

TOWN OF COTTESLOE



FULL COUNCIL MEETING MINUTES

**ORDINARY MEETING OF COUNCIL,
HELD IN THE COUNCIL CHAMBERS,
COTTESLOE CIVIC CENTRE,
7.08PM, MONDAY, 23 JUNE, 2003**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

Mayor Rowell announced the meeting opened at 7.08 pm.

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

ATTENDEES:

Mayor and Councillors In Attendance

Mayor Rowell (Chairperson)
Cr D Cunningham
Cr A Furlong
Cr P Jeanes
Cr B Miller
Cr K Morgan
Cr W Robertson
Cr A Sheppard
Cr V Strzina
Cr J Utting
Cr J Walsh

Officers in Attendance

Mr S Tindale	Chief Executive Officer
Mr M Doig	Manager Engineering Services
Mr A Lamb	Manager Corporate Services
Mrs K MacLean	Executive Assistant

Apologies

Nil.

Leave of Absence (previously approved)

Nil.

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4 PUBLIC QUESTION TIME

Nil.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Miller, seconded Cr Sheppard

The Minutes of the Ordinary Meeting of Council held on Monday, 26 May, 2003, be confirmed.

Carried 10/1

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**7.1 GRANT STREET – MAY MEETING DECISION**

Mayor Rowell stated that Council had not made any final decisions on the matter.

7.2 HERITAGE COUNCIL

Mayor Rowell advised he had had discussions with the Heritage Council and government officers on heritage issues and there may be some scope in addressing heritage on a regional basis rather than a local basis. Jarrad Street, as a designated road, is part of the heritage listing.

7.3 BUDGET

Mayor Rowell announced that Cr Miller has requested a further Committee meeting before the Council meeting for adoption of the budget.

7.4 NO. 45 JOHN STREET

Mayor Rowell apologised for Council's failure to mention the letter of support from Mr Wendt for this development.

7.5 DESIGN ADVISORY PANEL

Mayor Rowell stated that he intended to look at the clause in the Design Advisory Panel Terms of Reference which refers to the panel advising the Manager of Development Services. He believed that advisory committees should report to Council rather than Council staff. He thanked the Design Advisory Panel for its recent advice for the Clarendon Street development.

7.6 TOWN CENTRE

The Mayor advised that he will seek the advice of the Design Advisory Panel on strategies for the Town Centre. He believed it was timely to improve the Town Centre as Claremont is currently upgrading its centre and the Grove Shopping Centre has now been sold.

8 PUBLIC STATEMENT TIME**8.1 Mr Dell Bibby**

Mr Bibby apologised to Cr Dan Cunningham for incorrectly listing him as a member of the Sea View Golf Club in the literature which was distributed by the Jarrad Street 'A' Class Reserve.

- 8.2 Mr Greg Barrett, No. 45 John Street – Item 10.1.1 (No. 45 John Street)
Mr Barrett advised that they had made the changes to their plan since the last meeting, as requested by the Committee. He expressed concern that Council now wants the two blocks amalgamated into one lot, as he was previously advised by Council that this was not necessary. Mr Barrett requested that this be removed as a condition.

- 8.3 Mr Simon Cain, W & B Homes – Item 10.1.1 (No. 45 John Street)
Mr Cain advised that he had redesigned the home to comply.

He stated that a garage at the rear of the property was not practical as the right of way was not built to Australian standards (at 2.8m, it was not wide enough for parking); it was not paved and drained and it would take away 9.2 metres of the garden. The proposed garage at the front does not dominate.

He felt that there will be zero overshadowing to neighbouring properties and he will be happy to reduce the screen wall if neighbours wish it.

- 8.4 Ms Ruth Greble – Item 10.1.1 (No. 45 John Street)
Ms Greble suggested that the TPS provisions and amenity provisions should be reflected in Council's recommendations. She requested that Council impose a condition of approval that tradesmen not block the right of way during construction of the home. She expressed concern that there would be no daylight through the panels at the front door and into the main room and requested that the balcony be taken out of the plans.

- 8.5 Mr William Greble – Item 10.1.1 (No. 45 John Street)
Mr Greble expressed concern that a verbal presentation was given at the Development Services Committee meeting and no written report was provided to the other Councillors for their consideration. He still feels that overlooking is an issue and there is a need to show perspectives and address heritage concerns.

- 8.6 Ms Liz Dundas – Item 11.2.3 (Grant Street & Curtin Avenue)
Ms Dundas asked in the interest of consistency why the Council appeared to be back-tracking on its May Council decision.

- 8.7 Mr John Scott – Item 11.2.3 (Grant Street & Curtin Avenue)
Mr Scott asked what evidence Main Roads WA had that pedestrian numbers are insufficient for pedestrian lights at this intersection. He expressed concern about the flow of traffic given four sets of lights in a short space.

In response Mayor Rowell said that Main Roads WA advised that synchronisation was easier to achieve in a shorter space and a pedestrian crossing which is not used constantly runs the risk of drivers driving through it without caution.

- 8.8 Mr George Gaschk – Item 11.2.3 (Grant Street & Curtin Avenue)
Mr Gaschk requested pedestrian lights similar to those at Karrakatta Cemetery and asks why Council changed its mind.
- 8.9 Mr Steven Lawrence – Item 11.2.3 (Grant Street & Curtin Avenue)
Mr Lawrence advised that he had spoken to Main Roads WA and he felt that one solution is all they will accept. He asked and asks why have a survey if the decision has already been made.
- 8.10 Mr Angus Kennedy-Perkins – Item 11.2.3 (Grant Street & Curtin Avenue)
Mr Kennedy-Perkins expressed concern that if Council installed traffic lights at the intersection it would later be responsible for provision and maintenance of roundabouts and other devices to calm traffic throughout the district.
- 8.11 Mr Roger Fitzhardinge – Item 11.2.3 (Grant Street & Curtin Avenue)
Mr Fitzhardinge stated that he could not see the point of a survey. He expressed concern that the intersection may be another horror intersection if lights are installed at this intersection. There would be more noise for residents.
- 8.12 Mr Chris Wiggins, SOS – Item 13.1.1. ((Proposed Closure of Jarrad Street))
Mr Wiggins requested that the community be given enough time to comment and felt that it was not an urgent matter.
- 8.13 Mr Peter Robinson, Captain, Sea View Golf Club – Item 13.1.1. ((Proposed Closure of Jarrad Street))
Mr Robinson stated that he was opposed to a referendum on the issue. He felt that full closure of the road is the only option with merit. He noted that Claremont Golf course may be sold for housing and this could happen here. He urged Council to do more research.
- 8.14 Mr Ian Woodhill – Item 11.2.3 (Grant Street & Curtin Avenue)
Mr Woodhill endorsed the views of other speakers and stated that Main Roads WA has already made its decision. He requested meaningful input into the final decision.
- 8.15 Cr Jack Walsh – Item 11.2.3 (Grant Street & Curtin Avenue)
Cr Walsh stated that he had asked Main Roads WA for numbers of people using the pedestrian crossing at Karrakatta Cemetery and these had not been forthcoming.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

10 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 16 JUNE 2003**10.1 PLANNING****10.1.1 NO 45 (LOT 40) JOHN STREET - PROPOSED TWO STOREY SINGLE HOUSE**

File No: 45 John Street
Author: Mr S Sullivan
Attachments: Location Plan
Floor Plans
Elevations
Correspondence from Webb Brown Neaves
Correspondence from Owners

Author Disclosure of Interest: Nil
Report Date: 10 June, 2003
Senior Officer: Mr S Tindale

Property Owner: Greg & Kristie Barrett

Applicant: Webb Brown Neaves
Date of Application: 10 June, 2003

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 637m²
M.R.S. Reservation: N/A

SUMMARY

The application still remains the subject of a review by the Administration as the revised plans were not received by the Manager, Development Services until mid-afternoon on Tuesday, 10th June, 2003.

Further comments will be provided to the Development Services Committee following assessment of the application.

PROPOSAL

The application for Planning Consent is for a two storey single house.

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 John Street Heritage Area - Contributory
- Municipal Inventory N/A
- National Trust N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

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

Town Planning Scheme Policy/Policies

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
To be assessed			

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

Various submissions were made in support of the application as well as opposing the application were previously included in the May agenda or tabled at meetings.

BACKGROUND

The Development Services Committee recommended approval of the application subject to certain conditions. At its May meeting, Council resolved as follows:

"That Council:

- (1) Refer the item to the June Development Services Committee meeting.*
- (2) Request the applicant to:*
 - (a) clarify parking issues;*
 - (b) reduce the bulk in south-eastern corner of the plan;*
 - (c) provide drawings showing the neighbouring properties in context to No. 45 John Street."*

The applicant and submitters were advised of Council's decision. The applicants were requested to submit revised plans on or before Monday, 9 June to provide them with as much time as possible to address Council's resolution.

The plans were not received by the Manager, Development Services until the afternoon of Tuesday, 11 June.

STAFF COMMENT

It has not been possible to re-assess the application and provide a detailed report to Council.

Following the re-assessment of the application, a further report will be presented to the Development Services Committee for consideration.

Circulated separately from this report as an attachment are a copy of the:

- revised plans date stamped the 10 June, 2003;
- covering letter from the design company dated 9 June;
- letter from Greg and Kristy Barrett.

The owner of No. 27 John Street was advised of the revised plans on Tuesday 10 June and inspected the plans on the 11 June, 2003.

CONCLUSION

For further consideration pending the results of the re-assessment of the revised plans.

A preliminary assessment has revealed that the location of the existing house at 47 John Street on the site plan may not be correct. Further comments will be made to the Committee once this aspect has been investigated.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That further comment will be made by the Manager, Development Services to the Development Services Committee pending a re-assessment of the revised plans.

COMMITTEE COMMENT

The Manager, Development Services advised the meeting that he would be presenting a verbal report on this matter.

It was explained that at its May meeting, Council had sought changes to the design to reduce building bulk in the south-east corner of the site, to provide greater detail on the application and to clarify issues relating to the garage design.

The revised plans that were submitted by the applicant and the plans supplied by Mrs Greble of her property at No. 47 John Street, resulted in discrepancy between the position of the buildings. This was later clarified with plans received from the applicant on Friday 13th June.

The revised plan submitted by the applicant on 13 June had the following changes:

- existing tree to be removed between proposed building and eastern property boundary;
- trees to be removed in south-west corner of development site;
- outbuilding to be removed;
- increase in upper floor set back to kitchen from 1.6m to 2.4
- reduced length of the building (approximately 0.7m);
- increased nib length along family room (western side of property);
- garage design originally submitted, open garage design submitted to Development Services Committee and design had now been converted back to a fully enclosed garage;
- correct location of the door to the dwelling (No. 47 John Street) on the western side of the property.

The Manager, Development Services advised that he felt No. 47 John Street should be given greater protection as it is listed on the Town Planning Scheme Schedule 1 and had been raised as an issue at the May Council meeting. He had previously recommended that the bulk of the building be reduced from the south-eastern corner of the site.

The May Council resolution did not make it clear the extent to which the bulk should be removed. Therefore, It was suggested that balcony could be moved to the other side of the building.

Council needed to determine where the views were, the extent to which views should be protected and how best the bulk of the building could be reduced in terms of the heritage building within the context of the Town Planning Scheme provisions.

The Manager, Development Services was asked if the development complied with the technical requirements of the Codes. The Manager, Development Services advised that it did, although the Town Planning Scheme amenity provisions still needed to be addressed. Following discussion on the item, the majority of the Committee resolved to support the application with standard conditions and the addition of a special condition concerning the garage door being of an open design.

COMMITTEE RECOMMENDATION

That Manager, Development Services prepare an approval to be presented to Council with request for revised plans showing an garage door having an open aspect design.

ADDITIONAL INFORMATION FROM MANAGER DEVELOPMENT SERVICES CIRCULATED ON 18 JUNE, 2003

The Development Services Committee resolution for Item 1.1 required the Manager, Development Services to prepare an approval with standard conditions, including a special condition requiring the garage door to be of an open nature. The special condition is set out in condition (1)(g).

OFFICER REVISED RECOMMENDATION

Moved Cr Furlong, seconded Cr Miller

That Council:

- (1) GRANT its Approval to Commence Development for the 2 Storey house at No. 45 (Part Lot 39 and Lot 40) John Street, Cottesloe in accordance with the application submitted on 2 April 2003 and the revised plans received on the 13 June 2003, subject to the conditions outlined below.
 - (a) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (b) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (c) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (d) 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.
 - (e) 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.
 - (f) Lot 40 and Part 39 John Street being amalgamated, and a new Certificate of Title being created prior to the issue of a Building Licence.

- (g) The door to the garage shall be of an open aspect design. Details of the garage door are to be submitted to the Manager, Development Services for approval.
- (2) Advise the submitters of this decision.

**ADDITIONAL INFORMATION FROM MANAGER DEVELOPMENT SERVICES
CIRCULATED ON 23 JUNE, 2003**

Further to my advice to Council, a planning assessment of the application has been carried out based on the removal of lot 39 John Street from the application.

If Lot 39 John Street is removed from this development proposal, the development would not comply with the Acceptable Standard for setbacks set out in the Residential Design Codes for the ground and upper floors of that section of the building, that is located near part lot 39 John Street.

Section	Required setback	Actual Setback
Lower level – bathroom through to study, (including architectural feature) (length 11.6m x less than 3.5m height)	1.5m	0.29m to Architectural feature (minimum of 0.75m) and 1.09m to remaining section of wall.
Upper level – bedroom 1 to WC (length 11.6m and wall height of 5.5m)	1.5m	1.09 to 1.6m

In preliminary discussions with the Building Surveyor late on Friday afternoon, it was thought that the development would conflict with the Building Code of Australia.

However, having carried out a more detailed assessment, it is anticipated that whilst the development does not comply with the set backs set out in the Residential Design Codes, the development may not be in conflict with the Building Code of Australia. The Building Surveyor was on sick leave today and it had not been possible to confirm this advice.

AMENDMENT NO. 1

Moved Cr. Furlong, seconded Cr. Morgan

That the motion be amended by deleting all the words after the word “*amalgamated*” in (1)(f) and substituting with the following words “*prior to practical completion of the building*”.

Carried 8/3

AMENDMENT NO. 2

Moved Cr. Utting, seconded Cr. Miller

That the application be referred back to Development Services Committee to further consider the amenity provision relating to bulk and overshadowing, particularly in the south-east corner.

Lost 3/8

The substantive motion was put.

COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Morgan

That Council:

- (1) GRANT its Approval to Commence Development for the 2 Storey house at No. 45 (Part Lot 39 and Lot 40) John Street, Cottesloe in accordance with the application submitted on 2 April 2003 and the revised plans received on the 13 June 2003, subject to the conditions outlined below.**
 - (a) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (b) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (c) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.**
 - (d) 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.**
 - (e) 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.**
 - (f) Lot 40 and Part 39 John Street being amalgamated prior to practical completion of the building.**
 - (g) The door to the garage shall be of an open aspect design. Details of the garage door are to be submitted to the Manager, Development Services for approval.**
- (2) Advise the submitters of this decision.**

Carried 8/3

10.1.2 NO 6 (LOT 8) CLARENDON STREET – THREE STOREY SINGLE HOUSE

File No:	6 Clarendon Street
Attachments:	Location Plan Site Plan, Elevations, Floor Plans Views Plans Water Authority Map
Author:	Stephen Sullivan
Author Disclosure of Interest:	Nil
Report Date:	10 June, 2003
Senior Officer:	Mr Stephen Tindale
Property Owner:	Joseph Zito
Applicant:	Hillam Architects
Date of Application:	24 December 2002
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	878m²
M.R.S. Reservation:	N/A

SUMMARY

The purpose of this report is to make a determination on an application for Planning Consent. This is an unusual situation in that the owners have already lodged an appeal against Council not having made a determination on the application for Planning Consent within 60 days of receiving that application.

It is recommended that the application should be refused having regard to the legal advice, on the basis that the development does not comply with the building height controls set out in clause 5.1.1(b)(ii) of the Town Planning Scheme text.

This non-compliance is considered to be a statutory provision and therefore, there is no right of appeal against this decision.

However, the applicant has indicated that they may challenge this aspect in the Town Planning Appeal Tribunal. The determination made by the Town Planning Appeal Tribunal will then determine whether:

- (a) a new development application is to be submitted in conformity with the height controls; or
- (b) the appeal can proceed on this matter as well as any other issues raised in the refusal of the application.

Apart from the non-compliance with clause 5.1.1(b)(ii) in terms of the number of storeys, the development does not comply with other provisions of the Town Planning Scheme and the Residential Design Codes. It is considered that these areas of non-

compliance will adversely impact on the amenity of the adjoining properties and therefore, the development should not be supported.

Therefore, it is recommended that this application for Planning Consent be refused for non-compliance with statutory and non-statutory provisions.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1(b)(ii) Building Height	Maximum of 2 storeys	3 storeys
5.1.1(c) Building Height	42.4m ridge height	42.8m
5.1.1(c) Building Height	39.9m wall height	41.0m
5.1.2. (a) & (d) General	N/A	N/A

Town Planning Scheme Policy/Policies

Policy	Required	Provided
005 – Building Heights	8.5m ridge height	0.3m over
005 – Building Heights	6.0m wall height	2.0m over

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
3	Setback from east boundary to east wall ground level of 1.5m	1.1m	Clause 3.2.1
3	Setback from west boundary to bed 2 wall upper level of 3.0m	1.5m	Clause 3.2.1
3	Setback from west boundary to stairwell wall upper level of 2.8m	2.7m	Clause 3.2.1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
3	Setback from east boundary to ensuite wall upper level of 1.9m	1.3m	Clause 3.2.1
3	Setback from east boundary to void walls upper level of 3.5m	2.3m	Clause 3.2.1
8	Visual Privacy Setback from west boundary to western front balcony of 7.5m	1.0m	Clause 3.8.1
8	Visual Privacy Setback from sitting room window north 6.0m	4.7	Clause 3.8.1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

The applicant has already lodged an appeal to the Town Planning Appeal Tribunal. The appeal is based on:

- (a) Council having exceeded the 60 day time frame for making a determination; and
- (b) Anticipated refusal of the proposal.

