

## Summary of Submissions – 20A Deane Street, Cottesloe

1	<ul style="list-style-type: none"><li>• Objects to both proposed crossover options;</li><li>• Both options may impact on vehicle and pedestrian safety and have a negative impact on the streetscape and amenity;</li><li>• Access to the lot should not burden the community with works in public spaces. The subdivision should have been designed by the developer to avoid this and use the site itself;</li><li>• The proposals are inappropriate and contrary to orderly and proper planning to rely on the public domain to give effect to development that already has an approved point of access;</li><li>• The applications do not satisfy Clause 67, Schedule 2 of the Planning &amp; Development (Local Planning Schemes) Regulations 2015 (refer submission);</li><li>• The proposals could set a precedence in the locality;</li><li>• References previous letter of objection dated 12 October 2017.</li></ul>
2	<ul style="list-style-type: none"><li>• Objects to the proposals;</li><li>• The developer is bullying Council and the community into accepting proposals that are not acceptable;</li><li>• The proposals would set a precedence which would destroy Deane Street.</li></ul>
3	<ul style="list-style-type: none"><li>• Objects to the proposals;</li><li>• References a petition submitted to Council last year that showed overwhelming support for modifying the existing ramp;</li><li>• The proposals would greatly affect our lifestyle and spoil the tradition of Deane Street that has been enjoyed for many years.</li></ul>
4	<ul style="list-style-type: none"><li>• Objects to the proposals;</li><li>• Makes reference to previous letter dated 10 October 2017 as is currently away and unable to attend meetings;</li><li>• Agrees with comments made by Mrs Jagger in her email of 2 July 2018 to the CEO;</li><li>• Particularly concerned about the safety and aesthetic issues;</li><li>• Respectively urges Council to appoint its own expert to review the various options.</li></ul>
5	<ul style="list-style-type: none"><li>• Neither option is desirable due to issues pertaining to safety and litigation. Also, amenity and precedence and other issues previously raised still apply;</li><li>• The existing ramp should be used if possible.</li></ul>
6	<ul style="list-style-type: none"><li>• Objects to the proposals;</li><li>• References a petition submitted to Council in 2017 rejecting the alternative crossover proposals;</li><li>• Will set a precedent for these types of development;</li><li>• The proposals will create a safety issue and could necessitate more of the trees and shrubs to be removed, which gives the street its unique character;</li><li>• Makes reference to the SAT appeal in Deane Street for a similar crossover proposal which was rejected;</li><li>• Council owes a duty of care to the ratepayers to act in their interests and the Town as a whole.</li></ul>

7	<ul style="list-style-type: none"><li>• The diversion of the footpath down to the street level would result in a pathway that is too steep for the elderly to use;</li><li>• Not strongly opposed to footbridge option as it would not create an impediment to pedestrians but make the following comments;</li><li>• Ratepayers will be saddled with ongoing maintenance of the bridge;</li><li>• The bridge will not improve amenity for the community or improve the streetscape. It will only benefit one resident;</li><li>• Other properties at 20, 22, 24, 26 and 30 Deane Street should also be allowed to develop a tunnel if the application gets approved;</li><li>• Would prefer current conditions to remain.</li></ul>
8	<ul style="list-style-type: none"><li>• Supports proposed vehicle crossover with pedestrian footbridge over;</li><li>• The proposal will improve the safety and amenity of the street by removing the possibility of any pedestrian and vehicle/cycle interaction, and improving the appearance of the verge.</li></ul>
9	<ul style="list-style-type: none"><li>• Supports proposed vehicle crossover with pedestrian footbridge over;</li><li>• The proposal will improve the safety and amenity of the street by removing the possibility of any pedestrian and vehicle/cycle interaction, and improving the appearance of the verge.</li></ul>

13 July 2018

Our Ref: BYN DEA GE

Chief Executive Officer  
Town of Cottesloe  
PO Box 606  
COTTESLOE WA 6911

Allerding  
& Associates

Town Planners, Advocates  
and Subdivision Designers

ABN 24 044 036 646

**Attn: Ed Drewett (Senior Planning Officer)**

Dear Ed,

**RE: SUBMISSION IN RESPONSE TO PROPOSED CROSSOVER TO 20A DEANE STREET,  
COTTESLOE**

We act on behalf of the landowners of Lot 15 (No. 20) Deane Street and Lot 14 (No. 22) Deane, Cottesloe, located to the east of No. 20A Deane Street, Cottesloe (**subject site**).

In October 2017 we submitted an objection to a proposed crossover from Deane Street to the subject site under consideration by the Town of Cottesloe's (the Town's) engineering department. A copy of that submission is attached. It is understood that the following Council's decision to refuse that proposal at its Special Council Meeting of 17 October 2017, the Applicant appealed the decision to the State Administrative Tribunal (SAT). It is understood that SAT has subsequently ordered the Applicant to seek planning approval from the Council for the proposed crossover due to the extent of works proposed within the road reservation.

This submission has therefore been prepared on behalf of our clients to register their continued objection to the planning applications currently before the Council, which include:

1. Vehicle crossover perpendicular to Deane Street with pedestrian footbridge over (no residential development proposed); and
2. Vehicle crossover perpendicular to Deane Street and diversion of pedestrian footpath (no residential development proposed).

