

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING**

# **MINUTES**

**The Ordinary Meeting of Council  
Council Chambers, Cottesloe Civic Centre  
on 24 June, 2002, commencing at 7.05pm.**



# ORDINARY MEETING OF FULL COUNCIL

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# **ORDINARY MEETING OF COUNCIL**

24 June, 2002

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## **1 DECLARATION OF MEETING OPENING & ANNOUNCEMENT OF VISITORS**

The Presiding Officer announced the meeting open at 7.05pm.

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

Presiding Officer: Cr. M.E. Ewing, Deputy Mayor

Councillors: Cr. J.S. Birnbrauer  
Cr. B.R. Miller  
Cr. K.J. Morgan  
Cr. P. Rattigan  
Cr. A. Sheppard  
Cr. J. Utting  
Cr. J.F. Walsh  
Cr. R. Whitby

Chief Executive Officer: Mr S.D. Tindale  
Manager, Engineering Services/Deputy CEO: Mr M.R. Doig  
Manager, Development Services: Mr S. Sullivan  
Manager, Corporate Services: Mr A. Lamb

### **APOLOGIES**

An apology was received from Cr. A.D. Furlong

### **LEAVE OF ABSENCE**

Mayor Hammond had been granted Leave of Absence.

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

Nil.

## **4 PUBLIC QUESTION TIME**

Nil.

## **5 PUBLIC STATEMENT TIME**

### **5.1 Ms S. Scott , No. 1a Parry Street – Item C48.**

Ms Scott spoke in favour of the appeal against the dangerous dog declaration with respect to her dog. She noted that the Committee recommendation regarding an amendment to the control requirements, called for the dog to be in the control of the registered owner at all times in any public place. Ms Scott asked that this be modified to “the dog be walked by a competent adult”.

- 5.2 Mr M. O'Connor, No. 46 Forrest Street – Item C50.  
Mr O'Connor called for part one of the recommendation to be amended, suggesting Council should advertise and follow a public tender process. He also suggested amendments to Parts 4,7 & 8 of the recommendation and stressed the need for full community consultation.
- 5.3 Mr T. Lemann, Roleystone – Item TP71.  
Mr Lemann spoke on behalf of the owner in favour of the proposed development. Mr Lemann spoke against the recommendation (1)(d)(i) for an open aspect fence to be required. He noted the property's proximity to the Ocean Beach Hotel, and that a solid fence would provide the owners with a private area.
- 5.4 Mr G. Baverstock, North Fremantle – Item TP76.  
Mr Baverstock spoke, as the architect for the development application. He pointed out that the proposed development would look like a single dwelling from the street, but contain a one bedroom unit at the rear. Mr Baverstock noted that the unit was for the owner's aging parents and that strata conditions would ensure that future use of the unit was limited to aged persons.
- 5.5 Mr P. Robinson, No. 254 Marmion Street – Item C50  
Mr Robinson noted that the Sea View Golf Club has consulted with Council and the Chief Executive Officer in relation to the new lease. He noted that the Club is very keen to follow the process set out in the recommendation. Also that as the current lease is due to expire in June 2005, the Club needed to know at least 12 months before hand, whether or not there was to be a new lease.

## **6 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil.

## **7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr. Miller, seconded Cr. Morgan, that the minutes of the Ordinary Meeting of Full Council held on the 27 May 2002, be confirmed.

Carried 9/0

## **8 NOTIFICATION OF APPLICATIONS FOR LEAVE OF ABSENCE**

Cr. Rattigan advised that she could not attend any meetings between 4 July and 17 July 2002.

## **9 DECLARATION OF MEMBERS' INTERESTS**

- 9.1 Cr. Sheppard declared a proximity interest in item TP64, noting he owned the neighbouring property.
- 9.2 Cr. Morgan declared a proximity interest in item C50 noting he owned a part share of approximately 1 metre of Pearse Street frontage opposite the golf course.



Cr. Morgan left the meeting at 7.25pm

Moved Cr. Sheppard, seconded Cr. Walsh

**That Cr. Morgan's interest be ruled as trivial and insignificant and unlikely to influence his conduct in relation to the matter, and he be allowed to participate in the debate and vote on the matter.**

Carried 8/0

Cr. Morgan returned to the meeting at 7.26pm.

9.3 Cr. Walsh noted that in relation to Item C50, he is a member of the Sea View Golf Club.

Cr. Morgan noted that in relation to Item C50, he is a member of the Sea View Golf Club.

NOTE

Part 1.3 of Council's Code of Conduct provides for members who attend a meeting to disclose any interest they have in a matter to be discussed at the meeting, that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected. Cr. Morgan later withdrew his declaration relating to impartiality. Cr. Walsh asked that it be recorded that he would be acting impartially when it came to debating item C50.

**10 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

10.1 COTTESLOE COAST CARE – REVEGETATION PROJECT

Deputy Mayor, Cr. Ewing., reported that Cottesloe Coast Care (formally South Cottesloe Coast Care) will be planting vegetation in the dunes near Dutch Inn on Sunday 30 June 2002, between 10.00am and 12 noon. Cr. Ewing made a call for volunteers, with their spades in hand , to join in with this project.

**11 REPORT ITEMS FOR DECISION**

**WORKS & CORPORATE SERVICES COMMITTEE**

**18 June, 2002**

NOTE – ITEM C50

At the Council meeting, discussion ensued over the wording of Cr. Furlong's advice to the June meeting of the Works and Corporate Services Committee, regarding his social membership of the Sea View Golf Club. Concern was expressed that the wording was misleading and suggested that Cr. Furlong would not act with impartiality in relation to the matter. The Chief Executive Officer explained that Council's Code of Conduct provides for members to disclose interests in matters before meetings they attended where participation in the debate and voting on the matter would give rise to the reasonable belief that the members impartiality would be adversely affected.

**AMENDMENT**

Moved Cr. Morgan, seconded Cr. Utting

*“That the wording of Cr. Furlong’s declaration in the June Works and Corporate Services Committee meeting minutes be amended by adding the work ‘not’ between the words ‘would’ and ‘give’ in the second last line.”*

Moved Cr. Sheppard, seconded Cr. Walsh

That the motion be put.

Lost 4/5

The Deputy Mayor ruled that the motion to amend the Committee meeting minutes not be dealt with at this meeting. The appropriate time to amend the minutes would be when they were put for confirmation at the next Committee meeting.

**C38**

**STATUTORY FINANCIAL STATEMENTS**

<b>File No.:</b>	<b>C7.14</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>12 May 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

The Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 May 2002, are presented for perusal and it is recommended that they be received.

**Statutory Environment**

Financial reporting is a statutory requirement.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

The Financial Statements are presented monthly.

**Consultation**

N/A.

**Staff Comment**

It will be noted from the Operating Statement (page 3) that expenditure overall continues to be lower than expected at this time and that income is higher. This trend is forecast to continue to the end of the year.

**Voting:** Simple Majority.

Cr. Furlong left the meeting at 8.23pm and returned at 8.24pm.

C38 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the month ending 31 May, 2002, as submitted to the June meeting of the Works & Corporate Services Committee.**

Carried 8/1

C39 **SCHEDULE OF INVESTMENTS & SCHEDULE OF LOANS**

<b>File No.:</b>	<b>C7.12 &amp; C7.13</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>12 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

The Schedule of Investments and Schedule of Loans for the period ending 31 May 2002, are presented for perusal and it is recommended that they be received.

**Statutory Environment**

Financial reporting is a statutory requirement.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

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

**Consultation**

N/A.

**Staff Comment**

As will be noted from the Statement of Investments, on page 34, \$714,351.75 was invested as at 31 May, 2002. Of this, \$565,519.29 was reserved and so its use is restricted. 22.59% of the funds were invested with the National Bank (Council's Bank), 49.85% was invested with the Home Building Society, and 27.56% with Bankwest.

It will be noted from the list of accounts on pages 27-30 that a number of relatively high cost works jobs were paid for in the month under review. This, combined with the transfer of matured term deposits to current accounts, has dramatically reduced total funds invested from \$1,669,641 at the end of April to \$714,351 at the end of May.

The Balance Sheet on page 4 shows a relatively high balance in the Municipal Fund current account. This was a short-term occurrence and a significant portion of the funds were transferred to the Municipal Fund Investment Account (shown as Investment Account on the Statement). The Municipal Fund Investment Account attracts a higher rate of interest than the current account, but funds are available on relatively short notice (virtually a call account). This account attracts an interest rate on around half of one percent lower than a term deposit and around 0.8% more than the current account.

The matured term deposits were moved to accounts where funds could be more quickly accessed to meet the relatively higher creditors' payments expected as projects are completed toward the end of the financial year.

**Voting:** Simple Majority.

C39 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council receive the Schedule of Investments and Schedule of Loans for the month ending 31 May, 2002, as submitted to the June meeting of the Works & Corporate Services Committee.**

Carried 8/1

C40 **ACCOUNTS**

<b>File No.:</b>	<b>C7.8</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>12 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

**Summary**

The List of Accounts for the period ending 31 May, 2002, are presented for perusal and it is recommended that they be received.

**Statutory Environment**

Financial reporting is a statutory requirement.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

The List of Accounts are presented monthly.

**Consultation**

N/A.

**Staff Comment**

Significant payments brought to Council's attention include:

- \$10,773.87 to the Electoral Commission for conducting the North Ward extraordinary election,
- \$15,763.64 to Western Metropolitan Regional Council for Transfer Station tipping fees,
- \$10,946.65 to McDougal and Vines for professional fees,
- \$36,677.75 to Roads and Robinson domestic and commercial refuse collections for March,
- \$18,649.57 to the Town of Mosman Park for works done on Beach Street,
- \$28,024.94 to the WA Local Government Super Plan for staff superannuation contributions,
- \$13,998.25 to Perth Auto Alliance for the net costs of a new vehicle,
- \$34,905.63 to Roads and Robinson for domestic and commercial refuse collections,
- \$185,274.51, \$51,117.24 and \$189,587.71 to the Town of Mosman park for road construction works at Beach Street and Marine Parade
- \$67,303.54 to the Shire of Peppermint Grove for the joint library quarterly payment
- \$40,180.75 and \$38,006.30 for payroll for the month.

**Voting:** Simple Majority.

C40

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council receive the List of Accounts for the month ending 31 May, 2002, as submitted to the June meeting of the Works & Corporate Services Committee.**

Carried 8/1

**C41**      **PROPERTY & SUNDRY DEBTORS REPORTS**

**File No.:** C7.9  
**Applicant:** N/A  
**Author:** Mr Alan Lamb  
**Report Date:** 12 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

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**Summary**

The Property & Sundry Debtors Reports for the period ending 31 May, 2002, are presented for perusal and it is recommended that they be received.

**Statutory Environment**

Financial reporting is a statutory requirement.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

The Property & Sundry Debtors Reports are presented monthly.

**Consultation**

N/A.

**Staff Comment**

The Sundry Debtors Report (page 33) shows a balance of \$96,075.58 outstanding at the end of May. Of this \$60,730.79 relates to charges raised in May. The major item is an outstanding account due from the City of Nedlands for \$26,693.13, which is being followed up by the Manager, Engineering Services.

The Property Debtors Report shows a reduction from \$369,693.63 at the end of April to \$345,168.08 at the end of May. Approximately \$50,562 relates to a combination of interim rates raised and payments not received as yet. These are being followed up.

**Voting:** Simple Majority.

**C41**      **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the month ending 31 May, 2002; and

- (2) Receive the Sundry Debtors Report for the month ending 31 May, 2002.

Carried 8/1

**C42**      **2003 ELECTIONS - WA ELECTORAL COMMISSION**

**File No.:** X6.1  
**Applicant:** WA Electoral Commission  
**Author:** Stephen Tindale  
**Report Date:** 11 June 2002  
**Author Disclosure of Interest:** Nil

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**Summary**

A recommendation is made to declare the Electoral Commissioner responsible for the conduct of the May 2003 elections and that the method of election be by postal vote.

**Statutory Environment**

The relevant sections of the *Local Government Act 1995* read as follows:

**4.20. CEO to be returning officer unless other arrangements are made**

- (1) Subject to this section the CEO is the returning officer of a local government for each election.
- (2) A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint\* a person other than the CEO to be the returning officer of the local government for an election.

**\* Absolute majority required**

- (3) An appointment under subsection (2) has no effect if it is made after the 80th day before election day.

- (4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare\* the Electoral Commissioner to be responsible for the conduct of an election and, if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government for the election.

**\* Special majority required**

- (5) A declaration under subsection (4) has no effect if it is made after the 80th day before election day.
- (6) A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.

**4.61. Choice of methods of conducting the election**

- (1) The election can be conducted as a —  
“postal election” which is an election at which the method of casting votes is by posting or delivering them to an electoral officer on or before election day; or

“voting in person election” which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.

- (2) The local government may decide\* to conduct the election as a postal election.

**\* Special majority required**

- (3) A decision under subsection (2) has no effect if it is made after the 80th day before election day.
- (4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20 (4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such a declaration.
- (5) A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.
- (6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.
- (7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

### **Policy Implications**

Nil.

### **Strategic Implications**

Under the “Governance” heading of Council’s Strategic Plan, Council “...acknowledges the views and interests of all components of the community and strives to achieve a balanced and proactive position on issues which effect public, commercial and private sectors.”

To the extent that postal elections encourage broader participation in local government elections, postal elections can be seen as strengthening the acknowledgement that Council gives to “... the views and interests of all components of the community.”

### **Financial Implications**

An amount of \$20,000 has been set aside in the budget working papers for 2002/03 for the conduct of postal elections.

### **Background**

The Electoral Commissioner has taken the initiative and written to Council advising that he has agreed to be responsible for the conduct of the elections in May 2003.

To give effect to the appointment of the Electoral Commissioner as the Returning Officer for the Town of Cottesloe and in order to conduct the elections by postal vote, Council needs to pass a two-part resolution.

It should be noted that “postal elections” can only be undertaken where Council has appointed the Electoral Commissioner as the Returning Officer.



An alternative is to appoint the Electoral Commissioner (subject to his agreement) as the Returning Officer for “voting in-person” elections. This will see a reduction in election costs and frees up Town of Cottesloe staff time – both running up to and during the course of the election. It also limits collateral damage to Council staff where election outcomes are viewed with mistrust.

The last option is to do nothing. By default, this will see the CEO automatically appointed as Returning Officer for “voting in-person” elections. This is the most cost-effective solution, but it diverts Council staff time away from other activities, can result in collateral damage to staff and is the least effective in terms of overall resident participation.

### **Consultation**

Nil.

### **Staff Comment**

In March 2000, Council resolved to conduct the May 2001 Council elections by post.

The comments made at the time were as follows.

This issue has been raised previously in Council, but a decision should be taken in relation to each election. The cost of an “in person” election depends on the extent of the election, but is of the order of \$7,000 including staff time and all materials. The average electoral participation has varied in recent elections but has not exceeded 20% in any area and has been as low as 7%. A significant number of Councils now use postal elections and report returns of between 40% and 60%. There is a clear argument that this produces a more representative result. The cost of a postal election is quoted by the Electoral Commission as approximately \$2.40 per elector or about \$8,400 in Cottesloe. Some additional costs must be added to this for internal administration and any added costs incurred by the Electoral Commission in conducting the election.

An estimate of the cost for the 2001 election if conducted by post is \$12,000. This includes a Mayoral election if Council decides to remain with the current system of electing the Mayor.

A postal election is favoured by the management as it takes the administrative burden from the staff. This is a considerable demand in the weeks preceding the election when nominations are taken and documents prepared. The 2001 election would present a good opportunity to trial the system and assess its value in Cottesloe.

Actual voter turnout percentages for the individual ward elections and the mayoral election held in May of 2001 ranged between 49% and 55%.

By contrast, the extraordinary election of two Councillors in August 1999 (following a failure to elect a full complement of Councillors at the May 1999 ordinary elections) using the “in-person” election format, resulted in voter turnout percentages of 8% and 12%.

The 1997 “in-person” ordinary elections saw voter turnout percentages ranging between 36% and 43%. This election was different from the usual in that all ten positions on Council and the Mayoral position were contested. This came as a result of a complete spill of positions following changes in ward representation.

Given that the 1997 election was an anomaly, the results of postal voting are very encouraging.

If Council went with postal voting again in 2003 (and in the absence of any controversial issues) one could expect a small downturn in voter turnout levels given the absence of a mayoral election.

**Voting:** Special Majority required (same as an absolute majority for the Town of Cottesloe).

#### C42 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council:**

- (1) **declare the Electoral Commissioner to be responsible for the conduct of the May 2003 elections and,**
- (2) **conduct the May 2003 elections as postal elections.**

Carried 8/1

Cr. Utting is recorded as voting against the motion.

#### C43 **WA LOCAL GOVERNMENT ASSOCIATION – MoU FOR THE PERTH BIODIVERSITY PROJECT**

<b>File No.:</b>	<b>X12.2</b>
<b>Applicant:</b>	<b>WA Local Government Association</b>
<b>Author:</b>	<b>Stephen Tindale</b>
<b>Report Date:</b>	<b>11 June, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

#### **Summary**

A recommendation is made to sign a Memorandum of Understanding (MoU) for the Perth Biodiversity Project.

#### **Statutory Environment**

Nil.

#### **Policy Implications**

Nil.

#### **Strategic Implications**

Under the “District Development” heading of Council’s Strategic Plan, Council has the following objectives:

- (1) Maximum use of available reserve land for a balance of public recreation and re-vegetation with local species.
- (2) Provision of clean, safe, sustainably managed streetscapes, with appropriate selections of trees and infrastructure, which are pedestrian friendly and incorporate tidy verges.

### **Financial Implications**

In 2001/02, the program had \$200,000 available to local governments and community environmental groups for on-ground works (e.g. weeding, re-vegetation) and capacity building (e.g. planning, human resources, training). Successful Councils are required to match the amount of PBP funding received either in cash or in-kind, and to sign a memorandum of understanding regarding the protection of native vegetation.

A further \$200,000 is available to Local Governments in the second round of funding. The opening of expressions of interest to be considered for round two will be announced later in 2002.

### **Background**

A full copy of the MoU was attached to the agenda.

The Perth Biodiversity Project (PBP) is a local government initiative to improve the conservation of biodiversity in the Perth Metropolitan Region. Through the project, both technical and financial support is being provided to 29 participating Councils. The project is largely funded through the Natural Heritage Trust and is hosted by the WA Local Government Association. Most local governments in the Perth region have contributed financially to the cost of hosting the PBP at WALGA and have committed in-kind support to match funding and technical support provided through the project.

The project has two objectives:

Objective 1: To assist local governments and the community to protect and manage all local biodiversity areas in the Perth Metropolitan Region within a secure conservation network.

Objective 2: To assist local governments to improve their capacity to manage local biodiversity areas and potential ecological linkages within the Perth Metropolitan Region.

Targets and performance measures have been established to support these two objectives and are available on request.

Local Governments will benefit from the project by:

- Improving the quality of life and amenity of the local environment
- Accessing additional funding and technical expertise for protecting and managing local biodiversity areas
- Opportunities to publicise Council conservation initiatives and demonstrating a commitment to environmental protection and sustainable development

- Possibility of council recognition under proposed green certification scheme
- Strengthening existing partnerships, and establishing new ones with State Government, non-government organisations, community groups and other local governments
- Greater understanding of the biodiversity in your municipality and the actions that can be undertaken to minimise the impacts on biodiversity and enhance the protection of native vegetation
- Provide support to your local community with their conservation initiatives.

### Consultation

Nil.

### Staff Comment

Aside from the purely selfish reason of signing the MoU so that Council can gain access to available funding, the MoU sits well with the principles of sustainable development and Council's strategic plan.

**Voting:** Simple Majority.

## C43 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Morgan

**That Council authorise the Mayor and CEO to sign the Memorandum of Understanding for the Perth Biodiversity Project on behalf of the Town of Cottesloe.**

Carried 9/0

## C44 DEPARTMENT FOR PLANNING AND INFRASTRUCTURE – EXTENSION OF FUNDING FOR TRAVELSMART OFFICER

<b>File No.:</b>	<b>X8.23</b>
<b>Applicant:</b>	<b>Department for Planning &amp; Infrastructure</b>
<b>Author:</b>	<b>Mr Stephen Tindale</b>
<b>Report Date:</b>	<b>11 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

### Summary

A recommendation is made to sign an offer of continued funding assistance for the TravelSmart Officer's position.

### Statutory Environment

Nil.

### Policy Implications

Nil.

### Strategic Implications

Under the "District Development" heading of Council's Strategic Plan, one of Council's objectives is to support

A system which promotes safety and the TravelSmart concept, incorporates widespread use of the 50km/hr speed limits and a community bus service, removes through traffic and resists any move to a 4 lane highway on Curtin Avenue.

### **Financial Implications**

Matching funding of \$5,000 has been set aside in the Town of Cottesloe's budget working papers for the 2002/03 year for the position of TravelSmart Officer.

Funding of \$3,900 has also been set aside for two TravelSmart initiatives relating to a TravelSmart map (\$2,700) and an action plan (\$1,200).

### **Background**

Correspondence from the Department for Planning and Infrastructure reads as follows.

I am pleased to inform you that following the review of the Local Government TravelSmart Officer scheme, the Minister for Planning and Infrastructure is prepared to provide the Town of Cottesloe with a total subsidy of \$5,000 (50%) as part contribution to the costs of employing a 0.25 FTE TravelSmart Officer for a further one year period. The extended period will commence on 1 November, 2002, or on appointment of an officer, whichever is the sooner.

The grant is offered in accordance with the call for expressions of interest issued on 28 February, 2000, the Town of Cottesloe application dated 31/3/00, and the following special conditions:

- (1) The Town of Cottesloe must:
  - (a) consult with the Department for Planning and Infrastructure to produce a local TravelSmart Action Plan, prior to commencement of the additional year.
  - (b) fund all recruitment, employment, equipment and work related travel costs, over and above the grant amount, associated with delivering the outcomes for the TravelSmart Officer position.
  - (c) Put in place arrangements to combine grants, jointly appoint a full-time officer and coordinate action with the City of Nedlands and Town of Claremont.
  - (d) Commit matching funding to ensure that, in partnership with City of Nedlands and Town of Claremont, a full-time officer is appointed.
  - (e) Indemnify and keep indemnified the Minister for Planning and Infrastructure, the Director General of the Department for Planning and Infrastructure and the State of Western Australia and their respective employees and officers from and against all actions, suits, claims, demands, proceedings, losses, costs, expenses and liability which they or any one of them may suffer, incur or sustain, however arising, in connection with the project or works that are the subject of this subsidy.
  - (f) Not use, apply or expend any portion of the subsidy moneys other than in and toward the cost of delivery of this project.
  - (g) Sign and return to the Department for Planning and Infrastructure the unaltered duplicate of this letter prior to 1 August, 2002.