If the application is refused and the appeal is continued, it is anticipated that the appeal may cost approximately \$25,000-30,000.

CONSULTATION

REFERRAL

Internal

N/A.

External

Legal advice was sought by the Manager, Development Services on the issue of non-compliance with the height controls in the Town Planning Scheme. Written advice has been requested, however, this has been held off pending the Planning Consultants presenting their legal opinion on this matter.

In a facsimile dated the 28 May 2003, Council's legal advisors set out the directions issued by the Town Planning Appeal Tribunal on the appeal for No.6 Clarendon Street. In addition, they were advised by the appellant's Planning Consultant that they expected to provide the Town with a legal opinion in relation to the discretion issue on building heights within the following week. Almost two weeks has passed and Council has yet to receive the appellants legal opinion, in spite of continuous requests.

The Consultants advised the Manager, Development Services on the 11 June that their opinion may not be ready until Monday, 16 May, 2003.

Based on that advice, Council staff have now requested its solicitors to provide the written legal opinion on whether there is discretion to permit a three storey building in

the Residential Zone. This will be circulated to Councillors separately when it is received.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

The first submission period closed in January, 2003.

A second reduced submission period of seven days was undertaken which closes on Thursday, 12 June 2003.

Submissions

There were 5 letters sent out in the original notification process. There were 3 submissions received, of which 3 were objections.

At the time of the preparation of this report, the second submission period had not closed. Any further submission will be tabled separately.

The submissions will not be reproduced again for this agenda as they formed part of the May Development Services Committee MINUTES Attachments.

BACKGROUND

The application was originally submitted on the 24 December 2002 and subsequently referred to the Development Services Committee Meeting on the 24 February 2003 where the proposal was recommended to be refused. As a result of this, the applicant requested that the application be deferred until they could re-evaluate their position.

Subsequently, Council received revised plans on the 24 April 2003. These have now been assessed by the Administration.

On the 23 May, the Manager, Development Services carried out a site inspection of No. 6 Clarendon Street to consider the levels on that site for the purposes of determining the height controls.

On the 28 May 2003, the Town Planning Appeal Tribunal set out the following directions in relation to the appeal lodged by the appellant, if the appeal proceeds:

- (a) The appeal will be a class 2 appeal;
- (b) Statement by the Respondent be filed and served by the 4 July, 2003; and
- (c) Case management conference to be held on the 11 July, 2003.

A second consultation process has been commenced and will close on Thursday, 12 June. Any submissions will be circulated separately from this report.

The proposal was referred to the June meeting of the Design Advisory Panel for comment. This was held on Monday, 9 June, 2003.

Apart from the matter of the non-compliance with the statutory provision of the Scheme concerning the number of storeys, the Design Advisory Panel members expressed concern in relation to the height and bulk of the development and its detrimental impact on the adjoining properties.

The Panel were of the opinion that the development should not be supported due to the areas of non-compliance and the subsequent adverse impacts that the proposed development would have on the adjoining properties, as well of the effect that the development would have on the amenity of the adjoining properties.

STAFF COMMENT

The following comments are made in relation to the proposed development:

Building Height - Number of Storeys

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

“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.”

The term storey is defined in the Town Planning Scheme text as follows:

“means that proportion of a building which is situated between the top of any floor and the top of the floor next above, or if there is no floor above it, that portion between the top of the floor and the ceiling above it;”

None of the storeys in the building meet the exemptions referred to in the second part of clause 5.1.1(a). Therefore, having regard to this clause, the building is a 3-storey dwelling as there are three levels of habitable rooms above each other.

However, Clause 5.1.1(b)(ii) of the Scheme specifically relates to Building Heights in the Residential Zone. The clause states the following:

(b) *Specific Policy*

(i) *Foreshore Centre Zone -....*

- (ii) *Residential Zone - The maximum building height shall be two storeys except that Council may permit a third storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity. On lots 19 to 25 inclusive and lot 341 fronting Marine Parade between A Reserve 1203 and the northern boundary of the Foreshore Centre Zone, development shall only be single storey but may be stepped up the naturally rising ground if advantage is taken of the higher density coding nominated on the Development Guide Map. Otherwise development may only occur in accordance with the lower density coding and shall not exceed 2 storeys in height.*

The bold has been added to highlight the relevant section of the clause. This clause states that the maximum building height in the Residential Zone shall be two storeys. The exception is if the third storey is located within the roof space and meets the other criteria. The proposed development contains three storeys, of which, the uppermost storey is not contained within the roof space of the building. Therefore, the building is three storeys based on this clause.

On this basis, the building does not comply with the statutory requirements of the Town Planning Scheme text and therefore, cannot be approved by Council. Further there would be no right of appeal, unless this point is challenged.

Should it be determined by the Town Planning Appeal Tribunal that there is discretion in clause 5.1.1 to permit three storeys in the Residential Zone, then the appeal will continue with the other matters identified in Council's decision.

Building Height - Clause 5.1.1

Council is required to determine the natural ground level at the centre of the site for the purposes of determining the building height controls for the site.

Natural Ground Level

The centre of the site has been built over by the existing building. Further, the changes to the levels of the development site and the surrounding properties has made it difficult to easily determine the natural ground level at the centre of the site.

There are a number of ways of assessing the natural ground level, including averaging the four corners, averaging the midpoints of the boundaries, etc.

A number of options are outlined below:

Option No.	Option Description	Level (AHD)
1	Centre of site (located within building that has split levels)	-
2	Four corners of site	33.245
3	Average of mid-points on western and eastern side boundaries	33.985

Option No.	Option Description	Level (AHD)
4	Average of mid-points on major boundaries, excluding north-western corner	33.245
5	Average of mid-points – front and rear boundary	32.98
6	Assessment of Water Authority Maps – 1934	33.60
7	The applicants natural ground level as described in their letter dated 11 December, 2002	34.50

Option 7 is the applicant's level used for the determination of the height controls.

A site inspection was carried out by the Manager, Development Services on the 23 May and it was noted that the levels vary considerably on the appeal site and the surrounding properties. The levels appeared to be fairly constant in an east-west (from side boundary to side boundary) direction through the centre of the site. Further, these two points on the side boundary seemed to be close to natural ground level.

Option 3 was presented to the Design Advisory Panel as the reference point for the height controls. However, further investigations on this matter have been carried out.

Since the preparation of the report to the Design Advisory Panel, the M.W.S.S. & D.D maps from 1934 were considered and assessed in relation to determining the natural ground level at the centre of the site. These spot levels relate to Low Water Mark Fremantle. These were required to be converted to Australian Height Datum (AHD).

These plans show two spot levels on the site before a building was erected on the land. Conversion of those spot levels to AHD, averaging of those two levels to get a mid-point for the centre of the site and checking of other spot levels for verification with the site survey plan has resulted in another option that had not been considered when the report to the Design Advisory Panel was prepared. The average natural ground level based on this calculation is 33.6AHD. This is approximately 0.1m lower than the midpoint level shown on the eastern boundary.

Clause 5.1.1 of the Town Planning Scheme text requires Council to determine the natural ground level at the centre of the site.

Having regard to the changes of the site levels over the years on both the development site and the adjoining properties, the Water Authority maps from 1934 appear to show an accurate representation of the site levels before it was developed. Therefore, it is recommended that Option 6 is considered to be the acceptable method for determining the natural ground level at the centre of the site.

Building Heights

Having determined the natural ground level at the centre of the site, the proposed wall heights and ridge heights exceed the permissible limits outlined in clause 5.1.1(c) of the text to the Town of Cottesloe Town Planning Scheme No. 2. The

application of the height controls on the side elevations based on option 6 highlight the areas of non-compliance.

Clause 5.1.1(c) states the following:

“For the purpose of measuring 'storey' and hence 'building height', Council shall generally follow the following formula, except in particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished.

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

<i>Single Storey</i>	<i>- Roof Height:</i>	<i>6.0 metres</i>
<i>Two Storey</i>	<i>- Wall Height:</i>	<i>6.0 metres</i>
	<i>- Roof Height:</i>	<i>8.5 metres</i>
<i>Subsequent Storeys</i>	<i>- Wall Height:</i>	<i>6.0 metres plus; 3.0 metres per storey</i>
	<i>- Roof Height:</i>	<i>8.5 metres plus; 3.0 metres per storey</i>

Variations may be permitted in the case of extension to existing buildings.”

The natural ground forms have been modified so that terraced levels on the development site and the adjoining properties have been provided.

It is considered that the natural ground form does not warrant a variation to the formula for the measurement of building height. There is a constant fall from the front of the site down to the rear. Varying the calculation of the height control so that the development is lifted higher will have a detrimental impact on the adjoining properties due to building bulk and loss of views.

A submission has been received from the owner of No. 8 Clarendon Street objecting to the height of the proposed development.

Therefore, as a consequence of the natural ground level being determined based on Option 6, the wall and ridge heights of the proposed development do not comply with the building height controls set out in Clause 5.1.1(c) of the Scheme Text.

Town Planning Scheme Policy No. 005 - Building Heights

Council's Town Planning Scheme Policy No. 5 – Building Heights state that in addition to the height restrictions outlined in clause 5.1.1 of the Scheme Text, which are calculated from the natural ground level at the centre of the site, Council may measure the height of a building at any point on the site to avoid any adverse impact on adjoining neighbours. Variations to the height limits may be given in circumstances where the amenity of the area is not unreasonably diminished.

Assessment of this application has shown that the building does not conform to this policy at the rear of the site. The site sloped from the front down to the rear of the

site. Applying the height controls in Town Planning Scheme Policy No. 005, both the ridge height limit and the wall height limit are exceeded (refer attached plans).

The proposed building is very long and will present a bulky appearance to the adjoining properties. Its length is substantially longer than the length of the adjoining buildings.

Non-compliance with the Policy will result in a higher, bulky building which will adversely impact on the amenity of the adjoining properties and the outlook from those properties. Therefore, it is considered that the amenity of the area will be adversely affected by the non-compliance with the Policy.

Setbacks

The development does not comply with the side boundary set back requirements outlined in the Residential Design Codes. The effect of this is to bring the development closer to the adjoining property without the relief in the façade. The overall length, the three storey nature of the development help contribute to the bulk of the development.

This also impacts on the view from adjoining properties.

The combination of the non-compliance with the height controls, setbacks and the size of the proposed development result in a development that will adversely impact on the adjoining properties.

The applicants are proposing to construct a gatehouse in the front set back area. The structure is located on the street boundary. It is also proposed to have solid walls facing onto the street which is in conflict with the Local Law on fencing.

Other similar gatehouses have been setback from the street in this locality. Therefore, it is recommended that the structure should be set back 6.0m from the street boundary and the front fence be of an open aspect design.

Visual Privacy

The proposed development relies on two substantial privacy screens to address the visual privacy issues raised in Design Element 8 – Privacy of the Residential Design Codes.

Two privacy screens are proposed and these are located:

- (a) In the north-western section of the site (7.7m in height by 9.0m in length – approximately 4.6 m above the adjoining ground level); and
- (b) Near the north eastern corner of the site (4.57m in height by 9.5m in length and 4.57m in height by 3.5m in length) – approximately 3.8m above the adjoining ground level to the north and 0.87m above the ground level to the east).

The second structure is an "L" shape design.

These structures are classified as buildings and therefore, subject to the provisions of the Residential Design Codes.

These substantial structures, whilst trying to address the privacy matters, also add to the bulk of the development.

The development does not comply with the Visual Privacy controls in the Residential Design Codes.

The first, overlooking is from the balcony at the front of the property. However, this is onto the front of the property at No. 4 Clarendon Street and therefore, is considered not to adversely impact on that property.

The second, is the northern window to the sitting room. The window allows for a view into the access driveway area for the basement car parking area of the property at No. 8 Clarendon Street. Having regard to the use of this area as a driveway, it is recommended that the variation be supported.

Views and Building Bulk

The Town of Cottesloe has a number of general clauses, which require Council to have regard to such issues. Clause 5.1.2 of the Town of Cottesloe Town Planning Scheme No. 2 states that:

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

- (a) the need for limitation of height or location of buildings to preserve or enhance views;*
- (d) the dispersal of building bulk into two or more separate buildings on a lot in order to minimise the effect of building bulk.”*

A plan prepared by a consultant acting on behalf of the adjoining neighbours illustrates the effect on views. The issue of building bulk is also illustrated on the side and rear elevations and the respective ground levels on the boundary.

The Design Advisory Panel expressed concern in relation to the detrimental impact that the proposed development would have on adjoining properties due to its excessive height, non-compliance with setbacks and the elongated form of development.

Appearance of building

Clause 5.1.5 of the Town Planning Scheme text states the following:

“5.1.5 Appearance of Buildings

All buildings and land shall be maintained to preserve the amenity of the surrounding area. No building shall be so designed or constructed or finished or left unfinished that its external appearance would disfigure the locality, lack harmony with the exterior design of neighbouring buildings or tend to depreciate the value of the surrounding properties.”

There were two submissions received (from the adjoining property owners) that expressed concern in relation to the style of building proposed for the site and its incompatibility with the surrounding properties.

This was raised with the Design Advisory Panel, but was not identified as an issue.

CONCLUSION

The development does not comply with statutory and non-statutory provisions of the Town Planning Scheme and the acceptable standards within the Residential Design Codes.

The non-compliance with the statutory provisions of the Scheme in relation to development will result in a re-design of the project. Therefore, on this point alone, the application should be refused.

The other variations that are being sought, coupled with the size of the development, will result in a development that will adversely impact on the surrounding properties. These matters should also be identified as reasons for refusal.

OFFICER RECOMMENDATION

That Council:

- (1) Determines the natural ground level at the centre of the site to be 33.6AHD for the purposes of Clause 5.1.1 of the Town Planning Scheme text.
- (2) REFUSES its Approval to Commence Development for a three storey single house at No. 6 (Lot 8) Clarendon Street, in accordance with the application submitted on the 18 December, 2002 and the revised plans received on the 24 April and 5 June 2003 as:
 - (a) The proposed development exceeds the maximum number of storeys permitted under Clause 5.1.1(b)(ii) of the Town Planning Scheme text;
 - (b) The proposed development exceeds the maximum wall and ridge heights permitted under Clause 5.1.1(c) of the Town Planning Scheme text;
 - (c) The proposed development exceeds the maximum wall and ridge heights permitted under Town Planning Scheme Policy No. 005 – Building Heights;
 - (d) The development does not comply with the objectives of the Residential Design Codes and the objectives for Design Element 3 – Setbacks as the proposed development:
 - (i) does not comply with the acceptable standards for this Design Element along the western and eastern side boundaries;
 - (ii) the variations do not satisfy the performance criteria in that the development will have an adverse impact on the adjoining properties to the east and west due to the building bulk of the proposed development;
 - (e) Having regard to the provisions of Clause 5.1.2(a) and (d) of the Town Planning Scheme text, the proposed development and the surrounding development, Council is of the opinion that:

- (i) the large bulky nature of the proposed development will adversely impact on the views and amenity of the adjoining properties due to its length, height and set backs; and
 - (ii) the amenity of the adjoining properties will be adversely affected by the proposed building bulk.
 - (f) The design of the proposed front fence conflicts with Council's local law on fencing; and
 - (g) The proposed gatehouse does not comply with the 6.0m set back from Clarendon Street.
- (3) Advise the submitters of Council's decision.

COMMITTEE COMMENT

The Manager, Development Services drew the Committee's attention to the memo dated 16 June, 2003. The memo contained correspondence from the applicant requesting deferral of the application to the July meetings of Council.

The Committee believed that Council should proceed to make a determination on the application for planning consent.

Mayor Rowell advised that a further statement should be included that a building of this size would have a detrimental affect on Council's Town Planning Scheme.

COMMITTEE RECOMMENDATION

That Council:

- (1) Determines the natural ground level at the centre of the site to be 33.6AHD for the purposes of Clause 5.1.1 of the Town Planning Scheme text.
- (2) REFUSES its Approval to Commence Development for a three storey single house at No. 6 (Lot 8) Clarendon Street, in accordance with the application submitted on the 18 December, 2002 and the revised plans received on the 24 April and 5 June 2003 as:
 - (a) The proposed development exceeds the maximum number of storeys permitted under Clause 5.1.1(b)(ii) of the Town Planning Scheme text;
 - (b) The proposed development exceeds the maximum wall and ridge heights permitted under Clause 5.1.1(c) of the Town Planning Scheme text;
 - (c) The proposed development exceeds the maximum wall and ridge heights permitted under Town Planning Scheme Policy No. 005 – Building Heights;
 - (d) The development does not comply with the objectives of the Residential Design Codes and the objectives for Design Element 3 – Setbacks as the proposed development:
 - (i) does not comply with the acceptable standards for this Design Element along the western and eastern side boundaries;
 - (ii) the variations do not satisfy the performance criteria in that the development will have an adverse impact on the adjoining properties

to the east and west due to the building bulk of the proposed development;

- (e) Having regard to the provisions of Clause 5.1.2(a) and (d) of the Town Planning Scheme text, the proposed development and the surrounding development, Council is of the opinion that:
 - (i) the large bulky nature of the proposed development will adversely impact on the views and amenity of the adjoining properties due to its length, height and set backs; and
 - (ii) the amenity of the adjoining properties will be adversely affected by the proposed building bulk.
 - (f) The design of the proposed front fence conflicts with Council's local law on fencing; and
 - (g) The proposed gatehouse does not comply with the 6.0m set back from Clarendon Street.
- (3) Council notes the application runs contrary to the intent and purpose of the existing No. 2 Town Planning Scheme.
- (4) Advise the submitters of Council's decision.

Note: The Committee requested the Manager, Development Services to refer the officer's report and the Committee's recommendation to Council's solicitors for comment prior to the June 2003 meeting of Council.

