosman Park Joint Library which has out grown its current accommodation prompting investigation into opportunities to expand at its current location.

It is suggested that the outcomes sought from the development of Council's properties in Station Street are:

- To provide public car parking to meet current and foreseeable needs in the town centre as assessed by the town centre study;
-

- To make the project as cost neutral as possible by structuring financing costs over time and designing the development to provide a return that matches as closely as possible annual repayments.
- Provide residential, commercial and perhaps community use units that complement the town centre and are in tune with the vision for area as set-out in the town centre study results;

It is also suggested that the services required by the development manager are:

- To provide advice to Council on development options that meet outcome requirements;
- To provide Council with design options that include cost and return estimates;
- To provide Council with a business plan for the project;
- To manage the design, consultation and building phases of the project
- To manage the lease/sale of portions of the development;
- To provide an on going management plan for the retained portions of the development.

It is envisaged that the development manager may be able to provide all of the required services (such as engineering, architectural etc) from within their team or will be able to assist Council to source these.

It is recommended that as none of the firms that lodged expressions of interest fully addressed the selection criteria and as only one of the firms has addressed Council on this matter in the past there may be some advantage in inviting each firm to address Council before deciding who to invite tenders from. It is suggested that special meetings of the Works and Corporate Services Committee could be convened for this purpose and that agendas could be set such that a number of firms give their presentation at each meeting.

## **VOTING**

Simple majority

## **COMMITTEE COMMENT**

General discussion was held in relation to public consultation being undertaken prior to continuing the tendering process.

The Mayor advised that BP have approached the Department of Land Information (DLI) in regards to purchasing the land, and a price has been provided to BP. DLI have also provided a price for Council to purchase the land.

Some Councillors were concerned with the confidentiality issues of the recommended presentations at meetings.

## **OFFICER RECOMMENDATION**

That Council invite each of the firms, that lodged expressions of interest to manage the development of Council land in Station Street, to address Council at Special meetings of the Works and Corporate Services Committee called for this purpose.

**COMMITTEE MOTION**

That Council invite each of the firms, that lodged expressions of interest to manage the development of Council land in Station Street, to address Council at Special meetings of the Works and Corporate Services Committee called for this purpose, and that nearby property owners and occupiers be advised of this process.

Lost

Note: Acting CEO to provide a late item to the Council Meeting on 23 August, 2004.

**12.1.3 AMENDED OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council refer the matter back to the Works and Corporate Services Committee to consider the tenders lodged in response to the call for expressions of interest.**

Carried 9/0

**12.1.4 COTTESLOE PRIMARY SCHOOL P&C SAFETY HOUSE COMMITTEE - DONATION REQUEST**

**File No:** C 7. 7  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 August, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council the Cottesloe Primary School P&C Safety House Committee's request for a donation of \$200. The recommendation is for approval.

**STATUTORY ENVIRONMENT**

The Local Government Act provides that a local government may apply money held in its municipal fund to the performance of functions conferred by the Act (section 6.7) and that the general function of the local government is to provide for the good governance of persons in its district (section 3.1). It is suggested that the proposed use of the requested donation aligns with the general function.

**POLICY IMPLICATIONS**

Council currently has no policy on donations.

**STRATEGIC IMPLICATIONS**

The Plan provides under the heading "Environment" in the area of "District Development" that *Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation.* It is suggested that the project, to be funded by the proposed donation, is inline with the stated objective.

**FINANCIAL IMPLICATIONS**

A \$1,500 provision was made in the budget for "Presentations/Prizes/Gifts" in the area of "Governance". It is suggested that this represents a typographical error and that the intention was to make provision for "Donations" as had been done in prior years. It is recommended that the Budget be amended to rectify this error. No expenditure has been allocated to this area to date and it is recommended that a portion of this provision be used for the requested donation of \$200.

**BACKGROUND**

The Cottesloe Primary School P&C Safety House Committee wrote to Council seeking a donation of \$200 to assist with its Safety House promotion.

The Committee's aim is to create a safe environment for children to encourage them to walk or ride to school as often as possible within their area. All Safety Houses are Police cleared under its Safety House program. The Committee aims to improve children's fitness, reduce traffic congestion around the school, increase awareness of surroundings and promote a safer environment for everyone. It plans to raise the

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awareness of the Safety House campaign with many activities throughout the year. The P&C has conducted this campaign in past years with assistance from this Council and other sources.

The School's P&C will commit funding to the Committee's program as will the Peppermint Grove Shire Council and the Committee is seeking a contribution from Council to ensure its campaign is adequately funded.

**CONSULTATION**

The Author of this report has spoken with a representative of the P&C.

**STAFF COMMENT**

It is recommended that Council donate the \$200 as requested.

**VOTING**

Absolute Majority – for the budget amendment.

**COMMITTEE COMMENT**

Nil.

**12.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council:**

- (1) Amend the 2004/2005 Budget by transferring the provision of \$1,500 for "Presentations/Prizes/Gifts" to "Donations", in the area of Governance; and**
- (2) Donate \$200 to the Cottesloe Primary School P&C Safety House Committee, as requested, to assist with its Safety House promotion.**

Carried by Absolute Majority 9/0

**12.1.5 CONSULTATION POLICY**

**File No:** X4.11  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 16 July, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to adopt a draft Consultation Policy and seek public submissions on same.

**BACKGROUND**

At a special electors meeting held on the 27<sup>th</sup> April 2004 the following resolution was passed.

That the Council, prior to commencing formal processing under the Act of a Town Plan Amendment under TPS 2 or TPS 3:

- a) Make available to all electors draft plans for changes or amendments to the Town Planning Scheme, clearly indicating any changes to zoning, uses, heights and setback controls.
- b) Provide background information to the proposed changes addressing:
  - (i) the reasons for and the objectives of the proposed changes;
  - (ii) alternatives that can be considered;
  - (iii) the short and long term implications to the community of these changes.
- c) Organise a series of public workshops in the form of precinct planning groups for each proposed precinct affected by the change, unless Council decides by a two thirds majority that the changes are not material to the overall Town Plan and do not warrant a public workshop being held.
- d) By not later than 30 June, 2004 establish guidelines and timeframes for public consultation on changes to be made in the new Town Plan No. 3.