It is our clients' submission that neither crossover should be allowed given the potential issues arising with respect to vehicle and pedestrian safety, as well as the likely negative impacts to the streetscape and amenity of the locality. In addition, the proposal also offends the longstanding planning principle that development works to give effect to a particular development be undertaken within the confines of the site itself. It is apparent that the existing subdivision was undertaken with the full knowledge of the verge, with

the access then provided accordingly with the least impact on the verge. The fact that the landowner now finds that the access is inconvenient should not burden the community with works in public spaces when an opportunity would have been available at the time of subdivision to have modified access arrangements using the site itself and not the public domain. In essence, the applicant is attempting to defray the responsibility of access onto public land as opposed to their public land interests in contrast to that longstanding planning principle.

### **Description of Subject Site and Surrounds**

Our clients' properties at Nos. 20 and 22 Deane Street and the subject site are located on the northern side of Deane Street. The northern section of the Deane Street road reserve, parallel to the existing carriageway, currently comprises a steep vegetated embankment which rises from the carriageway to the level of the pedestrian footpath. **Figure 1** shows the extent of the embankment in front of the subject site when viewed from Deane Street. The footpath at the top of the embankment runs parallel to the front property boundaries of the dwellings along this part of Deane Street between Avonmore Terrace and Broome Street and has historically existed to provide the adjoining properties with pedestrian access to the surrounding footpath network. This includes pedestrian access from these properties to Avonmore Terrace and locations west of the subject site, including the foreshore. Photos of the existing footpath are provided at **Figures 2 and 3**.

The subject site has been created through the subdivision of a former larger allotment on the north-eastern corner of Avonmore Terrace and Deane Street. The result of that subdivision is that vehicle access to the subject site has been provided via an angled crossover of approximately 3m in width up the embankment on Deane Street to service the site. This construction work has already resulted in the modification of the embankment and associated removal of vegetation to provide for vehicle access to service the new development on the subject site. Photos of the existing vehicle access to the subject site are provided at **Figures 4 and 5**.

### **Proposal**

The subject site is presently vacant and it is understood from review of the plans associated with the two proposals that the applicant is seeking approval to remove the existing vehicle crossover to the vacant property and construct a crossover at street level through a trench in the embankment. It is proposed that the crossover will provide access to a subterranean double garage. While the location of the garage is shown on the plans, no other detail of the future dwelling is provided on the plans. The proposed trenching works will remove the pedestrian footpath connection in this location. In order to address the termination of the footpath on either side of the embankment and crossover, the applicant proposes two solutions, each forming separate planning applications.



Figure 1 – Photo of Deane Street embankment (foreground) with Subject Site beyond fence (background)

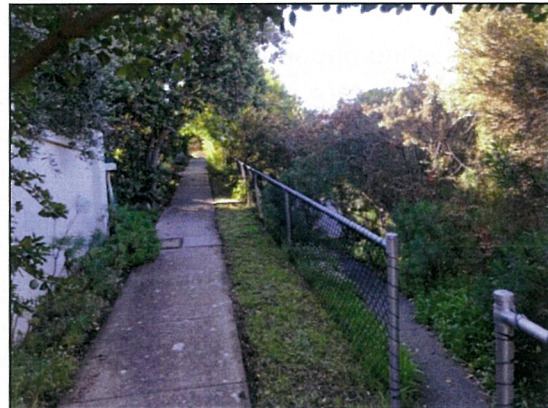


Figure 2 – Photo of existing footpath looking east from 20 Deane Street

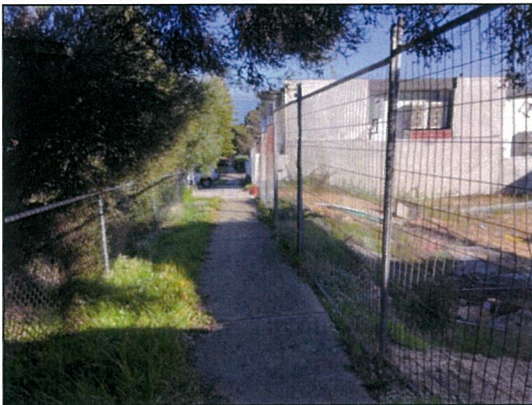


Figure 3 – Photo of existing footpath looking west from 20 Deane Street



Figure 4 – Photo of existing constructed driveway to subject site



Figure 5 – Photo of existing constructed driveway to subject site (taken from Deane Street carriageway)



Figure 6 – Photo looking west along Deane Street demonstrating the embankment commencing at the edge of the carriageway.

The first option involves the construction of a 10m long concrete footbridge over the proposed crossover. The footbridge would follow the alignment of the existing footpath and would be constructed with a 1m high balustrade. The footbridge would be positioned between 2.05m and 2.78m above the proposed finished level of the crossover. The total length of the footbridge would be necessary to span the 5.5m wide garage and the 2.25m wide embankments on either side of the crossover.

The second option involves the diversion of pedestrian footpath down the embankment on the western side of the proposed crossover and the termination of the footpath adjacent to the eastern and western sides of the proposed garage and crossover. This includes the construction of fencing to permanently terminate the footpath connection on either side of the proposed trench. This option would require the continuation of the pedestrian footpath along the northern side of the Deane Street carriageway to connect to the existing footpath east of the subject site. As can be seen in **Figure 6** there are practical issues with this option given that the embankment immediately adjacent to the Deane Street carriageway steeply rises with no space for a roadside footpath connection to the existing footpath further east along Deane Street.

### Discussion

In considering the two proposals, it is our submission that it is inappropriate and contrary to orderly and proper planning to rely on the public domain to give effect to development that already has an approved point of access that has least affect on the verge and maintains convenient access for all parties. It is unclear as to the motivation of the applicant to seek a new point of vehicular access to a subterranean garage, however it appears that the proposal may provide for further developable area within the boundaries of the subject site if the garage were to be constructed in the proposed location. Regardless, the subdivision of the subject site has been created with vehicle access via an angled ramped crossover and the development that ultimately occurs on the site should be undertaken within the constraints of the property, including the existing vehicle access.