- (2) This subsidy will be payable on invoice in the following stage payments:
- 50% on commencement of the officer
  - 40% on satisfactory completion of a six month progress review.
- (3) If remaining unsigned the availability of this subsidy offer shall expire of 1 August, 2002.

### Consultation

Nil.

### Staff Comment

Last month the TravelSmart Officer, Leon Ebbelaar, addressed the Works & Corporate Services Committee on many of the TravelSmart initiatives undertaken to date.

As the Town of Cottesloe's contribution to funding is:

- (1) matched by the Department for Planning and Infrastructure,
- (2) part of an overall regional approach to the issues at hand, and
- (3) integrates well with Council's Strategic Plan,

A recommendation is made to accept the grant from the Department for Planning and Infrastructure.

**Voting:** Simple Majority.

Cr. Utting left the meeting at 8.35 pm and returned at 8.36 pm.

## C44 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Morgan

**That Council authorise the CEO to sign an acceptance of an offer of continued funding assistance for the TravelSmart Officer's position.**

Carried 8/1

## C45 LOCAL LAW – AMENDMENT TO STANDING ORDERS

<b>File No.:</b>	<b>C12.14</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Stephen Tindale</b>
<b>Report Date:</b>	<b>12 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

### Summary

A recommendation is made to change the business of ordinary meetings of Council.

### Statutory Environment

Council's Local Law relating to Standing Orders contains the following provision:

5.1 **Ordinary Meeting - Order of Business**

Unless ordered by decision of the Council, the order of business at any ordinary meeting of the Council is to be as follows –

- (1) Disclaimer
- (2) Declaration of Meeting Opening/ Announcement of Visitors
- (3) Record of Attendance/Apologies/ Leave of Absence (Previously approved)
- (4) Response to Previous Public Questions Taken on Notice
- (5) Public Question Time
- (6) Public Comment Time
- (7) Applications for Leave of Absence
- (8) Petitions/Deputations/Presentations
- (9) Confirmation of Minutes of Previous Meeting
- (10) Announcements by Presiding Member Without Discussion
- (11) Reports of Committees & Officers
- (12) Elected Members' Motions of which Previous Notice has been Given
- (13) New Business of an Urgent Nature Introduced by Decision of Meeting;
  - (a) Elected Members
  - (b) Officers
- (14) Meeting Closure.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

In December 1999 Council amended its Standing Orders and changed the order of business to suit local circumstances.

In January 2001 the Department of Local Government published an *Agenda & Minutes* manual in order to improve the overall standard of agendas and minutes in local government.

The model agenda for a local government (with committees) reads as follows:

- (1) Declaration of Opening/ Announcement of Visitors
- (2) Record of Attendance/Apologies/ Leave of Absence
- (3) Response to Previous Public Questions Taken on Notice
- (4) Public Question Time
- (5) Applications for Leave of Absence
- (6) Confirmation of Minutes of Previous Meeting
- (7) Announcements by Presiding Member Without Discussion
- (8) Petitions/Deputations/Presentations/Submissions
- (9) Reports of Committees
- (10) Elected Members' Motions of which Previous Notice has been Given
- (11) New Business of an Urgent Nature Introduced by Decision of Meeting
- (12) Meeting Closure.

### **Consultation**

Nil.

### **Staff Comment**

The differences between the model agenda, Council's Standing Orders agenda, and Council's actual agenda are essentially of a minor nature, but need to be reconciled in the interests of good housekeeping.

The proposed changes to the agenda as set out in Council's Standing Orders are as follows. These changes reflect local circumstances and best practice and are best shown as follows:

- ~~(1) Disclaimer~~
- (2) Declaration of Meeting Opening/ Announcement of Visitors
- (3) Record of Attendance/Apologies/ Leave of Absence (Previously approved)
- (4) Response to Previous Public Questions Taken on Notice
- (5) Public Question Time
- (7) Applications for Leave of Absence
- (9) Confirmation of Minutes of Previous Meeting
- (10) Announcements by Presiding Member Without Discussion
- (6) Public Statement ~~Comment~~ Time



- (8) Petitions/Deputations/Presentations
  - ~~Declaration of Members' Interests~~
- (11) Reports of Committees & Officers
- (12) Elected Members' Motions of which Previous Notice has been Given
- (13) New Business of an Urgent Nature Introduced by Decision of Meeting;
  - (a) Elected Members
  - (b) Officers
- (14) Meeting Closure.

As an explanation to the proposed changes, the following comments are made.

The disclaimer reads as follows:

The public is advised that no action should be taken by any person in attendance at a Committee Meeting or Meeting of Full Council in relation to any items discussed at the meeting, until written advice is received from Council.

In the author's view, it is unnecessarily officious. Furthermore, it appears that the issue of developers/customers/clients/residents acting precipitously in advance of formal written notification of a Council decision has never arisen as an issue for the Town of Cottesloe.

Casual observation also suggests that Presiding Members are less than comfortable with the tone and content of the disclaimer.

The disclaimer is not a common practice amongst WA local governments and the Department of Local Government's *Agenda & Minutes* manual is completely silent on the issue of disclaimers.

Given the above, it is recommended that the disclaimer be deleted as an item of business.

The *Public Statement Comment Time* change is advocated on the basis that it reflects current practice at the Town of Cottesloe.

It has been shifted as an item of business down the agenda so that it is closer to where the actual decisions are made and follows, rather than precedes, meeting formalities.

The deletion of *Declaration of Members' Interests* has been made on the basis that the current practice (which appears to have slipped in) contravenes the procedure set down by Section 5.65 of the *Local Government Act 1995*. Section 5.65 reads as follows:

**5.65. Members' interests in matters to be discussed at meetings to be disclosed**

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —

- (a) in a written notice given to the CEO before the meeting;  
or
- (b) at the meeting **immediately** before the matter is discussed.

**Penalty: \$10 000 or imprisonment for 2 years**

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
  - (a) that he or she had an interest in the matter; or
  - (b) that the matter in which he or she had an interest would be discussed at the meeting.
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

Declaring an interest in a matter where there are intervening agenda items between the actual declaration and the matter to be discussed does not constitute an immediate declaration of an interest.

**Voting:** Simple Majority.

C45

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

Moved Cr. Miller, seconded Cr. Morgan

**That by decision, Council order that the order of business at any ordinary meeting of the Council be as follows:**

- (1) Declaration of Meeting Opening/ Announcement of Visitors**
- (2) Record of Attendance/Apologies/ Leave of Absence (Previously approved)**
- (3) Response to Previous Public Questions Taken on Notice**
- (4) Public Question Time**
- (5) Applications for Leave of Absence**
- (6) Confirmation of Minutes of Previous Meeting**
- (7) Announcements by Presiding Member Without Discussion**
- (8) Public Statement Time**
- (9) Petitions/Deputations/Presentations**
- (10) Reports of Committees & Officers**
- (11) Elected Members' Motions of which Previous Notice has been Given**

(12) **New Business of an Urgent Nature Introduced by Decision of Meeting;**

- (a) **Elected Members**
- (b) **Officers**

(13) **Meeting Closure.**

Carried 9/0

**C46**

**CONSTABLE CARE CHILD SAFETY PROJECT FOR 2001/02**

<b>File No.:</b>	<b>X8.29</b>
<b>Applicant:</b>	<b>The Constable Care Child Safety Project</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>10 June, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

Partnership proposal for 2002/03 from Constable Care Child Safety Project Inc. (CCCSP) with request for Council to fund half the cost of five shows at local primary schools.

**Statutory Environment**

There is no known statutory impediment to Council part sponsoring this proposed project.

**Policy Implications**

Council has a policy on donations however this relates only to authorisation for the CEO to make donations of up to \$50 with specified conditions, and so this policy does not apply.

**Strategic Implications**

Nil.

**Financial Implications**

The cost of 5 shows is \$990, plus \$704 for 50 bucket hats as merit awards; a total of \$1,694. The request is for Council to fund half of this cost (\$847). Provision would need to be made in the 2002/03 Budget if Council resolves to contribute to this project.

**Background**

In September 2001, Council resolved to contribute half of the cost of three shows at primary schools in the district at a cost to Council of \$486.75.

The CCCSP is a non profit, community based organisation established primarily to assist community, Police Officers and schools address the issues of child safety, (injury prevention, and health promotion) crime prevention, protective behaviours and respect.

CCCSP says that its early childhood intervention strategy is its most important and significant tool. Also that its Constable Care educational puppet and interactive performances have become very popular and an important part of the crime prevention and early intervention community strategies of many local government groups.

CCCSP invites Council to consider it as part of Council's community involvement strategy for 2002/03 and suggests that Council will receive public recognition and make a contribution to the reduction of juvenile crime in the area.

The proposal suggests that there are approximately 479 students at primary schools in the Town and as each show caters for up to 100 students, five shows are planned. Merit awards are a feature of the shows and bucket hats with Town of Cottesloe and Constable Care logos are suggested.

### **Consultation**

Feedback from both the Cottesloe and North Cottesloe Primary Schools indicates that the last Constable Care shows were very well received, pitched at the right level for their students and would be good to repeat.

### **Staff Comment**

It is apparent that the past shows were well received at the two primary schools and would be welcomed again, and so it is recommended that Council again support this initiative.

**Voting:** Simple Majority.

## **C46 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council advise the Constable Care Child Safety Project Inc. that it supports, and will contribute \$847, being half of the cost of five shows for primary school students, toward the proposed projects for Cottesloe.**

Carried 9/0

## **C47 HANG GLIDERS – SOUTH COTTESLOE**

<b>File No.:</b>	<b>C2.1</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>11 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

### **Summary**

Council passed the following resolution at its April 2002 meeting:

That Council seek public comment on the WA Airsports' proposal to formalise the operation of hang gliders and para-gliders from the area south of Sydney Street and adjacent to Marine Parade.

**Statutory Environment**

Council's Beaches and Beach Reserves Local Law provides that (4.10) it is prohibited to launch hang gliders or other like devices except from locations which are designated for such use by Council.

**Policy Implications**

Council's Beach policy may have application specifically (6) (c).

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

At its July 2001 meeting, Council resolved to form a working party to look at the impact of hang gliders on Cottesloe dunes. The resolution required that the working party report back to the October meeting of Council with its findings. At its October 2001 meeting, Council resolved to extend the working party's reporting date to February 2002. The working party sought a further extension until April 2002 and this was granted by Council at its February 2002 meeting.

The working party met on 4 April, 2002 to review the proposal lodged by WA Airsports (WAASp) (according to the proposal, the marketing name of the Hang Gliders Association of WA) together with comments from South Cottesloe Coast Care Association, Municipal Liability Scheme, and Council's Works Supervisor.

The working party's recommendations to Council were as follows:

- (1) That the WAASp's proposal be supported in principle.
- (2) That the WAASp's proposed "drop-gate" system for access through the dune top fence be modified to a farmer's or "cockies" gate, as suggested by Council's Works Supervisor, or a conventional gate. That the gate way be a minimum of three metres wide and suitable strainer posts be installed. The cost of fence modifications and the manufacture and installation of the gate be at WAASp's expense.
- (3) That the proposal be modified to include an appendix that details the wording and location of signage. Signage should include one positioned either side of the gate way, that sets out conditions of operation and this signage should include a WAASp contact phone number for complainants use. Signage to be of a type and design that conforms with relevant standards and Council's policies, and as agreed by Council's CEO. All relevant signage costs to be borne by WAASp.
- (4) That WAASp be required to make arrangements with SCCC to participate in annual site maintenance activities.

- (5) That the option put in part two of item two of the proposal from WA Airsports to widen the hand rail spacing on the walkway immediately to the north of the launch site, be rejected, based on Council's Works Supervisor's comments. However consideration be given to reducing the height of any posts that extend past the top of the handrail where this could be done without affecting the integrity of the structure. Similar consideration be given to the relocation of any signage where this could be accommodated without compromising relevant standards. The cost of any substantial works undertaken in this regard to be borne by WAASp and anything of a very minor nature to be Council's responsibility.
- (6) That, as set out in the submission and as suggested by SCCC, no improvements to the take off site are necessary at this time.\
- (7) That Council set similar conditions of approval to the Town of Mosman Park, which are as follows:
  - The Council sighting the annual renewal of the Association's public liability insurance policy (the policy makes reference to the Town)
  - The Association indemnifying Council against any loss, damage or injury due to the activities
  - All necessary approvals to use the site being obtained from the relevant Government Departments/Authorities
  - The approval being subject to review by the Council after a period of 12 months or such earlier date at the discretion of the Council.
- (8) It was understood that licensed pilots are insured for public liability for up to \$10 million, however Council should require that:
  - (a) Council receives annual confirmation that licensed participants are automatically covered for public liability.
  - (b) Council sight the annual renewal of the WAASp, or Hang Gliding Federation of Australia (HGFA).
  - (b) The WAASp or HGFA public liability insurance policy specifically indemnifies the Town of Cottesloe.
  - (c) The WAASp and/or the HGFA indemnify the Town of Cottesloe, to the satisfaction of the Town's legal advisor, against any loss or damage due to activities of WAASp or HGFA, or its members.
  - (d) Council is protected against being sued by members of WAASp, or HGFA, in relation to their use of the site.

(The Working Group understands that each pilot, through his/her licence, is covered by \$10 million public liability insurance, but felt that the preceding conditions should apply and that Mr Lush would investigate the feasibility of them).
- (9) That in the event Council approves further tree planting in or near the landing zones identified in the proposal, alternative landing sites be found.
- (10) That approval be subject to an initial review after six months and annual reviews thereafter.
- (11) That Council have the option of withdrawing approval at any time at its discretion without the need for justification.

- (12) That public comment be sought prior to approval. That the submission, together with the Working Group's recommendations, be put on Council's Web site and be made available at Council's office for a month before submissions close.

At its April meeting, Council resolved to seek public comment, as recommended by the working party.

### **Consultation**

Advertisements were placed in the "Post" newspaper on 4 May 2002, on Council's web site from 1 May to 10 June (21 hits recorded) and on Council's notice boards, advising that submissions would be received up until 4.00pm Monday, 3 June, 2002. No submissions have been received.

### **Staff Comment**

The following recommendation is based on the working party's recommendations to Council

**Voting:** Simple Majority.

## **C47 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council approve WA Airsports' (WAASp) application for its members to operate hang gliders and para gliders from the area of beach reserve south of Sydney Street subject to the following:**

- (1) A gateway, of a type and construction suitable to Council, for access through the dune top fence being installed at WAASp's expense. The gate way be a minimum of three metres wide and suitable strainer posts be installed.**
- (2) The installation of signage at WAASp's expense. The signage to include one positioned either side of the gateway, that sets out conditions of operation and a WAASp contact phone number for complainants use. Signage to be of a type and design that conforms with relevant standards and Council's policies, and as agreed by Council's CEO.**
- (3) WAASp making arrangements with SCCC to participate in annual site maintenance activities.**
- (4) Any substantial works in regard to beach access ways or signage to facilitate the pedestrian transportation of gliders be the subject of specific and detailed requests. That these requests be accommodated only as agreed by the CEO only where relevant standards are not compromised, and in consultation with relevant community groups, with the full cost to be borne by WAASp.**
- (5) No improvements to the take off site being made at this time.**
- (6) The Association indemnifying Council against any loss, damage or injury due to the activities.**
- (7) All necessary approvals to use the site being obtained from the relevant Government Departments/Authorities.**

- (8) In the event Council approves further tree planting in or near the landing zones identified in the WAASp proposal, alternative landing sites be found.
- (9) In relation to insurance, WAASp to :
- (a) Supply Council with annual confirmation that licensed participants are automatically covered for public liability.
  - (b) Council sighting the annual renewal of WAASp's public liability insurance policy.
  - (c) WAASp's public liability insurance policy to make reference to the Town of Cottesloe and to specifically indemnify the Town of Cottesloe, to the satisfaction of the Town's legal advisor, against any loss or damage due to activities of WAASp or its members.
  - (d) Provide evidence that Council is protected against being sued by members of WAASp in relation to their use of the site.
- (10) Approval being subject to an initial review after six months and annual reviews thereafter.
- (11) Council having the option of withdrawing approval at any time at its discretion without the need for justification.

Carried 9/0

C48

**DANGEROUS DOG**

<b>File No.:</b>	<b>No. 1A Parry Street</b>
<b>Applicant:</b>	<b>S. Scott</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>11 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

**Summary**

The purpose of this report is to refer the matter back to the Works and Corporate Services Committee as resolved at the May meeting of Council

**Statutory Environment**

The Dog Act (Division 2 – Dangerous Dogs) applies. Council's Dogs Local Law applies also.

The Dog Act provides for the owners of a dog declared to be dangerous, to appeal against the declaration within seven days of the date of the declaration notice. The owner may appeal to Council, with a subsequent right to appeal to a Local Court against any decision made by Council, or directly to a Local Court. If Council dismisses the objection, the owner may appeal to a Local Court within seven days after Council gives notice of its decision. If Council does not give notice to the owner that the objection has been considered, and either upheld, varied, or dismissed within thirty five days after the notice is issued, the owner may appeal to a Local Court within forty two days after the giving of the notice.



The dangerous dog notice requires, the owner to enclose the property where the dog is kept with a fence of sufficient height and of such a nature so as to prevent the dog from escaping and to restrict access by young children, and for self closing mechanisms to be fitted to gates and doors in the fence.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil at this time, however there could be some legal costs to Council if the appellant takes the appeal to the Local Court.

**Background**

The following is an extract of the report to the May meeting:

The dog (a German Sheppard cross) was declared dangerous on 12 April, 2002, following two reported incidents. The first occurred 27 February, 2002, and involved the dog charging two boys. The dog was snarling and growling aggressively. The second occurred on 22 April, 2002. Here the dog lunged at and bit a young boy on the upper leg, causing his shorts to be torn and puncture wounds to be inflicted. During this second incident, the dog was being held on a leash and both attacks were unprovoked. The owners were issued with an infringement notice relating to the dog committing a nuisance.

The letter of appeal was dated and received on 26 April, 2002. It is noted that renovations being done to the property resulted in fences being substituted with temporary barricades and the suggestion that this resulted in the dog feeling more insecure and territorial. Also the dog is 13 years old and has had major orthopaedic surgeries and suffers with osteoarthritis.

The owner advises that the dog has been taunted to bark by some passers by but that it has never shown signs of aggression before. Also that measures such as pain relief treatment, and advice of an animal behaviourist, have been taken. Renovation works were expected to be completed by the middle of May. The owner is a qualified Veterinary Nurse.

It is further reported that the dog was not registered at the time of the first incident (27 February, 2002) and that the owner was given verbal advice to register the dog within two weeks. The dog was registered March 8, 2002.

The dangerous dog declaration was dated 12 April and taken to the owners residence on that day but the owner was not at home so rather than leaving it without explanation the officer returned on Monday, 15 April and met with the owner. The officer explained the dangerous dog declaration and gave indication that the owner had more than the seven days provided for in the Act in which to appeal.

The officer noted that building works were in progress at the owner's residence that would have made compliance with provisions of the dangerous dog declaration difficult, and gained the impression that the owner would appeal the declaration in order to gain time to complete the works to enable compliance. Subsequent discussion with the owner indicate this impression was not correct and that she is concerned that the dog would not take well to requirements such as having to wear a muzzle due to its advanced age. Following discussion with the dog's owner and the person attacked by the dog On 22 March, the officer issued an infringement notice to the owner for the dog causing a nuisance rather than prosecuting for the attack.

Council's legal advisor has indicated that if Council dismisses the appeal, the dog owner would have seven days, following Council's notice of its decision, to appeal to a Local Court.

### **Consultation**

Council Rangers have consulted with the dog owner and the parent of the child who was bitten.

### **Staff Comment**

It is recommended that the dangerous dog declaration stand as the dog has been reported to have shown aggression on two occasions, one involving a physical attack.

**Voting:** Simple Majority.

### **OFFICER RECOMMENDATION**

That Council dismiss the appeal from Ms. S. Scott of 1A Parry Street, Cottesloe, against the dangerous dog declaration in respect of her dog.

### **ALTERNATIVE RECOMMENDATION**

Moved Cr. Utting, seconded Cr. Furlong, that the dangerous dog declaration be dismissed and that a warning letter be sent in its place.

Lost 2/7

C48

### **COMMITTEE RECOMMENDATION**

Moved Cr. Miller, seconded Cr. Morgan

That Council:

- (1) Dismiss the appeal from Ms. S. Scott of 1A Parry Street, Cottesloe, against the dangerous dog declaration in respect of her dog.
- (2) Amend the control requirements, as set out in the dangerous dog declaration, to replace the requirement for the dog to be muzzled at all times in any public place and to insert in its place the requirement for - "the dog is to be in the control of the registered owner Ms S Scott and to wear a halter style of collar at all times in any public place."

**AMENDMENT NO. 1**

Moved Cr. Walsh, seconded Cr. Sheppard

That Part (2) of the motion be amended to replace the words:

*“the registered owner Ms Scott” with “a competent adult handler”.*

Carried 8/1

**AMENDMENT NO. 2**

Moved Cr. Utting, seconded Cr. Miller

That the motion be replaced by:

*“that Council uphold the appeal from Ms S. Scott of 1a Parry Street, Cottesloe, against the dangerous dog declaration in respect of her dog.”*

Lost 3/6

The amended motion was put.

C48 **COUNCIL RESOLUTION**

**That Council:**

- (1) Dismiss the appeal from Ms. S. Scott of 1A Parry Street, Cottesloe, against the dangerous dog declaration in respect of her dog.**
- (2) Amend the control requirements, as set out in the dangerous dog declaration, to replace the requirement for the dog to be muzzled at all times in any public place and to insert in its place the requirement for - “the dog is to be in the control of a competent handler and to wear a halter style of collar at all times in any public place.”**

Carried 8/1

C49 **ASSETS TO BE WRITTEN OFF**

<b>File No.:</b>	<b>C7.14</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>12 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

The purpose of this report is to seek Council’s approval to write off a number assets noted as missing in physical checks conducted during the year.

**Statutory Environment**

Nil.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

A complete reconciliation of assets listed on the asset register and assets physically held was conducted during the current financial year and items on the following list were not located. Whilst ad hoc checks may have been undertaken in past years, this appears to be the first complete check completed for some time.