The resolution has been dealt with by Council but when looked at from a broader perspective, it could be argued that the resolution is symptomatic of lack of confidence in Council to undertake meaningful consultation as and when required.

Against this background, it is recommended that Council adopt a consultation policy which clearly articulates the type of consultation that may/will be used by the Town of Cottesloe when dealing with a range of issues.

**CONSULTATION**

Nil at this point in time but if the draft policy is adopted, it is intended that it be put out for public comment in compliance with the policy itself!

**STAFF COMMENT**

In the absence of a consultation policy, there is every possibility that future public consultation will be of an ad hoc and sporadic nature. Further, that unless public consultation processes are properly managed, Council may find itself dealing with inappropriate forms of consultation that eventually compromise sound and informed decision making.

With a public consultation strategy in place, stakeholders affected by any decision of the Council can be reasonably assured that their voice will be heard.

The attached draft consultation policy is based on that of the Cardinia Shire Council and has been adapted to the Cottesloe environment

**POLICY IMPLICATIONS**

If adopted, the policy will form part of Council's policies.

**STRATEGIC IMPLICATIONS**

The mission of the Town of Cottesloe as articulated in its strategic plan is *...To preserve and improve the unique village character of Cottesloe by using sustainable strategies in consultation with the community.*

Adoption of the policy will confirm Council's commitment to consultation.

**FINANCIAL IMPLICATIONS**

Nil.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Miller, seconded Cr Strzina

That Council adopt the draft Public Consultation policy and seek public submissions on same closing on Tuesday 5<sup>th</sup> October 2004.

**AMENDMENT**

Moved Cr Walsh, seconded Cr Utting

That the policy be amended to include the following:

That the Council, prior to commencing formal processing under the Act of a Town Plan Amendment under a Town Planning Scheme:

- a) Make available to all electors draft plans for changes or amendments to the Town Planning Scheme, clearly indicating any changes to zoning, uses, heights and setback controls.

- b) Provide background information to the proposed changes addressing:
- (i) the reasons for and the objectives of the proposed changes;
  - (ii) alternatives that can be considered;
  - (iii) the short and long term implications to the community of these changes.
- c) Organise a series of public workshops in the form of precinct planning groups for each proposed precinct affected by the change, unless Council decides by a two thirds majority that the changes are not material to the overall Town Plan and do not warrant a public workshop being held.
- d) By not later than 30 June, 2004 establish guidelines and timeframes for public consultation on changes to be made in the new Town Plan No. 3.

Carried 5/4

The vote was recorded:

<i>For</i>	<i>Against</i>
Cr Robertson	Mayor Rowell
Cr Sheppard	Cr Cunningham
Cr Strzina	Cr Jeanes
Cr Utting	Cr Miller
Cr Walsh	

#### **AMENDMENT**

Moved Cr Cunningham, seconded Cr Jeanes

**That the draft Consultation Policy be referred back to the Works & Corporate Services Committee.**

Carried 7/2

Note: In recognition of the significance of the proposed policy and the absence of need for haste to adopt it the meeting dealt with the second amendment only.

#### **12.1.5 COUNCIL RESOLUTION**

Moved Cr Cunningham, seconded Cr Jeanes

**That the draft Consultation Policy be referred back to the Works & Corporate Services Committee.**

Carried 9/0

**12.1.6 DONATIONS POLICY**

**File No:** X 4.11. 1  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 August, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to place before Council a draft Donations Policy for consideration and adoption.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

This item deals with a new policy.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Council's recently rescinded Donations Policy was adopted by Council in August, 1994 and was to have been reviewed in 2002. This policy dealt with an annual provision for donations of \$500 and empowered the CEO to make donations of up to \$50 each from this provision. The policy provided no guidance in relation to requests for donations in excess of \$50. In July, 2004 Council rescinded this policy.

At a recent Council meeting, when debating an item relating to a donation, it was suggested that there should be a policy to control the way in which donation requests were dealt with.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The draft policy provides for the CEO to deal with all donation applications, assess them against criteria and then refer the application to Council. The assessment criteria were taken from the recently rescinded policy and the City of Fremantle's donation application form (the proposed application form was modelled on the latter).

**VOTING**

Absolute Majority

**COMMITTEE COMMENT**

Nil.

**12.1.6 OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Miller, seconded Cr Strzina

**That Council adopt the draft Donations Policy.**

Carried 9/0

## 12.2 ENGINEERING

### 12.2.1 CONDITION OF COTTESLOE BEACH GROYPNE

<b>File No:</b>	<b>E 2.15</b>
<b>Author:</b>	<b>Mr Geoff Trigg</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>9 August, 2004</b>
<b>Senior Officer:</b>	<b>Mr Alan Lamb</b>

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#### SUMMARY

Correspondence has been received from a frequent visitor to the Groyne stating great concern about the condition of the Groyne, its deterioration due to storm damage and public safety risk.

A study of the file contents of the Cottesloe Groyne has shown that a report was received in 1998 recommending major works required but this work has not been undertaken.

This agenda item recommends the same consultant firm undertake an inspection report to establish the current condition of the Groyne prior to action being considered.

#### STATUTORY ENVIRONMENT

Council is vested with the maintenance and management responsibilities of the Groyne. The State Planning Commission would have to be informed of any changes to the site.

#### POLICY IMPLICATIONS

There are no existing policies relating to this matter.

#### STRATEGIC IMPLICATIONS

Within Council's Strategic Plan, under the heading 'Governance', Long Term Vision applies to this topic, with decisions being based on the best available advice in the long term interests of the whole community. Under 'District Development', the heading 'Environment' also applies. "Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation."

The Cottesloe Beach Groyne is a Council asset. Under 'Asset Management', the heading 'Appropriate Planning' applies. "Produce and implement a realistic five year plan for the maintenance of all major assets."

#### FINANCIAL IMPLICATIONS

When the original consultant's report was provided in December 1998, the cost of repairs aimed at removing public risk was estimated at \$140,000. For all long term repairs to be completed, that figure increased to \$300,000.