Having regard to the relevant planning framework, when considering a planning application, Council must have due regard to those matters relative to the proposal as set out in Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)*, including:

<b>Provision:</b>	<b>Response:</b>
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	A key aim of the Town's Local Planning Scheme No. 3 ( <b>LPS3</b> ) is to sustain the amenity, character and streetscape quality of the Scheme area. The proposed excavation works required in this instance would result in further disruption to the form and topography of the embankment and the established vegetation in this location. For this reason it is considered that the proposal fails to achieve this aim.
(b) the requirements of orderly and proper planning...;	As previously noted, it is not considered orderly and proper for a development to rely on the public domain to give effect to significant and highly unusual works in the manner proposed.

<p>(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</p>	<p>SAT considered a similar proposal in 2016, in its decision of Moore and Town of Cottesloe [2016] WASAT 118, which involved a new crossover into No. 21 Deane Street through a trench in the embankment to a tunnel-like access way into the basement level of the proposed dwelling. In that decision, SAT concluded that "the impact of the proposed development would be unacceptable because the removal of part of the significant element that characterises the streetscape – the embankment – would be detrimental to the streetscape and to the amenity of the locality."</p> <p>The subject site is located directly adjacent to the property considered in SAT matter [2016] WASAT 118 and it is considered that the impact of the proposals in this instance are likely to result in similar impacts on the streetscape character and amenity of the area as a result of the significant modifications required to the existing embankment and associated loss of established vegetation. For these reasons, the proposals are considered to be incompatible with the setting.</p>
<p>(n) the amenity of the locality including the following –            (i) environmental impacts of the development;            (ii) the character of the locality;            (iii) social impacts of the development;</p>	<p>For the reasons given under (m) above, it is our submission that the proposal to create a new crossover and double garage within the embankment of the Deane Street road reservation, for the sole purpose of gaining vehicle access to the subject site, is unreasonable and is likely to result in negative impacts on the amenity and character of the locality.</p>
<p>(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;</p>	<p>The proposal will result in the removal of established vegetation which has existed in the locality for many years and forms part of the amenity of the area. The plans submitted by the applicant show landscaping of the new embankment created by the proposed trenching works. However it has not been verified whether the proposed landscaping addresses the Town's verge planting requirements or what arrangements will be made for the ongoing maintenance of the planting. In any event, the disruption to the existing banked landscaping is considered to be undue and adverse and should not be supported to accommodate subterranean</p>

	access.
(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;	An engineering report verifying the stability of the proposed trench and bridge works was not made available as part of the documentation available for public review. Without such information it is not possible to provide comment on whether the risks of the proposal have been adequately considered.
(r) the suitability of the land for the development taking into account the possible risk to human health or safety;	A public safety report verifying the safety of the bridge and embankment was not made available as part of the documentation available for public review. Without such information it is not possible to provide comment on whether the risks of the proposal to human health and safety have been adequately considered. Furthermore, the proposal, which involves significant excavation of the existing embankment, may create vehicle sightline issues for users of the proposed crossover. The plans fail to appropriately detail whether adequate sightlines will exist between the crossover and the carriageway to limit traffic conflict and risks to pedestrian safety, without further extensive works involving cutting and removal of vegetation.
(s) the adequacy of – (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;	Vehicular access to the subject site is provided by an existing 3m wide driveway which was constructed as part of the previous subdivision of the land. As noted above, there is no evidence that the proposed crossover will function safely from a traffic perspective. Sightlines from the crossover may be limited, with potential for traffic conflict and risks to pedestrians or road users. Further, it is standard and longstanding practice that where basement parking is provided on a site, access ramping is provided wholly on the development site and not in the public domain.
(w) the history of the site where the development is to be located.	The subdivision of the subject site has been created with vehicle access via an angled ramped crossover. Vehicle access to the subject site therefore already exists in an appropriate and approved form. If the applicant seeks to have subterranean parking, it is open to them to provide that within the confines of their own lot without using the public domain.



<p>(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;</p>	<p>The overall impact on the community arising from the proposed trench is considered to be unreasonable and will result in an adverse and undue impact to the amenity of the locality and the environmental and landscape values that have contributed to the streetscape and character of this location for many years. Given that suitable vehicle access is already provided to the subject site, there is no clear rationale as to why the Town should accept a development that will negatively impact the broader community for the sole purpose of accommodating an alternative form of private vehicle access to an individual dwelling on privately owned land. This is particularly so when the applicant is able to undertake subterranean parking using ramping on their own land if they so choose.</p>
<p>(y) any submissions received on the application;</p>	<p>It is requested that the Council give due regard to the concerns of our client and the broader community in making its determination on the two planning proposals.</p>

In summary, to avoid the disruption of this existing public thoroughfare and limit further works requiring additional vegetation removal and earthworks which would be detrimental to the character and amenity of the locality, we respectfully seek that Council refuse both planning proposals. We consider that there is no justification for the use of the public realm in achieving the desired development outcomes of a private allotment to the benefit of one landowner. We consider that there is also a risk that approval of either proposal may set an undesirable precedence in this locality. It is recognised that a similar proposal was previously contemplated on Deane Street on a property adjacent to the subject site in [2016] WASAT 118 and was found by SAT to be detrimental to the streetscape and to the amenity of the locality. Approval of either proposal may therefore result in subsequent and continued attempts for similar proposals in the locality.

We seek the Town's confirmation that the existing constructed angled crossover will be retained to service the subject site without the need for the modification of the existing pedestrian footpath in this location.