<u>Asset No</u>	<u>Asset</u>	<u>Location</u>	<u>Date Purchased</u>	<u>Cost</u>	<u>Loss on Disposal</u>
<b>Plant</b>					
P1001	Brighton Beach Cleaner	Depot	1-Jan-1985	3,663.00	-
P1003	Alroh D J Edger	Depot	1-Jan-1985	695.00	-
P1005	Ings Rotary Mower Honda 31/2	Depot	1-Jan-1985	350.00	-
P1006	Alroh 20" Lawn Mower	Depot	1-Jan-1986	1,135.00	-
P1013	CJD Vacuum	Depot	1-Jan-1991	2,000.00	-
P1026	Brushcutter	Depot	31-Mar-1997	804.00	107.20
P1034	BR45 Hydraulic Breaker & Hose	Depot	1-Jan-1992	3,032.00	-
P1035	Vanguard Concrete Saw	Depot	1-Jan-1992	1,995.00	-
P1036	Ingersol Rand Compressor	Depot	1-Jan-1983	1,126.80	-
P1039	Cutting Saw Husq Bricksaw	Depot	6-May-1995	1,190.00	-
P1045	Rear blade for Tractor	Depot	1-Jan-1985	400.00	-
P1054	Clipper Concrete Saw	Depot	1-Jan-1988	1,390.00	-
P1071	Masport Walk Behind Mower	Depot	25-Jun-1998	463.90	170.16
P1007	Flymow	Depot	1-Jan-1987	323.00	-
P1010	Stihl Chainsaw 020av	Depot	1-Jan-1988	600.00	-
P1012	Kawasaki Edger	Depot	1-Jan-1990	549.00	-
P1022	Power Pruner	Depot	30-Sep-1996	1,715.00	-
P1023	30" Vacuum Blower	Depot	31-Oct-1996	1,430.00	-
P1024	Power Pruner Extension Pole	Depot	31-Dec-1996	235.00	-
P1025	Stihl BG75 Blower	Depot	28-Feb-1997	750.00	12.23
P1028	Vehicle Trailer	Depot	1-Jan-1985	1,037.00	-
P1041	Circular Saw & Bench	Depot	1-Jan-1985	80.00	-
P1042	Arnold Paint Spray	Depot	1-Jan-1985	70.00	-
P1044	Arnold Paint Spray Pot	Depot	1-Jan-1985	163.71	-
P1057	Mobile Phone	Depot	1-Jan-1991	1,208.00	-
P1058	Mobile Phone	Depot	1-Jan-1991	1,208.00	-
P1063	Stump Grinder	Depot	29-Sep-1995	1,332.00	-

**Other Office Equipment**

F103	Computer Link Cable	Admin	30-Jun-82	\$119.48	-
F113	Sharp Calculator	Admin	31-Dec-83	\$278.00	-
F118	SIGMA Memory Board	Admin	31-Dec-84	\$351.00	-
F152	PC Unisys SG3000	Admin	31-Oct-93	\$3,799.00	-
F157	(?) x PCs Osborne 486s	Admin	31-Jan-95	\$10,540.00	-
F158	(?) x PCs Osborne 486s	Admin	17-Feb-95	\$5,100.00	-
F168	Computer	Admin	30-Jun-96	\$2,943.00	\$1,028.70
F169	3 Computers @ \$2400	Admin	30-Jun-96	\$7,200.00	\$2,517.36
F178	Telephone Handsets	Admin	30-Sep-96	\$1,480.00	-
F181	OCE Photocopier (residual)	Admin	31-Dec-96	\$1.00	-
		Committee			
F32	Stereo Tape	Room	31-Dec-88	\$605.00	-
F46	Roto Card Trolley	Admin	30-Jun-81	\$52.00	-
F82	Calculators - 2	Admin	31-Dec-81	\$290.00	-
F87	Kodak Camera	Admin	30-Jun-81	\$58.02	-
F91	Lanier Message System	Admin	30-Jun-81	\$3,157.00	-
				<b>\$6,4918.91</b>	<b>\$3,835.65</b>

Enquiries made indicate that many items were traded. or scrapped. but the book entries to reflect this were not made. Most items have a nil book value having been fully depreciated. Notable items that did have a relatively high book value are the computers listed as F168 and F169. Both lots of items were purchased in 1996 and should have been depreciated over three years, but appear to have been set-up to depreciate over ten years in error.

**Consultation**

Admin and works staff conducted the reconciliation.

**Staff Comment**

It is recommended that the items listed be written off.

**Voting:** Simple Majority.

**OFFICER RECOMMENDATION**

That Council approve the write off of the following assets:

<u>Asset No</u>	<u>Asset</u>	<u>Location</u>	<u>Date Purchased</u>	<u>Cost</u>	<u>Loss on Disposal</u>
P1001	Brighton Beach Cleaner	Depot	1-Jan-1985	3,663.00	-
P1003	Alroh D J Edger	Depot	1-Jan-1985	695.00	-
P1005	Ings Rotary Mower Honda 31/2	Depot	1-Jan-1985	350.00	-
P1006	Alroh 20" Lawn Mower	Depot	1-Jan-1986	1,135.00	-
P1013	CJD Vacuum	Depot	1-Jan-1991	2,000.00	-
P1026	Brushcutter	Depot	31-Mar-1997	804.00	107.20
P1034	BR45 Hydraulic Breaker & Hose	Depot	1-Jan-1992	3,032.00	-
P1035	Vanguard Concrete Saw	Depot	1-Jan-1992	1,995.00	-
P1036	Ingersol Rand Compressor	Depot	1-Jan-1983	1,126.80	-
P1039	Cutting Saw Husq Bricksaw	Depot	6-May-1995	1,190.00	-
P1045	Rear blade for Tractor	Depot	1-Jan-1985	400.00	-

<u>Asset No</u>	<u>Asset</u>	<u>Location</u>	<u>Date Purchased</u>	<u>Cost</u>	<u>Loss on Disposal</u>
P1054	Clipper Concrete Saw	Depot	1-Jan-1988	1,390.00	
P1071	Masport Walk Behind Mower	Depot	25-Jun-1998	463.90	170.16
P1007	Flymow	Depot	1-Jan-1987	323.00	-
P1010	Stihl Chainsaw 020av	Depot	1-Jan-1988	600.00	-
P1012	Kawasaki Edger	Depot	1-Jan-1990	549.00	-
P1022	Power Pruner	Depot	30-Sep-1996	1,715.00	-
P1023	30" Vacuum Blower	Depot	31-Oct-1996	1,430.00	-
P1024	Power Pruner Extension Pole	Depot	31-Dec-1996	235.00	-
P1025	Stihl BG75 Blower	Depot	28-Feb-1997	750.00	12.23
P1028	Vehicle Trailer	Depot	1-Jan-1985	1,037.00	-
P1041	Circular Saw & Bench	Depot	1-Jan-1985	80.00	-
P1042	Arnold Paint Spray	Depot	1-Jan-1985	70.00	-
P1044	Arnold Paint Spray Pot	Depot	1-Jan-1985	163.71	-
P1057	Mobile Phone	Depot	1-Jan-1991	1,208.00	-
P1058	Mobile Phone	Depot	1-Jan-1991	1,208.00	-
P1063	Stump Grinder	Depot	29-Sep-1995	1,332.00	-
<b><u>Other Office Equipment</u></b>					
F103	Computer Link Cable	Admin	30-Jun-82	\$119.48	-
F113	Sharp Calculator	Admin	31-Dec-83	\$278.00	-
F118	SIGMA Memory Board	Admin	31-Dec-84	\$351.00	-
F152	PC Unisys SG3000	Admin	31-Oct-93	\$3,799.00	-
F157	(?) x PCs Osborne 486s	Admin	31-Jan-95	\$10,540.00	-
F158	(?) x PCs Osborne 486s	Admin	17-Feb-95	\$5,100.00	-
F168	Computer	Admin	30-Jun-96	\$2,943.00	\$1,028.70
F169	3 Computers @ \$2400	Admin	30-Jun-96	\$7,200.00	\$2,517.36
F178	Telephone Handsets	Admin	30-Sep-96	\$1,480.00	-
F181	OCE Photocopier (residual)	Admin	31-Dec-96	\$1.00	-
Committee					
F32	Stereo Tape	Room	31-Dec-88	\$605.00	-
F46	Roto Card Trolley	Admin	30-Jun-81	\$52.00	-
F82	Calculators - 2	Admin	31-Dec-81	\$290.00	-
F87	Kodak Camera	Admin	30-Jun-81	\$58.02	-
F91	Lanier Message System	Admin	30-Jun-81	\$3,157.00	-
				<b>\$6,4918.91</b>	<b>\$3,835.65</b>

C49 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That:**

- (1) **Administration institute a system of annual physical checks of Council's assets against Council's assets register.**
- (2) **Council approve the write off of the following assets:**

<u>Asset No</u>	<u>Asset</u>	<u>Location</u>	<u>Date Purchased</u>	<u>Cost</u>	<u>Loss on Disposal</u>
<b>Plant</b>					
P1001	Brighton Beach Cleaner	Depot	1-Jan-1985	3,663.00	-
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P1023	30" Vacuum Blower	Depot	31-Oct-1996	1,430.00	-
P1024	Power Pruner Extension Pole	Depot	31-Dec-1996	235.00	-
P1025	Stihl BG75 Blower	Depot	28-Feb-1997	750.00	12.23
P1028	Vehicle Trailer	Depot	1-Jan-1985	1,037.00	-
P1041	Circular Saw & Bench	Depot	1-Jan-1985	80.00	-
P1042	Arnold Paint Spray	Depot	1-Jan-1985	70.00	-
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P1058	Mobile Phone	Depot	1-Jan-1991	1,208.00	-
P1063	Stump Grinder	Depot	29-Sep-1995	1,332.00	-
<b>Other Office Equipment</b>					
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F118	SIGMA Memory Board	Admin	31-Dec-84	\$351.00	-
F152	PC Unisys SG3000	Admin	31-Oct-93	\$3,799.00	-
F157	(?) x PCs Osborne 486s	Admin	31-Jan-95	\$10,540.00	-
F158	(?) x PCs Osborne 486s	Admin	17-Feb-95	\$5,100.00	-
F168	Computer	Admin	30-Jun-96	\$2,943.00	\$1,028.70
F169	3 Computers @ \$2400	Admin	30-Jun-96	\$7,200.00	\$2,517.36
F178	Telephone Handsets	Admin	30-Sep-96	\$1,480.00	-
F181	OCE Photocopier (residual)	Admin	31-Dec-96	\$1.00	-
F32	Stereo Tape	Committee Room	31-Dec-88	\$605.00	-
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F82	Calculators - 2	Admin	31-Dec-81	\$290.00	-
F87	Kodak Camera	Admin	30-Jun-81	\$58.02	-
F91	Lanier Message System	Admin	30-Jun-81	\$3,157.00	-
				<b>\$6,4918.91</b>	<b>\$3,835.65</b>
				Carried 9/0	

**C50**      **SEA VIEW GOLF CLUB – NEW LEASE AGREEMENT**

**File No.:** E10.10  
**Applicant:** Sea View Golf Club  
**Author:** Mr Stephen Tindale  
**Report Date:** 13 June 2002  
**Author Disclosure of Interest:** Nil

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**Summary**

Recommendations are made that commit the town of Cottesloe in principle to a new long-term lease agreement with the Sea View Golf Club and outline the process by which a new lease agreement is to be prepared.

**Statutory Environment**

Extracts from the relevant section of the Local Government Act reads as follows.

**3.58. Disposing of property**

- (1) In this section —  
“dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;  
“property” includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
  - (a) the highest bidder at public auction; or
  - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender...
- (5) This section does not apply to —
  - (a) a disposition of land under section 29 or 29B of the Public Works Act 1902;
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
  - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.

Regulation 30 of the Local Government (Functions and General) Regulations 1996 provides as follows.

**30. Dispositions of property to which section 3.58 of Act does not apply**

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if —
  - (a) the land is disposed of to an owner of adjoining land (in this paragraph called “the transferee”) and —
    - (i) its market value is less than \$5 000; and



- (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
- (b) the land is disposed of to a body, whether incorporated or not —
  - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
  - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;...

In other words, the Town of Cottesloe can enter into a lease agreement with the Sea View Golf Club (Inc.) without going through the formalities that would ordinarily be associated with the disposal of local government property.

### **Policy Implications**

Nil.

### **Strategic Implications**

Nil.

### **Financial Implications**

It is envisaged that legal costs incurred with the preparation of a new lease agreement will be borne by the lessor.

Future lease income flows to the Town of Cottesloe may change as a result of negotiations.

### **Background**

The current 15-year lease agreement with the Sea View Golf Club terminates on the 30 June, 2005.

The vesting order provides, in part;

...that Class "A" Reserves 6613 and 1664 shall vest in and be held by the Municipality of Cottesloe in trust for the following purposes (that is to say) "Park Lands" and "Recreation" respectively; or other purposes for which the said land is reserved, with power to the said Municipality of Cottesloe to lease the whole or any portion thereof for any term not exceeding 21 years from the date of the lease, subject to the condition that any such lease must preserve the public rights and shall be subject to the Governor's approval...

In April 2001, Council resolved;

That Council:

- (1) Continue the trial arrangements in relation to the closure of Jarrad Street through the Sea View Golf Club leased reserve vide Council resolution FC19 of October 1998; and
- (2) Request that the Chief Executive Officer develop a strategy, for Council's approval, which includes full community consultation and safety strategies, to commence negotiations with the Sea View Golf Club regarding its options after the expiry of the current lease in 2005.

In May 2002 the Jarrad Street "A" Class Reserves Review Group (Inc.) wrote to the Town of Cottesloe enclosing a submission to be tabled at the May Works and Corporate Services Committee meeting.

At the May meeting of Council it was resolved;

That Council:

- (1) Receive the Jarrad Street 'A' Class Reserve Review Group's submission on the renewal of the Sea View Golf Club lease; and
- (2) Request administration to prepare a report for the June Works & Corporate Services Meeting on the status/progress of the Sea View Golf Club Lease review.

### **Consultation**

Nil.

### **Staff Comment**

To cut a long story short there has been no progress on the development of "...a strategy, for Council's approval, which includes full community consultation and safety strategies, to commence negotiations with the Sea View Golf Club regarding its options after the expiry of the current lease in 2005."

Nevertheless the CEO has undertaken a review of all Council minutes relating to the Sea View Golf Club dating back to May 1997.

A copy of those minutes was enclosed with the agenda.

In reviewing the files and the minutes it appears that the following points can be made with some certainty;

1. The primary use of the reserves is for "Park Lands" and "Recreation".
2. The public has an "as-of-right" power of access to the land.
3. Historically, the Town of Cottesloe has also supported the use of the reserves as a golf course.
4. The Jarrad Street road reserve limits the effectiveness of the golf course.
5. Motorists using the Jarrad Street road reserve are at risk from the impact of golf balls.
6. The risk is foreseeable and may become the subject of a public liability claim.
7. As a result, the Town of Cottesloe is obliged to manage the risk appropriately in order to protect the interests of the community it serves, individual elected members and staff.
8. The Town of Cottesloe has determined that the Jarrad Street Road Reserve shall not be permanently closed.
9. In the face of increasing concerns over potential public liability claims, the Town of Cottesloe has decided that temporary closure of Jarrad Street (at certain times) and traffic-calming measures are two effective ways of lessening the risk.
10. The road closures are a compromise.

11. The issue of environmental sustainability and the golf course is a newly emergent one that has not been fully articulated to date.

What is not clear from the minutes is whether the Town of Cottesloe wants to renew the lease with the Sea View Golf Club or not.

It seems to me that uncertainty over the future renewal of the lease has therefore precipitated;

1. A 1997 request from the Sea View Golf Club to extend the current lease. The Town of Cottesloe refused this request.
2. A 2000 request to include the golf course in the Municipal Heritage Inventory. This request was also refused.
3. A current request from the golf club to list the golf course in the State Register of Heritage Places. The request is currently before the Minister for Environment & Heritage.

These actions may have been undertaken with a view to ensuring that the golf course remains in its current layout. In the long-term, this may not suit anyone if good solutions are to be found.

The Chief Executive Officer has been asked..." to develop a strategy, for Council's approval, which includes full community consultation and safety strategies, to commence negotiations with the Sea View Golf Club regarding its options after the expiry of the current lease in 2005".

The current uncertainty surrounding public liability insurance means that the resolution of safety issues cannot be achieved with any degree of certainty.

Risk management is a dynamic rather than a static process and unless;

1. Jarrad Street is closed permanently or
2. the golf course is permanently altered to a non-competitive layout or
3. closed in its entirety,

then the Sea View Golf Club issue will continue to consume the energy and resources of the Town of Cottesloe and its residents.

In other words, plugging the gaps now by using a new lease agreement as a means of forcibly resolving current safety and sustainability issues, is not going to prevent new gaps from appearing in the future.

The political, social, environmental, economic and technological framework that Council finds itself in will change. An inflexible long-term lease agreement may well constrain future Councils from dealing with new issues as they arise. A short-term lease agreement may only mean more of that which we are currently faced with.

A flexible long-term lease agreement is required that takes account of changing circumstances. In other words a spirit of mutual co-operation in the interpretation of the lease agreement should prevail rather strict rigidity in the interpretation of individual lease agreement clauses.

In my view, the Town of Cottesloe needs to:

1. Commit in principle to a new long-term lease agreement with the Sea View Golf Club.
2. Reach agreement with the Sea View Golf Club that as the lessee, they must meet all legal costs associated with the preparation of a new lease agreement.
3. Delegate authority to the CEO to negotiate a lease agreement with the Sea View Golf Club that addresses the substantive issues.
4. Present the proposed lease agreement to Council for its preliminary approval and/or amendment.
5. Advise the amendments, if any, to the Sea View Golf Club.
6. Implement a community consultation process that is similar to that used for town planning scheme amendments.
7. Incorporate and advise the Sea View Golf Club of any amendments arising from the community consultation process.
8. Adopt the final lease agreement.
9. Present the final lease agreement to the Sea View Golf Club for execution.

The above process would seem to be fairly fundamental if Council wants to resolve issues sooner rather than later.

**Voting:** Simple Majority.

#### **OFFICER RECOMMENDATION**

That Council:

- (1) Commit in principle to a new long-term lease agreement with the Sea View Golf Club.
- (2) Reach agreement with the Sea View Golf Club that as the lessee, they must meet all legal costs associated with the preparation of a new lease agreement.
- (3) Delegate authority to the CEO to negotiate a lease agreement with the Sea View Golf Club that addresses the substantive issues.
- (4) Present the proposed lease agreement to Council for its preliminary approval and/or amendment.
- (5) Advise the amendments, if any, to the Sea View Golf Club.
- (6) Implement a community consultation process that is similar to that used for town planning scheme amendments.
- (7) Incorporate and advise the Sea View Golf Club of any amendments arising from the community consultation process.
- (8) Adopt the final lease agreement.
- (9) Present the final lease agreement to the Sea View Golf Club for execution.
- (10) Advise the Sea View Golf Club and the Jarrad Street "A" Class Reserves Review Group of the above process.

#### **AMENDMENT**

Moved Cr. Ewing, seconded Cr Whitby

That Part (1) of the Officer Recommendation be replaced with “ Administration initiate a process to explore other opportunities for alternative recreational uses of the reserves.”

Lost 2/7

C50 **OFFICER & COMMITTEE RECOMMENDATION**

That Council:

- (1) Commit in principle to a new long-term lease agreement with the Sea View Golf Club.
- (2) Reach agreement with the Sea View Golf Club that as the lessee, they must meet all legal costs associated with the preparation of a new lease agreement.
- (3) Delegate authority to the CEO to negotiate a lease agreement with the Sea View Golf Club that addresses the substantive issues.
- (4) Present the proposed lease agreement to Council for its preliminary approval and/or amendment.
- (5) Advise the amendments, if any, to the Sea View Golf Club.
- (6) Implement a community consultation process that is similar to that used for town planning scheme amendments.
- (7) Incorporate and advise the Sea View Golf Club of any amendments arising from the community consultation process.
- (8) Adopt the final lease agreement.
- (9) Present the final lease agreement to the Sea View Golf Club for execution.
- (10) Advise the Sea View Golf Club and the Jarrad Street “A” Class Reserves Review Group of the above process.

**AMENDMENT NO. 1**

Moved Cr. Whitby, seconded Cr. Birnbrauer

That Part (1) of the motion be replaced with:

*“(1) administration intitiate a process of full and thorough community consultation to consider the full range of options and opportunities for all recreational uses of the reserves.”*

Lost 4/5

**AMENDMENT NO. 2**

Moved Cr. Whitby, seconded Cr. Birnbrauer

That a new condition be added stating that Council:

*“(11) reach agreement with the Sea View Golf Club on course alterations and designs, to reduce as much as reasonably possible, the risk of golf balls striking people at property outside the course.”*

Lost 4/5

Motion was put.

## C50 COUNCIL RESOLUTION

## That Council:

- (1) Commit in principle to a new long-term lease agreement with the Sea View Golf Club.
- (2) Reach agreement with the Sea View Golf Club that as the lessee, they must meet all legal costs associated with the preparation of a new lease agreement.
- (3) Delegate authority to the CEO to negotiate a lease agreement with the Sea View Golf Club that addresses the substantive issues.
- (4) Present the proposed lease agreement to Council for its preliminary approval and/or amendment.
- (5) Advise the amendments, if any, to the Sea View Golf Club.
- (6) Implement a community consultation process that is similar to that used for town planning scheme amendments.
- (7) Incorporate and advise the Sea View Golf Club of any amendments arising from the community consultation process.
- (8) Adopt the final lease agreement.
- (9) Present the final lease agreement to the Sea View Golf Club for execution.
- (10) Advise the Sea View Golf Club and the Jarrad Street "A" Class Reserves Review Group of the above process.

Carried 6/3

W18 BROOME STREET DRAINAGE

File No.:	E15.2
Applicant:	N/A
Author:	Mr Malcolm Doig
Report Date:	10 June 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale

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**Summary**

The owners of No. 157 Broome Street have expressed concern that the existing drainage system prevents direct vehicle access to their property and have urged Council to resolve the issue.

To consider various issues relating to the Broome Street compensation basin including the current capacity, estimated storage requirement, appearance and vehicle access to the adjacent residential property.

### **Statutory Environment**

Local Government Act.

### **Policy Implications**

Nil.

### **Strategic Implications**

For many years drainage improvements aimed the prevention of flooding has been given the highest priority. Council does need to find a balance between other drainage issues such as traffic safety, streetscape improvements and reduction of flow to ocean outfalls. In the past two years Council has been able to make significant reductions in the volume of water directed ocean outfalls. This is an opportunity to resolve a longstanding problem.

### **Financial Implications**

The estimated cost of constructing drainage buffer tanks with equivalent capacity to the Broome Street compensating basin is \$120,000.

The draft budget originally provided for these works, but the allocation has been removed. This amount would need to be included in the draft budget if the resolution of this matter is to be progressed.

It now seems that Works expenditure in the current year will be less than had been expected and that the surplus will be greater than had been predicted.

Alternatively Council could seek approval to reallocate the remaining balance of \$126,768 balance of Road to Recovery Funds to this project and fund the resurfacing of local roads from general revenue.

As a result of grants approved, Cottesloe Council's net expenditure on local roads and drainage in the past year is actually lower than would be average and is likely to be so in the four years ahead. The majority of roads in Cottesloe have very low traffic volumes and for that reason will never qualify for specific grants. If expenditure levels are not maintained at a "status quo" level, there is risk that the maintenance road assets could fall behind and Council will have to find substantial extra funds in future years. Conversely, if actual expenditure levels were maintained, there would be an opportunity to continue to complete additional works in a timely manner when the grants for regional roads are not available, Council would still be in a position to fund the rehabilitation of pavements and drainage on the majority of local roads.