With none of these repairs having been undertaken, and after six years and a variety of heavy storm events, it is probable that the full repair costs will have increased.

**BACKGROUND**

In December 1998, Council received a consultant engineer's report "Cottesloe Groyne Integrity Study – Breakwater Remediation". This report was paid for in two instalments totalling \$7,975.

The report was based on detailed inspections, surveys and designs, by a company specialising in this work. The conclusions/recommendations from the study included a total estimated cost of \$300,000 for all required public safety and structural integrity requirements or \$140,000 for repairs to reduce public risk.

The 1998/99 and 1999/2000 budgets did not include any adopted funding for the Groyne restoration works.

In March, 1999 the draft four year Principal Activities Plan provisions (commencing 1999/2000) recommended \$120,000 being spent on the Groyne in Year 1 – 1999/2000. This was later modified for reconsideration of expenditure in the 2000/2001 budget.

No funding appears to have been included in any adopted budget since that time.

A copy of a memo was found on file dated 27 May, 1999, from a Councillor to the Mayor and Councillors suggesting that very minor works, only, were required at the Groyne and that the public safety 'problem' could be addressed with a sign "Climbing on the rocks is dangerous – do so at your own risk".

The final result of the consultant's report in 1998 and Council deliberation was that no real short term or long term rehabilitation works took place on the Groyne for either public safety or structural integrity rehabilitation requirements.

**CONSULTATION**

No community consultation has occurred on this matter.

**STAFF COMMENT**

It is concerning that a specialist report on the structural integrity and public safety of the Cottesloe Groyne in 1998, recommending a number of immediate actions, has not resulted in works to at least ensure the demonstration of Council's commitment to public safety.

Council is vested with the responsibility of maintaining the facility for all users. The contents of the report could be used against Council by anyone suffering loss or injury because of the items not having been attended to which were pointed out in the report.

A recent site inspection has shown that large rocks have moved away from the concrete installed at various times, probably due to storm action and further 'slumping' of the structure. Various large rocks appear to be in urgent need of

stabilisation, to stop them rolling down the existing slope. In other areas, there appear to be voids under rocks which lead to further concerns on stability.

The original consulting engineering company which provided the original report is still available, as is the engineer who completed the report.

**VOTING**

Absolute Majority

**COMMITTEE COMMENT**

The Committee were advised by Cr Walsh (who had attended the meeting as an Observer) that in 1999 he viewed the groyne after a severe storm and could not see any visible sign of any underwater rock movement. Surface work was required. He provided a diagram for inclusion in the report.

Mr Trigg advised that at that time the concrete surface was relayed.

Cr Cunningham was requested to view the area (due to his experience in this field). Cr Cunningham stated that he would view the area prior to the Council meeting on 23 August.

The fundamental issue of the report is that the consultant's report recommended repair, in relation to the possibility of public liability claims.

**12.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council:**

- (1) Immediately request Port & Harbour Consultants to provide a quotation to update their original "Cottesloe Groyne Integrity Study"; and**
- (2) Inform the original correspondent who gave comments on concerns regarding the Cottesloe Groyne of Council's actions in this matter, thanking him for bringing this matter to Council's attention.**

Carried 9/0

**12.2.2 DRAINAGE SUMP DEVELOPMENT - TOWN OF COTTESLOE**

**File No:** E15. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 29 July, 2004  
**Senior Officer:** Mr Alan Lamb

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**SUMMARY**

Council controls approximately 20 open drainage sumps, in the form of excavated holes into which drainage water is directed for disposal by soakage. Several of these sites are owned in fee simple by Council.

This report promotes the concept of having three of these sites, which could be converted to building blocks, investigated to have the soakage sump effect on the properties removed or dramatically reduced. The result could be three properties available for sale by Council for house construction.

**STATUTORY ENVIRONMENT**

Council owns these properties (Lot 8 Lyons Street, Lot 14 Eric Street and Pt Lot 43 Margaret Street) as private land and is legally entitled to sell such land, always ensuring that all relevant sections of the Local Government Act are complied with. The major restriction is to ensure that the existing drainage functions are properly solved or relocated, so that no common law liabilities occur from the flooding of adjacent properties.

**POLICY IMPLICATIONS**

This matter does not involve any existing Council policies.

**STRATEGIC IMPLICATIONS**

If the properties can be freed of the drainage sump function then any form of redevelopment, rental, lease or sale is available to Council. Sale would create considerable funds available for a number of possible uses.

The engineering solutions to remove the soakage sump from each of the three properties may vary, but would involve expenditure which could be recouped from the sale of one or more properties.

Large holes in the ground, in the middle of residential areas, constitute liability concerns regarding public safety. Aesthetic and drainage water quality concerns can also be improved.

These developments could provide a strategic finance base to Council for important community needs to be met.

**FINANCIAL IMPLICATIONS**

The major negative implication is the cost of implementing any engineering solutions at these sites.

The main positive impact could be the return to Council of the value of three residential building blocks plus the ongoing rate payments involved.

## **BACKGROUND**

Staff have received two enquiries over the past three months regarding the possibility of adjacent property owners buying all or part of the neighbouring Council owned drainage sump property, once redevelopment of the sump occurred.

One enquiry related to this proposal because the adjacent home was for sale and the enquirer wished to expand the useful area.

The other enquiry is as follows:

*As discussed I would like to formally express my interest in purchasing the sump located next to my property in Cottesloe.*

*I am aware the Council is considering various options for the use of sumps in the local area. If the Council is considering selling the land for restricted development I believe that my use would suit the Council requirements and provide a return without the cost of changing the drainage system such as was done in Broome Street near the Eric Street intersection.*

*Ideally a concrete pad could be placed over the top of the existing sump and the area could be utilised by myself for parking and storage with the construction of a tool/storage shed and an undercover carport. Constructions of this nature would have minimal weight compared to a residence and would enable the site to still be utilised in its existing manner. No work would be required to the current drainage system and access would be available to the Council should it be required. I would be very interested in purchasing the land.*

*Please advise of the Council's intentions and keep me informed with any developments regarding this site.*

The disposal of drainage water, mostly from road and street surfaces, in the Town of Cottesloe, can take a number of forms, and is not restricted to open soakage sumps. These take up large surface areas, create safety risks in residential areas, are not aesthetically pleasing, are subject to erosion and weed growth and are concentration sites for the various types of pollutants carried in piped drainage systems which drain into these sumps.