In the meantime however, should you have any queries or require any further information, please do not hesitate to contact our office on 9382 3000.

Yours sincerely  
**ALLERDING AND ASSOCIATES**

**TOM HOCKLEY**  
**ASSOCIATE**

cc. Client (via email)

Encl. Previous submission to Town of Cottesloe dated 12 October 2017

12 October 2017

Our Ref: BYN DEA GE

Chief Executive Officer  
Town of Cottesloe  
PO Box 606  
COTTESLOE WA 6911

**Allerding  
& Associates**

Town Planners, Advocates  
and Subdivision Designers

ABN 24 044 036 646

**Attn: Nicholas Woodhouse (Manager Engineering Services)**

Dear Nicholas,

**RE: PROPOSED CROSSOVER TO 20A DEANE STREET, COTTESLOE**

We act on behalf of the landowners of Lot 13 (No. 24) Deane Street, Cottesloe, located to the east of No. 20A Deane Street, Cottesloe (**subject site**).

Both our client's property at No. 24 Deane Street and the subject site are located on the northern side of Deane Street. The northern section of the Deane Street road reserve, parallel to the existing carriageway, currently comprises a steep vegetated embankment which rises from the carriageway to the level of the pedestrian footpath. This footpath runs parallel to the front property boundaries of the dwellings along this part of Deane Street between Avonmore Terrace and Broome Street and has historically existed to provide the adjoining properties with pedestrian access to the surrounding footpath network. This includes pedestrian access from these properties to Avonmore Terrace and locations west of the subject site, including the foreshore.

The subject site has been created through the subdivision of a former larger allotment on the north-eastern corner of Avonmore Terrace and Deane Street. The result of that subdivision is that vehicle access to the subject site has been provided via an angled crossover up the embankment on Deane Street to service the site. This construction work has already resulted in the modification of the embankment and associated removal of vegetation to provide for vehicle access to service the new development on the subject site.

The subject site is presently vacant and it is understood from the correspondence received from the Town of Cottesloe (**the Town**) dated 2 October 2017 that the owner of the subject site is seeking approval to remove the existing vehicle crossover to the vacant property and construct a ramped crossover through a trench in the embankment. The proposed trenching works will remove the pedestrian footpath connection in this location, terminating the pathway on either side of the embankment and will therefore remove east to west pedestrian movements along this portion of Deane Street. The

proposed trench would also result in further disruption to the form of the embankment and the established vegetation in this location.

The overall impact on the community arising from the proposed trench is considered to be unreasonable and will result in an adverse and undue impact to the amenity of the locality and the environmental and landscape values that have contributed to the streetscape and character of this location for many years. Given that vehicle access is already provided to the subject site, there is no clear rationale as to why the Town should accept development that will negatively impact the broader community for the sole purpose of accommodating an alternative form of vehicle access to an individual dwelling on privately owned land. The subdivision of the subject site has been created with vehicle access via an angled ramped crossover and the development that ultimately occurs on the site should be undertaken within the constraints of the property, including the existing vehicle access.

Our client therefore seeks to register their objection to the proposed trenched crossover and footpath works within the Deane Street road reserve which would ultimately result in a negative impact on the broader community.

In summary, to avoid the disruption of this existing public thoroughfare and limit further works requiring additional vegetation removal and earthworks, we respectfully seek that the Town does not allow the proposed new crossover. We seek the Town's confirmation that the existing constructed angled crossover will be retained to service the subject site without the need for the closure of the pedestrian footpath in this location.

Our client would be willing to meet on site if it would assist with the Town's consideration of the matter. In the meantime however, should you have any queries or require any further information, please do not hesitate to contact our office on 9382 3000.

Yours sincerely  
**ALLERDING AND ASSOCIATES**

**TOM HOCKLEY**  
**ASSOCIATE**

cc. Client (via email)

## Ed Drewett

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**From:**  
**Sent:** Friday, 13 July 2018 10:55 AM  
**To:** council  
**Subject:** planning proposal for 20A Deane St

Dear Mr Drewett, Coordinator, Statutory Planning,

Thank you for the opportunity to comment of two proposal for 20a Deane St. I own and live at

I am appalled that we have found ourselves in this position. The developer bought one property with one house, and has over-developed the land for profit.

He has dug a huge hole (20A) and built multiple houses thus blocking access to the hole (20A).

He /we knew that tunnelling through the embankment in Deane St has not been allowed with several previous applications being denied by the council.

Now is bullying the Council/community into accepting proposals that are not acceptable. You must have heard the community members who have spoken up about this before have had their lawns poisoned!

If the Council were to allow either proposal, immediately other owners/ properties on both sides of Deane St would apply and expect the same approval. This would destroy Deane St as we know it.

Both proposals are unacceptable to me.

Regards,

From

To Town of Cottesloe

Ref 5 2018 3710

c/o Mr Ed Drewett

Coordinator, Statutory Planning

12/7/2018

TOWN OF COTTESLOE

12 JUL 2018

RECEIVED

Dear Sir,

Thank you for your letter 28/June 2018

Myself & My Family object 100% to the

1) Lot 506 D/P 77405 = 20 A Deane St, Cottesloe  
(vehicle crossover perpendicular with pedestrian footbridge)  
AND object 100%

2) Lot 506 DP 77405 20 A Deane St, Cottesloe  
(Vehicle crossover perpendicular to Deane St and  
diversion of pedestrian foot path.)

We have viewed the "Proposal" at the Towns  
Office and "OBJECT" to "BOTH" 100%

When this matter came up last year a  
petition was presented to council showing  
overwhelming support for MODIFICATION of  
the RAMP THAT WAS ALREADY THERE

? Why are we being asked to comment on  
JUST THE 2 PROPOSALS? ?