Council could also invite the owner of the adjacent property to make some financial contribution towards the cost, as the property is to be subdivided and there would be an expectation of increased value or "betterment".

### **Background**

In response to a previous request in May 2001/2002 Council agreed to engage consulting engineers to prepare concept sketches and estimates for the installation of concealed drainage tanks at the Broome Street sump and a review of runoff calculations.

The staff report at that time advised that consideration had previously been to the option of placing a deck over the basin and that Council had also given

approval to the owner to construct a bridge over the sump in order to achieve vehicle access.

The existing Broome Street compensating basin is an antiquated solution and it is the only basin in the district that is adjacent to frontage of private property. All other compensating basins of this type are concealed on Council owned lots or located on a central median strip and certainly do not prevent vehicle access to private property.

While there has been a long history of flooding at this location, the risk has been reduced to manageable proportions since Council constructed a series of upstream drainage systems in 1997. Up until recent years there have been very few economic options to resolve this problem without purchasing private land or constructing a pumping station which would be very expensive. The development of buffer tanks has provided a far more practical solution.

### **Consultation**

There has been no recent consultation on this issue in recent years. Strong opposition was demonstrated in 1996 when Council raised the possibility of increasing the sump size and there was a strong support for the removal of the sump in the longer term.

### **Staff Comment**

Council now has the option of totally concealing the original compensation basin in Broome Street by installing readily available drainage buffer tanks. The Town of Mosman Park has designed and installed buffer tanks at six locations ranging in size from 50 to 260 cubic metres and in most cases have been able utilize the land for small reserves and playgrounds.

After reviewing the drainage report, the consulting engineers have confirmed their calculations and the earlier recommendation that a drainage capacity of 350 cubic metres would be required in order to accommodate a storm of "100 year intensity". The problem is that this is the lowest point in the catchment and when all other systems reach capacity, including most of those located private land, all the storm water will be directed to this point. Once this point has been reached, the situation can quickly deteriorate and local flooding may occur.

One hundred year storm events are not as rare as one may expect but are sometimes confined to comparatively small areas of say 3-5 square kilometres due to the passage of narrow strip storms. While the duration and intensity of a 100 ARI may vary from a storm of 5 minutes at 240 mm/hr to say 6 hrs at 13.5 mm/hr the holding capacity required varies dramatically as the extra time allows significant infiltration to occur. The critical storm condition for this particular catchment has been identified as a storm of 60 minutes at an intensity 46mm/hr. If that were to occur, the capacity of the Broome Street site be exceeded, but it would only be one of many to drainage systems to fail in these conditions. However Council does need to keep this possibility in mind if redevelopment occurs on sites adjacent to drainage areas, as the tendency is still to build residential with very little "freeboard" and inadequate drainage capacity.



Some comfort can be taken from the fact that the existing sump, and the upstream drains installed in 1996, easily handled the storm water generated in the severe storm that occurred in January when over 50mm of rainfall was recorded at Swanbourne and Mosman Park between 2.00am and 7.00am but this was not a hundred year event.

If a buffer tank is to be installed it needs to be of a capacity equal to the existing compensating basin, which is 228m<sup>3</sup>. Apart from cost the difficulty is to accommodate a buffer system of sufficient size within the constraints of the available site. In order to explore the possible options three concept plans have been drawn for buffer tanks with a total capacity of 350 m<sup>3</sup>, 175 m<sup>3</sup> and 268m<sup>3</sup>.

**Voting:** Simple Majority.

W18 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council include an amount of \$120,000 in 2002/2003 budget for the installation of concealed buffer tanks at the Broome Street drainage basin.**

Carried 6/3

W19 **VLAMINGH MEMORIAL – LIONS CLUB OF MOSMAN-COTTESLOE**

<b>File No.:</b>	<b>E2.12</b>
<b>Applicant:</b>	<b>Lions Club of Mosman-Cottesloe</b>
<b>Author:</b>	<b>Mr Malcolm Doig</b>
<b>Report Date:</b>	<b>11 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

To consider a further submission from the Lions Club of Mosman-Cottesloe relating to improvements proposed for the memorial site and surrounds, to authorise works initially and determine the extent of work to be undertaken by Council.

**Statutory Environment**

Local Government Act.  
WA Planning Commission.

**Policy Implications**

Cottesloe Beach Policy.

**Strategic Implications**

Nil.

**Financial Implications**

Funding will be required for any council commitment.

## Background

The Lions Club of Mosman–Cottesloe has submitted a concept plan for the replacement of the concrete slabs on the top deck with decorative brick paving and for Council to build a 600mm limestone wall/seal surrounding the top deck. Approval is also sought for a doubled sided project signboard that would remain on site for the duration of the project and be funded on a 50/50 basis.

In August 2000, Council considered a report prepared by the CEO and resolved:

- C95 That Council endorse the proposal from the Mosman-Cottesloe Lions Club to rehabilitate the Vlamingh Memorial site as a community asset, subject to the provision to Council of a detailed project plan and financial strategy for its implementation.

In August, 2001 the CEO submitted a further report and Council resolved:

- C71 That Council again acknowledge the commitment of the Mosman-Cottesloe Lions Club, and advise it that:
- (1) Approval is given, subject to confirmation by the WA Planning commission, for its proposal to commence refurbishment of the Vlamingh Memorial Stage 1, which is limited to upgrading the paving and landscaping, in consultation with the South Cottesloe Coast Care Association, around the memorial, using Club and Council resources, to standards acceptable to Council's works staff; and
  - (2) Further approval will be required for any other stages of work which involve new construction of any kind and/or expenditure, beyond that allowed in Council's current budget, in this financial year.

The CEO at that time advised that \$ 10,000 had been included in the 2001/2002 budget as a seed funding in the hope that it would encourage other donations.

In mid May the Manager of Engineering attended a meeting with club representatives after Council had enquired about the status of the project and reminded the club that Council funds would not automatically be carried forward to the 2002/2003 year. The representatives were requested to submit a detailed plan of the works currently proposed.

## Consultation

Nil.

## Staff Comment

This proposal is limited to groundwork and does not involve the erection of any structures that would involve more detailed planning and approval.

At the present time the extent of works appear to be limited by the amount of funds available, as some potential sources have not materialised. If approval is granted, Council will need to ensure that the club has the resources to complete the task without delay and without exposing Council to any additional liability.

The area involved is approximately 95 square metres, which would cost approximately \$3,700 on a normal site without the decorative pattern proposed. In this case there would be substantial additional costs including the removal of the slabs and lifting bricks and sand to the site. Council's cost in building the forty metres of wall/seat has not been quoted but would be in the order of \$5,000. The sign would cost in the order of \$900. While the proposed works are comparatively straight-forward the size and cost of the sign are disproportionate to the job.

The wider concept details a number of additional features that are not the subject of this application and would be subject to specific approvals by Council and others and would require a greater financial commitment from all parties including Council:

Realign disabled access ramp	by Council
Landscape planting	by Coast Care
Sail canopy on deck	by Lions + others
Barbecue and gazebos	by Lions + others
Paving barbecue areas	by Lions + others
Toilets	by Council
Lighting	by Council

**Voting:** Simple majority.

**W19 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Morgan

**That Council advise the Lions Club of Mosman-Cottesloe that Council:**

- (1) has received the plan detailing proposed feature paving at the Vlamingh Memorial and approval is granted for the works subject to:**
  - (a) confirmation that the Club and other volunteer organisations are in a position to complete the works;**
  - (b) lodgement of a schedule of works detailing the timetable for works proposed in this application being prepared and agreed by the Manager of Engineering;**
  - (c) commitment to secure the site with a barrier fence during construction and keep safe the whole of the adjacent public area during the construction period;**
  - (d) final cleanup prior to the removal of barriers;**
- (2) is willing to arrange and pay for:**
  - (a) lifting of the existing concrete slabs on the top deck;**
  - (b) crane hire to remove the slabs and to place sand and paving bricks;**
  - (c) construction of a 600mm limestone wall/seat around the 40-metre perimeter of the top deck;**

- (d) removal of surplus materials.
- (3) requires any project sign to be limited to a maximum size of one square metre.

Carried 6/3

## **DEVELOPMENT SERVICES COMMITTEE**

17 June 2002

H2

### **HEALTH (PUBLIC BUILDINGS) REGULATIONS**

**File No.:** D8.5  
**Applicant:** -  
**Author:** Ruth Levett  
**Report Date:** 11 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Steve Sullivan

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#### **Summary**

The purpose of the report is to inform members of the amendments to the Health (Public Buildings) Regulations gazetted on Friday 7 June 2002, and their potential impact on public buildings, particularly large licensed premises in Cottesloe.

The intention of the recommendation is to highlight the concerns of the impact of the Regulations to the West Australian Local Government Association (WALGA) and request that they investigate this matter on behalf of all local governments.

#### **Statutory Environment**

Health (Public Building Regulations 1992 (as amended June 2002).

#### **Policy Implications**

Nil.

#### **Strategic Implications**

Nil.

#### **Financial Implications**

Nil.

#### **Background**

Changes to the Health (Public Building) Regulations have been proposed since 1996. Following disagreement with the proposed changes and criticism of the process undertaken by the Health Department of WA, a committee was established to review the amendments in consultation with all affected parties. The committee consisted of representatives from the Health Dept of WA, Police, Fire & Rescue, Liquor Licensing Division and WAMA (now WALGA).

A trial of licensed public buildings was also conducted by the City of Perth, with the approval of the Health Dept of WA. The trial enabled a group of nightclubs

to introduce changes to their premises, required under the proposed legislation in order to increase the number of patrons by up to 85%. The trial was deemed to be a success and provided support for the change of legislation.

Local authorities were invited to comment on the proposed amendments. However, despite opposition from Cottesloe and Fremantle, the amended Regulations were gazetted on 1 August, 2001.

Residents of the City of Fremantle successfully lobbied against the legislation and as a result Giz Watson moved a Disallowance Motion in the Legislative Council on 7 August, 2001. The Town of Cottesloe provided relevant information to politicians and urged them to support the Motion. The Disallowance Motion was subsequently supported and came into effect on 13 November 2001.

Recently the Metropolitan Environmental Health Managers Group was advised that the Health Dept of WA had been approached by the Australian Hotels Association (AHA) to reintroduce a modified version of the previous amendments to the Public Building Regulations. A sub-committee consisting of representatives from City of Perth, City of Fremantle and Town of Cottesloe was elected. The group was invited to a "Strictly Confidential" meeting with the Health Department of WA and presented with the proposed amendments. This was the only opportunity the group had to make comment. The amended Public Building Regulations were gazetted on 7 June 2002 without consultation.

### **Consultation**

Nil. No consultation was undertaken by the Health Dept of WA for the most recently adopted amendment of the Health (Public Building) Regulations.

### **Staff Comment**

The most significant impacts of the amended Regulations on premises within the Town of Cottesloe, are:

- Potential to increase the number of patrons in licensed premises; and
- The requirement for the applicant to submit a Risk Management Plan and for the Council to approve the Plan.

The legislation refers to :

- (a) premises having a floor area of **more** than 850m<sup>2</sup>
- (b) premises having a floor area of **less** than 850m<sup>2</sup>

A '**large licensed premises**' is one having a floor area of **more** than 850m<sup>2</sup>. Where a certificate of approval has been issued for a large licensed premises, they may apply for a variation to the certificate using the 0.85m<sup>2</sup> per person to increase the maximum number of persons that the licensed premises can accommodate. Providing the conditions set out in the legislation for sanitary facilities, exits and ventilation are met, a Risk Management Plan is submitted and approved and a counting system installed, a variation can be supported.

In the event that structural changes are required, the certificate must be cancelled and the premises reassessed. In this case, applying the amended Regulations will result in the new maximum number of patrons for a large licensed premises being 1,000. This may be significantly less than the current certificate allows and therefore will discourage premises from upgrading

existing facilities where there is the potential for numbers of patrons to be reduced.

Whilst this is not a significant issue for Cottesloe at this stage, it was not the intention of the legislation to discourage premises from upgrading and this aspect may need to be addressed by the Health Department of WA. A summary of the amendments relevant to density ratios is attached.

In relation to Risk Management Plans, the Council may require any matters to be addressed in the Plan. The Council may approve the Plan on the basis that it considers that the Plan satisfactorily addresses all of the issues that may impact on the community. The difficulties associated with this are that in approving a Risk Management Plan, in the event of an accident where damage to property or harm to individuals occurs, the Council has accepted some of the responsibility and may be liable for damages. The City of Fremantle has sought legal advice confirming this position.

Also, where an applicant appeals to the Health Dept of WA against the requirements of the Risk Management Plan, the Executive Director's power is restricted to addressing health issues only. It is questionable whether the Council has any power to require a premises to include other matters in the Plan which is approved under the Public Building Regulations. If the premises agrees to include other matters, the Council may have no power to deal with a breach of these matters addressed in the Plan.

It is suggested that if Council is requested to approve a Risk Management Plan, that the Plan is also approved by the Health Department of WA, the Office of Racing, Gaming & Liquor, Police Department and Fire & Rescue. It is preferable that a Risk Management Plan for a large licensed premises be imposed as a condition of the premises Liquor Licence. In view of the uncertainty created by this legislation and the potential impact on those local authorities dealing with large licensed premises, it is recommended that WALGA be requested to investigate this matter on behalf of local government.

**Voting:** Simply Majority.

H2

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

Moved Cr. Ewing, seconded Cr. Miller

**That Council:**

- (1) request the West Australian Local Government Association to investigate the matter of a local authority's liability when approving Risk Management Plans under the Health (Public Building) Regulations on behalf of all local governments; and**
- (2) request the West Australian Local Government Association to comment on the potential of the legislation to discourage premises from upgrading and, if necessary, request the Health Department of WA to review the legislation.**

Carried 9/0

**PLANNING**

**TP60 NO. 5/136 RAILWAY STREET – REQUEST FOR INCREASE IN SEATING CAPACITY – ROSENDORF BRIDGE CLUB**

File No: No. 5/136 Railway Street  
 Author: Stephen Sullivan  
 Report Date: 10 June 2002  
 Author Disclosure of Interest: Nil  
 Senior Officer: Mr Stephen Tindale

Property Owner: N & J Rosendorf  
 Applicant: K Adams and Associates  
 Date of Application: 24 May 2002

M.R.S. Reservation: Urban  
 Zoning (TPS No. 2): Business Zone  
 Density: R50  
 Lot Area: 1463m<sup>2</sup>

**SUMMARY**

To consider a new application for Planning Consent for an increase in the seating capacity of the Rosendorf Bridge Club.

It is recommended that consideration of the application be deferred to the July meeting of Council and the applicant be requested to notify the surrounding properties and provide them with an opportunity to comment on the proposal.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**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

**AREA OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>	
<b>Discretionary Provisions</b>	<b>Max\Permitted</b>	<b>Actual</b>
Car parking	Parking to be provided off-site	See below

**CONSULTATION**

Clause 7.5.1 of the Town Planning Scheme requires notification of neighbours if an applicant is proposing to construct a building. In this instance, the applicant is seeking to vary a condition of Planning Consent. Therefore, Clause 7.5.1 of the text is not applicable in this instance.

Clause 7.6.1 allows Council to consider other forms of notification. This advertising is designed to cater for a major type of development that is likely to have a greater impact on the locality rather than just the adjoining property.

**BACKGROUND**

Council granted its approval in August 1992 for the Rosendorf Bridge Club to operate from this site subject to certain conditions. One condition limited the capacity of the building to 8 tables and 32 people.

A further application was dealt with by Council in March 93 when approval was granted for the club to increase its capacity to 60 patrons/staff on weekends, weeknights and 32 weekdays. Cash in lieu was paid for based on a shortfall of 5 vehicles.

Council considered a proposal to provide additional car parking on Westrail land at its July 1998 meeting. The owner had entered into an agreement with Westrail to lease the land and construct a car parking area for use by patrons of the Bridge Club. The car parking area can accommodate approximately 26 vehicles and is located to the west of the intersection of Railway Street and Congdon Street.

The development was on reserved land and therefore, the decision maker was the Western Australian Planning Commission. Subsequently the Commission granted approval for the proposal.

At that stage, there was no request for an increase in the seating capacity.

The owner is now seeking to vary the condition of Planning Consent to allow for an increase in the number of patrons to use the premises during the day. In support of the application, the applicant has provided a written submission which.

Approval will be sought under Clause 5.5.1 of the Town Planning Scheme text which states the following:

**5.5 VEHICLE PARKING AND LOADING****5.5.1 General**

In order to secure the provision of off-street parking and loading facilities in relation to the use of land so as to reduce or prevent the congestion of traffic on any road or public place, every owner or occupier who constructs or who substantially reconstructs, alters or adds to a building on any site or changes the use of any land or building shall make provision in accordance with the requirements of Table 2 for vehicles used in conjunction with the site (whether by occupiers, their employees or invitees or other persons) to stand on or, at the discretion of the Council, sufficiently close to the site, but not on a street while being loaded or unloaded or awaiting use.



## STAFF COMMENT

Any decision of Council to support the increase in capacity should ensure that the Club has a current lease agreement with Westrail for the use of that land that has been developed for parking. Otherwise, the original condition of Planning Consent should prevail.

There have been complaints from residents over the years concerning the car parking overflow that was purported to be from the operations of the Bridge Club. Parking restrictions were introduced to try and address this problem. The Manager of Corporate Services has advised that there have been very few complaints since the changes were made.

The car parking area on railway land has been built and used by patrons to the Bridge Club.

It is considered that notification of property owners and occupiers of those properties in Congdon Street should occur under section 7.1.6(c) of the Town Planning Scheme text. This requires a three week submission period process and the notification of owners or occupiers (that may be affected by the proposal) in writing.

In order that the application can be considered at the July meeting of the Development Services Committee, the notification process should be commenced as soon as possible.

**Voting:** Simple Majority.

## TP60 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Miller

**That:**

- (1) Council defer consideration of this item to the July meeting of Council;
- (2) the Development Services Committee authorise the Manager, Development Services to undertake the notification process as set out in Clause 7.1.6 of the Town Planning Scheme text prior to a determination being made by Council;
- (3) Council endorse the action of the Development Services Committee.

Carried 8/1

## TP61 PROPOSED SALE OF SPITE STRIP BETWEEN NOS 9 AND 11 WEBB STREET

<b>File No:</b>	<b>No. 9 &amp; 11 Webb Street</b>
<b>Author:</b>	<b>Stephen Sullivan</b>
<b>Report Date:</b>	<b>14 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

<b>Property Owner:</b>	<b>Town of Cottesloe</b>
<b>Applicant:</b>	<b>Mr Kalnenas</b>
<b>Date of Application:</b>	<b>29 June 2001</b>

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**SUMMARY**

To make a decision in relation to the request for closure of a spite strip following the close of the State-wide Notice period required under Section 3.58(3) of the Local Government Act.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Local Government Act 1995

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**FINANCIAL IMPLICATIONS**

Cost of investigation by the administration. Possible monetary gain through sale of a portion of a Council asset.

**CONSULTATION**

State wide notification was commenced under Section 3.58(3) of the Local Government Act. The submission period closed on 13 June, 2002. No submissions were received.

An extension to the submission period was carried out to correct an error in the original notice, which did not have the actual owner's name recorded in the Notice and a typographical error for the section that was to be used for the closure. The extended submission period closes Friday 21 June, 2002.

**BACKGROUND**

Council resolved at its September, 2001 meeting as follows:

That Council:

- (1) Agree to the disposal of the portion of Lot 66 marked reserve on Plan 5627 (Vol 1890, Folio 736) adjoining No. 9 (Lot 33) Webb Street, Cottesloe, subject to:
  - (a) the cost of the land as indicated by the Valuer General's report, and other costs associated with subdivision and settlement, being borne by the owners of Nos 9 & 11 Webb Street;
  - (b) the completion of all relevant processes to comply with applicable legislation;
  - (c) a legal agreement that agrees to the amalgamation of these lots as per the plan submitted by Mr Kalnenas to the Development Services Committee Meeting on 17 September, 2001,
- (2) Does not support the use of the right of way as sole access to any of these blocks and this should be noted in the agreement.

Apart from the two minor errors, the state-wide notice was carried out in accordance with section 3.58(3) and (4) of the Local Government Act. An additional notice was placed in The Post.

#### **STAFF COMMENT**

There have been no submissions received at the time of the preparation of this report item. The extended submission period closes the Friday after the June meeting of the Development Services Committee. Therefore, based on the assumption that there are no submissions, it is recommended that Council resolve under section 3.38(3) of the Local Government Act to sell the portion of spite strip abutting the properties owned by Mr Kalnenas, at the rate that has previously been determined by the Valuer General's Office.

If any submissions are received between the time of the Development Services Committee and the close of the submission period, a special report will be prepared for consideration at the June 2002 meeting of Council.

**Voting:** Simple Majority.

TP61

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

Moved Cr. Ewing, seconded Cr. Miller

#### **That Council:**

- (1) having provided State-wide notice under the Local Government Act and there being no submissions received, agree to the disposal of the portion of Lot 66 marked reserve on Plan 5627 (Vol 1890, Folio 736) adjoining No. 9 (Lot 33) Webb Street, Cottesloe, subject to:
  - (a) the cost of the land as indicated by the Valuer General's report, and other costs associated with subdivision and settlement, being borne by the owners of Nos 9 & 11 Webb Street;**
  - (b) the completion of all relevant processes to comply with applicable legislation;**
  - (c) a legal agreement that agrees to the amalgamation of these lots as per the plan submitted by Mr Kalnenas to the Development Services Committee Meeting on 17 September, 2001.****
- (2) advise the applicant that it does not support the use of the right of way as sole access to any of these blocks and this should be noted in the agreement.**
- (3) Mr and Mrs Kalnenas confirm in writing the acceptance of the conditions outlined above.**
- (4) Following receipt of the written advice in (3), the Manager, Development Services be authorised to undertake the necessary steps to achieve the sale of the portion of land identified in part (1) above.**

Carried 9/0

**TP62 UNIT 3 NO. 8 (LOT 3) AVONMORE TERRACE – RECONSIDERATION OF PLANNING CONSENT CONDITION 1 (g) (i) RELATING TO WALL HEIGHT**

**File No:** No. 8 Avonmore Terrace  
**Author:** Maria Bonini  
**Report Date:** 5 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Sullivan

**Property Owner:** P & S Lanigan  
**Applicant:** Riverstone Construction  
**Date of Application:** 22 May 2002

**Zoning:** Residential  
**Density:** R30  
**Lot Area:** 364m<sup>2</sup>  
**Heritage Listing:** N/A

### Summary

The purpose of this report is for Council to reconsider condition 1(g)(i) of Planning Consent letter dated 3 April 2002, as resolved by Council at its meeting on 25 March 2002. The condition states;

The wall and ridge height of the proposed development being modified to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text (to levels of RL 15.76 and RL 18.26 respectively)

The Applicant seeks reconsideration of the above-quoted condition through a variation to Clause 5.1.1 of the Town Planning Scheme Text and Policy No. 5 both relating to building height.