## **CONSULTATION**

No community consultation has taken place on this matter, apart from discussions with the two interested enquirers.

## **STAFF COMMENT**

The Town of Cottesloe has previously adopted the attitudes regarding the disposal of drainage water as follows:

- Ocean outfalls of piped drainage systems should be phased out, over time, with alternative disposal.

- The maximum amount of drainage water, accumulating on the public road system, should be disposed of by subsoil soakage, into the water table.
- Longitudinal drainage pipelines, to remove drainage water, should not be extended and should be replaced with soakage systems, unless there are no practical, affordable alternatives.
- Soakage pits, 'buffer tanks' and pollution traps should be 'sucked out' or gully educted regularly to remove any build up of pollution materials.
- Council staff will be fully involved in the WESROC 'Water Quality Management Strategy' to maximise the benefits to the Town of Cottesloe of the results of that strategy.

As previously mentioned, open soakage sumps create a number of ongoing problems for Council and the general public.

The open sumps on Crown land or road reserves cannot be sold and all improvement costs would have to be funded by Council, apart from the rare chances of attracting Government grant funding.

The installation of large corrugated aluminium 'buffer tanks' recently, in Broome Street, demonstrated one very acceptable alternative to Council and the public.

Other forms of drainage water disposal are:

- (a) For any particular catchment, increasing the number of side entry soak pits (concrete well liners) on the kerb lines of the streets in the catchment to distribute all drainage water rather than concentrating this water at one site.
- (b) Install vertical well liners as soak pits, rather than horizontal (eg buffer tanks) on a much smaller area of each property or on adjacent laneways or road reserves, equal to the original soak pit capacity.
- (c) Augment the soakage capacity of road reserves by actively promoting native vegetation on road verges rather than reticulated lawns, which can be compacted or 'thatched' from grass layers.
- (d) Install 'buffer tank' type installations on each property, build a concrete slab above the tanks, supported by columns and build on that concrete slab.

The alternative is a concrete slab floor elevated by concrete columns above an open sump eg Peppermint Grove Library and the possible Station Street future development.

- (e) A mixture of (a), (b), (c) and small standard buffer tanks at any available suitable road verge in each catchment.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Cr Utting requested that consideration be given to parkland, as an alternative.

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**OFFICER RECOMMENDATION**

That Council resolve to have the Manager Engineering Services investigate practical alternatives to open drainage sumps existing on Lot 8 Lyons Street, Lot 14 Eric Street and Pt Lot 43 Margaret Street, for the purpose of sale, redevelopment or rental of those properties to create additional Council income sources.

**12.2.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council resolve to have the Manager Engineering Services investigate practical alternatives to open drainage sumps existing on Lot 8 Lyons Street, Lot 14 Eric Street and Pt Lot 43 Margaret Street.**

Carried 9/0

**12.2.3 LANEWAYS AND RIGHTS OF WAY - COTTESLOE**

**File No:** E13. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 29 July, 2004  
**Senior Officer:** Mr Alan Lamb

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**SUMMARY**

The town of Cottesloe has no official policy on Rights of Way (ROW) and Laneways, in regards to construction and maintenance, ownership and whether it wishes to eventually have a fully constructed laneway system under its control or generally requires a minimalist system to be in place, with a minimum of Council involvement.

This report seeks Council's directions to staff and proposes a policy for controlling this infrastructure, in order to develop a five year programme of stewardship.

**STATUTORY ENVIRONMENT**

The most relevant legislation in regards to Roads and Laneways are:

- *Local Government Act 1995*
- *Land Administration Act 1997*
- *Main Roads Act 1930*
- *Public Works Act 1902*
- *Transfer of Land Act 1893*
- *Town Planning and Development Act 1928*

The acts of most significance to this report are:

The *Local Government Act 1960* which was, until 1 January, 1996, the State's primary legislation dealing with creation, management and closure of roads. On 1 January, 1996, the 1960 Act was mostly replaced by the *Local Government Act 1995*, with some of its road sections being incorporated into the *Land Administration Act 1997* instead.

The *Land Administration Act 1997* is the State's primary legislation providing for the disposition and management of Crown land. This Act is administered by the Minister for Lands and the Department of Land Information (DLI), a body formerly known as Department of Land Administration (DOLA).

The *Main Roads Act 1930* also contains provisions in relation to roads, in particular highways, main roads and secondary roads. This Act gives the Commissioner of Main Roads similar powers as a local government in relation to the primary road network.

**POLICY IMPLICATIONS**

This report proposes that a policy be developed regarding Council's attitude to Rights of Way and Laneways.

**STRATEGIC IMPLICATIONS**

The increase of land values, the growing complexity of development applications, the increase in legal cases relating to injuries or damages suffered on roads, streets and laneways all impact on laneways. The need to clearly define Council's future requirements and attitudes regarding these routes or accesses all push towards much greater control and definition of the Town of Cottesloe's requirements and obligations in this matter, in a strategic and forward planning sense.

**FINANCIAL IMPLICATIONS**

Council currently funds the maintenance of ROW/Laneway surfaces and the control of vegetation in these areas. There is little definition as to whether private sections of laneways should be maintained, the level at which heavy maintenance should become construction and included in a 'Capital Works' budget, and what liabilities Council takes on by general maintenance of private laneways used by the general public.

This report seeks to establish a financial framework to deal with these issues, as well as to determine if a five year programme for laneway upgrading is necessary.

**BACKGROUND**

Staff currently have access to an August 1992 document prepared by JA Smallman & Associates "Rights of Way in Cottesloe". This is an update of a previous 1988 report, and gives a general background of the history and legality of different forms of laneways plus a detailed listing of each laneway in the Town of Cottesloe and its ownership, location and any proposals for change.

