

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING MINUTES**

**ORDINARY MEETING OF COUNCIL  
HELD IN THE  
MAYOR'S PARLOUR, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, MONDAY, 24 MAY, 2004**

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

The Mayor announced the meeting opened at 7.00pm.

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

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

**Officers in Attendance**

Mr Stephen Tindale	Chief Executive Officer
Mr Geoff Trigg	Manager Engineering Services
Mr Stephen Sullivan	Manager Development Services
Mr Alan Lamb	Manager Corporate Services
Mrs Jodie Peers	Executive Assistant

**Apologies**

Cr Victor Strzina

**Leave of Absence (previously approved)**

Nil.

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

At the last meeting of Council, the following questions from Mr Michael Hain were taken on notice.

- 1. Has Main Roads WA or Council done any analysis of overpass/underpass options?**
- 2. How far would any road works sought by Main Roads WA for a pedestrian light satisfy requirements for a future full set of traffic lights?**

3. **Is Council aware of the reason why Main Roads WA's previous denial that pedestrian lights are not possible has changed to is possible?**

The following answers are provided:

1. Main Roads WA and Council staff have only considered these options to determine that they are not viable in terms of available funding, possibly subject to major changes when the future of Curtin Avenue is determined and not a technically useful option regarding usability and disability capable.
2. The road works required for the pedestrian lights relate substantially to the width of the median islands (for pedestrian safety) and the right turn lane requirements. A full set of traffic lights would require similar roadworks.
3. Main Roads WA have stated that the full set of traffic lights is preferable for a greater coverage of site problems, however, they would agree to this lesser option for greater pedestrian safety, rather than nothing at all. No other reasons are known of.

#### **4 PUBLIC QUESTION TIME**

Mr J Davis,

Mr Davis asked a question on notice to the Chief Executive Officer.

Could you please supply the following information:

1. Council loans to the Sea View Golf Club as at the end of 2003. This should include both direct loans and borrowings from a third party guaranteed by the Council.
2. Any variations to this sum which have occurred up to the present.

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

Moved Cr, seconded Cr Furlong

That Cr Strzina's application for a leave of absence for the May round of meetings be granted.

Carried 10/0

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

Moved Cr Miller, seconded Cr Robertson

The Minutes of the Ordinary Meeting of Council held on Tuesday, 27 April, 2004 be confirmed.

Carried 10/0

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**7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

- 7.1 The budget and five year plans for footpath replacement, local road rehabilitation, road drainage improvement and road rehabilitation and improvement will be presented at this evening's meeting.
- 7.2 The Mayor advised that he has met with an organisation keen to hold a 'Sculptures by the Sea' event in Cottesloe in March 2004. The sculptures will be along the beachfront. There is no cost to Council, other than staff assistance, as the event is sponsored. A booklet providing further detail on the project was passed around for Councillors to view.
- 7.3 Discussions are being held on the process for reviewing the heritage list.
- 7.4 An urban study for the town centre is being developed.
- 7.5 The Mayor spoke about the 'Dialogue with the City' program that he is involved in. It is a new type of planning with the opportunity for Councils to receive funding. There is the possibility that the WA Planning Commission can become involved in early town planning discussions.

**8 PUBLIC STATEMENT TIME**

Mr P Webb, York Street, Subiaco – Item 11.1.1, No. 1 Eileen Street

Mr Webb has reviewed the proposal in context of clause 5.1.1 of the Town Planning Scheme (TPS) in relation to measurement of building height. He concurs with Council's natural ground level. Mr Webb handed out to Councillors a plan highlighting that the wall height is 3.5m higher than allowable in the TPS and the roof height is 1.5m higher than allowed for a two storey building. He advised that his clients have no objection to a 6 metre wall. The roof height is excessive. Mr Webb's view is that the proposal is demonstrably more than the TPS allows for.

Mr F Zuideveld, 65 Leonara Street, Como – Item 11.1.1, No. 1 Eileen Street

Mr Zuideveld concurs with the site level measurement. Building setback is a greater distance from the boundary and projecting wall height above the ridge height is 0.5m plus the thickness of the roof. Mr Zuideveld stated that exceptional circumstances exist in this case, as one building adjacent to and one opposite the site are three storey buildings. The distance between the two buildings is in excess of 10 metres. Privacy issues have been addressed by the design. Mr Zuideveld advised that he is prepared to make a concession to setback the roof 1 metre further back from the current plan. This would have a nil shadowing effect. Mr Zuideveld urged Council to support the committee recommendation.