Administration recommends that Council resolve to allow the variation relating to wall and ridge height as sought by the applicant.

### Statutory Environment

- Cottesloe Town Planning Scheme No. 2
- Residential Planning Codes.

### Policy Implications

Building Heights Policy No. 5 .

### Strategic Implications

N/A.

### Area of Non-Compliance

<b>Statutory Non-compliance</b>	<b>N/A</b>	
<b>Discretionary Provisions</b>	<b>Max/Required</b>	<b>Proposed</b>
Wall Height	6.0m (15.76)	6.04 (15.8)
Roof Ridge Height	8.5m (18.26)	8.94m (18.7)

## **Consultation**

### **Neighbours Notified**

Neighbours notified by registered post – one submission received.

### **Background**

An application for a two-storey limestone and colourbond residence was submitted to the Planning Department on 13 February 2002.

The application was assessed and referred to the Council meeting of 25 March 2002, to address areas of non-compliance.

Council granted planning consent subject to conditions. The applicant has addressed all conditions of planning consent except for condition (1)(g)(i) as previously mentioned. This is therefore the subject of a new application and a new report to be considered by Council.

### **Submissions Received**

One submission has been received from the owner of Unit 4, No. 8 Avonmore Terrace.

### **Staff Comment**

The applicant is proposing that the Finished Floor Level (FFL) of the proposed residence remain at 10.20RL as per the original plans.

It is important to note that the proposed FFL of 10.20RL is below the FFL of both Unit 2, No. 8 Avonmore Terrace (10.22RL) and Unit 4, No. 8 Avonmore Terrace (11.96RL). Furthermore, the FFL of the proposed house has been set at 610mm below what the FFL of the existing house was (10.81).

### **Comments on Submissions**

The submission received from Unit 4, No. 8 Avonmore Terrace requests that conditions (1)(g)(i) and (1)(g)(ii) are enforced. The applicant has addressed all conditions of planning consent with the exception of condition (1)(g)(i). This results in over height walls and roof ridge.

The required FFL for height compliance is 9.644RL. This means that from the existing FFL of the existing house, a total reduction of 1.16m would have to occur. The Applicant is reluctant to reduce the FFL as it would undermine the two adjacent properties with the potential to cause structural damage to both residences.

However, the applicant has verbally expressed a willingness to slightly reduce the roof ridge height to approximately 18.5RL by altering the roof pitch. It must be noted that a reduction to the required height of 18.26RL will compromise the overall intended design of the proposed house. Thus, only a slight reduction to the ridge height can be achieved. Administration considers the wall height variation to be very minor and not a cause for concern with a difference of only 40mm between what is proposed and what is required.

Based on the above, administration seeks Council approval for the ridge and wall height variation sought.

**Voting:** Simple Majority.

TP62 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council:**

- (1) **GRANT Planning Consent for the wall height variation sought at Unit 3 No. 8 (Lot 3) Avonmore Terrace, Cottesloe, as requested on the application received on 22 May 2002, subject to the following conditions:**
  - (a) The roof pitch to be modified to achieve a reduction in the roof ridge height to 18.5RL.
  - (b) These conditions are to coincide with the conditions of Planning Consent granted on 3 April 2002 with the exception of 1 (g) (i).
- (2) **The submitters be advised of this decision.**

Carried 7/2

TP63 **NO. 343 (LOT 42) MARMION STREET – TWO STOREY BRICK AND TILE SINGLE HOUSE**

<b>File No:</b>	<b>No. 343 Marmion Street</b>
<b>Author:</b>	<b>Maria Bonini</b>
<b>Report Date:</b>	<b>9 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Sullivan</b>
<b>Property Owner:</b>	<b>H Sacks</b>
<b>Applicant:</b>	<b>Neil Robertson - Architect</b>
<b>Date of Application:</b>	<b>23 April 2002</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>645m<sup>2</sup></b>

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**Summary**

The purpose of this report is for Council to make a determination for the above-mentioned property. This application was deferred from the May Council Meeting pending revised plans to address overshadowing to No. 341 Marmion Street.

Administration recommends that Council now resolve to approve the application as it has been modified to satisfy the owners of No. 341 Marmion Street. The owners of No. 341 Marmion Street now have no objections to the proposal.

**Statutory Environment**

- Cottesloe Town Planning Scheme No. 2
- Residential Planning Codes.

**Policy Implications**

N/A

**Strategic Implications**

N/A

**Area of Non-Compliance**

<b>Statutory Non-compliance</b>	<b>N/A</b>
<b>Discretionary Provisions</b>	<b>N/A</b>

**Heritage Listing:** State Register of Heritage Places – N/A  
Town Planning Scheme – N/A  
Municipal Inventory – N/A  
National Trust – N/A  
Draft Heritage Report – N/A  
Proposed Town Planning Scheme Policy No. 12 – N/A

**Consultation**

Mr and Mrs Sainsbury of No. 341 Marmion Street.  
This neighbour was approached by the applicant to negotiate alternative design outcomes to address their concerns.

**Background**

An application for a two-storey brick and tile single residence was submitted to the Planning Department on 23 April 2002.

The application was assessed and referred to the Council meeting of 27 May 2002 due to an objection received from the owners of No. 341 Marmion Street.

Council deferred the application to the Council Meeting of 24 June 2002, pending revised plans to address the overshadowing concerns of No. 341 Marmion Street. This is therefore the subject of a new report to be presented at Council.

**Submissions Received**

Mr and Mrs Sainsbury of No. 341 Marmion Street have provided a letter of non-objection to the revised plans.

**Staff Comment**

The main area of concern that arose from this application was overshadowing to the courtyard and hot water system of No. 341 Marmion Street.

The applicant has addressed this concern after having discussions with the owners of No. 341 Marmion Street and making the necessary design changes to the proposed house.

The applicant has amended the plans showing the gable ends being replaced with a hipped roof. This causes a reduction of shadow cast onto No. 341 Marmion Street at the winter solstice. The shadow has been reduced from 28% to 19.6% with the changes made.

This has satisfied the owners of No. 341 Marmion Street who now have no objection to the proposed house.

Administration is satisfied with the changes made and believes that a resolution between Nos 343 and 341 Marmion Street had been adequately achieved. Approval is therefore recommended for this application.

**Voting:** Simple Majority.

TP63 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council:**

- (1) **GRANT Planning Consent for the new two storey residence at No. 343 (Lot 42) Marmion St, Cottesloe, as shown on plans received on 6 June 2002, subject to the following conditions:**
  - (a) **All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.**
  - (c) **The applicant applying to the Town of Cottesloe for approval to construct a new crossover, in accordance with local law, and be approved by the Manager Engineering Services.**
  - (d) **The existing crossover and kerb into Marmion Street is to be removed at the applicant's cost on conclusion of works and all surfaces made good to the satisfaction of the Manager of Engineering Services.**
  - (e) **The Right of Way located at the rear (adjacent to the property) shall be paved and drained to the satisfaction of the Manager of Engineering Services. Details of the proposed works shall be submitted in accordance with the guidelines and approved prior to commencement of works.**



- (f) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.
- (g) Revised plans shall be submitted by the applicant for approval by the Manager of Development Services, such plans showing:-  
(i) elevations of the front boundary fence; and  
(ii) the water feature;
- (h) The applicant is required to submit detailed plans and specifications to Council's Environmental Health Officer for any proposed grey water and rainwater facilities on the site, prior to Building Licence Application. Approval of such facilities is required prior to the commencement of development.

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

Carried 9/0

Cr. Sheppard left the Council Chambers at 8.24pm.

**TP64** **NO. 11 (LOT 4) LILLIAN STREET, COTTESLOE – PROPOSED TWO (2) LOT SUBDIVISION**

<b>File No:</b>	<b>No. 11 Lillian Street</b>
<b>Author:</b>	<b>Maria Bonini</b>
<b>Report Date:</b>	<b>10 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Sullivan</b>
<b>Property Owner:</b>	<b>AD &amp; TA Mc Rae</b>
<b>Applicant:</b>	<b>Peter Driscoll and Associates</b>
<b>Date of Application:</b>	<b>7 May 2002</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>976m<sup>2</sup></b>
<b>Heritage Listing:</b>	<b>State Register of Heritage Places – N/A</b> <b>Town Planning Scheme – N/A</b> <b>Municipal Inventory – YES</b> <b>National Trust – N/A</b> <b>Draft Heritage Report –N/A</b> <b>Proposed Town Planning Scheme Policy No. 12 – N/A</b>

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**Summary**

For Council to make a recommendation to the Western Australian Planning Commission in relation to the above subdivision application.

**Statutory Environment**

- Cottesloe Town Planning Scheme No. 2
- Residential Planning Codes.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Background**

The subject land is presently developed with a two storey single house. The house is listed in the Municipal Inventory with a Category 3 listing which means;

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.

As of the Council Meeting of 27 May 2002, all heritage-listed buildings in all categories must be referred to Council for determination where previously a decision could be made through delegation for Categories 3,4,5 and 6.

The lot size is considerably larger in comparison to the surrounding lots at 976m<sup>2</sup>.

**Area of Non-Compliance**

<b>Statutory Non-compliance</b>	<b>N/A</b>
<b>Discretionary Provisions</b>	<b>N/A</b>

**Consultation****Neighbours Notified**

No neighbour notification is required for subdivision referrals from the Western Australian Planning Commission.

**Submissions Received**

N/A

**Staff Comment**Minimum and Average Lot Size

It is proposed to subdivide the land into two lots of 489m<sup>2</sup> and 487m<sup>2</sup>. As per the R20 zoning of the Residential Planning Codes, the minimum area requirement per lot is 450m<sup>2</sup> and the average requirement must not be less than 500m<sup>2</sup>. The subdivision proposal meets the minimum requirement but not the average requirement for a Green Title subdivision. There is a shortfall of 2.5%, which translates to 24.4m<sup>2</sup>.

However, it is important to note that the overall area of the lot is capable of easily supporting two dwellings with a Green Title configuration. The proposed lot areas are in keeping with the size of the surrounding lots and are therefore considered to be appropriate for creating a more uniform streetscape within the area.

#### Heritage Implications

Council must give consideration to and decide upon the outcome of the existing building on the site, as it is listed in the Municipal Inventory. As previously mentioned, the category allocated to this building is Category 3. This category represents a mere recommendation under a Municipal Inventory database system as required under the Heritage Act. The category placed on this building is low which allows for flexibility to be exercised and demolition to be permitted where appropriate. It is recommended that demolition is appropriate in this instance, as subdivision of the lot results in a more consistent streetscape within the area.

#### Conclusion

In the opinion of administration, the application suitably accommodates a Green Title subdivision arrangement as proposed despite the shortfall. The existing building is recommended for demolition on the basis of this subdivision and the low category rating in the Municipal Inventory. There are no objections to the proposed subdivision.

**Voting:** Simple Majority.

#### TP64 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

#### **That Council:**

**Advise the Western Australian Planning Commission that it holds no objection to the proposed subdivision of No.11 (Lot 4) Lillian street, Cottesloe (WAPC Ref No. 119024) subject to the following conditions:**

- (1) The existing building being demolished prior to the issue of clearances. Any demolition shall be approved by the Town of Cottesloe prior to any demolition works commencing.**
- (2) The site being stabilised to the satisfaction of Council's Building Surveyor.**

Carried 8/0

Cr. Sheppard returned to the Council Chambers at 8.25pm.

**TP65**      **NO. 138 (LOT 24) GRANT STREET – BRICK AND TILE RENOVATIONS TO A SINGLE STOREY SINGLE HOUSE IN CLAREMONT HILL HERITAGE AREA**

<b>File No:</b>	<b>No. 138 Grant Street</b>
<b>Author:</b>	<b>Maria Bonini</b>
<b>Report Date:</b>	<b>7 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Sullivan</b>
<b>Property Owner:</b>	<b>A Lefroy</b>
<b>Applicant:</b>	<b>Brooks Construction Pty Ltd</b>
<b>Date of Application:</b>	<b>30 May 2002</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>620m<sup>2</sup></b>
<b>Heritage Listing:</b>	<b>State Register of Heritage Places – N/A</b>
	<b>Town Planning Scheme – N/A</b>
	<b>Municipal Inventory – N/A</b>
	<b>National Trust – N/A</b>
	<b>Draft Heritage Report – Claremont Hill</b>
	<b>Heritage Area – Draft Building Schedule</b>
	<b>Proposed Town Planning Scheme Policy</b>
	<b>No. 12 – N/A</b>

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**Summary**

The purpose of this report is for Council to make a determination for planning consent on renovations/extension to the abovementioned property in the Claremont Hill Heritage Area.

Administration recommends that Council resolve to approve the proposed renovations as it is of a minor nature and does not cause any detriment to the heritage character of the building or area.

**Statutory Environment**

- Cottesloe Town Planning Scheme No. 2
- Residential Planning Codes.

**Policy Implications**

N/A

**Strategic Implications**

Draft Town of Cottesloe, Heritage Strategy.

**Area of Non-Compliance**

<b>Statutory Non-compliance</b>	<b>N/A</b>
<b>Discretionary Provisions</b>	<b>N/A</b>

## Consultation

### Neighbours Notified

N/A

### Background

Our records indicate that an application was submitted to Council for a front boundary fence in 1972. No other information pertaining to the subject property is obtainable.

### Submissions Received

N/A

### Staff Comment

The subject property is listed in the Draft Town of Cottesloe Heritage Strategy 2001, and has a recommendation of *Essential* which means:

Properties that are essential to the current character of the Heritage Area ... Any alterations or extensions should reinforce the character of the area.

The renovation/extension proposed is extremely minor in nature involving minor internal renovations to the bathroom/laundry and an ensuite extension to the front portion of the house. Administration believes that the proposal does not deviate from the intentions of the essential recommendation as per the Draft Heritage Strategy. Therefore, approval is recommended for this report.

**Voting:** Simple Majority.

## OFFICER RECOMMENDATION

That Council:

GRANT Planning Consent for extensions/renovations at No. 138 (Lot 24) Grant Street, Cottesloe in accordance with the plans received on 21 May, 2002, subject to the following conditions:

- (1) All construction work must be 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 is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.
- (2) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.

**COMMITTEE COMMENT**

The Manager, Development Services advised the Committee of the memo dated the 17 June which had been tabled at the start of the meeting. The memo included comments from McDougall and Vines on the proposals for No. 138 and 140 Grant Street.

Based on the comments from the Consultant, the Committee agreed to impose a condition that sought to address the issues raised by the Consultant.

TP65 **COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Miller

That Council:

GRANT Planning Consent for extensions/renovations at No. 138 (Lot 24) Grant Street, Cottesloe in accordance with the plans received on 21 May, 2002, subject to the following conditions:

- (1) All construction work must be 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 is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.
- (3) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.
- (4) Revised plans shall be submitted by the applicant for approval by the Manager of Development Services, such plans showing the:-
  - (a) porthole window to the proposed addition being replaced with window fenestration that is similar to the casement windows used elsewhere on the front verandah; and
  - (b) verandah beam adjacent to the proposed addition being modified so that the verandah does not appear to have been truncated.

**AMENDMENT NO. 1**

Moved Cr. Morgan, seconded Cr. Rattigan

*That condition (4) be deleted.*

## AMENDMENT NO. 2

Moved Cr. Utting

*That in future when consultants are used, the cost should be stated, and the practice of using consultants from Adelaide be discontinued.*

The Deputy Mayor ruled that the forgoing was not an amendment to the motion, and recommended that Cr. Utting make representation to the Development Services Committee to pursue his suggestions.

Motion was put.

## COUNCIL RESOLUTION

That Council:

**GRANT Planning Consent for extensions/renovations at No. 138 (Lot 24) Grant Street, Cottesloe, in accordance with the plans received on 21 May 2002, subject to the following conditions:**

- (1) All construction work must be 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 is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.**
- (3) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.**
- (4) Revised plans shall be submitted by the applicant for approval by the Manager of Development Services, such plans showing the:-**
  - (a) porthole window to the proposed addition being replaced with window fenestration that is similar to the casement windows used elsewhere on the front verandah; and**
  - (b) verandah beam adjacent to the proposed addition being modified so that the verandah does not appear to have been truncated.**

Carried 6/3

**TP66**      **NO. 57 (LOT 1) ERIC STREET, COTTESLOE – PROPOSED SECOND STOREY ADDITION AND RENOVATIONS TO EXISTING SINGLE HOUSE.**

**File No:** No. 57 Eric Street  
**Author:** Maria Bonini  
**Report Date:** 12 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Sullivan  
  
**Property Owner:** M & A Mercer  
**Applicant:** Odden Rodrigues Architect Pty Ltd  
  
**Date of Application:** 22 May 2002  
**M.R.S. Reservation:**  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 814m<sup>2</sup>

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**SUMMARY**

The purpose of this report is for Council to make a determination on an application for planning consent for a second storey addition and renovations to an existing single house.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

- Residential Planning Codes
- No.2 Town Planning Scheme

**POLICY IMPLICATIONS**

TPS Policy Implications:	Building Heights Policy No. 5
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**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 -	YES – CATEGORY 3
National Trust -	N/A



### AREA OF NON-COMPLIANCE

<b>Statutory Non-compliance</b>	<b>N/A</b>	
<b>Discretionary Provisions</b>	<b>Max/Required</b>	<b>Proposed</b>
Wall Height	14.8RL	15.00RL
Side setback to South – carport and utility room with no major openings.	1m	Nil

### CONSULTATION

Neighbours notified by registered mail - 1 submission was received.

### BACKGROUND

The subject property is located at the corner of Eric Street and Marmion Street. The topography is such that the ground level is elevated in the centre of the lot upon which the house is situated and slopes down to the boundaries.

The existing house is listed in the Municipal Inventory as a Category 3 building which means;

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.

As of 27 May Council Meeting, all heritage-listed buildings in all categories must be referred to Council for determination where previously a decision could be made through delegation for categories 3, 4, 5 and 6.

Additions and alterations to the existing house have previously occurred in 1969 and 1992.

### STAFF COMMENT

#### Wall Height

The Town Of Cottesloe Town Planning Scheme Text controls building height. The wall height is limited to 6m, and is ordinarily measured using the following formula as per clause 5.1.1 (c):

...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 –

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

In this case, the use of the above formula does not give an accurate representation of the average natural ground level due to the varied levels from the centre of the lot to the boundaries.

In such cases, the Town Planning Scheme Text states:

...Council shall 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 wall height variation is due to an irregular design to the second storey addition. The second storey addition consists of only one room and is located to the back portion of the residence. Administration believes that the addition harmonises with the overall design of the house and no neighbouring properties will be negatively affected by this. A variation to the wall height is being sought and is supported by Administration.

#### Side Setback

The applicants are seeking a nil setback for the carport and utility room on the southern side. The Residential Planning Codes require a 1.5 metre setback from the boundary, as it is over 9 metres in length. Council has the ability to vary this provision. The carport and utility room do not over impose onto the southern neighbour, No. 2 Haining Avenue.

Clause 1.5.8 (f) of the Residential Planning Codes allows Council to permit walls to be located on the boundary based on the height and length of the wall. Based on Clause 1.5.8 (f), the parapet wall can only occupy 25% of the total length of the boundary. The requirements of this Clause have not been met as 41% of the total boundary length is occupied by parapet wall. However, the Residential Planning Codes allow for 66% of the total boundary length to be occupied by parapet wall. To enable this, the wall height must be reduced so that it does not exceed 3m. Alternatively the entire length must be reduced. This will represent a condition of approval.

#### Open Space

There is an open space requirement of at least 50% of the site, meaning that building can only cover half of the property. The house with the proposed additions has been calculated at 49% open space, which equates to excess site cover of 8.14m<sup>2</sup>.

This is basically a statutory requirement, and is considered important for controlling the size and bulk of buildings.

#### Comments on Submissions

A submission has been received from the owner of No. 2 Haining Avenue in relation to the parapet wall. The owner requests that the wall run through at a constant height at the higher level as opposed to being stepped down as shown on the proposed plans. This is to avoid view of the zincalume roof that rests on the parapet wall. The owner is concerned with the appearance and reflectivity of the roof.

It is important to note that as the proposal does not comply with Clause 1.5.8 (f) of the Residential Planning Codes, an increase in the wall height will not be possible. The applicant however will be requested to redesign the roof structure to address the above concern.

Heritage Listing

As previously mentioned, the category allocated to the subject house is Category 3. This category represents a mere recommendation under a Municipal Inventory database system as required under the Heritage Act. The category that has been placed is low which allows for flexibility to be exercised. In the opinion of administration, the addition and renovations proposed are seen to enhance and harmonise with the existing house. It is therefore recommended that the addition and renovations be permitted.

Conclusion

It is recommended that the application be approved, subject to conditions.

**Voting:** Simple Majority.

**OFFICER RECOMMENDATION**

That Council:

- (1) GRANT Planning Consent for additions and renovations at No. 57 (Lot 1) Eric Street, Cottesloe in accordance with the plans received on 7 June, 2002, subject to the following conditions:
  - (a) All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.
  - (d) The owner shall treat the roof surface to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (e) Revised plans shall be submitted by the applicant for approval by the Manager of Development Services, such plans showing:-
    - (i) Redesign of the roof that rests on the southern boundary parapet wall to avoid potential for reflectivity and visual obtrusiveness to 2 Haining Avenue.
    - (ii) Compliance with Clause 1.5.8 (f) of the Residential Planning Codes by reducing the overall height of the parapet wall on the southern boundary to not exceed 3 metres in height or reducing the length so that it occupies 25% of the total length of the boundary.

- (iii) 50% Open Space to be provided on the site.
- (2) The submitters be advised of this decision.

### **COMMITTEE COMMENT**

The majority of the Committee expressed concern in relation to the shortfall in open space, and the extent and height of the boundary wall along the southern boundary of the site. It was recommend that the roof be set away from the southern boundary, and the height of the boundary walls be restricted to a height of 1.8m above the finished floor level of the carport and utility space.

### TP66 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

#### **That Council:**

- (1) **GRANT Planning Consent for additions and renovations at No. 57 (Lot 1) Eric Street, Cottesloe, in accordance with the plans received on 7 June 2002, subject to the following conditions:**
- (a) **All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.**
  - (c) **The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.**
  - (d) **The owner shall treat the roof surface to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
  - (e) **Revised plans shall be submitted by the applicant for approval by the Manager of Development Services, such plans showing:-**
    - (i) **the carport and utility roof being setback 1.0m from the southern boundary;**
    - (ii) **the fence along the southern boundary being a maximum of 1.8m in height above the finished floor level of the carport, stairs and the utility space.**
    - (iii) **50% Open Space to be provided on the site.**

(2) The submitters be advised of this decision.