No formal updating of this document appears to have taken place since 1992. In addition, for planning purposes, the Residential Design Codes of Western Australia are used to give some guidance to staff when laneway access is involved.

Currently, the laneways are required to be paved and drained for the frontage of the development property but developers are not asked to connect this level of construction to the nearest constructed street, which is recommended by the Design Codes.

Council has included in its annual budget, for many years, a financial allocation for the maintenance of laneways, without an accepted understanding of what that funding should be restricted to.

**CONSULTATION**

No community consultation has taken place on this matter. Discussions have occurred between staff and with other Local Government Authorities regarding various policies and attitudes in place for other municipalities.

**STAFF COMMENT**

In reading back through the Laneways/ROW file and the 1992 "Smallman & Associates" report, this problem has obviously been running for many years. Recommendations have been made for a policy to direct staff actions regarding laneways but the complex issues involved have not been addressed. Three types of

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legal control of laneways exist in Cottesloe: Crown land, Council owned lanes (in fee simple) and privately owned laneway sections.

It is legal (under the Local Government Act) for Council funds to be spent on Crown land used by the public as road reserve or laneways and on Council owned fee simple sections of laneways.

However, the broad principle of not spending Council funds on privately owned property would still apply.

The Laneway and ROW system in the Town of Cottesloe is in a variety of conditions, from sand track through to new drained concrete surfacing. The majority of new laneway construction in recent years has been through property development or subdivision, where development conditions have included the laneway being upgraded, at the developers cost.

Those sections have been 'owned' by the Crown, by Council or by the developer.

There have been some improvements on the condition of the Laneway/ROW system funded by Council on all three 'ownership' types of laneways for the benefit of the general public, it would appear, without reference to whether the lane sections were privately owned.

Also, in many sections, the laneways contain public facilities such as deep sewer pipelines and drainage pits or pipelines.

The practical problems faced by Engineering staff, particularly, deal with maintenance and development requirements of laneways, eg:

- Should staff maintain sections of laneways plus drainage pits or sumps, which require the expenditure of Council funds, but which are privately owned and part of a longer laneway used by the general public?
- If conditions attached to a development approval include the upgrading of the laneway frontage of that property, what happens to any unbuilt or poor quality sections between that development and the closest built street or road?
- Does Council support the acceptance of donations of private laneway sections at little or no cost to Council?
- Should laneway sections owned in fee simple by Council be given to the Crown to ensure their permanent retention and remove any obligations under the Dividing Fences Act?
- Should Council be acting, over time, to achieve the placement of all laneways in the town area as Crown land, to be treated as public access, built and maintained by Council?
- Should Council have a long term program to upgrade laneways and what priorities should apply to such upgrading?
- Does Council need a policy to direct and control staff regarding its requirement regarding Laneways/ROW including minimum dimensions, development conditions, maintenance and construction standards etc?

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council:**

- (1) Request the Manager Engineering Services prepare a draft policy, for Council consideration, dealing with all aspects of the administration of all Rights of Way and Laneways in the Town of Cottesloe; and**
- (2) Provide to the Manager Engineering Services all knowledge and history available to individual Councillors regarding the past attitude and treatment of Laneways, for consideration in the preparation of the draft policy.**

Carried 9/0

**12.2.4 LOCAL GOVERNMENT ROAD FUNDING**

**File No:** X 8.14  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 28 July, 2004  
**Senior Officer:** Mr Alan Lamb

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**SUMMARY**

Council resolved, at its April, 2004 Council meeting, the following action:

*That Council resolve to write to the Minister, the Premier, local members of Parliament and the Leader of the Opposition expressing concern regarding the ongoing disinterest in the retention of a sustainable road funding program of grants to Local Government Authorities, particularly given the recent announcements of major extra funding from the Federal Government to this State.*

Letters were first sent to the Premier and the Minister to try and have an impact on the setting of the 2004/2005 budget.

Answers in reply to Council's letters have been received from the offices of the Premier and the Minister for Planning and Infrastructure.

**STATUTORY ENVIRONMENT**

There is no specific legislation relevant to this report.

**POLICY IMPLICATIONS**

There are no specific policy implications relating to this item.

**STRATEGIC IMPLICATIONS**

The major implication relating to the strategic impact of the reducing interest of the State Government in sustainable road funding is the ongoing decline in the quality and safety of the road network and/or the need for substantial increase in the funding of roadworks by Local Government Authorities.

**FINANCIAL IMPLICATIONS**

At this stage of the new financial year, there are no financial implications of the answers supplied from the offices of the Premier and the Minister.

All of Local Government faces an increasing threat of a heavier financial burden to build and maintain the road system if the State Government refuses to properly fund roadworks at a sustainable level.

**BACKGROUND**

Letters were sent in April 2004 to both the Premier and the Minister regarding Council's concern with the continuing disinterest in road funding by the State Government, when compared to other issues.

The replies from both offices are as expected.

**Detail:**

No new information or change in State Government attitude are displayed in the answers received from the Premier or the Minister. However, there have been no additional reductions in road funding for local roads in Direct Grants and Project Grants in 2004/2005.

The Minister's office has stated that "Direct Grants are the primary source of funding for periodic and routine maintenance". In fact, the main funding source is Local Government rates and this has been so for many years.

The Town of Cottesloe receives \$13,000 per year from Direct Grants – hardly a vast income source.

Both letters talk about the metropolitan region having a poor record of spending its project funding, with substantial funds being carried over into the following year.

Over a number of years, this 'carry-over' has been reducing. Many of the reasons for such carry-overs – slow moving service authorities relocating infrastructure, unsuitable weather conditions, the increasing demands for longer periods of public consultation and increasing interference by Government departments in core Local Authority functions – are outside of Council's capacity to control.

Many Government projects are 'carried-over' for similar reasons but do not appear to be subjected to the same comments by the Minister.

Unfortunately, road funding is not a voter priority, hence the relative disinterest by State politicians. This will eventually result in increased injury and damage on the road system due to a reducing quality of road surface, Local Government battling to make up the financial difference and 'blackspot' figures increasing on a failing road system.