ADDITIONAL INFORMATION FROM MANAGER DEVELOPMENT SERVICES CIRCULATED ON 23 JUNE, 2003

The Development Services Committee considered this item at its meeting held on Monday 16 June 2003. The Committee requested the Manager, Development Services to refer the report and recommendation to Council's solicitors for comment prior to the June meeting of Council.

In discussions with Mr Woodhouse, he has suggested some minor changes to the wording of the recommendation. Based on those discussions, the following modified recommendation is submitted for adoption by Council, to replace the Development Services Committee recommendation.

OFFICER REVISED RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

That Council:

- (1) Determines the natural ground level at the centre of the site to be 33.6AHD for the purposes of Clause 5.1.1 of the Town Planning Scheme text.**
- (2) REFUSES its Approval to Commence Development for a three storey single house at No. 6 (Lot 8) Clarendon Street, in accordance with the application submitted on the 18 December, 2002 and the revised plans received on the 24 April and 5 June, 2003 for the following reasons:**

- (a) The proposed development exceeds the maximum number of storeys permitted under Clause 5.1.1(b)(ii) of the Town Planning Scheme text and, accordingly, the Town has no discretion to grant approval;
- (b) in any event, however:
 - (i) The proposed development exceeds the maximum roof and wall heights prescribed by Clause 5.1.1(c) of the Town Planning Scheme text and no variation is warranted in the particular circumstances;
 - (ii) The proposed development exceeds the building height limits specified in Clause 2 of Town Planning Scheme Policy No. 005 – Building Heights. The variation to this Policy, as proposed in this development, will unreasonably diminish the amenity of the adjoining properties.
 - (iii) The development does not comply with the objectives of the Residential Design Codes and the objectives for Design Element 3 – Setbacks as the proposed development:
 - (A) does not comply with the acceptable standards for this Design Element along the western and eastern side boundaries;
 - (B) the variations do not satisfy the performance criteria in that the development will have an adverse impact on the adjoining properties to the east and west due to the building bulk of the proposed development;
 - (iv) Having regard to the provisions of Clause 5.1.2(a) and (d) of the Town Planning Scheme text, the proposed development and the surrounding development, Council is of the opinion that:
 - (A) the large bulky nature of the proposed development will adversely impact on the views and amenity of the adjoining properties due to its length, height and set backs; and
 - (B) the amenity of the adjoining properties will be adversely affected by the proposed building bulk.
 - (v) The design of the proposed front fence conflicts with Council's local law on fencing; and
 - (vi) The proposed gatehouse does not comply with the 6.0m set back from Clarendon Street as set out in the Residential Design Codes.
- (3) Council notes the application runs contrary to the intent and purpose of the existing No. 2 Town Planning Scheme.
- (4) Advise the submitters of Council's decision.

Carried 11/0

10.1.3 NO. 46 (LOT 26) LYONS STREET - TWO STOREY RESIDENCE

File No:	46 Lyons Street
Author:	Mr D Heymans
Attachments:	Location Plan Elevations Floor Plans Submission (1)
Author Disclosure of Interest:	Nil
Report Date:	11 June, 2003
Senior Officer:	Mr S Sullivan
Property Owner:	Bradley Howard & Pamela Italiano
Applicant:	McIntosh Marzec Architect
Date of Application:	2 April 2003
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	645m²
M.R.S. Reservation:	N/A

SUMMARY

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

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

PROPOSAL

Two storey residence.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

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

Town Planning Scheme Policy/Policies

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
8 - Privacy	Visual privacy setback from bed 3 to southern boundary of 4.5m	4.0m	Clause 3.8.1
8 - Privacy	Visual privacy setback from balcony to northern boundary of 7.5m	4.0m	Clause 3.8.1
9 – Design for Climate	Percentage of adjoining lot that can be overshadowed 25%	26.4%	Clause 3.9.1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

No. 44 Lyons Street

The owners of 44 Lyons Street submitted two letters objecting to some elements of the design. Their comments are summarised below:

- Object to the overshadowing of their outdoor meals and entertaining area by the new development. They concede that the overshadowing may be within the permissible 25% overshadowing at 12 noon on the 21 June, however they feel that Council should take into consideration the impact at 3.00 pm as well. Furthermore they have offered a number of alternative design options to alleviate the impact of overshadowing. These include:
 1. Convert the gable-end to a hip-end (which would overcome the problem);
 2. Reduce the roof pitch to lower the apex height of the roof;
 3. Increase the boundary setback of this element of the design;
 4. Move this element of the design further towards the street;
- That the setback of the garage wall comply with the regulations;
- The large silver gum tree in the front be retained;
- A dividing fence/wall of suitable height be retained to provide privacy to both parties (particularly as kitchen windows – will be immediately adjacent to one another);
- That the boatshed wall height be reduced, but preferably that the building be located off the boundary.

In addition the owners commissioned an Architect to calculate an independent overshadowing diagram.

BACKGROUND

The subject property is located on the eastern side of Lyons Street. The applicant is proposing a new two storey dwelling with a boat store at the rear abutting the southern boundary. The property slopes from the front up to the rear of the site by about 1.5m. The accuracy of the plans submitted by the applicant have been contested by the adjoining owner and subsequent Council investigation has found that there were errors in the plans and they have now been rectified.

STAFF COMMENT**Boundary Walls**

A boundary wall is proposed for the boat shed on the southern boundary.

Clause 3.3.2 of the Design Codes state that:

“Except where otherwise provided for in an adopted Local Planning Policy, walls built up to a boundary behind the front setback line within the following limits, subject to the overshadowing provisions of element No. 9:

- ii. *in areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;*

The proposed boundary wall complies with the acceptable development standards.

The administration believes that the proposed boundary wall does make effective use of space, does not impact on light to any buildings, but will impact on light to the rear garden and will have an adverse impact on the neighbour as they will be faced with a solid wall up to 3 metres in height.

In addition Council has resolved to prepare a Streetscape Policy that is proposed to require boundary setbacks throughout the Scheme Area in order to preserve streetscape character and reduce the potential impact of boundary walls.

Furthermore the neighbour has objected to the height of the wall and stated that they would prefer that the wall be moved off the boundary.

Therefore the administration recommends that the proposed boat shed be setback 1 metre from the southern boundary.

Visual Privacy

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

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

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

The cone of vision applied to bedroom 3 indicates that there is a minor potential to overlook the rear portion of the adjoining property at 44 Lyons Street. However as there is no potential for overlooking into active open spaces this variation is deemed to be acceptable under the above performance criteria.

The cone of vision applied to the rear balcony indicates there is potential to overlook the adjoining property at 48 Lyons Street. This overlooking is a concern as it falls onto a bedroom window. This can easily be overcome, however by screening the north east corner of the balcony to a height of 1.65 metres.

Filling

The site is such that it requires filling approximately 0.7 of a metre in the south eastern corner to provide a level site for development. However the Residential Design Codes state that retained areas over 500mm in height must be setback from boundaries either in accordance with the visual privacy setbacks or table 2 setbacks depending on whether adequate screening is provided.

Requiring the filled area to be setback from the boundary is supported as it reduces the potential to overlook into adjoining property from the elevated area and reduces the impact of the boundary wall on the adjoining property. The required setback is 1.1 metres however a setback of 1 metre is proposed.

The administration recommends that the Finished Floor Level of the garage be reduced to RL8.0 metres so as to alleviate this problem.

Overshadowing

The original plans submitted by the applicant on the 24 April 2003 indicated that the amount of overshadowing was calculated to be 24.6% of the adjoining lot at 12 pm on the 21 June. This satisfied the acceptable development clause for overshadowing in the Codes.

However the adjoining neighbour at No. 44 Lyons Street objected to the overshadowing stating that they believed that the overshadowing was more than 24.6% and that it severely affected their newly created outdoor living area. They requested that Council also look at the amount of overshadowing at 3.00 pm on the 21 June and also stated that if the applicant altered the design in one of the following ways then this may allay their concerns:

- Convert the gable-end to a hip-end (which would overcome the problem);
- Reduce the roof pitch to lower the apex height of the roof;
- Increase the boundary setback of this element of the design;
- Move this element of the design further towards the street;

The administration compiled such a diagram to see the affect of overshadowing at 3.00 pm. The diagram illustrated that their courtyard would be totally overshadowed at 3.00 pm, however it showed that to reduce overshadowing at this time would require the second floor roof to be moved more than 10m from the boundary. It also showed that even a single storey roof would overshadow a large percentage of the outdoor area at this time.

The submitter commissioned an architect to do an independent overshadowing diagram to calculate the amount of overshadowing. The independent diagram showed that 26.5% of the adjoining lot would be overshadowed at 12.00 noon.

This then resulted in the administration checking the original diagrams submitted by the applicant, which highlighted that not only the overshadowing diagram was incorrect but also that the floor plans did not match the elevations. Therefore the administration requested that the applicant submit correct plans. In addition the applicant agreed to make a compromise by bringing the upper floor portion of the building back a further 1.2m from the southern boundary, which reduced the overall amount of overshadowing, but had no impact on the amount of overshadowing on the outdoor area at 12.00 noon or 3.00 pm on the 21 June.

The new revised plans submitted by the applicant, showed that the revised overshadowing calculation was 24.95%.

As there was still difference in the overshadowing calculations the administration complied its own overshadowing diagram, which concurred with the diagram prepared by the adjoining owners architect at 26.5%.

As a result the overshadowing is deemed not to comply with the acceptable development standard of 25% as indicated in the codes and therefore the performance criteria need to be satisfied, which state:

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

- *Outdoor living areas;*
- *Major openings to habitable rooms;*
- *Solar heating devices; or*
- *Balconies or verandahs.”*

The overshadowing of the adjoining lot affects the kitchen window on the northern side of No. 44 Lyons Street, however this window would be overshadowed by single storey development as it is only about 1.5m from the boundary. The overshadowing does not affect any balconies or verandahs and no heating devices as far as the administration could ascertain.

The proposed revised development does partially overshadow the new outdoor living area (about ¼), however this overshadowing is only caused by the single storey portion of the development at the rear as the design of the house has avoided two storey development that would overshadow the neighbours outdoor living area at 12 noon.

When looking at a 3 pm calculation the diagram shows that all of the outdoor living area is overshadowed, however to alleviate this shadow would require approximately a 10m setback of the 2 storey roof from the boundary.

In addition the administration also conducted calculations for overshadowing at 3.00 pm during April, it also showed that about a half of the outdoor living area would be overshadowed by the upper floor roof. To alleviate this, the roof would need to be set back about 6m from the boundary, even a hip roof would not reduce the area of overshadowing.

The submitter has contended that a hip roof or Dutch gable would at least provide extended hours of daylight during all months of the year, and therefore Council should impose a condition requiring a hip roof or a Dutch gable roof.

The applicants have stated that they are not prepared to change the roof to a hip roof or a Dutch gable as this would alter the design of the house significantly and would produce a look that they are not happy with. In addition they believe that they have compromised by setting back the roof a further 1.2m and that any further compromise is not warranted.

The administration believes that any further changes in design are not warranted for the following reasons:

- The applicants have compromised on their design once by setting back the roof further;
- Major changes in the design of the building are not warranted as the benefit in extra sunlight would be minimal;
- A hip or Dutch gable roof design would not result in major improvements in day lighting;
- The current design has tried to limit overshadowing at 12 noon on the 21 June by only having single storey development directly abutting the neighbours outdoor living area;
- Only about 25% of the outdoor living area is overshadowed by the single storey portion of the building at 12 noon.
- An alternative alfresco area is available at the rear of the property which is not overshadowed by this development at 12 noon;
- The codes do not provide for overshadowing limits at other times of the day.

Therefore the administration recommends that no additional design changes are necessary.

Vehicle Access

The applicant is proposing to gain access to the lot from Lyons Street, however the Residential Design Codes have included a new acceptable development clause which states that access should come from a right of way where available. Clause 3.5.4 of the Residential Design Codes states that:

“A4.1 Access to on site parking to be provided, where available, solely from a right-of-way available or the use of the relevant lot and adequately paved and drained from the property boundary to a constructed street where a right-of-way does not exist.”

Therefore the performance criteria for this clause need to be considered which states:

“Vehicle Access provided so as to minimise the number of crossovers, to be safe in use and not detract from the streetscape.”

An inspection of the right-of-way has revealed that it has only one entry point, is not drained and paved and there are no properties accessing it from Lyons Street as their primary vehicle access. In addition No. 46 is seven properties from the junction of the right-of-way and North Street which is considered to be a long way from the nearest street.

Therefore the administration recommends that vehicle access from Lyons Street is acceptable.

CONCLUSION

The proposed development be approved subject to the following conditions.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

That Council:

- (1) GRANT its Approval to Commence Development for the 2 Storey Single House at 46 (Lot 26) Lyons Street, Cottesloe in accordance with the plans submitted on 30 May 2003, subject to the conditions outlined below:**
 - (a) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (b) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.**
 - (c) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (d) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.**
 - (e) The external profile of the development as show 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.**
 - (f) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.**
 - (g) Revised plans being submitted for approval by the Manager, Development Services, showing:**
 - (i) the boat shed wall located on the southern side boundary being set back 1.0m from the side boundary in accordance with the provisions of the Residential Planning Codes;**
 - (ii) screening being provided on the north east corner of the balcony to a height of 1.65m to avoid overlooking;**
 - (iii) the finished floor level of the garage being reduced to a height of RL 8.0m.**
- (2) Advise the submitters of this decision.**

Carried 11/0

10.1.4 NO 29 (LOT 1) HAWKSTONE STREET - SINGLE STOREY HOUSE

File No:	29 Hawkstone Street
Author:	Mr D Heymans
Attachments:	Location Plan Floor Plans Elevations Submissions (1)
Author Disclosure of Interest:	Nil
Report Date:	9 June, 2003
Senior Officer:	Mr S Sullivan
Property Owner:	N Colwell & Y Farra
Applicant:	As Above
Date of Application:	9 June, 2003
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	749m²
M.R.S. Reservation:	N/A

SUMMARY

The applicant is proposing to construct a single storey dwelling and demolish an existing house that is categorised as a category 3 building on the Town of Cottesloe Municipal Heritage Inventory.

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

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

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
TPSP - 003	6.0m	4.5m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
2 - Streetscape	Setback of garage to front boundary of 6.0m	4.5m	Clause 3.2.1
3 – Boundary Setbacks	Setback to eastern boundary from east wall of 3.1m	1.0m	Clause 3.3.1
3 – Boundary Setbacks	Setback to western boundary from garage wall of 1.5m	1.0m	Clause 3.3.1
6 – Site Works	Setback to eastern boundary from retaining wall of 1.5m	Nil	Clause 3.3.1
8 – Privacy	Visual privacy setback to eastern boundary from Family Room, Dining Room of 6.0m	2.5m	Clause 3.8.1
8 – Privacy	Visual privacy setback to eastern boundary from kitchen of 6.0m	1.0m	Clause 3.8.1
8 – Privacy	Visual privacy setback to eastern boundary from Verandah of 7.5m	1.0m	Clause 3.8.1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

There were 2 letters sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

No. 27 Hawkstone Street

The owners objected to the location of the garage in front of the 6.0m building setback line for the following reasons:

- That when they purchased their house 20 years ago the houses on either side had the same setbacks, however No. 25 now has a reduced setback;
- A reduced setback at No. 29 will then effectively box in their house;
- Reduce the amenity of their house;
- That the location of a pool in the rear of 29 Hawkstone Street would still be available even with the garage setback 6.0m.

BACKGROUND

The site currently slopes down from the western side to the eastern side by about 1 metre. The applicant has previously gained approval for a single storey dwelling on the 26 July 2002. The previous application had vehicle access coming from the rear via the right of way and the building was located behind the front 6.0m building setback line. The new application has changed with access proposed from the front of the building with a reduced front setback.

STAFF COMMENT**Front Boundary Setback**

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

- “4a) A garage or carport may, with the approval of Council, be constructed up to 4.5 metres of a primary street alignment where vehicles are parked at right angles to the street alignment and 1.5 metres where vehicles are parked parallel to the street alignment.”*

The policy also outlines a number of criteria that must be satisfied to warrant a variation these are outlined below:

- *That the building does not significantly affect view lines of adjacent properties;*
- *Adequate manoeuvring space for the safe ingress and egress of motor vehicles shall be maintained;*
- *The effect of such variation on the amenity of any adjoining lot;*
- *The existing and potential future use and development of any adjoining lots; and*
- *Existing setbacks from the street alignment in the immediate locality;*
- *Council shall have regard to any submission received.*

The locality in which the development site is situated is characterised by Californian style bungalows which are set behind the 6.0m metre building setback line. The administration believes that location of the garage in front of the 6.0m building setback line may set a negative precedent in the area, especially as there is sufficient room in the rear of the lot to accommodate the setting back of this structure.

The previous approval gained by the same owner had vehicle access from the right-of-way with the building being behind the 6.0m building setback line.

In addition the owners of No. 27 Hawkstone have objected to the garage being located forward of the 6.0 metre building setback line as they believe they will be boxed in by this proposed development, which will have a negative impact on their amenity.

The applicant has stated that the proposed building requires a variation so as to allow for the location of a 20m lap pool in the rear of the yard for medical reasons and that the front setback has been averaged with a setback of 4.5m to the garage and a setback of 8.34m to the house. The applicant also stated that they have not proceeded with the previous approval as the proposed western boundary wall was opposed by their neighbour at 27 Hawkstone Street and that they want good neighbourly relations.

Notwithstanding the above, the administration believes that a 20m pool can be adequately located in the rear of the property without the need for a variation to the front setback, particularly as this was achieved in the previous approval. The opposition of the neighbour to the previous approval, particularly the western boundary wall, is not seen as a legitimate reason for not proceeding as the neighbour has showed more opposition to the garage coming within 4.5m from the front boundary and the resultant affect on No. 27.

In addition the current garage is 7.2m in length, however Council's regulations only require a garage of 5.5m in length. Alteration of the garage and relocation of the storage area would easily address this issue.