Carried 8/1

**TP67 NO 3 WINDSOR STREET – PROPOSED ADDITIONS AND ALTERATIONS TO AN EXISTING THREE STOREY SINGLE HOUSE**

**File No:** No. 3 Windsor Street  
**Author:** Stephen Sullivan  
**Report Date:** 13 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

**Property Owner:** D & M Sweeney  
**Applicant:** Gerrard McCann  
**Date of Application:** 24 April 2002

**M.R.S. Reservation:** Urban  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 1123m<sup>2</sup>

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**SUMMARY**

To consider an application for Planning Consent.

It is recommended that the application be approved with standard conditions pending finalisation of the assessment of the application.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

- Town Planning Scheme No. 2
- Residential Planning Codes

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**HERITAGE LISTING:**

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

**AREA OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>	
<b>Discretionary Provisions</b>	<b>Max\Permitted</b>	<b>Actual</b>
Roof ridge	21.33	23.41 (Exist/proposed)
Wall Height	18.83	20.51 (Exist/proposed)
Outbuilding – eastern boundary against right of way - 2.7/3.0m high x 5.3m length	1.0m	Nil
Arbour – to Windsor Street	6.0m	Nil

**CONSULTATION**

Notification of adjoining property owners – No submissions received.

**BACKGROUND**

The existing building was constructed in 1912, and substantial additions and alterations were carried out in 1990.

The new owners are proposing to carry out various additions and alterations to the existing building. The extent of works proposed are outlined in the Architects letter.

**STAFF COMMENT**

There are additions proposed to the existing third level which, due to the site topography and the existing storey heights, results in a building that does not comply with the height controls under the existing Town Planning Scheme. The upper floor additions result in an extension to the existing roof ridge line. However, clause 5.1.1(c) allows Council to vary the height controls in the case of an extension to the existing building.

A boundary wall to a new outbuilding is proposed, however, this wall is located against a right of way. The ground is to be raised to the northwest corner of the site. It is considered that there will be no impact on the surrounding properties.

The arbour is small in size and with an open roof, it is considered that there will not be a major impact on the streetscape.

The application is still being assessed against the Residential Conservation and Development Guidelines and further comments will be made to the Development Services Committee on this matter.

Subject to the finalisation of the assessment on this application, it is recommended that this application be approved.

**Voting:** Simple Majority.

TP67 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Miller

That Council:

**GRANT Planning Consent for the proposed additions and alterations to the existing single house at No. 3 (Lots 53 and 54) Windsor Street, Cottesloe, as shown on the plans received on the 22 April 2002, subject to the following conditions:**

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (4) Lots 53, 54 and part of 55 Windsor Street being amalgamated and a new certificate of title being issued.

Carried 9/1

TP68 **NO. 561 (LOT 12) STIRLING HIGHWAY – CHANGE IN USE FROM RESTAURANT TO SHOP - PROPOSED WORKS**

File No:	No. 561 Stirling Highway
Author:	Stephen Sullivan
Report Date:	10 June 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale
Property Owner:	H & J Pourzand
Applicant:	Perth Property Management
Date of Correspondence:	5 March 2002

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**SUMMARY**

To consider works that were required by Council at its February 2002 meeting, for a proposed change in land use for the premises from Restaurant to Shop.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**CONSULTATION**

Not required.

**BACKGROUND**

At its February 2002 meeting, Council resolved as follows:

That Council delegate approval for the change in use from Restaurant to Shop at No. 561 (Lot 12) Stirling Highway, Cottesloe in accordance with the plans received on the 7 January, 2002, to the Manager, Development Services, subject to:

- (1) the inclusion of special conditions relating to the following:
  - (a) requiring a nil cash-in-lieu payment for the shortfall in the number of on-site car parking spaces for the proposed shop use;
  - (b) the building being upgraded to the satisfaction of Council, prior to occupation;
  - (c) the applicant engaging the services of a suitably qualified Heritage Consultant to prepare a Schedule of Works and timeframe to upgrade the existing building;
  - (d) the Schedule of Works and timeframe being referred to Council for approval
- (2) notifying the property owner of the advice received from Main Roads Western Australia;
- (3) any further conditions that may be appropriate for the proper planning of the district.

**STAFF COMMENT**

This matter was considered by Council at its February 2002 meeting. The applicants have submitted a letter explaining the proposed works to be carried out on the premises which they intend to carry out on the building. The works have been identified by Mr Ronald Bodycoat.

Discussions with the owner have indicated that they are satisfied with the work schedule presented by Mr Bodycoat, and they have commenced carrying out those works. It is anticipated that the works will be finished in about three weeks.

It is recommended that Council accept the outline of works identified by Mr Bodycoat.



**Voting:** Simple Majority.

TP68 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council accept the Schedule of Works identified in the letter dated 5 March 2002, from Ronald Bodycoat – Architect as complying with conditions (1)(b)-(d) of Council’s February 2002 and conditions 1-3 of the Planning Consent.**

Carried 8/1

TP69 **PROPOSED URBAN DESIGN STUDY - STATION STREET**

**File No:** E17.10.89  
**Author:** Stephen Sullivan  
**Report Date:** 10 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

**Property Owner:** Town of Cottesloe  
**Applicant:** N/A  
**Date of Application:** N/A

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**SUMMARY**

To consider the need to carry out an Urban Design study in Station Street.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

N/A

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**FINANCIAL IMPLICATIONS**

Unknown – cost based on scope of works if a study is undertaken.

**CONSULTATION**

The Development Services Committee were of the opinion that the previous report should be circulated to all Councillors, and the matter should be reviewed at the June meeting of Council.

**BACKGROUND**

At its May 2002 meeting Council resolved as follows:

- (1) That consideration of this matter be deferred to the June 2002 meeting of the Development Services Committee; and

- (2) The Administration circulate to Councillors a copy of the 1985 Cottesloe Village Design development report and other related documents.

The reports were circulated to Councillors as required by the resolution of Council.

### **STAFF COMMENT**

The following comments were contained in the May 2002 agenda report on this matter:

Station Street is scheduled for pavement rehabilitation in 2002/2003 and that this would be a good time to review the streetscape proposals for this area.

There is a proposal in the proposed No. 3 Town Planning Scheme, however, this will take a substantial period of time for it to be gazette.

Therefore, should Council now engage the services of an urban design consultant to review the previous study "Cottesloe Village Design Development Report 1985" as a prelude to any work being carried out in Station Street. The study could either be reviewed by the authors of the previous report – Donaldson Smith and Odden Coulter Etherington Jones.

An additional issue is whether the study is commenced this financial year or 2002/2003.

The matter before Council is whether the findings in the Cottesloe Village Study should be reviewed prior to any works being carried out on Station Street.

Various street works and upgradings were carried out in the Town Centre. However, Council did not adopt any Town Planning Scheme Policies to implement all recommendations of the Study.

Currently, there is a study being carried out by the Department for Planning and Infrastructure on the Fremantle to Cottesloe Highway Study. Whilst this report is generally finished, one component is still being carried out and that is to examine the east west links through the Town of Cottesloe. A meeting is to be held on Friday 14 June 2002, with representatives from the Department for Planning and Infrastructure, Sinclair Knight Merz and the Town of Cottesloe to look at proposals for the Town Centre. The options for the Town Centre have previously been considered by Council.

Westrail have previously indicated that they would prepared to consider re-development of the Cottesloe Train Station. This would impact on the land available for parking in the Town Centre as well as the possibility of sinking a road under the existing railway line and removing the Jarrad Street rail crossing. The link may be an extension of either Napoleon Street or Station Street. However, this may not be a high priority with the current Government.

The reservation for Stirling Highway is currently under review. A public consultation process is currently under way. This will re-define the existing 80m road reservation currently in the Metropolitan Region Scheme to a more realistic level.

These issues are more long term, whereas money has been set aside for the development of Station Street, and it is anticipated that the works would not commence for at least 6 months.

The report is dated in respect to current circumstances and the plans show a difference in what was proposed versus the existing situation.

Council has adopted policies relating to paving, street furniture and planting. Issues that would need to be considered are matters such as:

- traffic flow;
- car parking arrangement; and
- planting areas.

Other issues that could be looked at may include the:

- (a) intensification of use of the car parking area at the corner of Railway street and Station Street (further parking, commercial uses or civic uses);
- (b) development of the Station Street sump; and
- (c) north-south pedestrian movement through the Town Centre.

These latter issues could be considered as part of the Town Planning Scheme review.

**Voting:** Simple Majority.

TP69 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That:**

- (1) **consideration of the matter be deferred to the July 2002 meeting of Council;**
- (2) **the Development Services Committee meet with the Chief Executive Officer, Manager of Engineering Services and the Manager, Development Services on Thursday 4 July 2002 at 4.00pm in Station Street, to consider the extent of the Station Street works that have been budgeted for in the 2002/2003 financial year.**

Carried 9/0

Cr. Utting left the Council Chambers at 8.35pm, returned at 8.37pm

TP70 **NO. 140 (LOT 1) GRANT STREET– PROPOSED TWO STOREY SINGLE HOUSE**

<b>File No:</b>	<b>No. 140 Grant Street</b>
<b>Author:</b>	<b>Stephen Sullivan</b>
<b>Report Date:</b>	<b>11 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

<b>Property Owner:</b>	<b>G Cotterell</b>
<b>Applicant:</b>	<b>Riverstone Building Company</b>
<b>Date of Application:</b>	<b>13 November 2001</b>
<b>M.R.S. Reservation:</b>	<b>Urban</b>
<b>Zoning (TPS No. 2):</b>	<b>Residential</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>442m<sup>2</sup> (lot to be created as part of a subdivision proposal that has yet to be completed)</b>

### SUMMARY

To provide a report on an application for Planning Consent for consideration by Council.

At the time of the preparation of the report, a complete assessment had not been carried out on the application and therefore, further comments will be made to the Development Services Committee. Having regard to the work carried out on the application, it is anticipated that a recommendation of approval will be presented with a condition requiring the eastern side wall of the proposed development being setback from that boundary in accordance with the Residential Planning Codes.

### STRATEGIC IMPLICATIONS

N/A

### STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2
- Residential Planning Codes

### POLICY IMPLICATIONS

TPS Policy Implications:	N/A
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### 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 -	Claremont Hill Precinct
Municipal Inventory -	N/A
National Trust -	N/A

### AREA OF NON-COMPLIANCE

<b>Statutory Non-compliance</b>	<b>N/A</b>	
<b>Discretionary Provisions</b>	<b>Max\Permitted</b>	<b>Actual</b>
Eastern Side Boundary – ground floor	1.0m	Nil

A complete assessment has not been carried out due to the late submission of the revised plans. Further comments will be made on this aspect.

## **CONSULTATION**

Notification of adjoining property owners – no submissions

## **BACKGROUND**

This site is part of a three lot re-subdivision into four lots at the corner of Grant Street and Parry Street. The development site is the western most lot of the proposed lots. It is located against the existing residential property at No.138 Grant Street.

The subdivision of this site has held up the determination of this application. The owner and the applicant originally sought to raise the levels of the site through the subdivision process. Council considered the levels at its February 2002 meeting. The owner has since modified the subdivision levels to reflect Council's decision on the proposed finished ground levels. A request for clearance of conditions of subdivisional approval has been sought, although this clearance has yet to be granted by staff.

Having resolved the ground levels, Council is now in a position to consider making a determination on the application for Planning Consent. The application for Planning Consent has now been modified to meet the levels set by Council for the development of the site. However, the revised plans addressing the changes in level were only received on 11 June 2002.

Discussions relating to this plan have been held with the applicant and their planning consultants. This has focused principally on the proposed boundary wall that has been submitted as part of the application for Planning Consent. This will be discussed further in the report.

## **STAFF COMMENT**

The following comments are submitted for consideration by Council:

### Proposed Eastern Boundary Wall

The applicants are proposing to construct a boundary wall along the eastern side of the property. The wall measures 8.4m in length and 3.6m in height. This will require Council to exercise its discretion under the Residential Planning Codes.

The proposed lot width (10.96m) is in excess of the minimum lot size specified for the R20 coded area (10.0m). Therefore, the development should be able to be designed to achieve conformity with the Residential Planning Codes without the need for an exercise of discretion on the side setbacks.

At its September 2001 meeting, Council provided direction in relation to the establishment of two heritage areas. Work is progressing on the formulation of the Town Planning Scheme Policy that will include the two heritage areas identified in the Heritage Strategy Report, which was adopted by Council as the framework for making heritage decisions.

The Claremont Hill Heritage precinct, which is identified in the Town of Cottesloe Heritage Strategy Report, identifies that the area is characterised by buildings having been setback from the side boundaries. This advice was confirmed in the Consultants advice to the Town Planning Appeal Tribunal. The proposed dwelling design is contrary to the established character of the precinct.

The lot to the east is a vacant lot and there have been no plans submitted for the site.

Having regard to:

- Council's September 2001 resolution;
- the locality in terms of existing development;
- the objectives of the Codes (Clause 1.2.1 – dot point 5);
- Clause 1.5.7(a) and (c) of the Residential Planning Codes;
- Clause 1.7(b) of the Residential Planning Codes; and
- Clause 5.1.2 of the Town Planning Scheme text.

It is recommend that the proposed boundary wall not be supported. A condition should be imposed to require the eastern boundary wall to be set off the boundary in accordance with the Residential Planning Codes.

#### Full Assessment of Revised application for Planning Consent

A complete assessment of the application has not been possible prior to the preparation of this report, and therefore further comments will be made to the Development Services Committee.

**Voting:** Simple Majority.

#### **OFFICER RECOMMENDATION**

That further comments will be made to the Development Services Committee by the Manager of Development Services following completion of the assessment of the application.

#### **COMMITTEE COMMENT**

The Manager, Development Services drew the attention of the Committee to the comments made in the report and from the Consultant (tabled memo) on the design of the development, in particular the location of the boundary wall on the eastern boundary.

The majority of the Committee resolved not to support a reduction in the eastern side boundary setback, and recommended that the building be set back from the eastern side boundary in order to meet the objectives of the draft Residential Conservation and Development Guidelines.

The Manager, Development Services advised the Committee that the development complied with the other provisions of the Residential Planning Codes. It was then resolved that the application be referred to Council with a recommendation of approval subject to the imposition of standard conditions, and the requirement to set the building back from the eastern boundary.

TP70 **COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Miller

That Council:

GRANT Planning Consent for the proposed two storey single house at No. 140 (Lot 1) Grant Street Cottesloe, as shown on the revised plans received 11 June, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (4) Revised plans being submitted for approval by the Manager of Development Services, such plans showing the ground floor of the proposed development being set back from the eastern side boundary in accordance with the requirements of the Residential Planning Codes.

**AMENDMENT NO. 1**

Moved Cr. Morgan, seconded Cr. Utting

*That condition (4) be deleted.*

Lost 2/7

Motion was put.

C70 **COUNCIL RESOLUTION**

**That Council:**

**GRANT Planning Consent for the proposed two storey single house at No. 140 (Lot 1) Grant Street, Cottesloe, as shown on the revised plans received 11 June 2002, subject to the following conditions:**

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

- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (4) Revised plans being submitted for approval by the Manager of Development Services, such plans showing the ground floor of the proposed development being set back from the eastern side boundary in accordance with the requirements of the Residential Planning Codes.

Carried 7/2

TP71

**NO. 12D GADSDON STREET – PROPOSED SINGLE STOREY AND TWO STOREY ADDITIONS AND ALTERATIONS TO AN EXISTING GROUPED DWELLING**

File No: No. 12D Gadsdon Street  
 Author: Stephen Sullivan  
 Report Date: 11 June 2002  
 Author Disclosure of Interest: Nil  
 Senior Officer: Mr Stephen Tindale

Property Owner: S Malmgren  
 Applicant: T Lehmann  
 Date of Application: 24 April 2002

M.R.S. Reservation: Urban  
 Zoning (TPS No. 2): Residential  
 Density: R30  
 Lot Area: 1242m<sup>2</sup>

**SUMMARY**

To consider an application for Planning Consent.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

- Town Planning Scheme No. 2
- Residential Planning Codes

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**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

**AREA OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>	
<b>Discretionary Provisions</b>	<b>Max\Permitted</b>	<b>Actual</b>
Double garage	6.0	4.5
Boundary wall – entry – 3.0m high x 2.8m length	1.0m	Nil
Boundary wall – laundry – 2.2m high x 3.3m length	1.0m	Nil

**CONSULTATION**

Notification of adjoining property owners – 1 submission received.

**BACKGROUND**

The owner is proposing to carry out various works to the site.

A submission was received from the owners to the north of the development who sought to increase the height of the common wall between the two properties. The applicants sought to lower the wall at the front of the development - correspondence has been submitted that has been endorsed by both parties.

**STAFF COMMENT**

The application requires Council to give consideration to certain matters and these are outlined below:

Construction of double garage with roof deck forward of 6.0m building line. The existing approved car parking space for the existing dwelling is located beneath the existing building. The garage has been already been enclosed and is used for storage purposes.

It is proposed to convert this space into a store room, although it appears that it would be used more as a habitable room. The internal floor heights are about 2.28m to 2.1m which means that this space cannot be used for habitable purposes.

It is proposed to construct a new double width garage to the front of the existing building. The garage will have a floor above it and used for entertaining. It will be setback 4.5m from Gadsdon Street.

The development to the north was setback approximately 8.0m to enhance the outlook from the unit development, located at the corner of Eric Street and Gadsdon Street.

If the existing car parking area is deemed unacceptable for use, the only possible location for the car parking spaces is forward of the building setback line. The double width garage has been designed with a flat roof which can be used for entertaining purposes. It is a similar design to the garage structure located at No. 6A Gadsdon Street.

The location of the garage is supported having regard to the:

- location of the development opposite the site of the Ocean Beach Hotel;
- upgrading of the existing dwelling;
- location of the existing dwelling;
- approved car parking arrangement; and
- minimal impact on the adjoining properties

### **Open Space**

The original application was calculated to be below the 50% minimum open space requirement. The plans for the development were modified so that the 50% open space for the site could be achieved.

### **Boundary Walls to North Boundary**

The owner is also proposing to locate two structures on the northern boundary. The westernmost structure will become the entry into the dwelling while the easternmost structure is the laundry.

With the agreement reached between the two property owners, the two boundary walls will not be higher than the agreed wall height.

The Building Surveyor has advised that there are problems with these structures due to conflicts with the BCA. Conditions of approval should be imposed to address these concerns.

**Voting:** Simple Majority.

TP71

### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Miller

That Council:

- (1) GRANT Planning Consent for the proposed additions and alterations to the existing grouped dwelling at No. 12D (Lot 73) Gadsdon Street Cottlesloe, as shown on the plans received on the 22 April, 2002 and revised plans received on the 12 June, 2002, 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) Revised plans being submitted for approval by the Manager of Development Services, showing:
    - (i) the front boundary fencing to Gadsdon Street being of an "Open Aspect" design;
    - (ii) the proposed boundary structures complying with the Building Codes of Australia;
    - (iii) the structures being supported independently of the boundary fence.
  - (e) The applicant applying to the Town of Cottesloe for approval to construct a new crossover. The design and location of the proposed crossover, which is to be constructed in accordance with the local law, shall be approved by the Manager of Engineering Works and constructed prior to occupation of the new additions.
  - (f) The existing crossover shall be removed at the applicants cost and the verge is to be re-instated to the satisfaction of the Manager of Engineering Works.
- (2) The submitters be advised of Council's decision.

**AMENDMENT NO. 1**

Moved Cr. Rattigan, seconded Cr. Morgan

*That condition (1)(d)(i) be deleted.*

Lost 3/6

Motion was put.

C71 **COUNCIL RESOLUTION**

**That Council:**

- (1) **GRANT Planning Consent for the proposed additions and alterations to the existing grouped dwelling at No. 12D (Lot 73) Gadsdon Street Cottesloe, as shown on the plans received on the 22 April 2002, and revised plans received on the 12 June 2002, 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) Revised plans being submitted for approval by the Manager of Development Services, showing:
    - (i) the front boundary fencing to Gadsdon Street being of an “Open Aspect” design;
    - (ii) the proposed boundary structures complying with the Building Codes of Australia;
    - (iii) the structures being supported independently of the boundary fence.
  - (e) The applicant applying to the Town of Cottesloe for approval to construct a new crossover. The design and location of the proposed crossover, which is to be constructed in accordance with the local law, shall be approved by the Manager of Engineering Works and constructed prior to occupation of the new additions.
  - (f) The existing crossover shall be removed at the applicants cost and the verge is to be re-instated to the satisfaction of the Manager of Engineering Works.
- (2) The submitters be advised of Council’s decision.

Carried 7/2

TP72

**NO. 77 (LOTS 73 & 74) NAPIER STREET, COTTESLOE - PROPOSED TWO (2) STOREY, SINGLE RESIDENTIAL DWELLINGS (2)**

File No:	No. 77 Napier Street
Author:	Kevin Broughton
Report Date:	12 June 2002
Author Disclosure of Interest:	Nil.
Senior Officer:	Stephen Sullivan

<b>Property Owner:</b>	<b>Shevaroy's Pty Ltd</b>
<b>Applicant:</b>	<b>Hillam Architects</b>
<b>Date of Application:</b>	<b>10 May 2002</b>
<b>M.R.S. Reservation:</b>	<b>Urban</b>
<b>Zoning (TPS No. 2):</b>	<b>Residential</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>316 m<sup>2</sup> (per lot)</b>

**SUMMARY**

It is proposed to develop two (2), two (2) storey single residential dwellings on the subject lots.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

N/A

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**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

**AREA OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>
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<b>Discretionary Provisions</b>	<b>Required</b>	<b>Proposed</b>
Front Setback	6.0m	4.5m
Side Setback (Shared)	Nil	30 metres
	Not to exceed 1/4 length of boundary (or 12m).	Approval can be granted in accordance with Clause 2.5.2.
Side Setback	2.4 m	1.235 metres
		Can be made to comply with modification.

Building Height	6.0m – wall 8.5m – roof	6.5m 8.7m  Can be made to comply with modification.
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**CONSULTATION**

Neighbours notified by registered mail – No submissions were received during the referral period.

**BACKGROUND**

The subject land was previously held in two (2) titles - effectively one lot behind the other. Application was made to re-subdivide the land to two (2) lots each with frontage to Napier Street. The Town of Cottesloe requested that the re-subdivision not be supported on the basis that it would create two (2) lots substantially below the prevailing lot size and inconsistent with the adopted density coding.

The Western Australian Planning Commission chose to dismiss Council’s decision and granted approval to the subdivision on the basis that:

- The re-subdivision was effectively a redistribution of boundaries; and
- No additional lots would be created.

As a condition of subdivision approval, the applicant is required to receive planning consent for proposed dwellings given that each lot will be less than 350m<sup>2</sup>. It is the purpose of this report for the Town of Cottesloe to consider the applications for two (2) single dwellings on the recently approved lots.

**STAFF COMMENT**

Proposal

It is proposed to construct two (2) single residential dwellings on separate titles (each lot being 316 m<sup>2</sup> in area). Each dwelling will be two (2) storeys in height and incorporate the following design elements:

- Balconies facing Napier Street;
- Vehicle access from a rear ROW;
- Two (2) carparking bays within a rear garage;
- Gull grey colorbond roofing with a 30 degree pitch;
- Rendered masonry walls; and
- Extensive parapet walls between the two (2) dwellings.