2 My family has a 100 YEAR +  
connection to Cottesloe.

I am a resident of Cottesloe for 71 Years,  
Living in

We have seen the devious nature of  
the owner of 20 A Deane St, and  
his disrespect for long term residents  
of Deane Street.

The 2 Proposals would greatly affect  
our (and my) lifestyle. and spoil  
the tradition of Deane Street we have  
enjoyed for many many years.

100%<sup>o</sup> objection to both proposals.

Your Sincerely

## Ed Drewett

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**From:**  
**Sent:** Saturday, 7 July 2018 11:28 PM  
**To:** council  
**Subject:** Fwd: 20A Deane Street  
**Attachments:** Letter to Cottesloe p1.pdf; Letter to Cottesloe p2.pdf; Letter to Cottesloe p3.pdf

Good afternoon,

I understand that the issue of the crossover to provide access to the above property is once again before the Council. My wife and I are overseas again, as we were last year, and shall therefore be unable to attend the meeting later this month at which the matter will be discussed. However, our views have not changed. I am therefore re-sending the letter which I sent last October and ask that it once again be placed before the Councillors.

I would like it to be recorded also that my wife and I are fully in agreement with all the points raised by [redacted] in her email of 2 July to the CEO and Councillors. We are particularly concerned about the safety and aesthetic issues and respectfully urge the Council to appoint its own expert to review the various options.

I should be grateful to receive an acknowledgment that this email and attachment will be placed before the Councillors.

With thanks,

Sent from my iPad

Begin forwarded message:

**From:**  
**Date:** 10 October 2017 at 10:44:45 BST  
**To:** [council@cottesloe.wa.gov.au](mailto:council@cottesloe.wa.gov.au)  
**Subject:** 20A Deane Street

Good afternoon,

I am attaching a letter - 3 pages- addressed to the Cottesloe Council relating to the access to 20A Deane Street.

I am sending it by email because I am in the UK at present, returning on 17th October.

Would you please place this letter before the Councillors and confirm that this has been done.

With thanks,



The Members of Council  
Town of Cottesloe  
109, Broome Street  
Cottesloe WA 6011

10 October 2017

Dear Councillors,

**Re: 20A Deane Street**

My wife and I are the owners of the property at (located on the corner of Deane Street) where we have lived for over 20 years.

I am responding to the letter dated 2 October 2017 from Mr Nicholas Woodhouse in which he invites comments about the possible access arrangements for 28 Avonmore Terrace and 20A Deane Street.

As we understand it, the Town of Cottesloe's preferred option for vehicular access to 20A Deane Street is a trench linking the road to a basement garage. This would involve removing a section of the existing footpath and closing the balance to through traffic.

The Town will no doubt take legal advice about this proposal. However, as a former I am qualified to express the opinion  
that this option is not open to the Town. That is because, by section 55 of the Land Administration Act 1997, property in land comprising a road is vested in the Crown. And by section 3, the definition of "road" includes a "thoroughfare ..... for the passage of pedestrians": ie, a footpath. The consequence of the footpath being Crown land is that it can be closed only by order of the Minister, albeit at the request of the Town, pursuant to section 58 of the Act.

Section 58 contains provisions which would require the Town to advertise the proposed closure and to consider objections, before resolving to request the Minister to close the footpath.

It would then be open to the Minister to grant or refuse the request, or to direct the Town to reconsider its request.

We suggest that it would be a very sad day for Cottesloe if the footpath were to be closed. The footpath has a particular charm which makes it quite unique in the area and therefore adds greatly to the local amenity. From our observations over many years, it is clear that the footpath is used extensively, and by many more people than Deane Street residents.

The proposed trench would therefore destroy permanently, for the benefit of one small block, an amenity which has been enjoyed by a large number of people for very many years.

Further, a trench wide enough to accommodate a motor vehicle and provide adequate sight lines at the road, would create the impression of a bunker on the north side of Deane Street. This would be quite out of character with the remainder of the street.

It therefore appears that the trench option would be a wholly disproportionate solution to the problem of access to 20A.

We gather from Mr Woodhouse's letter that the owner's proposal for a tunnel through the embankment into a basement garage at 20A is not acceptable to the Town because of safety, liability and maintenance issues. We agree with that view. Further, this proposal would have the same deleterious effect on the streetscape as the tunnel option.

Mr Woodhouse does not mention the present arrangement, which involves access from the crossover at 28 Avonmore Terrace. We assume this is the least acceptable option, due to the risk of collision between a pedestrian and a vehicle driving along the footpath, and the possible liability of the Town for creating such a dangerous situation.

This leaves as the remaining option, "an angled crossover up the embankment to serve 20A Deane Street". In our view, this is the most sensible proposal. It would provide a safe access, similar to that on the opposite side of the road, which works well. Although, as Mr Woodhouse says, there would be "a significant impact on the embankment and vegetation", this would be an almost inevitable consequence of the planning decision which allowed 20A to be created. In any event, the impact would be less significant than that resulting from the trench or tunnel options and could be ameliorated by appropriate planting.

As Deane Street rises from west to east, a crossover which joined the road on the eastern (uphill) side of 20A would take advantage of the slope and would therefore minimise the length required to achieve an acceptable gradient.

We therefore submit that Council should adopt a proven solution to the provision of vehicular access to 20A Deane Street, thereby striking a fair balance between the reasonable requirement of the owner and the continued enjoyment of a long established amenity by so many residents and ratepayers.