Therefore the administration recommends that the building be located behind the 6.0m front setback.

Vehicle Access

The applicant is proposing to gain access to the lot from Hawkstone Street, however the Residential Design Codes have included a new acceptable development clause which states that access should come from a right of way where available. Clause 3.5.4 of the Residential Design Codes states that:

“A4.1 Access to on site parking to be provided, where available, solely from a right-of-way available or the use of the relevant lot and adequately paved and drained from the property boundary to a constructed street where a right-of-way does not exist.”

It is considered in this instance that vehicle access should come from the right of way as the right of way is useable and the previous approval had access coming from the right-of-way. In addition a double garage located in front of the 6.0m building setback line as proposed, will have an adverse impact on the streetscape and adjoining neighbours.

Therefore the administration recommends that vehicle access should come from the right-of-way.

Setbacks

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

Variations are being sought to the setback requirements for the garage wall on the western boundary and the eastern wall. As per Table 2A of the Residential Design Codes, the required setback for the garage wall is 1.5m and the eastern wall 3.1m. However, the proposed setback to the garage is 1m and the proposed setback to the eastern wall is between 1.0m and 2.5m. The relevant performance criteria states:

P1 - Buildings setback from boundaries other than street boundaries so as to:

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

It is considered that the proposed 1.0 metre setback for the garage wall will not ameliorate the impact of building bulk on the adjoining property at 27 Hawkstone Street. The garage wall is proposed to be setback 4.5 metres from the front boundary, however the building at 27 Hawkstone Street is set behind the 6.0m building setback line, therefore it is considered that the building bulk will have a negative impact on No. 27.

This wall would also reduce sun and ventilation to No. 27. In addition the owners of No. 27 have objected to the garage coming forward of the 6.0 metre setback line as there would be a negative impact on their amenity.

Therefore the administration recommends that the garage be setback 1.5m from the western boundary.

It is considered that the proposed 1.0m to 2.5m setback on the eastern boundary will not adversely impact on the adjoining property at No. 31 as sunlight and ventilation will not be adversely affected for the subject lot or the adjoining lot. The impact of building bulk will be minimal as the wall is located behind the front building setback line and that the building is only single storey.

Therefore the administration recommends that the variation to the setback be approved.

Filling & Retaining Walls

The site is such that it requires filling between 500mm and 1.5m along the eastern boundary to provide a level site for development. However the Residential Design Codes state that retained areas over 500mm in height must be setback from boundaries either in accordance with the visual privacy setbacks or the table two setbacks depending on whether adequate screening is provided. The required setback for the retaining wall is 1.5m, however the applicant is proposing to build the retaining wall on the boundary.

Requiring the retaining wall to be setback from the boundary will reduce the impact on the adjoining neighbour, however it will still create overlooking issues for the habitable windows on the eastern boundary as they will be more than 500mm above natural ground level. These issues are dealt with in the following section.

Furthermore it is considered that the building could be reduced in height so as to alleviate the necessity of setting back the retaining wall from the boundary and any overlooking issues that may arise as a result, which are discussed below.

Therefore the administration recommends that the finished floor level of the house and outdoor area be reduced to alleviate the need for retaining walls on the boundary.

Visual Privacy

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

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

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

The cone of vision applied to the windows on the eastern side of the development indicates that there is the potential to overlook the adjoining property, as the finished floor levels in those rooms is over 500mm above natural ground level.

It is considered that effective screening could alleviate this problem, however it would not resolve the problem with the location of the retaining wall and the affect on the amenity of the adjoining property. If the filling was reduced then the need for a 3.2m high retaining wall/boundary wall on the eastern side would not be required.

Therefore the administration recommends that the finished floor level of the house be reduced to alleviate the problem of overlooking.

Heritage

The building is listed on the Town of Cottesloe Municipal Heritage Inventory as a Category 3 building, the Inventory states:

"3 - Significant as an Individual Building

Retain and conserve if possible: endeavour to conserve the significance of the place through the provisions of the Town Planning Scheme; photographically record the place prior to any major redevelopment or demolition."

The Inventory also states that the significance of this property is:

"Fine example of modest interwar house in good condition with importance as part of a group."

The style of the proposed development is contemporary with details that try to harmonise with the surrounding existing development, these include windows with a vertical emphasis and a roof pitch of 26 degrees.

CONCLUSION

The administration recommends that the application be deferred until the July Council meeting as the applicant has not complied with the acceptable development standards of the Residential Design Codes and has not adequately addressed the performance criteria for the following areas: vehicle access, front setback, side setbacks, visual privacy, retaining and filling.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

That Council:

- (1) Defer consideration of the application for Approval to Commence Development submitted by N Colwell & Y Farra for the single storey house at No 29 (Lot 1) Hawkstone Street, Cottesloe.**

- (2) Request that the applicant submit revised plans incorporating the following changes to the proposed development:**
- (a) The building being setback behind the front 6.0m building setback line;**
 - (b) Vehicle access coming from the right-of-way**
 - (c) The garage wall being setback 1.5m from the western boundary;**
 - (d) Reduce the finished floor level of the house to RL 10.3m;**
 - (e) Reduce the finished floor level of the outdoor entertaining area.**
- (3) Advise the submitters.**

Carried 11/0

10.1.5 NO 34-36 (LOT 58) MARINE PARADE – CONVERSION OF AN EXISTING BIN STORAGE AREA AND DRYING INTO AN ADDITIONAL MULTIPLE DWELLING

File No:	34 - 36 Marine Parade
Author:	Mr D Heymans
Attachments:	Location Plan Floor Plans Elevations
Author Disclosure of Interest:	Nil
Report Date:	12 June, 2003
Senior Officer:	Mr S Sullivan
Property Owner:	Body Corporate
Applicant:	As Above
Date of Application:	10 April 2003
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme unless by special approval of Council.
Density:	R30
Lot Area:	3126m²
M.R.S. Reservation:	N/A

SUMMARY

The applicant is proposing to construct an additional unit located on the ground floor in the east block by replacing a drying area and bin storage area. The complex currently consists of 21 units and this development is proposed to finance major maintenance projects that are required at 34 – 36 Marine Parade commonly known as Westward Ho. 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 | N/A |
| • National Trust | N/A |

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

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

Town Planning Scheme Policy/Policies

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

Residential Design Codes

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

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application was not advertised

BACKGROUND

The body corporate has recently gained approval to replace the existing tile roof with a colourbond roof to alleviate continual leaking.

STAFF COMMENT

This application is seeking to add one additional unit to the complex known as Westward Ho. The complex currently has 21 units and the additional unit will replace an existing drying area and bin storage area on the ground floor in the eastern block of units.

Multiple Dwellings

The site is zoned residential and it has a density coding of R 30. The site has already been developed with 21 multiple dwellings.

Under the Residential Design Codes, there are no provisions relating to multiple dwellings in this coding. The new codes only prescribe development standards for multiple dwellings in areas coded R35 and higher.

As a result of this Council initiated an amendment on the 1 October 2002 to prohibit multiple dwellings in areas that have a density coding of R30 or less. This amendment (No. 34) will categorise all multiple dwelling developments in areas coded R30 or less as non-conforming uses. This will result in any future development applications of these sites being assessed under the provisions of the previous Town of Cottesloe Town Planning Scheme No. 1 gazetted on the 19 of November 1976.

However, Amendment No. 34 is currently being advertised and as a result is not enforceable at this time.

The Western Australian planning Commission has issued advice notes on the codes to clarify areas that are not clear. Advice note No. 51 deals with multiple dwellings and states that as there are no provisions for multiple dwellings in the codes and if there are no other relevant provisions in the codes or in the town planning scheme then the development is subject to the general discretion of Council.

Therefore the main issues relevant to the this application are:

- impact of the additional dwelling
- car parking; and
- bin storage areas and drying areas.

Impact of Additional Dwelling

The area to be converted is the space on the lower level of the rear units. It will not have any impact on adjoining properties as it is within the existing walls of the building.

Car Parking

Currently all units have one covered parking bay per unit with a number of additional uncovered bays for visitors. There is also space for additional tandem parking along the eastern boundary of the development. The administration believes that an additional one covered parking bay be provided for the new unit and the resultant loss in one visitor parking bay be replaced.

Therefore the administration recommends that revised plans be submitted clearly showing new areas of parking.

Bin Storage and Drying areas

The western block of units has there own bin storage area located next to the car parking area on the northern boundary. The eastern block of units has their bin storage area located in the area of the proposed new unit. As a result the applicant proposes to move the bin storage area beneath the two stairwells at the rear of the

eastern block of units. This situation is still being investigated by Council' Principal Environmental Health Officer and comments will be made available at the Development Services Committee Meeting.

An additional drying area is proposed to be located to the north of the proposed dwelling.

CONCLUSION

In conclusion it is considered that the proposed development will be in keeping with the existing units and will not impact on the adjoining properties. The density of the development will increase from 21 units to 22 units, however the impact of this on the development and adjoining neighbours is minimal as the unit is located on the ground floor and it is considered that all required services can be relocated without any major impact.

That the development be approved subject to the following conditions.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

That Council GRANT its Approval to Commence Development for the Construction of an additional unit at No 34-36 (Lot 58) Marine Parade, Cottesloe in accordance with the plans submitted on 10 April 2003, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (4) Revised plans being submitted for approval by the Manager, Development Services, showing details of additional parking including one covered bay and bin storage areas.**

Carried 11/0

10.1.6 NO 46 (LOT 19 & 18) BROOME STREET - DEMOLITION OF EXISTING BUILDING

File No: 46 Broome Street
Author: Mr D Heymans
Attachments: Location Plan
Author Disclosure of Interest: Nil
Report Date: 10 June, 2003
Senior Officer: Mr S Sullivan

Property Owner: M Terri

Applicant: As Above
Date of Application: 10 June, 2003

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 840m²
M.R.S. Reservation: N/A

SUMMARY

The applicant seeks to renew an existing approval for demolition. Given the assessment that has been undertaken, the recommendation is to approve the application.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

N/A.

External

N/A.

ADVERTISING OF PROPOSAL

The application was not required to be advertised.

BACKGROUND

The applicant previously gained planning approval for demolition of the dwelling at No. 46 Broome Street on the 26 September 2002. The approval expires on the 26 September 2003 and the applicant would like to gain a new approval to enable time to gain the necessary funds to complete a new house as well as design a new house.

STAFF COMMENT

The administration normally deals with re-approvals under delegated authority, however any demolitions relating to heritage-listed buildings are required to go to a full meeting of Council.

The administration believes that as the applicant is seeking to renew the planning approval for demolition of the existing building, which has been previously approved, approval should be granted again.

CONCLUSION

That approval to demolish the existing dwelling be granted subject to the following conditions.

VOTING

Simple Majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

That Council GRANT its Approval to Commence Development for the Demolition of Category 3 Heritage Building at No 46 (Lot 19 & 18) Broome Street, Cottesloe in accordance with the plans submitted on 10 June, 2003, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (2) A photographic record of the existing residence being submitted to Council prior to a Demolition Licence being issued.**

Carried 11/0

10.1.7 NO 169 (LOT 103) BROOME STREET - TWO STOREY SINGLE HOUSE

File No:	169 Broome Street
Author:	Mr D Heymans
Attachments:	Location Plan Floor Plans Elevations Photos Submissions (3)
Author Disclosure of Interest:	Nil
Report Date:	5 June, 2003
Senior Officer:	Mr S Sullivan
Property Owner:	Mr & Mrs Tietzel
Applicant:	Susan Unger
Date of Application:	2 April, 2003
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	411m²
M.R.S. Reservation:	N/A

SUMMARY

The application is for the construction of a two storey single house. 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 | N/A |
| • National Trust | N/A |

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

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

Town Planning Scheme Policy/Policies

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
2	Setback of building from street boundary of 6.0m	5.5m	Clause 3.2.1
3	Setback to northern boundary from upper study of 1.2m	0m	Clause 3.3.2
3	Setback to northern boundary from upper bed 4 of 1.1m	0m	Clause 3.3.2
3	Setback to northern boundary from upper bed 2 of 1.1m	0m	Clause 3.3.2
3	Setback to northern boundary from lower laundry of 1.5m	0m	Clause 3.3.2
3	Setback to southern boundary from lower dining of 1.0m	0m	Clause 3.3.2

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

The Application has been advertised twice as per Town of Cottesloe Town Planning Scheme No 2.

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

The first round of advertising consisted of 3 submissions, of which two were objections. Advertising of the revised plans has resulted in no new submissions.

The original submissions are outlined below:

14 Torrens Street

The owners of the property objected to the following:

- The double storey building will overshadow 75% of their outdoor living area;
- Parapet walls on the boundary, which destroy the amenity of the area.

167 Broome Street

The owners of the property do not object to the proposal.

171 Broome Street

The owners of the property object to the building intruding into the front setback line as they had requested the same variation however Council refused their request.

BACKGROUND

The subject property is located on the western side of Broome Street. The site is currently vacant. The original site was previously subdivided into two lots. On the northern side of the lot is a two-storey parapet wall from the adjoining property at 171 Broome Street (refer photos).

In addition, the lot also has a sewer easement running down the southern side of the lot, which restricts development over the easement. The applicant has liaised with the Water Corporation. They have been advised that building over the easement is permitted as long as the panels of the building are removable on the lower level to enable digging, and the upper level has to be constructed high enough to allow for machinery to enter the site.

The original application was lodged on the 2 April 2003, and went to the June round of Council meetings, where the recommendation was to refuse the application. The applicant subsequently requested that the application be withdrawn until the design could be altered to accommodate both Council's and the neighbours concerns. A revised set of plans was received on the 27 May 2003. These revised plans have addressed a number of the original concerns.

STAFF COMMENT**Front Boundary Setback**

The applicant proposes a variation to the front setback as outlined in Table 1 of the Residential Design Codes. The proposed setback is 5.5m, however the required

setback is 6.0m. Council has consistently sought conformity with a 6.0m setback with no averaging.

The proposed balcony protrudes 0.5m into the front set back area. The adjoining neighbour has objected to the incursion into the front setback as they had applied for a similar variation at the time of their approval and the request was refused by Council.

The applicant appealed to the Minister and their request was not supported. An alternative option presented by the Minister was not acceptable to the owner of No. 171 Broome Street and he modified the building to comply with a 6.0m setback.

The administration believes that any variation of the front setback will have an adverse impact on the streetscape and may set a precedent for similar applications in areas where views are sensitive.

Therefore the administration recommends that the building should be located behind the 6.0m front building setback.

Boundary Walls

The applicant proposes five boundary walls that do not comply with the acceptable development standard for boundary walls. Clause 3.3.2 of the Design Codes state that:

“Except where otherwise provided for in an adopted Local Planning Policy, walls built up to a boundary behind the front setback line within the following limits, subject to the overshadowing provisions of Element 9:

- ii. In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary; or”*

Where the proposal does not meet the acceptable development standard then it needs to comply with the performance criteria (P2) which states:

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

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

Council has resolved to prepare a Streetscape Policy that will require buildings to be set back from the boundary in order to preserve the general streetscape character and minimise the impact of boundary walls on adjoining properties.

Notwithstanding the above, the applicant is proposing a number of boundary walls on the northern boundary (study, bed 4, bed 2, laundry, garage and TV room). As per Table 2a of the Residential Design Codes, the required setback for these walls are 1.1m to 1.5m, however the proposed setback is nil.

These walls directly abut the adjoining 2-storey boundary wall on No. 171 Broome Street and there are no issues with overshadowing, privacy or ventilation on the adjoining property and the proposal does make effective use of space.

Therefore, the administration recommends that these variations be supported.

The applicant is also seeking to construct a single-storey boundary wall on the southern boundary. As per Table 2a of the Residential Design Codes, the required setback for this wall is 1.0m, however the proposed setback is nil.

The wall is approximately 2.8m high on the neighbours southern boundary which has been modified from a previous 2 storey wall. The administration believes that the reduction in height of this wall will have not have an adverse impact on the adjoining properties amenity and will moderately restrict sunlight to outdoor living areas at the winter solstice.

It is considered that the proposal does meet the Performance criteria set out in the Residential Design Codes and therefore, the administration recommends that this wall be approved.

CONCLUSION

The revised plans submitted by the applicant have addressed the concerns of neighbours in relation to overshadowing and also Council's concern with boundary to boundary development at the front of the site.

Therefore the administration recommends that the proposal be approved subject to the following conditions.

VOTING

Simple Majority

OFFICER RECOMMENDATION

- (1) That Council GRANT its Approval to Commence Development for the 2 Storey Single House at No 169 (Lot 103) Broome Street, Cottesloe in accordance with the plans submitted on 27 May 2003 subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
 - (f) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (g) Revised plans being submitted for approval by the Manager, Development Services, showing the building being located behind the 6.0m building setback line.
- (2) Advise the submitters.

COMMITTEE COMMENT

The Committee believed that a slight variation for the Juliet balcony should be given to the design to allow for additional light, having regard to the impact that the development to the north has on the development site. Condition (1)(g) was then removed from the officer's recommendation.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

- (1) That Council GRANT its Approval to Commence Development for the 2 storey single house at No 169 (Lot 103) Broome Street, Cottesloe in accordance with the plans submitted on 27 May, 2003 subject to the following conditions:**
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**

- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
 - (f) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.
- (2) Advise the applicant that having regard to the extent of the boundary wall located on the northern boundary, Council was prepared to allow the Juliet balcony to allow additional light into the building.
- (3) Advise the submitters.