For the purpose of this assessment Dwelling 1 shall be the eastern dwelling and Dwelling 2 shall be western dwelling.

### Building Height

Town Planning Scheme No. 2 requires that dwellings do not exceed:

Roof Height - 8.5 metres; and  
Wall Height – 6.0 metres.

An assessment of the proposal reveals that:

- Dwelling 1 exceeds the maximum roof height by 100 mm;
- Dwelling 2 exceeds the maximum wall height by 500 mm;
- Dwelling 2 complies with the maximum roof height (measuring 8.35 metres); and
- Dwelling 2 exceeds the wall height (as measured from natural ground level) by 250 mm.

It is clear from the above assessment that both of the proposal dwellings marginally exceed either the roof or wall height limitation. It has to be stated that both dwellings can be made to comply given the minor nature of the height limitation breach. On this basis, it is considered that modified plans are prepared showing compliance with Scheme requirements.

### Setbacks

#### Non-shared Parapet Wall

A non-shared parapet wall is proposed for each dwelling (generally incorporating the garage area). These parapet walls will face adjoining lots. Under the provisions of the Residential Planning Codes, these walls can be built up to the boundary (as of right) for up to one quarter of the length of the boundary. Each of these walls comply with this requirement.

#### Shared Parapet Wall

Under the provisions of the Residential Planning Codes, a parapet wall which exceeds 4 metres in height (as is proposed) cannot exceed one quarter of the length of the boundary (or 12 metres). This application proposes a total shared parapet of 30 metres and as such, does not comply with Clause 1.5.8 (f) of the Residential Planning Codes.

In this instance however, the provisions of the Residential Planning Codes do allow the shared side setback to be reduced to nil for the entire length of the boundary where a subdivision of land is involved. This provision of the Residential Planning Codes is effectively 'as of right' and appears justified in this instance given:

- The shared parapet will only affect purchasers of the dwellings;
- The extensive parapet will not impact on adjoining land.

Support for the reduced side setback (being a shared parapet wall) is recommended.

#### Side Setback

The side setback to the wall comprising Bedrooms 1 and 2 (second storey) is proposed to be 1.235 metres whereas the Residential Planning Codes requires a minimum setback of 2.4 metres (wall length of 14 metres and wall height of 7 metres). Whilst this wall contains three (3) separate sections (ie.. Bedrooms 1 and 2 and a courtyard), it is treated as a single wall in accordance with Clause 1.4.1 (c) of the Residential Planning Codes. For the setback to be considered as three (3) separate sections the courtyard must have a minimum width of four (4) metres (the courtyard presently has a width of 3.05 metres).

There are three (3) ways in which the setback issue can be resolved:

- Refusal;
- Modification; or
- Approval (following the exercising of discretion by the Council).

It is considered modification is the most simplistic option given that Clause 1.4.1 (c) allows the setback to be 1.2 metres (as is proposed) where the courtyard has a minimum width of 4 metres. It follows that a simple increase of the courtyard width to 4 metres (from 3.05 metres) will ensure that the proposed setback complies.

Approval subject to modification is recommended.

#### Rear Setback

The rear setback under the Residential Planning Codes is 6 metres whereas the proposed setback is 3.2 metres. Clause 2.1.2 does allow a proponent to provide (up to) a nil rear setback subject to a 40 m<sup>2</sup> internal courtyard being provided. This application is consistent with this requirement.

#### Carparking/Access

Each dwelling will be provided with two (2) carparking bays within a rear garage. Access will be provided from a rear ROW. The setback to the garages is 3.2 metres to allow for a 6 metre turning/reversing width.

#### Water Feature

The submitted plans indicate a water feature to be located within a central courtyard. Details of the water feature (in terms of height, type of pumps etc.) have not been submitted with the application.

Given that this report recommends the preparation of revised plans, it will be requested that full details of the water feature be provided with the modified plans.



Fencing

It is noted that a privacy wall is proposed for the street frontage. The proposed wall must comply with Council Policy to ensure that an 'open aspect' is maintained. A condition to this effect is recommended.

**Voting:** Simple Majority

TP72 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council Grant Planning Consent for two (2) single houses on No. 77 (Lots 73 and 74) Napier Street, Cottesloe, subject to the following conditions:**

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (5) The right of way located at the rear, adjacent to the property, being paved and drained to the satisfaction of the Manager of Engineering Services, with details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.**
- (6) Any front boundary fencing to Napier Street being of an "Open Aspect" design and the subject of a separate application to Council.**
- (7) Revised plans shall be submitted by the applicant for approval by the Manager of Development Services, such plans showing:-**

- (a) The courtyard between bedrooms 1 and 2 being modified to achieve a minimum width of 4.0 metres;
- (b) Details of the proposed water features within the central courtyard;
- (c) The wall and roof heights of the dwellings being modified to comply with the 6.0m and 8.5m limitation described in sub-clause 5.1.1 (c) of the Town of Cottesloe Town Planning Scheme No. 2;
- (d) The building being setback 6.0m from the street boundary.

Carried 9/0

**TP73 NO. 9A (LOT 10) WENTWORTH STREET, COTTESLOE – PROPOSED TWO (2) STOREY DWELLING**

<b>File No:</b>	<b>No. 9A Wentworth Street</b>
<b>Author:</b>	<b>Kevin Broughton</b>
<b>Report Date:</b>	<b>12 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Sullivan</b>
<b>Property Owner:</b>	<b>N Murphy</b>
<b>Applicant:</b>	<b>G McCann</b>
<b>Date of Application:</b>	<b>3 April 2002</b>
<b>M.R.S. Reservation:</b>	<b>Urban</b>
<b>Zoning (TPS No. 2):</b>	<b>Residential</b>
<b>Density:</b>	<b>R 20</b>
<b>Lot Area:</b>	<b>278m<sup>2</sup></b>

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### **SUMMARY**

The purpose of this report is for Council to consider revised plans for a two (2) storey dwelling on the subject land. The lodgement of revised plans follows a decision at Council's 27 May to defer consideration of the application pending submission of revised plans.

### **STRATEGIC IMPLICATIONS**

N/A

### **STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**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

**AREA OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>
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<b>Discretionary Provisions</b>	<b>Min/Required</b>	<b>Proposed</b>
Open Space	50%	48.7%
Rear Setback	6m average or 40m <sup>2</sup> courtyard.	4.5m average and 32m <sup>2</sup> courtyard.
Side Setback (ground floor parapet) – Western elevation	Nil – not to exceed 8.5m	Nil – is shown as 17m.
Side Setback (first floor) – Western elevation	2.0m	1.35m

**CONSULTATION**

Neighbours were contacted by registered mail. One (1) submission was received during the initial advertising period which objected to the proposal on the following grounds:

- The subject land is substantially below the minimum lot sizes permitted under the R20 density coding;
- The proposed dwelling exceeds the 50% site coverage permitted under the Residential Planning Codes;
- The dwelling does not comply with various minimum setbacks to front and side boundaries; and
- The proposed dwelling will impact on the amenity given its character, scale and potential for overlooking.

A full copy of the submission was attached to the original report to Council on this matter.

The revised plans (subject of this report) have not been re-advertised for comment.

**BACKGROUND**

The application was presented to the 27 May 2002 Council meeting where it was resolved to:

- (1) Defer consideration of the application for Approval to Commence Development submitted by Gerard McCann for a two (2) storey dwelling at No. 9A (Lot 10) Wentworth Street, Cottesloe;
- (2) Advise the applicant that the Council does not support the submitted plans due to various setback and open space non-compliances, and given that the proposed design represents a significant departure from the character of the area (contrary to Clause 5.1.5 of the Scheme); and
- (3) Invite/request that the applicant submit revised plans incorporating the following changes to the site planning of the proposed development:
  - (a) Compliance with the minimum 6 metre front setback;
  - (b) Reduction of proposed parapet walls;
  - (c) Compliance with the 50% minimum area of open space; and
  - (d) Modification of elevations consistent with the theme of adjoining dwellings; and
  - (e) Second storey windows to be designed in a manner which will prevent overlooking.

**STAFF COMMENT**

The applicant has prepared revised plans. The plans include a number of changes including:

- Modification of the front setback to comply with the 6 metre minimum;
- Removal of any second storey parapet walls;
- Reduction in the size of the rear garage to seek compliance with the minimum area of open space; and
- Modification of second storey windows to minimise potential overlooking.

Open Space

The applicant has reduced building coverage to comply with the minimum open space requirements. The applicant has calculated that the total area of open space is 139.5m<sup>2</sup> (or 50.2%) whereas administration calculates the area of open space as 135.5m<sup>2</sup> (or 48.7%).

The shortfall in open space equates to 4m<sup>2</sup> which appears to be relatively inconsequential particularly given:

- The small size of the lot (being less than 300 m<sup>2</sup>); and
- The design has incorporated a number of effective (or useable) areas of open space (particularly as extensions of internal living areas).

Administration considers that where a development can comply within the minimum provisions of the Residential Planning Codes (through minor modification), then compliance should be required. On this basis, open space can comply subject to the rear storage room being deleted.

#### Rear Setback

The Residential Planning Codes require that a minimum average setback of 6 metres be provided. Clause 2.1.2 of the Residential Planning Codes does allow the rear setback to be reduced (down to nil) where an internal courtyard of 40m<sup>2</sup> (5m minimum dimension) is provided.

The original development proposed an average setback of 4.8 metres (as measured from the centreline of the rear ROW) and an internal courtyard of 32m<sup>2</sup> (minimum dimension of 4 metres). Whilst a reduction in the rear setback is permitted, it was not accompanied by the 40 m<sup>2</sup> courtyard.

The revised plans propose a reduced garage and storage area to ensure compliance with open space requirements. As part of this modification, the revised plans have relocated a storage room to the rear boundary. In doing so, the effective average rear setback is now 4.5m (less than before).

As previously described, a reduction in rear setback can only occur where a 40m<sup>2</sup> courtyard is provided. The revised plans maintain the courtyard at 32m<sup>2</sup> which is inconsistent with the provisions of the Residential Planning Codes.

It has to be noted however, that if the rear storage room is deleted (as is recommended above) then the proposal can comply with the average rear setback. In doing so, the rear courtyard does not need to achieve a minimum area of 40m<sup>2</sup>.

#### Extent of Parapet Walls/Side Setbacks

The revised plans show that all second storey parapet walls are deleted. It is noted however, that the parapet walls to the western boundary still measure 17.5m which exceeds the 8.5m maximum length permitted under Clause 1.5.9 (f) the Residential Planning Codes.

It is further noted that the second storey western setback should be 2.0m whereas the setback is shown as 1.35m. The effect of the reduced setback is that the western elevation is relatively dominant and has the potential to impact on the amenity of the adjoining residential lot.

Clause 1.5.10 of the Residential Planning Codes suggests that dispensation should only be granted where there are no objections from adjoining neighbours. Council will recall that an objection has been received from the adjoining resident which confirms the potential loss of amenity.

Whilst the extent of parapet walls and side setbacks are non-compliant, it has to be noted that the site is relatively narrow (less than 9 metres) and is relatively small in area (278m<sup>2</sup>). Given obvious site limitations, Council does have the ability to grant concessions under Clause 2.4.1 of the Residential Planning Codes.

In effect, this Clause seeks to provide Council with the discretion to approve variations that would otherwise prevent the construction of a single dwelling any a residential lot.

The application of this provision should only apply where the applicant demonstrates that the site is incapable of supporting a conventional dwelling type without dispensation being granted. Administration considers that the applicant could further explore modifications to the plan to reduce the proposed building area and provide for greater compliance.

### Building Design

In the previous report to Council, it was noted that administration expressed concerns over the design of the building. These concerns were raised in accordance with Clause 5.1.5 of the Scheme requires that developments are consistent with character of adjoining residential buildings.

Administration concluded that the proposed dwelling represents a significant departure from the prevailing character of the area given:

- Two (2) storey construction;
- Elevated terrace immediately fronting the street environment;
- Dominant (vertical) front elevation; and
- Use of flat-decked roofing whereas surrounding buildings incorporate 30+ degree roofing.

This position is supported by the objection received from an adjoining neighbour.

The applicant has prepared a detailed response to this issue which is attached to this report. The applicant generally suggests that that area:

- Has no heritage value;
- Is characterised by diverse housing types; and
- A modern building design is sought by his client.

Based on the above, the applicant does not seek to comply with Council's 27 May 2002 resolution which requested that the design of the building be modified to be 'in keeping' with the theme of surrounding building types. Administration maintains that the building is inconsistent with the character of the immediate residential area which is contrary to Clause 5.1.5 of the Scheme. On that basis, the design is not supported.

### Conclusions

On balance, the proposed development fails to comply with a series of minimum requirements of the Residential Planning Codes.

**Voting:** Simple Majority.

OFFICER RECOMMENDATION

That Council:

- (1) REFUSE its Approval to Commence Development of a two (2) storey dwelling at No. 9A (Lot 10) Wentworth Street, Cottesloe, in accordance with the application and plans submitted on 6 June, 2002 as Council is of the opinion that:

(a) The proposed dwelling does not comply with:

- (i) The minimum area of open space required under Table 1 of the Residential Planning Codes;
- (ii) The minimum side setback for the western elevation as required by Table 3 of the Residential Planning Codes;
- (iii) The minimum rear setback and associated courtyard as required by Table 1 and Clause 2.1.2 of the Residential Planning Codes; and
- (iv) The maximum parapet wall length permitted by Clause 1.5.9 of the Residential Planning Codes.

(b) The proposed dwelling design is inconsistent with Clause 5.1.5 given:

- (i) Dominant vertical orientation of the front elevation
- (ii) Extensive use of parapet walls; and
- (iii) Flat-gable roofing.

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

**COMMITTEE COMMENT**

At the applicant's request, the Committee determined that this matter be deferred to the next meeting.

TP73 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council:**

- (1) **Defer consideration on the application for Planning Consent of a two (2) storey dwelling at No 9A (Lot 10) Wentworth Street, Cottesloe, to the July 2002 meeting of Council.**
- (2) **Advise the submitter of Council's decision.**

Carried 9/0

TP74 **PROPOSED TOWN PLANNING SCHEME NO. 3 – CONSIDERATION OF DENSITIES**

<b>File No:</b>	<b>D2.5</b>
<b>Author:</b>	<b>Stephen Sullivan</b>
<b>Report Date:</b>	<b>11 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**PURPOSE OF REPORT**

To discuss densities under the proposed No. 3 Town Planning Scheme for consideration by Council. Due to the sensitive nature of the discussions as it relates to densities and possibly zonings under the proposed Town Planning Scheme, this matter should be discussed in camera.

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Town Planning and Development Act Local Government Act
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Once gazetted, will provide the statutory control for the development of the District for the life of that Town Planning Scheme.

**STAFF COMMENT**

The purpose of this meeting is to discuss the proposed densities for the District under the proposed No. 3 Town Planning Scheme. It is believed that Council should go “into camera” so that the allocation of densities can be discussed freely.

In discussions with the Department of Local Government, closure of the meeting would be under Section 5.23(e)(ii) of the Local Government Act which allows Council to close a meeting to the public if the meeting deals with:

- (e) a matter that if disclosed, would reveal –
  - (i) ...
  - (ii) information that has a commercial value to a person; or
  - (iii) ...

where the trade secret or information is held by, or is about, a person other than the Local Government.

Whilst Council may determine the proposed densities for the No. 3 Town Planning Scheme, the Western Australian Planning Commission and the Minister for Planning and Infrastructure are required to give approval for the proposed Town Planning Scheme to be advertised. That approval to advertise may result in Council having to adjust density codings before it is permitted to advertise the Town Planning Scheme for public submissions.

It is also believed that any decisions that are made on densities should be kept confidential until the Minister for Planning and Infrastructure grants Council approval to advertise the proposed Town Planning Scheme. This ensures that:

- (a) there is no confusion in the community as to the proposed densities for their site or locality;
- (b) reduces the risk of the public taking advantage of sensitive information before Council can inform all the community of the proposed Town Planning Scheme and the densities contained within that document.



The discussion on densities may also relate to zonings proposed in the No.3 Town Planning Scheme.

The Consultant has been requested to attend the meeting when this matter is discussed.

Information is also being sought from the Department of Local Government and Regional Development concerning Councillor declarations in relation to having an interest when discussions on densities occur. This will be circulated as soon as it becomes available.

**Voting:** Simple Majority

### **OFFICER RECOMMENDATION**

That:

- (1) the June 2002 meetings of the Development Services Committee and Council meeting be closed to the public under Section 5.23(e)(ii) of the Local Government Act, in order to discuss and determine densities of properties under the proposed No. 3 Town Planning Scheme;
- (2) Standing Order 12.4 relating to the limitation of number of speeches be suspended during the consideration of agenda item TP74;
- (3) Standing Orders be resumed following completion of the discussion on item TP74.

### **COMMITTEE COMMENT**

The Manager, Development Services outlined the objective of the meeting and the purpose of dealing with the proposed densities in camera. The members at the meeting then discussed in detail, the process that should be followed to provide the Consultant with directions for the formulation of densities under the proposed Town Planning Scheme.

It was also agreed that a briefing session for all Councillors should be called and that direction on densities under the proposed Town Planning Scheme be provided at that meeting to the consultant. This will enable the proposed Town Planning Scheme No. 3 to be progressed.

It was agreed that the densities under Town Planning Scheme Amendment No. 31 should be the basis for discussion of densities under the proposed Town Planning Scheme as this was a recent and major decision of Council. This would then enable Council to consider and vary as appropriate.

TP74

### **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council arrange for a briefing session on Monday 8 July, 2002 at 6:00pm to provide direction to the consultant on densities under the proposed No. 3 Town Planning Scheme**

Carried 6/3

**TP75 DEVELOPMENT APPLICATIONS FOR NO. 38 CONGDON STREET AND 138 MARINE PARADE**Committee Comment

Following the verbal submission by Ms Hayes, the Committee agreed that a special meeting of the Development Services Committee should be called so that these two items could be dealt with and referred to the June meeting of Council for consideration.

**TP 75 COMMITTEE RESOLUTION**

That the Manager, Development Services be requested to arrange for a Special Meeting of the Development Services Committee prior to the June meeting of Council to consider the items referred above.

**SPECIAL DEVELOPMENT SERVICES COMMITTEE****24 June 2002**

Moved Cr. Morgan, seconded Cr. Whitby

**That the meeting be adjourned to allow members and others in attendance, time to read the Minutes of the Special Meeting of the Development Services Committee, held earlier in the evening that contained recommendations to the Council meeting.**

Carried 9/0

Adjournment from 9.05pm to 9.25pm.

Meeting recommenced with all in attendance except for Mr M Doig, who did not return to the meeting.

**12 SECOND PUBLIC STATEMENT TIME**

The Deputy Mayor in recognition of the new items being presented at the time, re-opened the meeting to public questions and statements.

**12.1 Ms J Hayes, North Fremantle – Item TP76**

Ms Hayes spoke in support of the application, pointing out that the proposed development would enable her aging parent to live independantly with her.

**12.2 Mr L Agnello – Item TP77**

Mr Agnello spoke in support of the application noting that whilst the proposed development did not meet the open space requirements, it was the best possible solution given the block and location. He noted that the block area was next to a large accommodation section of a hotel that resulted in overlooking problems for uncovered areas.

**TP76**      **NO. 38 (LOT 2) CONGDON STREET – PROPOSED TWO (2) STOREY GROUPED DWELLING AND AGED OR DEPENDANT PERSONS DWELLING**

**File No:** No. 38 Congdon Street  
**Author:** Kevin Broughton  
**Report Date:** 10 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** **Stephen Sullivan**

**Property Owner:** J Hayes  
**Applicant:** J Hayes  
**Date of Application:** 24 April 2002

**M.R.S. Reservation:** Urban  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 769m<sup>2</sup>

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**SUMMARY**

Application is made for a two (2) storey grouped dwelling and an additional (aged persons) dwelling on the subject land. Committee and Council will need to determine whether it wishes to exercise its discretion by granting approval for the additional dwelling under Clause 5.1 of the Residential Planning Codes.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

- Town Planning Scheme No. 2
- Residential Planning Codes

**POLICY IMPLICATIONS**

TPS Policy Implications:	N/A
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**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 - Claremont Hill Precinct - Non-contributory  
Municipal Inventory - N/A  
National Trust - N/A

**AREA OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>	
<b>Discretionary Provisions</b>	<b>Required</b>	<b>Provided</b>
Side Setback (Aged Persons Dwelling)	1.5m	1m
Aged Persons Dwelling Density Increase	900m <sup>2</sup>	769m <sup>2</sup>

**CONSULTATION**

Neighbours notified by registered mail – no submissions were received.

**BACKGROUND**

Council resolved at its December 2000 meeting to establish a preferred method for determining aged persons density bonuses, as follows:

When considering the calculation of the density requirements for the development of an Aged or Dependent Persons Dwelling, Council will use the alternative method of calculating densities rather than the Residential Planning Codes manual interpretation, as outlined in the appeal letter from the Minister for Planning dated the 8 June, 1998, which related to the proposed development at No. 23 Grant Street. This method of calculation requires a site to be suitable for two grouped dwellings before it can be considered for an Aged or Dependent Persons Dwelling development.

This proposal is inconsistent with the above resolution. Further explanation is provided under the following heading.

**STAFF COMMENT**Proposal

It is proposed to develop a two (2) storey dwelling and aged persons dwelling on the subject land. The proposal includes a number of key elements:

- (a) The proposal will comprise a two (2) storey dwelling fronting Congdon Street and an aged persons dwelling fronting a rear ROW;
- (b) The dwellings are intended to be included on separate strata-lots thus allowing transfer to individual landowners;
- (c) The aged persons dwelling will be occupied (in the first instance) by the proponents parent who require daily care;
- (d) The development will be established as an 'eco-compound' which incorporates:
  - (i) Solar orientation;
  - (ii) Use of alternative technologies;
  - (iii) Re-use of grey-water; and
  - (iv) Reduction in greenhouse gases through limited consumption.
- (e) Use of varying building materials (rammed earth, stone) etc..

The applicant has requested that Council exercise its discretion by granting a density bonus in accordance with Clause 5.1 of the Residential Planning Codes. A detailed justification for the density increase is provided with the accompanying documentation. The justification generally relates to:

- (i) Locational criteria;
- (ii) Need for immediate and direct care from family members in the adjoining dwelling;
- (iii) Reducing demand on other institutional facilities; and
- (iv) Prolonging care of aged persons within a home environment.

Density Bonus – Method of Calculation

The Council previously considered a report relating to density increases for aged persons dwellings in December 2000. The report described that there were two (2) methods for determining dwelling density bonuses (of 50%) in accordance with Clause 5.1 of the Residential Planning Codes.