Yours sincerely,

Dear Ed,

Just a quick comment on the plans submitted by

Due to the issues pertaining to safety and litigation, as mentioned by the CEO, I still feel that neither of the 2 options are desirable .

Amenity , precedent and a few other points mentioned to TOC over the last few years still apply.

If the existing ramp can be modified and constructed in accordance with engineering standards, I still feel that this is the way the issue should be resolved.

In your letter to residents, you have said that letters may be published in the council agenda.

Only this week, once again, I was rung by \_\_\_\_\_ and asked in a pretty intimidating way to support one of \_\_\_\_\_ proposals.

On the basis of that call I am certainly not keen for my name to be published with the above comments.

If that means that my comments cannot be used I fully understand, but I do hope you understand my predicament.

Thanks

## Ed Drewett

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**From:**  
**Sent:** Monday, 2 July 2018 8:27 PM  
**To:** #Councillors; #Executive; Denise Tyler-Hare  
**Subject:** RE: Proposed crossover for 20A Deane Street - briefing forum tomorrow  
**Attachments:** Petition relating to the proposed crossover for 20A Deane Street.docx; Statement to Council 10th October 2017.docx

Dear All;

I inadvertently omitted to include the copy (unsigned) petition and my statement to Council on this matter when it was considered and rejected in October 2017. These are now included. Apologies.

Kind Regards

---

**From:**  
**Sent:** Monday, 2 July 2018 7:02 PM  
**To:** '#councillors@cottesloe.wa.gov.au' <#councillors@cottesloe.wa.gov.au>; '#executive@cottesloe.wa.gov.au' <#executive@cottesloe.wa.gov.au>; 'Denise Tyler-Hare' <epm@cottesloe.wa.gov.au>  
**Subject:** Proposed crossover for 20A Deane Street - briefing forum tomorrow

I understand that the developer of 20A Deane Street, has submitted further applications for a crossover to the lot and that these are to go before a briefing forum this Tuesday. I also understand that these applications were intended to be advertised to neighbours in Deane Street and their views considered. And yet this has not happened. I have certainly received no notification from the engineering or design department and nor, I believe have my neighbours, and if Councillor Boulter had not this week advised ratepayers of the coming meeting, I would not have known of it. Given the history of this matter and the strong views previously expressed by the residents of upper Deane Street, consulting with the residents before taking this further, should be essential.

The current proposals are I understand, for access to be provided by a cutting at road level through the verge with or without a bridge over for the footpath. These options are no different to those considered by Council in October last year and rejected. At that Council meeting a petition was presented to Council signed by virtually all the residents/owners of properties in the upper part of Deane Street – the part affected by the proposed crossover – strongly rejecting any cutting into the verge other than for a very limited amount in order that the existing ramp which provides access to 20A Deane Street could be widened slightly to provide better access to that lot – and yet the current proposals do not include one for improving the existing ramp, although we, the residents of Deane Street, have not been given any information as to why this option is not viable if, indeed this is the case.

I am aware that the matter is before the SAT and that it has been referred back to the TOC to reconsider. The fact that reconsideration is requested and the fact that the developer will not accept the decision of Council nor the wishes of the neighbours and residents who are deeply affected by this matter does not mean that the decision of Council in October 2017 was wrong, nor that the same options should be accepted when they were strongly rejected in previous considerations.

Quite apart from the fact that a precedent will be set if a tunnel or trench is allowed for further applications of this type; a more important precedent will be set which shows developers that if they persist long enough they will wear down Council and achieve their aims despite being against the interest of other affected ratepayers, and despite being against the interests of the TOC given the liability issues involved in either proposed means of access.

In case it is helpful, I attach my submission to Council last October together with a copy of the petition (I do not have a copy of the signed version which is with Council).

In regard to the proposals, the plans that I have been shown show a straight tunnel or cutting into the verge at 90 degrees to the road. There is a slight radius to the corners where they meet the road. Whether the crossover is a cutting or with bridge over, the view from and of cars exiting the property will be very limited, especially to the east, due to the verge and vegetation, so this proposal creates not only a safety issue but also a strong likelihood that if a tunnel or cutting is made, there will be a later application by the owner/developer to widen this to increase safety, thus removing yet more of the lovely trees and shrubs which give this street its unique character. Deane Street is a narrow street with no easy onroad parking, thus there are already inherent safety issues for driving up or down the road, and any direct access from a property hidden from view on approach is almost certainly going to cause frequent near or actual accidents.

The proposal for a cutting without bridge but with a footpath built into the base of the verge, is even more problematic than a tunnel. To provide a lower footpath, more verge would need to be cut away, and having cut the base, the upper part would need to be sloped back, thus removing most if not all of the existing vegetation. More importantly it does not alleviate any of the safety issues for cars, but adds significant safety issues for pedestrians. The pathway is used by all kinds of people including families with young children, and unaccompanied older children to walk down to the beach. Apart from the inconvenience and difficulty in negotiating possibly a pram or stroller or wheel chair from the top pathway, round the sharp angle to the downward slope and then back along the westward heading lower path (or in reverse), there is a real danger of children running ahead and crossing the cutting with cars from the developed property 20A Deane Street, which would be largely hidden emerging. The engineering and design department may consider the proposals meet engineering and aesthetic requirements – if you ignore the detrimental change to the existing street character – but I cannot believe they have properly considered safety aspects.