Carried 11/0

10.1.8 NO 138 (LOT 101) MARINE PARADE - THREE STOREY DWELLING

File No:	138 Marine Parade
Author:	Mr D Heymans
Attachments:	Location Plan Elevations Floor Plans Front Elevation of Previous Design
Author Disclosure of Interest:	Nil
Report Date:	12 June, 2003
Senior Officer:	Mr S Sullivan
Property Owner:	L Agnello
Applicant:	Cross Fishwick & Associates Designers
Date of Application:	10 April 2003
Zoning:	Special Development
Use:	P - A use that is permitted under this Scheme
Density:	R50
Lot Area:	297m²
M.R.S. Reservation:	N/A

SUMMARY

The applicant is proposing to build a three storey residential dwelling adjoining the existing Ocean Beach Hotel Tower. The site is currently vacant. Given the assessment that has been undertaken, the recommendation is to Defer 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 | N/A |
| • National Trust | N/A |

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

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

Town Planning Scheme Policy/Policies

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

Residential Design Codes

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

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION**REFERRAL****Internal**

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

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

BACKGROUND

Council received a similar application for a three storey house on the 11 September 2002, which was subsequently approved under delegated authority on the 29 October 2002.

The previous application (see attached) consisted of exactly the same dwelling as the current application, except that the finished floor levels of the first and second floors have been lifted, however the overall height of the building has not increased. The design advisory panel has viewed the plans and commented on the proposal.

STAFF COMMENT

The applicant has stated that the floor levels have been increased as a result of a cherry picker being placed on the vacant lot to assess the views. The applicant realised that the levels previously approved would not result in views that were expected and as a result the applicant would like to increase the levels.

Floor Levels

The finished floor level on the first floor has increased in height by 986mm and the finished floor level of the second floor has increased by 1 metre (see attached). The overall height of the building has not changed.

Roof Design

The height of the roof has been reduced to accommodate the increase in floor levels.

Design Advisory Panel

The application was considered at a meeting of the Design Advisory Panel held on the 9 June 2003. At that meeting the panel advised that the current design of the building was not acceptable as the building now appears to be out of proportion as a result of the change in levels and the roof structure.

The Design Advisory Panel members advised that due to the prominent position of the site, the design should either reflect the original approved design or alter the roof to a flat roof design with a possible parapet.

Therefore the administration recommends that the application be deferred to allow the applicant sufficient time to alter the design.

CONCLUSION

That the application be deferred to allow for the applicant to redesign the development.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Defer consideration of the application for Approval to Commence Development submitted by Cross Fishwick & Associates Designers for the three storey house at No 138 (Lot 101) Marine Parade, Cottesloe.
- (2) Request that the applicant submit revised plans incorporating the following changes to the design of the proposed development:
 - (a) That the roof design be modified to reflect the previous approved design; or
 - (b) The design be modified to incorporate a flat roof and possible parapet.

COMMITTEE RECOMMENDATION

That the Manager, Development Services prepare an approval subject to the receipt of revised plans incorporating the following changes to the design of the proposed development:

- (a) the roof design being modified to reflect the previous approved design; or
- (b) The design being modified to incorporate a flat roof and possible parapet.

**ADDITIONAL INFORMATION FROM MANAGER DEVELOPMENT SERVICES
DATED 18 JUNE, 2003**

Revised plans were received on Wednesday, 18 June showing a revised roof design for this. The revised roof design matched the design of the previously approved project. However, the applicant did not change the floor to ceiling heights and the development, with the revised roof design, now exceeds the height controls contained in the Town Planning Scheme text.

Council does not have the discretion to vary the height control in this Zone unless it prepares a Town Planning Scheme Policy as set out in Clause 7.7 of the Town Planning Scheme text.

The Architect has been requested to submit further revised plans that address the Committee's resolution and comply with the Schemes height controls. If they do not submit the revised plans, then the resolution should be amended by adding a new (c) as follows:

OFFICER REVISED RECOMMENDATION

- (a) the roof design being modified to reflect the previous approved design; or
- (b) The design being modified to incorporate a flat roof and possible parapet.
- (c) the development complying with the height controls set out in clause 3.4.9(b)(iii) of the Town Planning Scheme text.

OFFICER REVISED RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

That the Manager, Development Services prepare an approval subject to the receipt of revised plans incorporating the following changes to the design of the proposed development:

- (a) the roof design being modified to reflect the previous approved design;
or**
- (b) The design being modified to incorporate a flat roof and possible
parapet.**
- (c) the development complying with the height controls set out in clause
3.4.9(b)(iii) of the Town Planning Scheme text.**

Carried 11/0

10.1.9 NO 73 (LOT 17) CURTIN AVENUE - TWO STOREY HOUSE

File No:	73 Curtin Avenue
Author:	Mr D Heymans
Attachments:	Location Plan Floor Plans Elevations Submissions (2)
Author Disclosure of Interest:	Nil
Report Date:	10 June, 2003
Senior Officer:	Mr S Sullivan
Property Owner:	Mr & Mrs Goddard
Applicant:	Webb & Brown Neaves
Date of Application:	8 April 2003
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	491m²
M.R.S. Reservation:	N/A

SUMMARY

The applicant is seeking to build a new 2 storey house boundary to boundary. Given the assessment that has been undertaken, the recommendation is to approve the application with special conditions.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE**

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 – Ridge Height	19.8m	19.906m

Town Planning Scheme Policy/Policies

Policy	Required	Provided
005 – Ridge Height	18.94m	19.906m
005 – Wall Height	16.44m	17.059m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
3 – Boundary Setbacks	Setback to southern boundary from lower garage wall 1.0m	Nil	Clause 3.3.2
3 – Boundary Setbacks	Setback to southern boundary from lower south wall 1.5m	1.04m	Clause 3.3.1
3 – Boundary Setbacks	Setback to southern boundary from upper south wall 1.8m	1.52m	Clause 3.3.1
3 – Boundary Setbacks	Setback to northern boundary from lower north wall 1.5m	Nil – 1.6m	Clause 3.3.2
3 – Boundary Setbacks	Setback to northern boundary from upper sitting room 1.5m	1.23m	Clause 3.3.1
6 – Site Works	Setback of retaining wall from northern boundary of 1.5m	Nil – 1.6m	Clause 3.6.2
9 – Design for Climate	Overshadowing of adjoining lot 25%	26%	Clause 3.9.1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION**REFERRAL****Internal**

- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

There were 3 letters sent out. There were 2 submissions received, of which 2 were objections. Details of the submissions received are set out below:

No. 75 Curtin Avenue

The owners have raised the following concerns:

- That any damage caused by the construction of the boundary wall be covered by the applicant;
- That a temporary crossover be built during construction to avoid damage to the crossover of No. 75.

No. 71 Curtin Avenue

The owners have objected to the following:

- That all windows on the upper floor facing south be obtrusive glass;
- That the garage parapet wall be rendered to match the existing rendered fence.

BACKGROUND

The subject property is located on the western side of Curtin Avenue. The applicant seeks to demolish the existing house and construct a new two-storey house. The site slopes down from the southwest corner to the northeast corner.

STAFF COMMENT**Boundary Walls**

Two boundary walls are proposed one on the southern boundary to the garage and one on the northern boundary to Bed 1.

Clause 3.3.2 (A2) of the Design Codes state that:

“Except where otherwise provided for in an adopted Local Planning Policy, walls built up to a boundary behind the front setback line within the following limits,

- ii In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary.”*

As the proposed boundary walls do not comply with the acceptable development standards, as they exceed the permissible average height of 2.7m, it is necessary to consider the performance criteria (P2) which states:

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

- *Make effective use of space; or*

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

In addition Council has resolved to prepare a Streetscape Policy that has the intent of requiring boundary setbacks throughout the Scheme Area in order to preserve streetscape character and minimise the impact on neighbouring properties.

The applicant has also stated that the proposed boundary wall height will not affect the amenity of the adjoining property, as the wall will be located behind the front facade of the adjoining residence. They also state that the wall will compliment the adjoining residences and streetscape and not set any precedent as other boundary walls of equal and greater height exist in the neighbourhood.

Notwithstanding the above, the proposed wall does make effective use of space, however it is considered that the boundary wall does have an adverse impact on the adjoining property as the neighbours porch will directly look at the proposed garage boundary wall, which is about 4.0m high at it's highest point. The wall will also adversely affect sunlight and ventilation to the porch and the front window of the adjoining property as it is on the southern side.

It is also considered that the southern boundary wall along with the northern boundary wall will set a negative precedent of boundary to boundary development within the Town which will adversely affect the streetscape. In addition the property at No. 75 already has boundary to boundary development, and the owner at No. 71 has questioned if he supports this boundary wall on the southern side would he be able to build a similar boundary wall. This could effectively result in the three houses being joined and creating a form of row housing.

Therefore the Administration recommends that the garage boundary wall be setback 1.0 metre from the southern boundary.

The second proposed boundary wall to bedroom 1 on the northern boundary has an average height of approximately 3.9m.

The applicant has stated that this wall satisfies the performance criteria for the following reasons:

- That adequate provision of direct sun and ventilation is provided
- Does not affect privacy;
- Does not overshadow the adjoining property.

The only issue of concern is that the finished floor levels differ by about 1 m between 73 and 75 Curtin which will result in the boundary wall being about 3.9m in height on the neighbours side and that this may adversely affect the amenity of 75 Curtin Ave.

Notwithstanding, the administration considers that the boundary wall does satisfy the performance criteria for the following reasons:

- The boundary wall does make effective use of space;
- Will not affect direct sun or ventilation and may enhance privacy;
- The wall is located 17.0m from the front boundary and may not be visible from the street;
- The adjoining neighbour has not objected to the wall

Therefore the administration recommends that the variation be approved.

Boundary Setbacks

The applicant proposes three variations to setbacks as outlined in the Residential Design Codes. As the required setbacks as outlined in Table 2a of the Residential Design Codes have not been met the relevant performance criteria must be satisfied, which state:

P1 - Buildings setback from boundaries other than street boundaries so as to:

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

The lower southern wall has a proposed setback of 1.04m and the upper southern wall has a setback of 1.52m, however the required setbacks are 1.5m and 1.8m respectively.

It is considered that both walls will restrict direct sun and ventilation to the adjoining property, taking into account that the 25% overshadowing limit has been exceeded, refer below. In addition the lower wall runs for nearly 21m along the southern boundary without any major variations or indentations to the wall as a result it is considered that the setback does not ameliorate the impact of building bulk on the adjoining property. Any future redevelopment of 71 Curtin Avenue would be reasonably be expected to take advantage of the northern sun, however a reduction in setbacks in this instance may cause overshadowing of outdoor living areas or habitable rooms in the future.

Therefore the administration recommends that the lower wall be setback 1.5m and the upper wall be setback 1.8m from the southern boundary.

The northern upper wall has a proposed setback between 1.23m and 1.6m, however the required setback is 1.5m. The wall does not restrict adequate sun and ventilation to the property or the adjoining property. However it will not assist in ameliorating the impact of building bulk on the adjoining property at 75 Curtin Avenue.

Notwithstanding the above the administration believes that the minor variation to this wall will not adversely impact the neighbours, particularly as no objections have been raised in relation to this.

Therefore the administration recommends that the variation be approved.

Filling

The site is such that it requires filling of approximately 1 metre in the north eastern corner to provide a level site for development. However the Residential Design Codes state that retained areas over 500mm in height must be setback from boundaries either in accordance with the visual privacy setbacks or the table 2 setbacks depending on whether adequate screening is provided. In this instance the filling does not create any overlooking issues as all of the rooms do not have major openings and the majority of walls are setback of the boundary.

Notwithstanding the above the proposed development also exceeds Council's height restrictions, which is discussed below, which may result in the amount of fill having to be reduced.

Solar Access

The Design Codes state that it is acceptable to overshadow an adjoining lot by no more than 25% on land coded R20. The overshadowing is calculated without regard for any building on the adjoining land but taking into account its natural ground levels. The proposed development overshadows the adjoining lot by approximately 26%.

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

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

- *Outdoor living areas;*
- *Major openings to habitable rooms;"*

The applicant's position is that it doesn't have a detrimental impact on the adjoining property and the overshadowing is minimal in nature.

Notwithstanding the above the administration believes that as a number of variations are being sought in relation to setbacks and the height of the building, the 25% overshadowing limit should be enforced as the overshadowing may affect access to the northern sun of any future development at 71 Curtin Ave.

Therefore the administration recommends that the overshadowing be reduced to 25% of the adjoining lot.

Building Height - Clause 5.1.1

Clause 5.1.1 of the Town of Cottesloe Town Planning Scheme No. 2 states that the height of residential buildings is limited to 6.0m to the wall height and 8.5m to the ridge height calculated from the centre of the site.

Calculation of the ground level at the centre of the site has established a height level of RL 11.3m and therefore a height limit to the ridge level of 19.8m. However the proposed ridge height level is 19.906m, which is 100mm in excess of the height limit.

Council has the discretion to determine the average natural ground level (ANGL) at the centre of the site, however has no ability to vary the height limit once the ANGL is determined.

Therefore the administration recommends that the roof ridge height be reduced to comply with Council's height policy.

Building Height – Policy No. 5

Council's Planning Policy No. 5 states that in addition to the height restrictions outlined in the Scheme, which are calculated from the centre of the site, Council may measure the height of a building at any point on the site to avoid any adverse impact on adjoining neighbours. Variations to the height limits may be given in circumstances where the amenity of the area is not unreasonably diminished.

Assessment of this application has shown that the building does not conform to this policy at the front of the site, which slopes down from the southwest corner to the northeast corner, as both the ridge height limit and the wall height limit are both exceeded by about 350 mm (refer attached plans).

It is considered that as the applicant is seeking a number of variations to other design elements such as overshadowing, setbacks of walls, setback of retaining walls and filling and the resultant impact of these on the adjoining neighbours that a variation in this instance is not warranted. The main issues of concern are the impact on any future development at 71 Curtin Avenue in relation to building bulk, access to sun light and ventilation and general amenity. In addition Council has consistently enforced height limits.

Therefore the administration recommends that the ridge heights and wall heights be reduced to comply with Policy No. 5

CONCLUSION

The proposed development be approved subject to the following conditions.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the 2 Storey house at No.73 (Lot 17) Curtin Avenue, Cottesloe in accordance with the plans submitted on 9 May 2003, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.

- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
- (f) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
- (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
 - (i) details of the proposed retaining walls and finishes of boundary walls along the northern boundary;
 - (ii) the lower southern wall located near the southern side boundary being set back 1.5m from the side boundary in accordance with the provisions of the Residential Planning Codes;
 - (iii) the upper southern wall located near the southern side boundary being set back 1.8m from the side boundary in accordance with the provisions of the Residential Planning Codes;
 - (iv) the garage wall located near the southern side boundary being set back 1.0m from the side boundary in accordance with the provisions of the Residential Planning Codes;
 - (v) the percentage of overshadowing being reduced to 25% in accordance with the provisions of the Residential Design Codes;
 - (vi) the ridge height of the proposed development being modified to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text;
 - (vii) the wall and ridge height of the proposed development being modified to comply with the requirements of Town Planning Policy No. 5.

(2) Advise the submitters of this decision.

COMMITTEE COMMENT

The majority of the Committee were of the opinion that conditions (1)(g)(ii), (iii) and (iv) should be removed as they were of the opinion that the variations would not result in an adverse impact on the amenity of the property to the south.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

That Council:

- (1) GRANT its Approval to Commence Development for the 2 Storey house at No 73 (Lot 17) Curtin Avenue, Cottesloe in accordance with the plans submitted on 9 May 2003, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.**
 - (f) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.**
 - (g) Revised plans being submitted for approval by the Manager, Development Services, showing:**
 - (i) details of the proposed retaining walls and finishes of boundary walls along the northern boundary;**
 - (ii) the percentage of overshadowing being reduced to 25% in accordance with the provisions of the Residential Design Codes;**
 - (iii) the ridge height of the proposed development being modified to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text;**
 - (iv) the wall and ridge height of the proposed development being modified to comply with the requirements of Town Planning Policy No. 5.**
- (2) Advise the submitters of this decision.**

Carried 8/3

10.1.10 DESIGN ADVISORY PANEL – APPOINTMENT OF MEMBERS FOR THE PERIOD JUNE 2003 TO JUNE 2005

File No: D1.1
Author: Mr S Sullivan
Author Disclosure of Interest: Nil
Report Date: 10 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

To make a determination on membership of the Design Advisory Panel for the period of June 2003 to June 2005.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Each member of the Design Advisory Panel is paid \$100 per year.

BACKGROUND

The two year term for the Design Advisory Panel expired in May 2003, and in accordance with the Terms of Reference, Council was required to seek expression of interest from the members of the public wishing to participate in the Panel.

The Design Advisory Panel currently consists of six members and four deputy members. All members have indicated their interest in continuing to be part of the Panel.

An article in 'The Post' newspaper in the 'Civic Centre News' section sought an expression of interest from those persons interested in serving on the Council's Design Advisory Panel. The closing date for expressions of interest was Wednesday, 11 June 2003. At the time of the preparation of this report item, there were no additional expressions of interest.

The report indicated that other forms of advertising was to occur, however the recommendation did not clearly explain the advertising required. Consequently the only advertising carried out was the article in 'The Post'. Council needs to decide if further advertising is required.

STAFF COMMENT

Circulated separately is a list of the membership of the Design Advisory Panel.

The matter of the composition of the Design Advisory Panel is submitted for Council determination.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) That the following persons be appointed members of the Design Advisory Panel for the period from June 2003 to June 2005:

- (a) _____;
- (b) _____;
- (c) _____;
- (d) _____;
- (e) _____; and
- (f) _____.

- (2) That the following persons be appointed deputy members of the Design Advisory Panel for the period from June 2003 to June 2005:

- (a) _____;
- (b) _____;
- (c) _____;
- (d) _____; and
- (e) _____.

COMMITTEE COMMENT

The Manager, Development Services advised the Committee that he still did not have formal confirmation from two of the panel members as to whether they will still wished to be considered for membership on the Design Advisory Panel for the next period.

It was considered that the current membership of the Panel should be retained. However, the Manager, Development Services was requested to confirm with the two remaining Panel members whether they still wished to be considered for the Design Advisory Panel.