The two (2) options were:

**Residential Planning Codes Manual Calculation - Option 1**

Under this calculation the method allows for lots in a R20 coded area to be developed as follows:

Lot Area	Type of Development
500m <sup>2</sup>	Single House
594m <sup>2</sup>	Two Aged or Dependent Dwellings
# 747m <sup>2</sup>	One Aged or Dependent Persons Dwelling and a Grouped Dwelling
900m <sup>2</sup>	Two Grouped Dwellings
1,000m <sup>2</sup>	Two Single Houses

In a R20 density coded area, two grouped dwellings are permissible if there is a land area of 900m<sup>2</sup>.

**Calculation by the Minister for Planning - Option 2**

An alternative interpretation presented by the Minister for Planning relates to the number of dwellings. Based on the land area, only one dwelling is permissible and therefore, applying the 50% bonus would only allow 1.5 dwellings.

Lot Area	Type of Development
500m <sup>2</sup>	Single House
900m <sup>2</sup>	Two Grouped Dwellings or Three Aged or Dependent Persons Dwellings
1,000m <sup>2</sup>	Two Single Houses
1044m <sup>2</sup>	Two Aged or Dependent Persons Dwelling and a Grouped Dwelling

Therefore, if there is a lot that has a land area of 900m<sup>2</sup>, then it would be suitable for three aged or dependent persons dwellings.

In simple terms, Option 1 is a ratio (or pro-rata) based calculation whereas Option 2 only permits an increase where two (2) or more dwellings are permitted.

Council resolved that the future assessment of density bonuses would only be calculated in accordance with Option 2. The primary reason related to the fact that the Option 1 calculation would allow quasi-grouped dwellings to be considered within areas where only single residential dwellings were normally permitted (not grouped dwellings). Council considered that the impact on residents was undesirable and agreed with administration that the amenity issue was:

..... especially so when residents in an area have the expectation that the area they live in is single residential rather than a "unit development" area. In addition the size, scale and bulk of the proposed aged or dependent persons dwelling has been of concern to the adjoining property owners.

The effect of the December 2000 resolution is that the submitted application does not comply with the Option 2 calculation given that a minimum lot area of 900m<sup>2</sup> is required for Council to contemplate the density increase (the subject land is 769m<sup>2</sup>). Given that the proposal does not comply with the minimum lot area required under the R20 coding, refusal is recommended.

Notwithstanding, it must be stated that the Residential Planning Codes does provide Council will the ability to approve the submitted proposal given that it does comply with Option 1 (ie.. it exceeds the minimum lot area of 747m<sup>2</sup> stated in the Residential Planning Codes). On that basis, further assessment and discussion of the application is provided hereunder.

#### Appropriateness of Density Bonus

The Residential Planning Codes simply provides Council with the discretion to grant up to a 50% density bonus. The Residential Planning Codes does not however, state what criteria should be considered by Council when determining density increases for aged persons dwellings.

From a planning viewpoint, aged persons dwellings should be located in areas that:

- (a) Are characterised by medium density housing;
- (b) Are within close proximity to transport, shops, community facilities, medical facilities;
- (c) Allow for reasonable access for aged persons (ie.. in terms of walkability etc.); and
- (d) Allow aged persons to reside within their preferred community (generally where family, friends and familiarity are within close proximity).

It is considered that the subject land is inconsistent with dot points 1 and 2.

It is recommended that a Policy is developed to determine locational criteria for granted density bonuses.

### Alternative Options

It has to be stated that the above density bonus relates to strata-title proposals. Town Planning Scheme No. 2 and the Residential Planning Codes do provide the ability for additional accommodation to be provided for aged persons accommodation.

The provisions allow additional accommodation to be provided as an extension to an existing or proposed dwelling – subject to internal access being provided between the two (2) self contained living areas. It is considered that these provisions will enable the proponent to achieve the preferred outcome – being aged accommodation. The only difference is that the self-contained unit cannot be sold separately.

### Heritage Implications

The proposal was referred to Council's Heritage Consultant for comment. The Heritage Architect advises that:

- (a) The subject land forms part of the Claremont Hill Heritage Area;
- (b) The existing dwelling has no conservation value;
- (c) Proposed dwellings "should reflect the predominant heritage proportions and massing of adjacent buildings.....new dwellings should not be visually dominant";
- (d) The proposed dwelling proposes verandah roof projections which are visually dominant and a foreign element – these are not supported;
- (e) Fencing is open and is supported. The proposal for a semi-circular fence is not supported;
- (f) Stone walls are 'at odds' with design elements within the area; and
- (g) The skillion roof to the studio is not supported – traditional pitched roofing should be used.

Based on the above, the proposed dwelling requires modifications to satisfy heritage considerations for the immediate area.

### Setbacks

There are two (2) areas of non-compliance, being:

- (a) Side setback to northern boundary - 1m – should be 1.5m

This setback to the aged persons dwelling is presently shown as 1.0m however, should be 1.5m. There are no objections to this setback reduction given that the shared boundary is a commercial building where an inconsequential impact on the amenity of the proposed dwelling will result.

- (b) Front Awning

There is a front awning which extends into the front setback area by 3.5m. This awning provides

Site Requirements

The proposed dwellings comply with the minimum height, open space and site coverage requirements stipulated under Town Planning Scheme No. 2 and Residential Planning Codes.

Conclusions

It is recommended that the application be refused given that it does not comply with the minimum land area permitted for the aged persons dwelling bonus. It is noted however, that the provisions of the Residential Planning Codes do allow Council to consider the application.

Should Council wish to contemplate approval, administration advises that the proposed design will require modification to meet heritage design requirements. Moreover, that the proposed aged persons dwelling could be considered as 'additional accommodation' in accordance with the provisions of Town Planning Scheme No. 2.

**Voting:** Simple Majority.

TP76

**OFFICER RECOMMENDATION**

That Council:

- (1) Refuse the Approval to Commence Development for a two (2) storey single dwelling and aged persons dwelling on No. 38 (Lot 2) Congdon Street, Cottesloe for the following reasons:
  - (a) The proposed development does not comply with the minimum lot size of 900m<sup>2</sup> required for the aged persons bonus in accordance with Council's December 2000 resolution;
  - (b) If approved, the proposal will impact on the amenity of the area by increasing the dwelling density beyond the R20 coding presently permitted within the locality;
  - (c) If approved, the proposal will impact on the single residential character of the area and in doing so, establish a precedent that may result in additional (comparable) dwelling increases that will further erode the single residential character of the area;
  - (d) The proposed dwellings includes a number of design elements which are inconsistent with the Council's Draft Heritage Strategy Report.
- (2) Advise the applicant that Council will be prepared to consider an application for 'additional accommodation' in accordance with the provisions of the Town of Cottesloe Town Planning Scheme No. 2. Any revised application should comply with the Council's Draft Heritage Strategy Report by ensuring that the proposed dwelling is consistent with the scale, mass, textures and materials of adjoining dwellings.



## COMMITTEE COMMENT

The Manager, Development Services advised the Committee that the report was incomplete on the section on the awning. The sentence should be as follows:

There is a front awning which extends into the front setback area by 3.5m. This awning provides **roof cover to the balcony that fronts onto Congdon Street.**

The majority of the Committee were of the opinion that whilst Council has followed Option 2 in the past, in this particular case, the Committee believed that there were special circumstances site for a creation to Council's stated position. Those special circumstances are:

- the site is adjacent to an existing large commercial development and it will form a transition between the commercial use and the identified heritage area in Congdon street
- single storey
- communal facilities;
- single garage;
- reasonable access to shops and transport

The Committee required the development to be modified by:

- the setting back of the building 6.0m from Congdon Street,
- open aspect fencing;
- deletion of the northern crossover to Congdon Street

## COMMITTEE RECOMMENDATION

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council delegate to the Manager, Development Services authority to grant Planning Consent for the proposed development subject to conditions addressing the following:

- the setting back of the building 6.0m from Congdon Street,
- open aspect fencing;
- deletion of the northern crossover to Congdon Street; and
- standard conditions of approval, including special conditions relating to the Aged or Dependent Persons Dwelling.

## AMENDMENT NO. 1

Moved Cr. Morgan, seconded Cr. Rattigan

*That the first and second dot points be deleted.*

The Deputy Mayor, with the agreement of the meeting, ruled that each part of the amendment be dealt with separately.

**AMENDMENT NO. 2**

*That the first dot point be deleted.*

Carried 6/3

**AMENDMENT NO. 3**

*That the second dot point be deleted.*

Lost 2/7

Amended motion was put.

TP76 **COUNCIL RESOLUTION**

**That Council delegate to the Manager, Development Services authority to grant Planning Consent for the proposed development subject to conditions addressing the following:**

- **open aspect fencing;**
- **deletion of the northern crossover to Congdon Street; and**
- **standard conditions of approval, including special conditions relating to the Aged or Dependent Persons Dwelling.**

Carried 7/2

Cr. Walsh and Cr. Utting are noted as voting against the motion.

TP77 **NO. 138 (LOT 101) MARINE PARADE (NORTH EAST CNR) EILEEN STREET  
– PROPOSED THREE (3) STOREY DWELLING**

<b>File No:</b>	<b>No. 138 Marine Parade</b>
<b>Author:</b>	<b>Kevin Broughton</b>
<b>Report Date:</b>	<b>10 June 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Sullivan</b>
<b>Property Owner:</b>	<b>L Agnello</b>
<b>Applicant:</b>	<b>Cross Fishwick and Associates</b>
<b>Date of Application:</b>	<b>24 April, 2002</b>
<b>M.R.S. Reservation:</b>	<b>Urban</b>
<b>Zoning (TPS No. 2):</b>	<b>Special Development</b>
<b>Density:</b>	<b>R50</b>
<b>Lot Area:</b>	<b>297m<sup>2</sup></b>

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**SUMMARY**

The purpose of this report is for Committee and Council to consider an application for a three (3) storey dwelling on the subject land. As part of its determination, Committee and Council will consider various setback variations.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

TPS Policy Implications:	No. 5 - Building Heights
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**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

**AREA OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>
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<b>Discretionary Provisions</b>	<b>Required</b>	<b>Provided</b>
Front Setback (Eileen Street)	6.0m	2.5m
Secondary Street Setback (Marine Parade for the purpose of this application)	1.5m	<1m
Balconies to Marine Parade	1.5m	<0.5m
Open Space/Site Coverage	50%	30.5%
Side Setback (Eastern)	2.7m	1m

**CONSULTATION**

Neighbours were contacted by Registered Post – one submission was received from the owner of No. 2 Eileen Street, which is reproduced below:

I reside at No. 2 Eileen Street, Cottesloe. I received notification recently that an application has been submitted to the Cottesloe council for a residential development at No. 138 Marine Parade. I have taken the opportunity to review the proposal together with my advisors and would like to register the following comments with the council:

The bulk and mass of the building seems excessive given the 50% site cover allowance, it appears this has been significantly exceeded.

The southern boundary wall which exceeds 9 metres in length and 11 metres in height according to the R Codes should be a minimum 2.5 metres from the boundary. Whereas it is only 1 metre from the boundary.

The setbacks for residential dwellings in R50 Zone are 6 metres to the front and 4 metres to the rear. Neither of these has been adhered to:

- the front is zero lot-line;
- the rear 2 metres.

I trust that these comments will be taken into consideration by the council in your appraisal of the submission for the development.

## **BACKGROUND**

The submitted plans were presented to the Design Advisory Panel meeting of the 14 June 2002.

There was a difference of opinion by the various members of the Design Advisory Panel on the design and site planning of the building.

Issues discussed included:

- (a) height of the development;
- (b) setbacks to the various boundaries;
- (c) the relationship between Marine Parade and the lower ground level and the design of that level; and
- (d) street elevation to Marine Parade.

There was some concern by the Design Advisory Panel in terms of the information provided, especially in terms of how the proposed development would relate to the development located on the south-western corner of Eileen Street and Marine Parade.

## **STAFF COMMENT**

### Proposal

It is proposed to construct a three (3) storey dwelling on the subject land. The proposed dwelling comprises a number of design elements, including:

- Ground floor garage for two (2) vehicles;
- Open and undercroft courtyard areas;
- Undercroft pool adjacent to Marine Parade;
- Four (4) bedrooms;
- Extensive balcony areas; and
- Use of pitched and flat-decked roofing;

### Site Description

The subject land forms part of a three (3) lot subdivision which was granted approval by the Western Australian Planning Commission. The other two (2) lots have been developed with residential buildings.

The subject land is presently vacant. The site falls toward Marine Parade. Elevations range from 14.5 metres to 13.0 metres.

The site is located immediately south of the Ocean Beach Hotel which comprises a six (6) storey used for short-term accommodation. Land-uses in the immediate area range from retail, tourist, restaurant, recreational and residential.

### Building Heights

Buildings Heights for the Special Development Zone are controlled by Clause 3.4.5(b)(v) of the Scheme Text which states that a building shall not exceed

- (a) a height of 12 metres. For the purpose of this development "height" means the vertical measurements taken between any point adjacent to the area occupied by the building and the top most vertical point of the roof, excluding minor vertical projections such as chimneys and vent pipes;
- (b) three storeys inclusive of above ground parking decks; or
- (c) excepting the Eric Street frontage of lot 2, Cnr Eric Street and Marine Parade, 2 storeys adjacent to or opposite residential development.

An assessment of the proposed building reveals that:

- The natural ground level of the site (as measured in accordance with clause 5.1.1 (c) of the Scheme) is 13.72 metres;
- The total building height at any portion of the site is 12 metres or less; and
- There are no more than three (3) storeys.

Based on the above assessment, the proposed building complies with the maximum height limitation permitted by the Scheme.

### Overshadowing

It is noted that the subject land will be significantly affected by overshadowing from the adjoining Ocean Beach Hotel. Whilst this level of overshadowing is profound, it has to be noted that the level of overshadowing will impact on any dwelling on the land despite the proposed design.

It follows that this issue should be accepted as a constraint relating to the site which cannot be resolved or remedied through increased setbacks or other site standard.

### Overlooking

It is noted that the subject land is located adjacent to the Ocean Beach Hotel. There is significant potential for overlooking from the Hotel into the subject land. It is considered that the proposed design incorporates a number of design elements which reduce the potential for overlooking, being:

- (a) Use of parapet walls;
- (b) Incorporating undercroft outdoor living areas;
- (c) Locating living areas within visually protected areas; and
- (d) Establishing outdoor areas within visually protected areas.

It is considered that a reasonable level of privacy can be achieved within the dwelling.

### Setbacks

The proposed dwelling does not comply with a number of setbacks as listed in the 'Non-compliance' table at the beginning of this report. For the most part, these setback issues relate to:

- (i) Reduced front setback to Eileen Street;
- (ii) Reduced side setback to the eastern elevations; and
- (iii) Minor reduced setbacks to Marine Parade.

Administration considers that the proposed setbacks are generally acceptable given:

- (a) Increasing the side (eastern) setback to 2.7m from 1.0m will have an inconsequential benefit to the adjoining dwelling given:
  - (i) This elevation is not a principal light source for the adjoining dwelling;
  - (ii) The adjoining dwelling appears to be granted a setback concession to 1.5m – rather than 2.7m;
  - (iii) The adjoining setback reduction is consistent with that proposed by this application; and
  - (iv) An increased setback will not maintain views from the adjoining dwelling.
- (b) The front setback to Eileen Street is consistent with adjoining buildings/dwellings (including the adjoining residential dwelling);
- (c) The secondary street setback is generally consistent with that of adjoining buildings along the Marine Parade frontage;
- (d) The scale of the building (incorporating the setback reductions) is consistent with adjoining buildings; and
- (e) If the site was developed for commercial purposes, the proposed setbacks would be effectively 'as of right'.

Based on the above, it is recommended that Council support the proposed setback variations.

### Open Space/Site Coverage

The Residential Planning Codes stipulate that the minimum area of open space shall be 50%. This requirement is also stipulated within Town Planning Scheme No. 2 for any development within the Special Development Zone.

An assessment of the proposed development reveals that only 30.5% open space is provided on-site. For the most part, this area is provided within an internal courtyard located along the northern boundary.

For the purpose of calculation, the open space/site coverage calculation excludes a 100m<sup>2</sup> undercroft area located on the ground floor. Whilst this area could be used for outdoor recreation, the Residential Planning Codes clearly excludes undercroft or covered areas from open space calculations

The variation relates (in real terms) to 60m<sup>2</sup> which is considered relatively significant. Administration considers that a variation of this amount could impact on the amenity of the dwelling given that:

- (a) Open Space should be used as an extension of living areas within the dwelling;
- (b) Open Space is intended to allow light penetration into the dwelling;
- (c) Open Space is intended to reduce the level of built development through the use of landscaping etc.; and
- (d) Open Space around a dwelling is intended to allow breezes etc. to enter the dwelling.

It has to be stated however, that the subject dwelling is not located within a non-traditional residential area and as such, variations to 'residential-based' requirements should be contemplated. In this instance, there are no provisions in the Scheme or the Codes to allow Council to vary the open space or site coverage controls. Therefore, the development needs to comply with those requirements.

#### Compatibility with Surrounding Land-uses

The proposed dwelling will be located within an area characterised by a range of retail, commercial, short stay residential and residential land-uses. A number of these uses have the potential to impact on the amenity of the proposed dwelling.

In this regard, administration offers the following comments:

- (a) The proposed dwelling is a discretionary (or 'AA') use within the Special Development Zone which does give Council the opportunity to refuse the development;
- (b) The purpose and intent of the zone is to provide a range of land-uses including residential use; and
- (c) It is expected that occupiers will be aware of the perceived/potential impacts emanating from adjoining land-uses. It follows that any impacts will be contemplated prior to occupying the dwelling.

#### Conclusions

It is recommended that Council support the proposed dwelling given the reasons identified in this report.

**Voting:** Simple Majority.

#### TP77 **OFFICER RECOMMENDATION**

That Council:

- (1) Grant Approval to Commence Development for a three (3) storey single dwelling on No. 138 (Lot 101) Marine Parade, Cottesloe 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) Any front boundary fencing to Marine Parade or Eileen Street being of an "Open Aspect" design and the subject of a separate application to Council.
  - (f) Revised plans shall be submitted to the satisfaction of the Manager, Development Services, such plans showing the development complying with the 50% open space requirement of the Residential Planning Codes.
- (2) Advise the submitter of Council's decision.

#### **COMMITTEE COMMENT**

The Committee were of the opinion that the development should be modified so that:

- it was setback 3.0m from Eileen Street;
- the covered entry to Eileen Street be deleted; and
- the development complying with the open space requirement.

#### **COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

That Council:

- (1) Grant Approval to Commence Development for a three (3) storey single dwelling on No. 138 (Lot 101) Marine Parade, Cottesloe 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) Any front boundary fencing to Marine Parade or Eileen Street being of an "Open Aspect" design and the subject of a separate application to Council.
- (f) Revised plans shall be submitted to the satisfaction of the Manager, Development Services, such plans showing the development:
  - (i) complying with the 50% open space requirement of the Residential Planning Codes;
  - (ii) being set back 3.0m from Eileen Street; and
  - (iii) being modified with the deletion of the covered entry statement to Eileen Street.

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

**AMENDMENT NO. 1**

Moved Cr. Morgan, seconded Cr. Rattigan

*That condition (1)(f)(i) be deleted.*

Moved Cr. Birnbrauer, seconded Cr. Walsh

*That the amendment be put.*

Carried 7/2

Amendment was put.

Lost 4/5

**AMENDMENT NO. 2**

Moved Cr. Walsh, seconded Cr. Morgan

That that the words:

*“Marine Parade or” be deleted from condition (1)(e).*

Carried 8/1

Amended motion was put.

**TP77 COUNCIL RESOLUTION**

**That Council:**

- (1) Grant Approval to Commence Development for a three (3) storey single dwelling on No. 138 (Lot 101) Marine Parade, Cottesloe, 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) Any front boundary fencing to Eileen Street being of an “Open Aspect” design, and the subject of a separate application to Council.**
  - (f) Revised plans shall be submitted to the satisfaction of the Manager, Development Services, such plans showing the development:**
    - (i) complying with the 50% open space requirement of the Residential Planning Codes;**
    - (ii) being set back 3.0m from Eileen Street; and**
    - (iii) being modified with the deletion of the covered entry statement to Eileen Street.**

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

Carried 6/3

**TP78** **TEMPORARY TOILETS AND CHANGEROOMS TO BE LOCATED ON THE SITE OF THE NORTH COTTESLOE SURF LIFE SAVING CLUB DURING THE RE-DEVELOPMENT OF THE NORTH COTTESLOE CAFE**

**File No:** No. 151 Marine Parade  
**Author:** Stephen Sullivan  
**Report Date:** 20 June 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Tindale

**Property Owner:** Department of Land Administration  
**Applicant:** Robinson and Taylor  
**Date of Application:** 19 June 2001

**Metropolitan Region Scheme:** Park and Recreation Reserve  
**Zoning:** N/A  
**Density:** N/A  
**Lot Area:** N/A  
**Heritage Listing:** N/A

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**Summary**

To provide a recommendation to the Western Australian Planning Commission on an application for Approval to commence development under the Metropolitan Region Scheme, for the location of temporary toilets and change rooms on the site of the North Cottesloe Surf Life Saving Club. The temporary toilets will be located on this site during the course of the construction of the North Cottesloe Café.

**Statutory Environment**

Metropolitan Region Scheme

**Policy Implications**

Nil

**Strategic Implications**

N/A.

**Area of Non-Compliance**

Nil

**Consultation**

Nil

**Background**

Approval was granted by the Western Australian Planning Commission for re-development of the North Cottesloe Café on 18 September 2001. The Commission advised the Architects in a letter dated 5 February 2002, that certain conditions were still outstanding, including condition (12). Condition (12) is reproduced below:

Temporary toilet facilities and change rooms shall be provided during the full course of demolition and construction. Details of the temporary toilet facilities, including location, number and servicing being submitted to the Western Australian Planning Commission for its prior to commencement of development.

The applicants are now seeking approval for the provision of a separate male and female chemical toilets and change room. The three structures are to be located to the north-west corner of the North Cottesloe Surf Life Saving Club. Circulated separately from the report was a copy of the site plan.

#### **Staff Comment**

Various sites were considered in terms of locating the temporary toilets facilities and change rooms during the course of the re-development of the North Cottesloe Cafe site.

The site, which is located on the lower level, near the north-western corner of the North Cottesloe Surf Life Saving Club site was considered to be the most appropriate.

**Voting:** Simple Majority.

#### TP78 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Birnbrauer

**That Council advise the Western Australian Planning Commission that it holds no objection to the location and number of toilets and change rooms to be provided, as shown on the plan received on the 17 June, 2002 in order to satisfy condition 12 of the Commissions approval for the re-development of the North Cottesloe Café.**

Carried 9/0

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

Nil.

#### **14 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

#### **15 MEETING CLOSURE**

*The Mayor announced the closure of the meeting at 9.58pm.*

CONFIRMED: MAYOR \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_