Local Government can only continue to keep reminding the State Government of its long term responsibilities regarding road funding, at every available opportunity.

**CONSULTATION**

This report has had no local resident consultation.

**STAFF COMMENT**

Comments are included under 'Background'. There is also nothing new to be added to the original comments provided to Council in the April 2004 agenda item on this subject.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.2.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council receive the answers received from the offices of the Premier and the Minister for Planning and Infrastructure with regret and use every opportunity in future to remind the State Government of its ongoing responsibilities in funding a sustainable road system in this State.**

Carried 9/0

**12.2.5 MUDERUP ROCKS - PUBLIC SAFETY**

**File No:** E 2.11  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 9 August, 2004  
**Senior Officer:** Mr Alan Lamb

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**SUMMARY**

Recent inspections at the Cottesloe Groyne and Muderup Rocks area have raised concerns regarding the safety to the public of the limestone cliffs. This matter requires a decision from Council for assessment and possible action to improve safety or stop public entry.

This item recommends assessment by a specialist geological consultant of the Muderup Rocks cliff area.

**STATUTORY ENVIRONMENT**

The area concerned is part of 'A' Class reserve 6896, vested in the Town of Cottesloe for 'Recreation'. Muderup (Moonderup) is also a listed Aboriginal heritage site of significance.

**POLICY IMPLICATIONS**

There are no existing policies affected by this report, other than the 'Beach' policy. This policy only makes general comments to the Muderup Rocks cliff area: "*Safety is always a factor that should be considered in natural environments such as the beach.*"

One of the policy's primary objectives is the maintenance and restoration of "*the remnant dunes bordering the Marine Parade road pavement – stabilised and protected using native vegetation as far as possible.*"

A secondary objective is:

- (b) *To maintain the natural features and ensure protection of the remnant dune system or any rehabilitated area on all other parts of the beach reserves from erosion by wind, stormwater run-off or pedestrian traffic.*

One applicable note, under Strategies – Conservation:

- (vi) *Prior to undertaking any work that may have an impact on the natural environment of the beach reserve the Town of Cottesloe will seek advice from suitably qualified experts.*

**STRATEGIC IMPLICATIONS**

This matter is covered in Council's Strategic Plan in the following areas:

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

- District Development – Environment – Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation.
- District Development – Beach Precinct – A clean, safe beach precinct which is sustainably managed with no new developments west of Marine Parade and proactive conservation of the dune and marine environs.

**FINANCIAL IMPLICATIONS**

The major concern is the financial implications if nothing is done to address any public safety issues and an accident does occur. The area is vested in Council for proper control and maintenance. The site is immediately adjacent to one of the most popular beaches in the State. The chances of an eventual accident at this site are high. The cost of a consultant's report on site safety should be less than \$2,000.

**BACKGROUND**

Muderup (Moonderup) Rocks are a natural limestone outcrop with various eroded cliffs and overhangs. Fences have been installed and reinstalled but are pulled out or cut through by people, including children, who use the site as a short cut along the rocks, a vantage point to watch surfing and beach activities or as a site to hide away or camp. Fires have been lit beside or under these cliffs and outcrops.

An attachment is included stating, from Council's insurers, that a limestone walled 'cave' under the nearby sundial lookout area should be filled with sand due to the risk of collapse due to fires. This also applies to limestone caves and outcrops.

**CONSULTATION**

No community consultation has so far occurred. If a specialist consultant is employed, and returns a report recommending site works for public safety, detailed consultation would have to take place with the Aboriginal community and local environmental based groups, including CoastCare.

**STAFF COMMENT**

Limestone caves and cliffs are natural sites, not infrastructure that is properly designed for public use. As such, continuous erosion occurs due to weather conditions, the actions of birds and animals (eg burrowing rabbits) and the actions of people – both by accident or on purpose.

Council staff have been trying to fence off the site, on the west side for years. The Rangers have moved people out of the cliffs area, with some having lit fires for cooking and warmth.

Various sized pieces of the cliff have collapsed over the years. The area is difficult to walk through and injuries can easily occur.

The Gracetown cliff collapse case and other cases involving sea-side cliffs has underlined the need to undertake, demonstrate and record Council's history in maximising the public safety provisions.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Have staff contact a specialist geological consultant to obtain a quotation for a site report on the public safety aspects of Muderup Rocks and any works needed to safeguard the public; and
- (2) Have staff undertake maintenance works on existing fences to try to stop public access to the Muderup Cliffs area and install extra signs warning of the potential danger of the site.

**AMENDMENT**

Moved Cr Strzina, seconded Cr Miller

That the words "to obtain a quotation" be removed from (1).

Carried 9/0

**12.2.5 COUNCIL RESOLUTION**

That Council:

- (1) Have staff contact a specialist geological consultant for a site report on the public safety aspects of Muderup Rocks and any works needed to safeguard the public; and**
- (2) Have staff undertake maintenance works on existing fences to try to stop public access to the Muderup Cliffs area and install extra signs warning of the potential danger of the site.**

Carried 9/0

**12.2.6 REQUEST FOR LANEWAY CONSTRUCTION APPROVAL – RIGHT OF WAY # 3**

**File No:** E13. 1. 2  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 3 August, 2004  
**Senior Officer:** Mr Alan Lamb

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**SUMMARY**

Residents of properties in Ozone Parade and Broome Street adjoining Right of Way (ROW) No. 3, north of Grant Street, have researched ways of upgrading the ROW. The proposal is to concrete the ROW length, with soakage pits at intervals, at resident/landowner cost. The request is for Council to supply logistical support. Funding is proposed: "Residents could contribute to its implementation on a pro-rata basis".

This report recommends a policy on Laneways/Rights of Way being adopted before any further commitments are made to development.

**STATUTORY ENVIRONMENT**

The most applicable legislation applying to this item are:

- Local Government Act 1995;
- Land Administration Act 1997;
- Transfer of Land Act 1893; and
- Town Planning and Development Act 1928.

Council owns the ROW length, as a result of a transfer to Council in 1990/91 due to a sale for rates procedure. It therefore can spend funds on this site, for use by the general public.