COMMITTEE RECOMMENDATION

That Council:

- (1) That the following persons be appointed members of the Design Advisory Panel for the period from June 2003 to June 2005:

- (a) Mr Simon Rodrigues;

- (b) Mr Paul Rossen;
 - (c) Mr Tony Brand;
 - (d) Mr George Gaschk;
 - (e) Mr Paul Jones; and
 - (f) Mr Adrian Fini.
- (2) That the following persons be appointed deputy members of the Design Advisory Panel for the period from June 2003 to June 2005:
- (a) Mr Wayne Dodd;
 - (b) Mr Kris Wiacek;
 - (c) Mr Trevor Saleeba; and
 - (d) Mr Neil Robertson.
- (3) Advise the new nominees Ms Lisa Goff and Mr Fulvio Prainito that in the event that one of the members resigns, they may be called upon to be a member of the Design Advisory Panel.

REASON FOR CHANGE

A further selection will need to be made as one of the panel members has advised he is no longer available.

COUNCIL RESOLUTION

Moved Cr. Walsh, seconded Cr. Miller

That this item be referred back to Development Services Committee for further consideration.

Carried 11/0

**10.1.11 PROPOSED TOWN PLANNING SCHEME AMENDMENT NO. 33 –
INCLUSION OF HERITAGE PROVISIONS IN SCHEME TEXT**

File No:	Amd No. 33
Attachment(s):	Draft Amendment document
Author:	Mr Stephen Sullivan
Author Disclosure of Interest:	Nil
Report Date:	18 June, 2003
Senior Officer:	Mr Stephen Tindale

SUMMARY

This item was considered by Council at its April 2003 meeting. Consideration was deferred so that this matter could be considered by the “new” Council, following the elections.

The matter was considered at the May 2003 Development Services Committee. The recommendation to progress the amendment was defeated. However, it was agreed by the Committee to refer the Officer Recommendation to the June meeting of Council so that the draft Amendment could be debated by all Councillors.

The April report and Officer Recommendation (which was unchanged at the April Development Services Committee) meeting and the draft Amendment document, is circulated separately from this agenda.

In accordance with the May 2003 resolution, this matter is submitted to Council for determination.

STATUTORY ENVIRONMENT

Town Planning Scheme No. 2
Model Scheme Text

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The proposed amendment is required to address deficiencies that exist within the Scheme text relating to consideration of heritage conservation matters.

FINANCIAL IMPLICATIONS

Amendment advertising costs.

CONSULTATION

The proposed amendment to the existing Town Planning Scheme will need to follow the required statutory processes outlined in Town Planning Regulations 1967 (as amended). This necessitates the amendment being open to a statutory public submission period.

The Town Planning Regulations require that the amendment be advertised for a minimum period of 42 days. The advertising should consist of the advertising of the Notice (Form No. 3) of the proposed Amendment in the following manner:

- In the Post newspaper, one a week for two consecutive weeks;
- In the West Australian newspaper, one advertisement;
- Public notice boards in the Civic Centre, Town Centre and the Library; and

The amendment will also be available for inspection at the Council offices.

STAFF COMMENT

The amendment will result in structural changes to the Town Planning Scheme text, but will not result in any changes to any heritage list or introduction of heritage areas. Changes to the Schemes heritage list or introduction of a heritage area are required to be approved by Council through separate processes before such changes can be implemented.

The proposed changes to the Scheme Text have been identified in the Scheme Amendment documents. The following has been copied from the draft Scheme Amendment:

Resolved that the Council, in pursuance of Section 7 of the Town Planning and Development Act 1928, and the Metropolitan Region Town Planning Scheme Act (1959) amend the above Town Planning Scheme by:

- (a) Including heritage conservation as one of the purposes or intent of the Scheme.*
- (b) Including conservation of places of cultural heritage significance as one of the matters for consideration in the Residential, Town Centre and Foreshore Centre zones.*
- (c) Including heritage conservation as one of the matters to be considered when determining applications for development approval.*
- (d) Incorporating the Model Scheme Text provisions that relate to the identification and adoption of heritage areas.*
- (e) Incorporating the Model Scheme Text provisions that relate to additional material to be submitted in order to assess matters relating to heritage areas or properties.*
- (f) Adding relevant definitions to Schedule 2 – Interpretations to assist interpretation of the heritage provisions.*

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) In pursuance of Section 7 of the Town Planning and Development Act (1928 as amended), amend the Town of Cottesloe Town Planning Scheme No. 2, insofar as it will strengthen the heritage provisions of Town Planning Scheme No. 2 so that Council may have greater regard to heritage issues in its consideration of applications for development and introduce the provisions of the Model Scheme Text that relate to the designation, adoption and control of development within heritage areas.
- (2) Adopt proposed Scheme Amendment No. 33 of the Town of Cottesloe Town Planning Scheme No. 2, which is attached and forms part of these minutes.
- (3) The amendment to be advertised for a period of 42 days and the advertising to consist of:
 - (a) notice in the Post newspaper, one a week for two consecutive weeks;
 - (b) notice in the West Australian newspaper;
 - (c) notice on the public notice boards in the Civic Centre, Town Centre and Library; and
 - (d) a copy for viewing at Council offices.
- (4) Refer the proposed Scheme Amendment to the Environmental Protection Authority in accordance with section 7A1 of the Town Planning & Development Act (1928 as amended).
- (5) Forward to the Western Australian Planning Commission a copy of Council's decision and the proposed Scheme Amendment document.

AMENDMENT

Moved Cr. Utting

That the motion be amended by the deletion of paragraph (1).

Lapsed for Want of a Seconder

The original motion was put.

Lost 6/5

10.1.12 UNAUTHORISED SHADE SAIL AT NO. 29 NAPIER STREET (PART LOT 45)**INFORMATION FROM PLANNING OFFICER CIRCULATED ON 13 JUNE, 2003 AND CONSIDERED BY COMMITTEE ON 16 JUNE, 2003****SUMMARY**

A late application was received by Council on the 4 June 2003 in relation to an unauthorised shade sail at No. 29 Napier Street.

BACKGROUND

The applicant applied for planning approval for alterations and additions to the existing house. Planning Approval was issued on the 23 July 2002. A building licence was issued on the 26 July 2002. Council's building surveyor noticed that a shade sail had been constructed on the site and sent a letter to the applicant on the 7 March, 2003 advising that the shade sail did not have approval and therefore was a non authorised construction (refer attached). The letter advised that Council cannot issue a retrospective approval and therefore that the sail be removed.

The applicant has claimed that he didn't receive this letter. About 3 months later on the 19 May 2003 Council's building surveyor conducted a final inspection of the development and again advised the applicant that the shade sail was unauthorised and would have to be removed.

After liaising with Council staff the applicant put a planning application into Council on the 4 June for a shade sail.

COMMENT

An inspection of the site and surrounding properties has revealed that parking structures to the front setback have been built on either side of No. 29 Napier Street. At No. 31 a double garage is built to the front setback, and at No. 27 a carport is also built within about a metre of the front setback.

Council previously refused a shade sail in the front setback at No. 6A Barsden Street, however on appeal this decision was overturned by the Tribunal. The Tribunal ruled that the shade sail was not a parking structure but a pergola.

A pergola is not classed as a building in the Residential Design Codes of Western Australia and therefore is not subject to the setback provisions of the codes.

The Town of Cottesloe is currently preparing a streetscape policy to deal with issues relating to streetscapes such as boundary walls, gate houses and shade sails. However this has not been completed at this stage.

Notwithstanding Council does have general clauses in the scheme which control the style and design of developments generally. Clause 5.1.2 (c) of the Scheme states that:

“Council shall have regard to and may impose conditions relating to the following:

- (c) The choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally.”*

The area is characterised by a variety of building types and building ages. No one style is dominant in the immediate area. No. 27 has a carport that is in keeping with the building, however No. 31 has a double garage that is out of character with the building and the area in general. The proposed shade sail at No. 29 is not a dominant feature and does not have a significant impact on the streetscape (refer attached). The style of the shade sail is not in keeping with the existing house, as the house has a tiled roof with about a 25-degree roof pitch. A carport with a similar roof would be preferable. However as the structure is not dominant and the property has a solid front fence it is considered that the impact on the streetscape is minimal.

CONCLUSION

Given the above report, it is recommended that Council make a determination in relation to the unauthorised shade sail. In this regard Council may choose one of the following options:

1. Require the shade sail to be removed; or
2. Take action under section 401 of the Local Government Act
3. Accept the shade sail as it has been constructed and take no further action.

OFFICER RECOMMENDATION

For determination by Council.

COMMITTEE COMMENT

The committee believed that the unauthorised shade sail should be removed. If the applicant chooses to submit a formal application for its approval, then the matter is delegated to the Manager, Development Services for determination.

Cr Utting left the Chamber at 8.43pm and returned at 8.46pm.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Miller, seconded Cr Furlong

That Council:

- (1) Advise the owner he is required to remove the unauthorised shade sail; and**
- (2) Delegates to the Manager, Development Services the authority to make a determination on an application for Planning Consent, for a new application for the shade sail.**

Carried 10/1

11 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 17 JUNE 2003**11.1 ADMINISTRATION****11.1.1 CARE FOR COTT (LA21) COMMITTEE - TERMS OF REFERENCE**

File No: X12.2
Attachment(s): Terms of Reference
Author: Ms P Varvell
Author Disclosure of Interest: Nil
Report Date: 12 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

The Terms of Reference have been revised for the Care for Cottesloe (LA21) Committee to formalise the committee as a Council Committee under the Local Government Act (1995) and to stipulate the mission, goals and responsibilities of the Committee. The purpose of this report is to consolidate the amendments to the Terms of Reference as specified by Councillors and the Committee and seek endorsement of the revised Terms of Reference for the Care for Cottesloe (LA21) Committee.

STATUTORY ENVIRONMENT**Election of presiding members and deputies**

- 5.12. (1) The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule –
- (a) to “office” were references to “office of presiding member”;
 - (b) to “council” were references to “committee”; and
 - (c) to “councillors” were references to “committee members”.
- (2) The members of a committee may elect a deputy presiding member from amongst themselves, but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule –
- (a) to “office” were references to “office of deputy presiding member”;
 - (b) to “council” were references to “committee”;
 - (c) to “councillors” were references to “committee members”; and
 - (d) to “mayor” or president” were references to “presiding member”.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The Care for Cottesloe (LA21) Committee supports the principles of sustainability as articulated within Council’s strategic plan.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Local Agenda 21 (LA21) is a program aimed at implementing sustainable development at a local level. It comprises a framework to integrate environmental, economic and social development and requires a strong partnership between local government and the community to prepare long term strategies for the Community.

The Care for Cottesloe (LA21) Committee was formed by Council resolution on 28 February, 2000. The Committee was specified as having an “advisory” status to Council, however, Committee members have not been elected by the Council as per the Local Government Act (1995). The original resolution of Council, which created the committee, stated that terms of reference be drafted for its operation and referred back to Council for ratification. These terms of reference were endorsed by Council on 28 May, 2001 and have now been revised to formalise the Committee as a Council Advisory Committee and to provide guidance as to the composition, election, goals and responsibility of the Care for Cottesloe (LA21) Committee members.

CONSULTATION

Councillors, LA21 Committee, Council Staff.

STAFF COMMENT

The revised terms of reference includes the amendments moved by Cr Utting at the May 26 Council meeting and those by the Care for Cottesloe (LA21) Committee at its June 11 meeting. The Care for Cottesloe (LA21) Committee was in agreement with all of Cr Utting’s amendments, with the exception of the nomination of the presiding member (for reasons specified in the statutory requirements) and the restriction of one member per organisation. The latter was due to the Committee preferring members to be elected based on individual merit and would not like to exclude people based on their memberships of other organisations.

In addition to the above amendments, the LA21 Committee has also modified the individual member responsibility for clarification purposes only and has specified the method of election which is the same as the Design Advisory Panel. Therefore this amended Terms of Reference includes both Councillor and Committee consultation and provides a comprehensive document similar to that of the Design Advisory Panel to give Council guidance and method in the election of the future Care for Cottesloe (LA21) Committee. For this reason, it is recommended that the Terms of Reference be adopted by Council.

VOTING

Simple Majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council adopt the revised Care for Cottesloe (LA21) Terms of Reference.

Carried 11/0

11.1.2 COTTESLOE CIVIC CENTRE - CATERING LEASE

File No: C4.7
Author: Mr A Lamb
Author Disclosure of Interest: Nil
Report Date: 9 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

The purpose of this report is to bring this matter back before Council in accordance with the following part of a resolution from the February 2003 meeting of Council and to recommend that the lease be extended until August 2004:

That Council give statewide public notice in accordance with Section 3.58(3) of the Local Government Act of its intention to renew the current lease with Spotless Catering Services Ltd for a further twelve months to 1 August, 2004.

STATUTORY ENVIRONMENT

The current Cottesloe Civic Centre lease expires 1 August, 2003 and the current rent is \$50,242.92 inclusive of GST and \$45,675.38 net of GST.

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

Another exception is provided for in the Local Government Act (Section 3.58(3)) which sets out that a local government can dispose of property other than by auction or tender if before agreeing to do so it gives state-wide public notice of its proposal and then considers any submissions made. The notice is to give details of the proposed disposition including the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil in relation to this stage of the process to renew the lease.

BACKGROUND

At its February 2003 meeting Council embarked on the prescribed process to renew the current Civic Centre lease with Spotless Catering. As reported to the February

meeting, the process to renew the lease required that state-wide public notice be given. The notice requirements included a current market value. This was obtained from the Valuer General's Office. The advertisement was placed in the West Australian on 17 May, 2003, and no submissions were received up until the advertised close 2 June, 2003 or until the date of this report.

The market valuation given was \$45,675 per annum, plus out goings.

CONSULTATION

Spotless Catering was contacted regarding the proposed extension of the lease until August 2004 at the current rental, plus CPI and indicated agreement.

STAFF COMMENT

The required process to enable Council to extend the lease is now complete and so it is recommended that the lease be extended.

VOTING

Simple Majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council renew the current lease with Spotless Catering Services Ltd for a further twelve months to 1 August, 2004 at a rental of \$45,675, plus CPI (net of GST).

Carried 11/0

11.1.3 COTTESLOE BUSINESS ASSOCIATION - SUB COMMITTEE

File No: X5.1
Author: Mr S Tindale
Author Disclosure of Interest: Nil
Report Date: 11 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

A recommendation is made to nominate Mayor Rowell and Cr Cunningham to a sub-committee to be formed by the Cottesloe Business Association.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

One of Council's Strategic Plan objectives is to:

Define, enhance and preserve the following precincts: Marine Parade (commercial and residential); Napoleon Street and town centre; heritage; recreational and residential.

FINANCIAL IMPLICATIONS

An amount of \$40,000 has been set aside in the 2003/2004 draft budget for the enhancement of Station Street.

BACKGROUND

The Cottesloe Business Association has written to Council as follows:

Thank you for your letter of the 2 May 2003 enclosing the correspondence from the Shire of Peppermint Grove. We too, as an Association are concerned about the attractiveness of the area and the profitability of the local traders.

We have held a number of meetings with the traders and believe there is a need to progress some of the ninety ideas which were submitted to promote the area. However it is important that the Council be involved to consider further matters such as increasing rates and having the increase allocated to promotion of the area, branding the area, updating signage and generally sprucing up the area.

The Committee decided that we should form a sub-committee consisting of three members from the Business Association Committee, two Town of Cottesloe Councillors and one Shire of Peppermint Grove Councillor. The sub-committee to be chaired by a Business Association representative. The sub-committee has the right to co-opt expert advisors as required.

The main aim of the committee is to develop a plan for the promotion of the Cottesloe Village. The following points are essential to start the process:

- *Branding the area with the logo that was approved at a meeting last year.*
- *Levy on rates for the village properties so that everyone pays for the promotion and not just the members (we have 60% membership)*
- *The improvement of the area in looks.*

These are just three items for initial discussion, but we can use the Mainstreet Project approach to do other things for the area as well as the 90 odd items raised in our research over the last 12 months.

CONSULTATION

Discussions have been held with the Cottesloe Business Association over several months on how best to get a dialogue going between the Town of Cottesloe and the Cottesloe Business Association.

STAFF COMMENT

Mayor Rowell is Council's nominated representative to meetings of the Cottesloe Business Association and Cr Cunningham is his nominated deputy.

Cr Cunningham has considerable business community experience arising from his time as a Councillor with the City of Subiaco.

VOTING

Simple Majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council nominate Mayor Rowell and Cr Cunningham to the proposed sub-committee to be formed by the Cottesloe Business Association.

Carried 11/0

11.1.4 DONATION REQUEST - NORTH COTTESLOE PRIMARY SCHOOL PARENTS AND CITIZENS ASSOCIATION (INC)

File No: C3.7
Author: Mr A Lamb
Author Disclosure of Interest: Nil
Report Date: 10 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

The purpose of this report is to put a donation request from the North Cottesloe Primary School P&C and recommend is approval.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Council has a policy on donations that does not preclude it considering this application.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There is no provision in the current budget for a donation of the amount sought. Provision has been made in the draft budget for 2003/04 for a donation of \$10,000.

BACKGROUND

The North Cottesloe Primary School P & C wrote to Council seeking dollar for dollar funding for a playground project which they costed at \$25,830 including GST. The project is for the supply and installation of a Forpark designed playground within the School grounds and near to the corner of Eric and Railway Streets. The applicant notes that whilst the prime purpose is for students of the school, the location will make the playground accessible to others outside of school hours. Also that the P & C is generally able to raise funds, via various fundraising activities, for the supplementary goods and services required for the benefit of students. However it is looking for help for this one-off project due to its significant cost.

CONSULTATION

Nil.

STAFF COMMENT

It is noted that the school is in Cottesloe and services the district. Also the P & C suggests the park would be available for other residents to use outside of school hours. Based on the benefit to the community, it is recommended that the donation be made.

VOTING

Simple majority if the donation is made in 2003/04 and there is provision for this in the 2003/04 budget.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council make provision in the 2003/04 budget for a donation of \$10,000 to the North Cottesloe Primary School Parents and Citizens Association (Inc) and approve a donation of that amount being made in that year.