May I remind you that in the very similar case between Mr. Adrian Moore and the City of Cottesloe the SAT rejected an almost identical application giving as their reasons (highlights added by me) :

*The Tribunal determined that, in the context of this case, an increase in risk to the safety of pedestrians, which both experts agreed the proposed development involved, meant that the proposed development did not adequately deal with pedestrian safety. The Tribunal found that the proposed development did not comply with cl 5.3.5 of the Residential Design Codes*

*The Tribunal considered that the proposed cutting into the existing embankment in the verge adjacent to Deane Street would have a detrimental impact on the streetscape, character and amenity of the locality.*

*Having regard to these conclusions, as well as to the history of the site, the suitability of the land for the development, and to the submission made by the neighbour who would be directly impacted by the proposed development, the Tribunal determined that the application for development approval should be refused”*

Given that decision by the SAT, I believe that if the Council approves either a tunnel or cutting they will be acting in a negligent way in regard to safety of road and pedestrian users of Deane Street. The Council owes a duty of care to the ratepayers to act in their interests and in the interests of the City of Cottesloe as a whole, and not just in the interest of a developer who has sufficient determination to persist in an unsafe application.

I strongly urge those involved to reject both proposals and return to the issue of lowering the base of the existing ramp to provide access to the corner lot and widening the entire ramp to allow a safe pathway and drive access to 20A Deane Street.

May I also remind Councillors and those involved in these decisions that the developer is the architect of the problem, having designed and developed the original large block without adequately considering access, thus boxing it in

Regards

To the Town of Cottesloe

We the undersigned are residents of Deane Street residing between Avonmore Terrace and Broome Street and use Deane Street when driving vehicles and also use the footpath along the north side of Deane Street between Avonmore Terrace and Broome Street.

We understand that the Council is considering three options to provide access to 20A Deane Street, namely:

1. a tunnel through the embankment to a basement garage with a footpath bridge over;
2. a trench with no footbridge over which would mean the existing footpath would be terminated each side of the trench and hence be discontinuous or
3. an angled crossover up the embankment to service 20A Deane Street, similar to the one on the opposite side of the road which would enable the footpath to remain.

We consider that the vegetation and trees on the embankment below the footpath create a rare and special character for the street and add to the ambiance of Cottesloe which is well worth preserving, so that any option which involves removing or destroying the embankment verge should be avoided if at all possible, especially if there are other viable options to provide access to 20A. Some of the trees on the verge are very old and have been part of the Cottesloe streetscape for a long time. If a tunnel is dug through the embankment whether the footpath is replaced after excavation, this vegetation will be lost forever.

The road is narrow and requires careful driving. Access to 20A Deane Street directly from Deane Street above the corner of Avonmore Terrace should be avoided as cars entering the street from 20A Deane Street are likely to cause accidents due to the restricted width of the street and the vegetation on the verge.

The pathway above the embankment is used by us regularly to walk down to the beach and back. With children and dogs, it is not feasible or safe to walk in the road, nor is it safe to leave the walkway and cross over to the south side to continue down Deane Street.

If the Council allows a tunnel or trench through the embankment, this will create a precedent and the Council will have little argument against allowing other owners or developers in this part of the street to gain access to their properties via a tunnel or trench, thus destroying the streetscape forever and significantly interfering with the safety of traversing down Deane Street either by vehicle or on foot.

We believe that the best option for access to 20A Deane Street is for the Council to widen the existing ramped path and driveway from the corner of Deane Street and Avonmore Terrace, by extending the hard surface out towards the road, and supporting the extended hard surface with a wall facing the street in the same way as has been done to provide access to 17 Deane Street. This hard surface need not extend higher up Deane Street beyond the existing driveway as access is currently provided to the site by this driveway.

This option has many benefits:

1. The cost of widening the existing driveway and providing a stabilising wall supporting the widened driveway will be considerably less than any work involved in cutting under or through the verge.
2. The vehicles entering and leaving 20A Deane Street will have no or very little impact on traffic in Deane Street.
3. The beautiful vegetation on the embankment will be preserved for the enjoyment of residents now and in the future.





## Proposed vehicle access for 28 Avonmore Terrace and 20A Deane Street.

I live at

I have considered the three proposals for vehicle access for 28 Avonmore terrace and 20A Deane Street set out in a letter from Mr. Nicholas Woodhouse dated 2 October 2017.

As I stated at the last Council Meeting where this matter came before Council, I have strong objections to any proposal which destroys or seriously damages the beautiful embankment on the north side of Deane Street, or which affects the rights of pedestrians to use the footpath running down the north side of Deane Street; or which impacts on the safety of local residents.

The vegetation and trees on the embankment below the footpath create a unique character for the street and are considerably more in keeping with the character of this lovely coastal suburb than the concrete blocks which are being built in this developments which are without trees, gardens or any open space. Some of the trees on the verge are very old and have been part of the Cottesloe streetscape for a long time. If a tunnel is dug through the embankment whether the footpath is replaced after excavation, this vegetation will be lost forever.

The proposal to provide a trench with no footbridge over, is, I believe, entirely unacceptable. The footpath is used regularly by local residents and it is neither safe nor reasonable to expect old people, or people with children or animals to leave the footpath at a point of termination; walk down a back sloping path to the road, cross the road and then walk up another slope to continue down the footpath on the other side of the road.

Access for the these properties should come from the corner of Avonmore Terrace and Deane Street where there is good visibility and cars emerging from the properties can both see and be seen by other traffic and pedestrians. Direct access from higher up Deane Street is unsafe as cars entering the street from these properties have limited visibility of vehicles coming down Deane Street. So neither a tunnel nor a trench is a safe option for road users.

If the Council allows either of the first two options, this will create a precedent and lead to future developers also wanting to tunnel through the verge.

Regarding the third option of an angled crossover up the embankment to serve 20A Deane Street, I am not sure if this refers to the existing ramped driveway or is a proposal to create a new angled crossover up the embankment at a different location to the existing driveway. If the latter, then I strongly object to this for all the reasons given above.