**POLICY IMPLICATIONS**

This agenda contains a report on "Laneways and Rights of Way – Cottesloe" as a separate item. This item supports the need for a comprehensive policy on these alignments.

**STRATEGIC IMPLICATIONS**

The network of ROW's and Laneways throughout the Town of Cottesloe comprise another level of property access, separate to the public road system. Proper definition is required in regards to Council's attitudes to this system, with major possible impact on expenditure levels, planning conditions and the Strategic Plan.

**FINANCIAL IMPLICATIONS**

Even if works were undertaken to upgrade sections of laneway under Crown or Council control, at the cost of residents, Council would be committing to extra long term costs.

Council would be responsible for extra maintenance costs, particularly if a concrete or asphalt surface was damaged by heavy vehicles. Eventually, a replacement cost, at the end of useful 'life', would also have to be considered.

**BACKGROUND**

This submission lists a large variety of reasons why this laneway should be paved, and includes quotes for material supply and laying plus alternative solutions.

Door knocking at various times has resulted in a list of supporters for the funding of these works, plus those who were negative or undecided on the idea.

There is not a total consensus of all land owners to contribute to the full construction cost.

The laneway belongs to Council in 'fee simple' and is not Crown land. It is used for rubbish collection and has a sewer main along its full length.

Virtually all abutting properties use it as access.

The 1992 Rights of Way report states:

"Unless requested by abutting owners, any improvement other than some filling of drainage scours and minor levelling is considered to be of low priority".

Three abutting sections have already been built in concrete, to meet development conditions.

The majority of support for full laneway construction is centred on the southern end.

**CONSULTATION**

Consultation with affected laneowners has taken place on an informal basis, by interested owners, in order to prepare a submission for Council consideration.

**STAFF COMMENT**

Council has no budgeted allocation for the upgrading and/or paving of ROW's or Laneways. The submission proposes that residents could contribute to its implementation (construction) on a pro-rata basis.

The Town of Claremont has recently considered a policy on this matter, which uses a 75% support rate from affected owners as a requirement, with funding coming from a 'specific area rate'. This is when no development application is involved. When a section of laneway must be upgraded due to a development condition, the requirement is a full constructed connection to a built public road or laneway section. This relieves Council of the funding problem, establishes standards of construction and places full control of the construction process with Council staff.

The Town of Cottesloe does not have a policy on this matter. Many examples exist of successful policies adopted by other Local Government Authorities on these aspects of developments regarding Laneways and ROW's, which could be studied and applied to address Council's attitudes and capacity.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.2.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council:**

- (1) Inform the applicants regarding the request to upgrade the laneway between Ozone Parade and Broome Street (north of Grant Street) that a policy is to be developed on the construction of Rights of Way, which will address their application.**
- (2) Request staff to draft a policy (as per the “Laneways and Rights of Way” agenda item) which addresses all forms of Rights of Way development, for consideration at the November 2004 Council meeting.**
- (3) Inform the applicants regarding the Ozone Parade/Broome Street Right of Way of the results of that policy.**

Carried 9/0

**12.3 FINANCE****12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 JULY, 2004**

<b>File No:</b>	<b>C 7.14</b>
<b>Author:</b>	<b>Mr Wayne Richards</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Period Ending:</b>	<b>31 July, 2004</b>
<b>Senior Officer:</b>	<b>Mr Alan Lamb</b>

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**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 July, 2004, 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**

It will be noted from the Operating Statement and the General Purpose Funding Statement, on pages 3 and 8 of the Financial Statements respectively, that the rates, including the new specified area rates, were raised in July 2004.

It will also be noted from the Operating Statement on page 3, and Nature and Type Statement on page 23, that expenditure for the period of July 2004 is \$265,384 down on the year to date budget. Approximately \$90,000 of this relates to the fact that depreciation has not been run for the month and this will be rectified once the Annual Financial Statements for the year ended June 2004 are completed in August. Other factors contributing to the under expenditure are timing and accrual factors.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 July, 2004, as submitted to the 17 August, 2004 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 JULY, 2004**

**File No:** C 7.14  
**Author:** Mr Wayne Richards  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 July, 2004  
**Senior Officer:** Mr Alan Lamb

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**SUMMARY**

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 July, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

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

**CONSULTATION**

Nil.

**STAFF COMMENT**

The Schedule of Investments on Page 34 of the Financial Statements shows that \$1,031,164.99 was invested as at 31 July 2004. Of this, \$539,365.00 was reserved and so restricted funds. Approximately forty nine per cent of the funds were invested with the National Bank, twenty nine per cent with Home Building Society, and twenty one per cent with Bankwest.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 July, 2004, as submitted to the 17 August, 2004 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 JULY**

**File No:** C 7. 8  
**Author:** Mr Wayne Richards  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 July, 2004  
**Senior Officer:** Mr Alan Lamb

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**SUMMARY**

The purpose of this report is to present the List of Accounts for the period ending 31 July, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The List of Accounts is presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Significant payments included in the list of accounts commencing on page 27 of the Financial Statements, brought to Council's attention include:

- \$17,028.00 to Westside Contactors for footpath along Marine Parade, Grant St etc.
- \$14,443.82 to Claremont Asphalt for various jobs.
- \$21,193.50 to Fitzsimmons & Co to install soakwells at side streets off Railway St etc.
- \$39,462.75 to Shacks Holden for a motor vehicle.
- \$23,858.78 to the Western Metropolitan Regional Council for tipping fees.
- \$27,798.10 to the Municipal Property Scheme being the first fifty per cent instalment of Councils property insurance.
- \$14,467.05 to the Municipal Insurance Broking Service being for vehicle, plant and officers insurance for the 2004/05 year.
- \$21,981.25 being for a new Kubota Mower less the old one traded in.
- \$21,714.00 to B & N Waste for Greenwaste collection services in May 2004
- \$14,960.00 to J & H Hersey. For bollards for Marine Pde and Jasper Green.