Carried 11/0

Note: It was agreed that in the covering letter with the donation, the Town of Cottesloe would confirm the right of children to use the play equipment outside of school hours, request that the equipment passed appropriate safety standards and was strong enough to withstand possible abuse from older users.

11.1.5 LIFEGUARD SERVICES

File No: C2.2
Author: Mr A Lamb
Author Disclosure of Interest: Nil
Report Date: 10 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

The purpose of this report is to put the petition on this matter to the Works and Corporate Services Committee as required by the following Council resolution from the May Council meeting, and to recommend that tenders be called for beach life guard services for a period of five years commencing 2003:

That the petition be referred to the next meeting of the Works & Corporate Services Committee for consideration and the following prayer be recorded in the minutes:

We, the undersigned, wish to thank the Council for extending the hours of the Lifeguard Marshall Walker, and request that the Council will consider continuing with this arrangement in the future.

STATUTORY ENVIRONMENT

Section 3.57 of the Local Government Act requires that tenders be called for the supply of goods or services where the value is expected to be more than \$50,000. It is expected that a five year agreement to supply beach lifeguard services would exceed that amount.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Providing a lifeguard service is in keeping with the objective of providing “A clean, safe beach precinct which is sustainable managed with no new developments West of Marine Parade and proactive conservation of the dune and marine environs.”

FINANCIAL IMPLICATIONS

Council had provided for the costs of a contracted lifeguard service each year in its budget since 2000/01 and provision has been made in the draft budget for 2003/04 for the service to continue.

BACKGROUND

In 1999 Council commenced the practice of annual contracts with Surf Life Saving WA for the provision of lifeguard services at Cottesloe Beach. Prior to this Council employed one full time Beach Ranger and a number of Casual Beach Rangers in the peak season. Ranger's duties included local law enforcement (parking and the like)

and some beach maintenance and so they were not always on lifeguard duty. Public safety and liability concerns prompted the change to a dedicated lifeguard service.

In the years since the first lifeguard contract was drawn up, Council has worked with Surf Life Saving WA on amending the service (in terms of start and finish times, months of operation, and number of guards on patrol) to improve the service provided. The service for 2002/03 was as follows:

PATROL HOURS		
1	1 October 2002 to 20 December 2002	6.00am to 6.00pm
2	23 December 2002 to 31 January 2003	6.00am to 6.00pm (with a 4 hour overlap where two guards were on patrol)
3	3 February 2003 to 28 March 2003	6.00am to 6.00pm
4	31 March 2003 to 27 April 2003	7.00am to 4.00pm

In April 2003 a petition signed by 29 people who were described in the covering letter as *"a group of Senior Citizens who swim at Cottesloe Beach at 7.00am throughout the year"*. The petition was forwarded by June Collins on behalf of the group and passed, with her agreement, to Cr Robertson for presentation to the May meeting of Council. In talking with Ms Collins it was noted that the group would like to see the service continued for a greater part of the year, as they swim year round, but have an appreciation of the financial constraints and so are keen to see at least the same level of service in coming years. They were also very impressed with the lifeguard employed by Surf Life Saving WA in that his attention to duty was reassuring and his general attitude was helpful and cheerful.

CONSULTATION

Ms Collins was contacted by phone and letter and the General Manager of Surf Life Saving WA by phone, to gain their thoughts on possible extensions to the service and the benefits, or otherwise, of a longer term service agreement.

STAFF COMMENT

It appears that the current level of service meets most of the apparent demand and it is noted that the year round swimmers want at least this level maintained. They generally swim daily, year round from 7.00am to 9.00am. According to Surf Life Saving WA it may not be possible to attract high quality patrol people for a few hours a day around these swimming times as they would be attracted away to more full employment. However it is suggested that the practice of including in the service contracts provision for variations to the levels of service be maintained so that opportunities for extending the service could be explored.

Whilst the practice of entering into annual contracts has been workable, a longer term arrangement would be better from a number of perspectives. The service provider would benefit by being able to better plan, attract good staff with the offer of on-going seasonal work and being able to purchase equipment etc. with the knowledge that its cost could be recouped over the term of the agreement. Council and the community

would benefit from the contractor's employment of quality staff and equipment and being able to plan longer term.

VOTING

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council call for tenders for the provision of beach lifeguard services at Cottesloe Beach for a period of five years.

Carried 11/0

11.1.6 LITTER BIN REPLACEMENT RESERVE

File No: C7.6
Author: Mr A Lamb
Author Disclosure of Interest: Nil
Report Date: 10 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

The purpose of this report is to recommend to Council that it rescind its resolution of February 2001, as set out below, and amend the 2002/03 budget to delete the transfer of \$20,000 to create a Litter Bin Replacement Reserve.

- (3) *That Council transfer \$20,000 to a Reserve Fund for the purpose of litter bin replacement annually, commencing from the next financial year, 2002/03, and continuing for four years to 2005/06.*

STATUTORY ENVIRONMENT

Regulations made under the Local Government Act require that a motion to revoke or change a decision made at a Council or Committee meeting must be supported by at least one third of the offices (whether vacant or not) of members of the Council or committee inclusive of the mover. As the decision relates to an amendment of Council's budget, an absolute majority is required to pass the motion.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The recommendation would result in the Waste Management Reserve funds being used for the replacement of litter bins and negate the need to reserve additional funds for this purpose.

BACKGROUND

In September 2001 Council agreed to the proposal by Natsales Australia Pty Ltd to supply, install and maintain litter bin enclosures in Cottesloe subject to the following conditions:

- (1) *Supply and installation of units at no cost to Council;*
- (2) *On-going maintenance and replacement of units at no cost to Council;*
- (3) *25% of advertising space to be available for Council and community messages at all times;*
- (4) *Advertising of cigarettes or anything of an offensive nature, in the opinion of the Council, prohibited;*
- (5) *Advertising by anyone other than local businesses, subject to Council approval;*

- (6) *Vandalism, damage or graffiti to be repaired or removed within 48 hours of notification;*
- (7) *Existing 120 litre litter bins to be purchased from the Council at an agreed price per unit;*
- (8) *Litter bin enclosures to replace existing litter bins only, unless otherwise agreed to by the Chief Executive Officer, and not located in prominent entry and shopping precincts, i.e., Napoleon and Station Streets, Cottesloe Main Beach and the intersection of Eric Street and Marine Parade; and*
- (9) *Any dispute in relation to the location of bin enclosures shall be determined by the Chief Executive Officer, whose decision shall be final.'*

An agreement was entered into with Natsales for a term of five years ending 14 October, 2006.

The enclosures contained advertising and following a number of complaints from residents, Council's Principal Environmental Health Officer recommended to the February 2002 Council meeting:

That Council:

- (1) *Continue with the installation of commercial litter bin enclosures in accordance with the resolution of September, 2001;*
- (2) *Restrict further installations of litter bin enclosures to those litter bins that are in a poor state of repair; and*
- (3) *Transfer \$20,000 to a Reserve Fund for the purpose of litter bin replacement annually, commencing from the next financial year, 2002/03, and continuing for four years to 2005/06.*

Council resolved at that meeting to adopt the recommendations and the 2002/03 budget included provision to create a Litter Bin Replacement reserve and to transfer \$20,000 into it. The transfer has not yet occurred.

Council has a Waste Management reserve of \$70,320 (as at 31 May, 2003) that was established a number of years ago "*To fund the improvement, replacement and expansion of waste management plant, equipment, facilities and services*" (as set out in annual statements and budget). The reserve balance has not changed for some time, except for the addition of interest income.

CONSULTATION

Council's Principal Environmental Health Officer was consulted regarding the recommendation and indicated agreement to it.

STAFF COMMENT

In reviewing the 2002/03 budget and forecasting a year-end position, it was noted that the purpose of the Waste Management reserve was consistent with the purpose of the Litter Bin Replacement reserve, suggesting that the latter was probably not required. It appears that there is no specific planned purpose for funds in the Waste Management reserve and so it is suggested that the additional funds not be reserved, as previously resolved, and that the existing reserve be utilised instead.

VOTING

Absolute majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council rescind part three of its resolution H1 made at the February 2002 Council meeting and amend its 2002/03 Budget by deleting the proposed transfer of \$20,000 to a Litter Bin Replacement Reserve.

Carried 11/0

11.1.7 ORAL HISTORY PROJECT - 'TALES OF TIMES PAST'

File No: X2.1
Author: Mr S Tindale
Author Disclosure of Interest: Nil
Report Date: 11 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

Last month Council endorsed an oral history project entitled '*Tales of Times Past – An Intergenerational Oral History Program*' and agreed to provide the sum of \$2,376 from within the 2003/2004 budget for the project.

Council has now been asked to amend its contribution to \$3,417 following the withdrawal of the Town of Claremont from the project.

The following recommendations are made:

- (1) That Council confirm its existing contribution to the project and request that the overall project be reduced in scale following the withdrawal of the Town of Claremont.
- (2) That if the project's scale cannot be reduced, the Town of Cottesloe withdraw its support for the project.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

To recap the project proposal was as follows:

Consultant's Fee

Coordination and Management of the Program – 55 hours	\$2,200.00
Preparation / Facilitation of workshops and coordination, 8 school / community performances – 104 hours	\$4,160.00
Report (production and printing) 3 copies	\$400.00
Administration costs – Phone / Stationery etc.	\$240.00
Other costs (refreshments, promotions P/L insurance)	\$2,000.00
Total	\$9,000.00

The appropriate council or organisation would meet other costs as indicated above to the project. These would include venue, transport, tea/coffee for workshops,

production costs of publicity (flyers, photos), postage costs; 3 mail outs – senior participants for workshops (community groups, senior citizen centres and nominated individuals), school performances and ongoing marketing mail out and flyer printing costs.

The distribution of costs was as follows: -

Town of Mosman Park	\$2,534.00
Town of Claremont	\$2,689.00
Town of Cottesloe	\$2,376.00
Shire of Peppermint Grove	\$1,401.00
Total	\$9,000.00

These costs were dependent on all Council's participating in the program.

BACKGROUND

Vasanti Sunderland made an offer to run the *Tales of Times Past* program in partnership with the Town's of Claremont, Mosman Park and the Shire of Peppermint Grove for the benefit of seniors and young people within these communities.

Councils specific resolutions from last month were that Council:

- (1) Endorse in principle the *Tales of Times Past* program.
- (2) Place an amount of \$2,376 in the 2003/2004 budget for the *Tales of Times Past* program, subject to endorsement by the Shire of Peppermint Grove and the Towns of Claremont and Mosman Park.

CONSULTATION

Nil.

STAFF COMMENT

As advised previously, the project compliments the outcomes of the recent WESROC seniors needs study and is a positive intergenerational activity.

VOTING

Simple Majority

OFFICER RECOMMENDATION

- (1) That Council confirm its existing contribution to the project and request that the overall project be reduced in scale following the withdrawal of the Town of Claremont.
- (2) That if the project's scale cannot be reduced, the Town of Cottesloe withdraw its support for the project.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council confirm its existing contribution to the project and request that the overall project be reduced in scale following the withdrawal of the Town of Claremont.

Carried 11/0

Note: The Committee felt that it would be premature to rule out the Town of Cottesloe's involvement in the project should the project be incapable of being scaled back.

11.1.8 PRINCIPAL ACTIVITIES PLAN

File No:	X12.3.
Author:	Mr A Lamb
Author Disclosure of Interest:	Nil
Report Date:	9 June, 2003
Senior Officer:	Mr S Tindale

SUMMARY

This report was prepared to table the Principal Activities Plan for the period July 2003 to June 2007 for adoption by Council.

STATUTORY ENVIRONMENT

The Principal Activities Plan is reviewed each year as a mandatory exercise under the provisions of section 5.56 of the Local Government Act (1995). The Act provides that public notice is to be given inviting lodgement of submissions within 42 days.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Preparation of the Principal Activities Plan aligns with District Development – Asset Management - under the Strategic Plan.

FINANCIAL IMPLICATIONS

The Plan is not a commitment to expend funds.

BACKGROUND

The Plan for the next 4 years was advertised in the 'West Australian' (14/5/03) and 'Post' (16/5/03) and a notice placed on Council's notice board (12/5/03 and will remain there until 23/6/03) and at the Library inviting submissions. The submission period will close on 25 June, 2003, and no submissions have been received to the date of this report.

CONSULTATION

No external consultation was conducted other than the statutory advertising for submissions.

STAFF COMMENT

The Principal Activity Plan for the period July 2003 to June 2007 was prepared with input from relevant managers and other members of staff based on underlying programs where these existed. The plan cannot be adopted by Council until after 25 June and so it is recommended that the committee recommendation be put to Council's budget meeting that may be held early in July. No submission or comment has been received to date and any that are will be tabled either at the Committee meeting, or the Council's budget meeting, depending on the date of receipt.

VOTING

Simple Majority.

OFFICER RECOMMENDATION

That Council adopt the draft Principal Activities Plan for the period 2003-2007 as presented at the July Council meeting.

REASON FOR CHANGE

The Principal Activities Plan cannot be adopted until after the submission period which closes after the June full council meeting.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council adopt the draft Principal Activities Plan for the period 2003-2007 at a special budget meeting of Council to be held in July 2003.

Carried 11/0

11.1.9 STANDING COMMITTEES - MEETING DAYS AND TIMES

File No: X4.1
Author: Mr S Tindale
Author Disclosure of Interest: Nil
Report Date: 11 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

A recommendation is made to continue with the current standing committee meeting days and times.

STATUTORY ENVIRONMENT

Regulation 12 of the Local Government (Administration) Regulations applies.

Public notice of council or committee meetings — s. 5.25(g)

- (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which —*
- (a) *the ordinary council meetings; and*
 - (b) *the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.*
- (2) *A local government is to give local public notice of any change to the date, time or place of a meeting referred to in sub-regulation (1).*

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At around the time of the Special Council meeting held in May 2003, there was some discussion on whether the standing committee times and meeting days should be changed to suit individual circumstances. The following tables represent the feedback from elected members on what are acceptable and unacceptable meeting times:

Development Services Committee			
<i>Time</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>
5.30pm	√√√√ X	√√ XXX	√ XXXX
7.00pm	√√ X	XXX	√ XXX

Works & Corporate Services Committee			
<i>Time</i>	<i>Monday</i>	<i>Tuesday</i>	<i>Wednesday</i>
5.30pm	√ XXXX	√√√ XXXXX	XXXXXX
7.00pm	√√ XX	√√√√√ X	√√ XXX

CONSULTATION

All elected members were consulted.

STAFF COMMENT

One can safely argue that Wednesday as a meeting day is generally unacceptable.

The existing meeting days and times appear to be the most acceptable but pose difficulties for Cr Strzina (Development Services) and Cr Cunningham (Works & Corporate Services).

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council retain the existing standing committee meeting days and times.

Carried 10/1

11.1.10 STRATEGIC PLAN – PROPOSAL FROM BANDT GATTER

File No:	X12.4
Author:	Mr S Tindale
Author Disclosure of Interest:	Nil
Report Date:	11 June, 2003
Senior Officer:	Mr S Tindale

SUMMARY

A recommendation is made to engage the firm of Bandt Gatter to further develop Council's strategic plan.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

All and everything.

FINANCIAL IMPLICATIONS

Bandt Gatter has provided a cost estimate of \$8,550 plus GST of 10%.

An amount of \$10,000 has been set aside in the draft budget under the heading "Governance" for the engagement of consultants in 2003/2004.

BACKGROUND

In December 2002 Council adopted a process and timetable for the further development of its strategic plan.

Since then, further discussions have been held with a strategic planning consultant and his recommendation on a timetable and modified process. The proposal was to have been put to last month's Council meeting but has been held off pending the Mayor's return from leave. This means that the time frames referred to in the proposal are effectively out by a month.

CONSULTATION

Nil.

STAFF COMMENT

The consultant comes highly recommended by the CEO of the Town of Mosman Park who has used the consultant's services for that particular local government.

With several new elected members, it is even more appropriate that the Town of Cottesloe confirm/amend its strategic plan and more importantly, develop it into a working document.

However before this can happen, Council must be happy with and take responsibility for the process - otherwise the final product runs the risk of being disowned for spurious reasons.

The opportunities for a frank exchange of ideas amongst Councillors and staff on a preferred strategic direction for Cottesloe are limited given that Council meeting agendas are very much decision based and limited to resolving specific and often topical issues.

The strategic planning process therefore offers an opportunity to step back from the daily grind and focus on where we are headed.

VOTING

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council engage Bandt Gatter to further develop Council's strategic plan.

Carried 10/1

11.2 ENGINEERING**11.2.1 STATION STREET SUMP - PROPOSED CARPARK**

File No: E15.9
Author: Mr M Doig
Author Disclosure of Interest: Nil
Report Date: 11 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

To advise that the concept plans sought by Council have been delivered and consider a recommendation that the matter be dealt with at the July meeting.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In November 2003 (item C109) Council resolved to 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.*

The artist's impression and concept plans were delivered on 11 June and will be available for inspection at the June meeting if required. The staff report will be prepared for the July meeting.

CONSULTATION

Nil

STAFF COMMENT

There is insufficient time available to complete the report in June.

VOTING

Simple Majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

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.

Carried 11/0

11.2.2 GRANT STREET - TRAFFIC CALMING – NOTICE OF MOTION 6/2003

File No: X4.10 & E17.10.42
Author: Mr M Doig
Author Disclosure of Interest: Nil
Report Date: 11 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

Cr Walsh has provided the following background notes and notice of motion:

There is grave concern among the residents of Grant Street that the street is somewhat of a speedway. The lanes are one-way so drivers feel safe at higher speeds and drive accordingly. Stop signs at these intersections will have an immediate effect and are cheap to install. If these are not allowed, we will need to look at some other method of traffic calming for these two dangerous intersections.

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

“That Council apply to Main Roads WA for permission to install ‘Stop’ signs in Grant Street at the Grant/Marmion and Grant/Broome Street intersections and if this is not successful, suitable traffic calming be installed at these intersections as soon as possible.”