The option which avoids all the problems referred to above is to keep the existing ramped driveway and footpath but widen it out towards the road to provide greater room for cars to turn into the properties while allowing the pathway to continue down to Avonmore Terrace. This will need a supporting wall and some small loss of vegetation.

I would oppose this driveway being extended any higher up Deane Street as the current length of the driveway provides adequate access to the site. This might not be the preferred option of the developer, but the limitations of access to this site were well known to him when the rest of the larger site were developed. He has in effect boxed himself in. I do note that the existing ramp appears to be higher than the garage of 28 Avonmore Terrace, but to the best of my knowledge, the building of 28 Avonmore Terrace commenced some time after the ramped driveway was put in place. If the existing driveway is lowered a little at the bottom to allow access to the garage at 28 Avonmore Terrace this may result in some uneven or steep sloping of the driveway in part. While not ideal, it is not a major problem and we already have a similar situation in Fig Tree Lane which was lowered with uneven sloping to allow access to the garages built by the same developer in that lane.

The sloped ramp which provides access to 17 Deane Street also shows that this a viable option.

I urge the Council to give greater weight to the needs of the existing residents to have a safe and convenient pathway down Deane Street; to the need to retain the character and vegetation of the street and the verge; and to the safety of the road users, than to the desire of this developer to have a preferred access option allowed when there is already adequate access to the site provided which requires minimal modification and disruption to suit the purpose.

## Ed Drewett

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**From:**  
**Sent:** Sunday, 15 July 2018 8:05 PM  
**To:** council  
**Subject:** Notice of Public Advertisement of Planning Proposal - 20A Deane Street

As owner of \_\_\_\_\_ I am in receipt of a letter in relation to the above.

I strongly support the first proposal, for a "vehicle crossover perpendicular to Deane Street with pedestrian footbridge over (no residential development proposed)".

I consider that the proposal will improve the safety and amenity of the street by removing the possibility of any pedestrian and vehicle/cycle interaction, and by improving the appearance of the verge.

Please publish this submission in the Council agenda.

Regards,

## Ed Drewett

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**From:**  
**Sent:** Monday, 9 July 2018 9:25 AM  
**To:** council  
**Subject:** Notice of Public Advertisement of Planning Proposal - 20A Deane Street  
**Categories:** Green Category

Good Morning,

As owner of \_\_\_\_\_ I am in receipt of a letter in relation to the above.

I strongly support the first proposal, for a "vehicle crossover perpendicular to Deane Street with pedestrian footbridge over (no residential development proposed)".

I consider that the proposal will improve the safety and amenity of the street by removing the possibility of any pedestrian and vehicle/cycle interaction, and by improving the appearance of the verge.

Please publish this submission in the Council agenda.

Regards,



**Town of Cottesloe**  
109 Broome St,  
Cottesloe, 6911  
Western Australia

16/07/2018

Dear Council,

I am writing on behalf of my grandparents relation to the submission by the owners of 20A Deane Street to modify the street cross-over.

I have viewed the submission made by 20A which had two options and have the following comments:

A) Diversion of the footpath

My Grandparents are very elderly. Walking around the block is an important part of their daily routine. Fig-Tree Lane was previously modified to suit flattened crossovers at garages for 34 and 34A Avonmore Terrace (in the same sub-division that allowed for the creation of 20A Deane Street), resulting in impassable gradients for my Grandparents. The elimination of Fig-Tree lane as a practical pathway means that the only pedestrian path between my Grandparent's home and the beach is via Deane Street.

The proposal forwarded by the council is to modify the pedestrian pathway on Deane Street. Gradients on Deane Street are currently steep, but they are currently passable. The lowering of the footpath around a new driveway would result in a pedestrian path that would be too steep to be accessible by my grandparents. Their house would effectively be cut off from any direct pathway to the beach; a right they have enjoyed for 30 years.

There appears to be no way that lowering the footpath could achieve acceptable gradients according to AS1428.1-2009: General requirements for access – New building work. Where the new condition cannot achieve gradients required by AS1428.1, or where the new condition will not improve the current challenges of the steep footpath, the council should not consider implementing such a modification. The council should not allow a development that makes access worse.

B) Building of Bridge and Tunnel

Our major concern is for accessibility to the beach from 24 Deane Street, and the preservation of my Grandparents right to safely walk around their block. The tunnel/bridge arrangement does not pose any impediment to this, so we are not strongly opposed.

However as rate payers, my grandparents, along with all other residents of Cottesloe will be saddled with the ongoing maintenance of this bridge for perpetuity. The bridge will not improve amenity for the community, it will not improve the streetscape, it offers no benefit to the people who will have to maintain it. Instead it offers one resident the ability to develop their property beyond what is normally allowed.

If the rights were awarded to tunnel into 20A so that they can build underground car storage, it would only be fair that those rights were afforded to 20, 22, 24, 26, 28 and 30 Deane Street, all of which have no vehicle access to Deane Street due to identical constraints, but have adequate access to their properties, just as 20A currently is afforded via the concrete cross-over already constructed to the site.

We request that pedestrian access to 24 Deane Street be preserved in its current form. We request that the Town of Cottesloe prevent the pedestrian access from becoming any worse than it currently is. The Town of Cottesloe, as the representative body of the community should be careful not to destroy community amenity or community property for the sake of a single developer, especially when there is little imperative to do so. Access to Cottesloe Beach is important to my Grandparents who have been long time rate payers in the Town of Cottesloe. We would appreciate if the Town preserves the current conditions.

Regards,