- \$29,422.05 to Wasteless for rubbish collection services
- \$39,270.00 to Cottesloe Tennis Club being a donation towards the Clubhouse roof and ceiling works.
- \$20,780.00 for a new truck less the trade in.
- \$45,079.22 & \$50,192.94 for July Payroll.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council receive the List of Accounts for the period ending 31 July, 2004, as submitted to the 17 August, 2004 meeting of the Works and Corporate Services Committee.**

Carried 9/0

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**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD  
ENDING 31 JULY, 2004**

<b>File No:</b>	<b>C 7. 9</b>
<b>Author:</b>	<b>Mr Wayne Richards</b>
<b>Author Disclosure of Interest:</b>	<b>Nil.</b>
<b>Period Ending:</b>	<b>31 July, 2004</b>
<b>Senior Officer:</b>	<b>Mr Alan Lamb</b>

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**SUMMARY**

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 July, 2004, 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 commencing on page 32 of the Financial Statements shows a balance of \$249,905.80 of which \$218,412.04 relates to the current month. The increased frequency of reminders, along with increased debt recovery action, has improved collection of overdue waste charges, though this requires continuing attention. Rejected rate rebate claims make up \$9,235.30 of the \$10,203.62 debt which is greater than 120 days. It is anticipated that these will be cleared by the end of August.

The Property Debtors Report on page 31 of the Financial Statements shows a balance of \$5,740,691.70, with the first instalment date set for 30 August, 2004.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Strzina

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the period ending 31 July, 2004; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 July, 2004.**

Carried 9/0

13 **STRATEGIC PLANNING COMMITTEE MEETING HELD ON 2 AUGUST 2004**

14 **STRATEGIC PLANNING COMMITTEE MEETING HELD ON 19 AUGUST 2004**

**COUNCIL COMMENTS**

Concern was raised by Councillors Utting and Walsh that there hadn't been enough time for consideration of the Strategic Planning Committee minutes of both 2 August, 2004 and 19 August, 2004. It was suggested that the minutes be deferred and considered at a special Strategic Planning Committee and Council meeting in September, 2004.

In general discussion, it was also suggested that a special meeting of the Strategic Planning Committee be held immediately prior to the Council meeting for the purposes of briefing Councillors on the matters contained in the Committee minutes.

**COUNCIL RESOLUTION**

Moved Cr Cunningham, seconded Cr Sheppard

**That the minutes of the Strategic Planning Committee meetings held on 2 August, 2004 and 19 August, 2004 be deferred for consideration at a special meeting of Council scheduled to be held on Monday, 6 September, 2004, immediately following a special meeting of the Strategic Planning Committee.**

Carried 8/1

**15 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****15.1 NOTICE OF MOTION REPORT****15.1.1 COTTESLOE BEACH HOTEL - NOTICE OF MOTION - 14/2004**

<b>File No:</b>	<b>Cottesloe Beach Hotel</b>
<b>NOM Date:</b>	<b>20 August, 2004</b>
<b>Author:</b>	<b>Mr A Lamb</b>
<b>Councillor:</b>	<b>Cr Walsh</b>

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**SUMMARY**

Cr Walsh has put forward a notice of motion suggesting that the Hotel Committee meet with the new owners/manager of the Cottesloe Beach Hotel to ensure that they are aware of their responsibilities to minimise disturbance to nearby residents.

**STATUTORY ENVIRONMENT**

Liquor Licensing Act 1988.  
Environmental Protection (Noise) Regulations 1997.

**POLICY IMPLICATIONS**

Nil,

**STRATEGIC IMPLICATIONS**

Nil,

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

In support of the proposed meeting, Cr Walsh has provided the following information:

Given various statements in the press about possible trading strategies at the Cottesloe Beach Hotel this summer let us have some serious discussions with the new owners (who may not be aware of what is acceptable behaviour for a pub in a residential area) about what is allowed, what is expected and what remedies are available to Council with regard to any breaches. Instead of waiting for the complaints from our residents lets be proactive and try to get the message across before any trouble starts.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The management of the Cottesloe Beach Hotel has been in contact with Council staff and with the Officer In Charge from Cottesloe Police Station to request a meeting to discuss issues associated with the hotel, as soon as possible. A meeting has been scheduled for the first week in September, 2004. It is understood that the manager of the hotel is keen to ensure that the operation of the hotel does not adversely impact on the local community.

Matters such as community concerns, the history of council's involvement with the hotel and noise and anti-social behaviour will be discussed at the meeting.

A regular meeting with the two major hotels has been held throughout the summer months in the past and it is intended to continue this with the new management of the Cottesloe Beach Hotel. These meetings are attended by the hotel, Police, Liquor Licensing and residents and it is proposed that the first meeting will be scheduled for late September. As it is not a condition of the Cottesloe Beach Hotel's Liquor Licence to meet with Council, agreement of the hotel's manager will be sought to continue the meetings.

**VOTING**

Simple Majority

**COUNCIL COMMENT**

The Mayor advised that these meetings are already being held.

Cr Walsh noted a number of articles in the media with relation to Cottesloe Beach Hotel and would like to know that the Council will be meeting with the new owners.

**COUNCILLOR RECOMMENDATION**

- (1) That the Hotel Committee be asked to meet with the new owners/manager of the Cottesloe Beach Hotel as soon as possible to ensure that they are aware of their responsibilities to minimise any disturbance to nearby residents; and
- (2) That Council send a letter to the responsible director, copy licensee/manager pointing out permissible noise levels and actions that may be available to Council under the Liquor Licensing Act.

**15.1.1 STAFF RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Utting

- (1) That the Hotel Committee be asked to meet with the new owners/manager of the Cottesloe Beach Hotel as soon as possible to ensure that they are aware of their responsibilities to minimise any disturbance to nearby residents;**

- (2) That staff request the managers of the Cottesloe Beach Hotel and the Ocean Beach Hotel to continue to participate in regular meetings with Council, the Police, Liquor Licensing and residents; and
- (3) That Council send a letter to the responsible director, copy licensee/manager pointing out permissible noise levels and actions that may be available to Council.

Carried 9/0

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

Nil.

**17 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 9.35pm.

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