STATUTORY ENVIRONMENT

Main Roads WA is responsible for all road marking and traffic signage.
Council is responsible for pavement maintenance, design and construction.

POLICY IMPLICATIONS

- Town of Cottesloe - Traffic Management, including Schedule (3), which sets out the Intervention Guidelines.
- Town of Cottesloe – Traffic Management Plan.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The motion has no financial implication.

BACKGROUND

Speed in Grant Street has not previously been an issue raised and with the introduction of 50KM/hr there should have been an improvement. At the last traffic count taken in 1995 the 85th percentile speed was between 62 and 63 km/hr which was average.

Volume has not been an issue as it has been less than 3,000 vehicles per day which compares favourably with other east-west routes such as North Street and Eric Street, both of which exceed 8,000.

The crash data detailed in the Traffic Management Plan indicates that in the five year period (Jan 1994 to Dec 1998) sixteen crashes occurred at Grant/Marmion Street intersection, four at Grant/Broome Street intersection. Crash data for the five years ending December 2001 (obtained for the purposes of an application for "Black Spot Funding" indicate that twenty five crashes had occurred at Grant/Marmion Streets intersection and eleven at Grant/Broome Streets intersection. The latest data is due in approximately two weeks.

CONSULTATION

Nil.

STAFF COMMENT

There is no prospect of Main Roads WA agreeing to locate either stop signs, or give way signs, in Grant Street while Broome Street and Marmion Street carry half the traffic volume, as they have a policy of placing control signs on the lesser of two intersecting roads.

Council has previously asked that stop signs again be installed at Broome Street. Main Roads WA has advised that there had been no appreciable difference in crash statistics since give way signs were installed and suggested that Council look to other means by which traffic may be better managed. Based on the information available, it seems certain that the reported safety issues will not be resolved with signs alone.

Grant Street is unusual in that there are two widely separated carriageways that can confuse drivers unfamiliar with the area. The very wide median island also makes it difficult to install meaningful traffic signs and as a result there have been a number of variations tried at both Broome Street and at Marmion Street.

Council has the option of engaging traffic engineers to prepare design concepts for alteration to either or both intersection. Council could provide the full funding for the works or in the 2003/04 year or seek "Black Spot" funding, equal to 66% of the project, for construction in the 2004/5 year. The total cost of all works outlined in the Traffic Management Plan was estimated to exceed \$1M. Council has already given priority to resolving the Curtin Avenue crossings at Grant Street and at Forrest Street. Based on accident statistics alone, Grant Street and some other intersection may be more successful. Funding applications for the Curtin Avenue works in 2004/5 will be resubmitted in mid August 2003 on the presumption that the traffic lights at the Grant Street/Curtin Avenue intersection may not proceed.

A further traffic count will be soon undertaken in Grant Street to establish the current volumes and the level of compliance with the 50km/hr limit. As each of the carriageways is on average five metres wide there is sufficient room for kerbside side parking, which usually inhibits average traffic speed. The Main Roads' proposal to mark a 1.5 metre bicycle lane in each direction would reduce the available carriageway, which usually encourages drivers to exercise more restraint.

Requesting Main Roads WA to install stop signs in Grant Street would be futile. It would therefore be more productive to engage traffic engineers to carefully examine the crash detail and traffic data and prepare design concepts and estimated cost to improve both intersections before inviting public comment and then consider the priority for works and the financial implications. Detailed designs may then be finalised.

VOTING

Simple Majority.

COUNCILLOR RECOMMENDATION

That Council apply to Main Roads WA for permission to install 'Stop' signs in Grant Street at the Grant/Marmion and Grant/Broome Street intersections and if this is not successful, suitable traffic calming be installed at these intersections as soon as possible.

OFFICER RECOMMENDATION

That traffic engineers be engaged to prepare design concepts and cost for the modification of the Grant/Marmion intersection and the Grant/Broome intersection and prepare the necessary applications for both State and National Black Spot Funding.

COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Morgan

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

AMENDMENT

Moved Cr. Utting, seconded Cr. Morgan

That the motion be amended by adding the words "and Broome Street, between Grant and North Streets" after the words "*Marine Parade to Curtin Avenue*".

Lost 2/9

The original motion was put.

COUNCIL RESOLUTION

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

Carried 10/1

11.2.3 CURTIN AVENUE AT GRANT STREET

File No: E 17 11 2
Author: Mr M Doig
Author Disclosure of Interest: Nil
Report Date: 17 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

In May 2003 Council resolved to advise Main Roads WA that it supported the installation of pedestrian activated lights rather than traffic lights incorporating a pedestrian phase.

Main Roads WA has now advised that pedestrian numbers are insufficient to meet the warrant required for the installation of pedestrian activated lights in isolation.

Further work has also been done on the original concept with the simplification of the access paths to the station and the deletion of the turn right lane out of Grant Street. Craig Wooldridge of Main Roads WA has been invited to attend the June meeting to explain the proposal and answer any questions.

Main Roads has drafted a project background for the information of residents living in the area bounded by North Street, Marine Parade, Eric Street, Stirling Highway and Congdon Street, with an invitation to comment prior to 8 August.

STATUTORY ENVIRONMENT

Local Government Act.

POLICY IMPLICATIONS

Councils Traffic Policy (Intervention Guidelines) requires public consultation.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil. Consultation will be at Main Roads WA expense.

BACKGROUND

Main Roads WA has proposed that traffic lights be installed at the intersection of Curtin Avenue and Grant Street.

CONSULTATION

The recommendation is that Council endorse a Main Roads WA proposal to undertake a public consultation process.

STAFF COMMENT

The consultation process will be based on the standard information package provided by Main Roads WA in such circumstances. No decision would be made before the results of the consultation are known.

VOTING

Simple Majority.

OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Morgan

That Council endorse a Main Roads WA proposal to undertake a public consultation process in respect of the installation traffic lights, with a pedestrian crossing phase, in Curtin Avenue at Grant Street.

AMENDMENT

Moved Cr. Morgan, seconded Cr. Cunningham

That the motion be amended by adding the words "*street identifiers being included in the results of the consultation process*" after the words "*Grant Street*".

Carried 10/1

The amended motion was put.

COUNCIL RESOLUTION

That Council endorse a Main Roads WA proposal to undertake a public consultation process in respect of the installation traffic lights, with a pedestrian crossing phase, in Curtin Avenue at Grant Street, subject to street identifiers being included in the results of the consultation process.

Carried 10/1

11.3 FINANCE**11.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 MAY, 2003**

File No: C7.14
Author: Mr A Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 May, 2003
Senior Officer: Mr S Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 May, 2003, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil other than Council staff.

STAFF COMMENT

The statements continue to show overall operating expenditure lower and income higher than expected at this time. Whilst some of this appears attributable to timing differences, it is expected, based on information available, that there will be a modest surplus at year end.

Items of variance brought to Council's attention include higher than expected expenditure on the Civic Centre in the area of accommodation costs (page 15 of the financial statements) and lower than expected employee costs. These variances are due to higher than expected expenditure on contractors and cleaning. The former primarily relates to electrical works required to maintain compliance with public building requirements and other electrical maintenance. Cleaning cost increases result from a change in operational arrangements and are largely offset by reduced employee costs.

VOTING

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Utting

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

Carried 11/0

11.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 MAY 2003

File No: C7.14
Author: Mr A Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 May 2003
Senior Officer: Mr S Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 May 2003, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

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

CONSULTATION

Nil

STAFF COMMENT

As will be noted from the Schedule of Investments on page 33 of the May Financial Statements, \$859,038.31 was invested as at 31 May 2003. Of this \$ 593,192.02 was reserved and so were restricted funds. 2.41% of funds were invested with the National Bank, 73.61% with Home Building Society and 23.98% with Bankwest.

VOTING

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Utting

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

Carried 11/0

11.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 MAY, 2003

File No:	C7.8
Author:	Mr A Lamb
Author Disclosure of Interest:	Nil
Period Ending:	31 May, 2003
Senior Officer:	Mr S Tindale

SUMMARY

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

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil other than with Council staff.

STAFF COMMENT

Significant payments brought to Council's attention include:

- \$10,242.33 and \$19,685.13 to WA Local Government Super Plan for employee superannuation contributions.
 - \$12,800.90 to Western Power for electrical supply charges.
 - \$11,871.94 to the ATO for FBT.
 - \$16,588 to Maitland Consulting Engineer for professional service on the Civic Centre project.
 - \$12,760 to Collier Knyn and Associates for purchase of the bin system and data conversion.
 - \$23,562 to ICT4U Ltd for the new Parkit parking system.
 - \$154,231.27 and \$171,000.71 to the Town of Mosman Park for works at Broome Street.
 - \$27,500 to Playground Solutions for the supply and installation of playground equipment.
 - \$10,450 to Surf Life Saving WA for lifeguard services.
 - \$36,005.98 to Wasteless for rubbish collection services.
-

- \$11,864.73 to Corporate Express for new backup hardware and software (\$11,370.12) and stationery.
- \$13,051.20 to Western Metropolitan Regional Council for transfer station fees.
- \$41,280.32 and \$45,245.95 for staff payroll for May.

VOTING

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Utting

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

Carried 11/0

**11.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 MAY, 2003**

File No: C7.9
Author: Mr A Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 May, 2003
Senior Officer: Mr S Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 May, 2003, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on page 32 of the May Financial Statements shows a balance of \$48,934.34 as at 31 May, 2003. Of this \$9,278.70 relates to May.

VOTING

Simple majority.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Utting

That Council:

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

Carried 11/0

11.3.5 DRAFT BUDGET FOR THE PERIOD 2003/04

File No:	C7.6
Author:	Mr A Lamb
Author Disclosure of Interest:	Nil
Report Date:	12 June, 2003
Senior Officer:	Mr S Tindale

SUMMARY

The purpose of this report is to put the draft 2003/04 Budget to the Works and Corporate Services Committee for review and recommendation to a meeting of Council to be held in July.

STATUTORY ENVIRONMENT

Section 6.2 of the Local Government Act provides that not later than 31 August in each financial year each Local Government is to prepare and adopt a budget for its municipal fund for the year ending on the next following 30 June. This is interpreted to mean that Councils cannot adopt their annual budgets until the commencement of the year to which they apply, and so Council could not adopt its budget until July.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

None other than those shown in the Draft Budget.

BACKGROUND

A copy of the draft budget was circulated to all Members.

CONSULTATION

The Draft Budget has been developed with wide involvement of staff and a number of workshops/briefing sessions were held for Councillors and senior staff.

STAFF COMMENT

The Draft Budget is put to the Works and Corporate Services Committee for its consideration and recommendation to a Council meeting to be held in July.

VOTING

Absolute Majority Required.

OFFICER RECOMMENDATION

That Council resolve that:

(1) ADOPTION OF 2002/2003 BUDGET- SECTION 6.2 LOCAL GOVERNMENT ACT 1995

- (a) The budget for the financial year ending 30 June 2004, be received and adopted.
- (b) The Statement of Cash Flows for the financial year ending 30 June 2004, be received and endorsed.
- (c) The Statement of Amount to be made up from rates for the financial year ending 30 June 2004, be received and endorsed.
- (d) That the Operating Statement Budget showing expenditure of (to be inserted) and revenue of (to be inserted) for the financial year ending 30 June 2003, be received and endorsed.

Absolute Majority Required

(2) ADOPTION OF RATE - SECTION 6.32 LOCAL GOVERNMENT ACT 1995

- (a) General Rate
That a rate of (to be inserted) cents in the dollar on Gross Rental Value of all the rateable property within the Municipality of Cottesloe be imposed for the financial year ending 30 June 2004.
- (b) Refuse Collection
That a refuse charge of \$177 per service plus GST be imposed for residential properties, where more than one service is used for the financial year ended 30 June 2004, and that refuse charges as set out in the List of Fees and Charges apply to all services in respect of commercial properties
- (c) Minimum Rate
That a minimum rate of (to be inserted) be imposed for the financial year ending 30 June 2004.
- (d) Administration Charge - Section 6.45 (3) Local Government Act 1995
That an administration charge of \$42 be imposed where payment of a rate or service charge is made by instalments, except that Eligible Pensioners will be excluded from paying the charge.
- (e) Interest - Section 6.51 Local Government Act 1995
That an interest rate of 11% per annum be applied to rates and service charges levied in the 2003-2004 financial year which remain unpaid after they become due and payable and where no election has been made to pay the rate or service charge by instalments.

(6) Rates Instalment Payment Option

That the following rates instalment options be adopted:

Option 1

To pay the total amount of rates and charges included on the rate notice in full by the 35th day after the issue.

OR

Option 2

To pay by four (4) instalments, as will be detailed on the rate notices with the following anticipated dates:

First Instalment due by (to be inserted)

Second Instalment due by (to be inserted)

Third Instalment due by (to be inserted)

Fourth Instalment due by (to be inserted)

Absolute Majority Required

(3) **INTEREST ON MONEY OWING - SECTION 6.13 OF THE LOCAL GOVERNMENT ACT 1995**

That an interest rate of 11% per annum may be applied to any amount not paid within 35 days of the date of the issue of the account.

Absolute Majority Required

(4) **MEMBERS MEETING ATTENDANCE FEES - SECTION 5.99 LOCAL GOVERNMENT ACT 1995**

That the prescribed minimum annual meeting attendance fee for elected members be applied.

Absolute Majority Required

(5) **MAYOR AND DEPUTY MAYORAL ALLOWANCE – SECTION 5.98 AND 5.98A LOCAL GOVERNMENT ACT 1995**

That the Mayoral Allowance be \$2,200 and the Deputy Mayoral Allowance be \$550.

(6) **TELECOMMUNICATIONS FEE - ELECTED MEMBERS – POLICY**

That the Telecommunication Fee – Elected Members Policy be amended to provide for an annual telecommunication fee of \$1,400.

Note: It was decided to refer this officer's recommendation straight through to a special Council meeting for the adoption of the budget to be held in early July, noting that proposed fencing and shading for a playground was to be deleted and funding for the cataloguing of historic documents was to be included.

COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Sheppard

That a Committee of the Whole meeting be held on Monday 30 June, 2003 to discuss the budget.

Carried 10/1

12 REPORTS OF OFFICERS

Nil.

13 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**13.1.1 PROPOSED CLOSURE OF JARRAD STREET – NOTICE OF MOTION 7/2003**

File No: X4.10 & E17.10.50
Author: Mr M Doig
Author Disclosure of Interest: Nil
Report Date: 11 June, 2003
Senior Officer: Mr S Tindale

SUMMARY

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

As a member of the Sea View Golf Club for 30 years I enjoyed many rounds of golf and the associated good companionship. However when my handicap slipped out to 24, I decided to retire from the game and resigned from the club. That was 5 years ago.

At the Council meeting of 25 May, 2003, I quote from the Minutes

“AMENDMENT NO. 2

Moved Cr Utting that a letter inviting comment on the proposed road closure be sent to every household in Cottesloe.

Lapsed for want of a Seconder”

The purpose of my proposed amendment was to ensure that everyone in Cottesloe was aware of the proposal to close Jarrad Street. The letter would contain a ballot slip so that a referendum would be carried out. Council would then be in a far better situation to assess the wishes of the residents.

Another matter of serious concern is that if 7 Councillors are members of the Golf Club, it could be difficult to convince the residents of Cottesloe that the matter would be dealt with in an impartial manner, despite the Golf Club Councillors submitting Certificates of Impartiality.

It appears to be essential that a referendum be held on the proposal by the Golf Club to close Jarrad Street. Preferably the referendum should be carried out by the State Electoral Commission.

For the next Council meeting I submit the following Notice of Motion:

“A referendum of Cottesloe residents shall be carried out by the State Electoral Commission in order to determine whether or not Jarrad Street should be closed as required by Council Resolution No. 11.1.4 of 26 May, 2003.”

STATUTORY ENVIRONMENT

Section 3.5 of the Local Government Act empowers a local government to temporarily close a thoroughfare for periods up to four years, subject to a public notice inviting submissions and advice to Main Roads and other prescribed bodies.

Section 58 of the Land Administration Act details the procedure for the permanent closure of roads and requires public notice inviting submissions. While a local authority may recommend, the Minister for Land makes the final decision.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

A referendum conducted by the Electoral Commission would be charged on a cost plus basis, which would be in the order of \$16,000, based on the most recent election.

BACKGROUND

Nil

CONSULTATION

nil

STAFF COMMENT

There is no statutory requirement to hold a referendum in these circumstances.

In addition to the direct cost of engaging the Electoral Commission, Council would have to advertise to invite a new enrolment, and then produce another electoral roll, which is a time consuming and costly process.

If the referendum were to be an informed yes/no vote, Council would also have to prepare the electoral papers which would inevitably be subject to criticism by either, or both, sides of the argument as being biased in some way.

An invitation to make a written submission is a requirement of the legislation and has the advantage of allowing the resident to express a far more detailed argument. This may include ideas and viewpoints not previously considered by Council or staff.

VOTING

Simple Majority

Note: The Committee decided to refer the notice of motion to full Council without comment.

Crs Furlong, Jeanes, Morgan, Robertson, Sheppard, Strzina & Walsh declared their impartiality in accordance with Council's Code of Conduct.

COUNCILLOR RECOMMENDATION

Moved Cr Utting, seconded Cr Miller

A referendum of Cottesloe residents shall be carried out by the State Electoral Commission in order to determine whether or not Jarrad Street should be closed as required by Council Resolution No. 11.1.4 of 26 May, 2003.

Lost 2/9

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

14.1 MUNICIPAL INVENTORY LISTING – NO. 62 BROOME STREET

There was some discussion on Mrs Ana Africh's properties being caught up in Amendment No. 30.

14.2 REVIEW OF DELEGATIONS

Cr Cunningham agreed to refer this matter to the Development Services Committee meeting.

15 MEETING CLOSURE

The Mayor announced the closure of the meeting at 9:50 pm.

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