Ms S Watt, 5/8 Hamersley Street – Item 11.1.2, No. 6 Hamersley Street

Ms Watt is the owner of two units in Hamersley Street and objects to the development at 6 Hamersley Street. The plans do not address the issues raised by objectors including; height, setback, privacy, mass, raised front landscaping. The proposed building is dominant, is certain to adversely affect views and the design is not consistent with the surrounding streetscape. Ms Watt urged Council to enforce the building guidelines within the TPS and consider the impact to neighbours and the streetscape in general.

Mr M Owen, 4 Hamersley Street – Item 11.1.2, No. 6 Hamersley Street

Mr Owen stated his dismay at the proposed building for No. 6 Hamersley Street. The 28 metre wall starting at his back fence and going to within 2 metres of the front setback is over height. The front raised landscaping is also overheight. Mr Owen's property is an east/west block and will be particularly susceptible to the proposed development, the overbearing structure will cause loss to their amenity of light and will cause shading. Mr Owen has made a number of trips from Kojanup to discuss these issues with Council and he has also engaged a consultant town planner to consider the proposal. He states that the plans are misleading; showing Mr Owen's property with a 6 metre setback when in reality it is setback 11 meters. Mr Owen handed out a plan and aerial photograph of his property. Mr Owen is concerned over the many concessions that the proposer is requesting for this building, and asked Council to refuse the application.

Mr B Seeber, 32 Margaret Street – Item 11.1.3, No. 208 Marine Parade

Mr Seeber spoken on behalf of the owners at 33 and 35 Margaret Street, confirming their objection to the height of the building proposed for 208 Marine Parade. Sites in Margaret Street are 900mm lower. Mr Seeber asked Council to vote in favour of the officers recommendation to defer, so that the issues can be further addressed.

Mr J Hammond, 36 Railway Street – Item 11.1.13, Resolutions from the Special Electors Meeting

Mr Hammond spoke representing Keep Cott Low. He stated that their greatest fear of the Multiplex application is building height. Multiplex have also stated that they have concessions to override the heritage provisions in the Town Planning Scheme. Mr Hammond congratulated Cr Sheppard for the stance he intends to take when voting, Crs Utting and Walsh for their consistency and the Mayor for publicly stating that he will vote against in event of a deadlock.

**9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Mr St John Hammond gave a presentation to Council on the "Hands On Cottesloe" fundraising group and their concept for selling impressions or a cast of individuals hands set in a coloured concrete slab with an engraved plaque recognising their donation to a specified charity. The impressions are to be placed alongside the pathway which runs along the foreshore.

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Each tablet will cost \$500. At this stage they have received 200 expressions of interest for the tablets. Approximately 400 tablets would fit along the foreshore. The money would go into a charitable trust and the services of an accountant have been enlisted. 40% of the money raised will be going to Cottesloe – with 10% going towards the foreshore and 30% to Cottesloe community groups. 5% of the total money raised will be retained in the trust fund to maintain the tablets. A sample of the “impression” was shown to Council. Mr Hammond asked Councillors for their support.

**10 REPORTS OF COMMITTEES AND OFFICERS****11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 17 MAY 2004****11.1 PLANNING****11.1.1 NO 1 (LOT 4) EILEEN STREET - 3 MULTIPLE DWELLINGS (FOUR STOREYS)**

<b>File No:</b>	<b>No 1 (Lot 4) Eileen Street</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant Submission from 9 owners Plans</b>
<b>Report Date:</b>	<b>10 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>J Schuch</b>
<b>Applicant:</b>	<b>Overman &amp; Zuideveld Architects</b>
<b>Date of Application:</b>	<b>10 May, 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>AA - A use that is not permitted unless special approval is granted by the Council</b>
<b>Density:</b>	<b>R50</b>
<b>Lot Area:</b>	<b>759m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

Council is in receipt of an application for three multiple dwellings on the subject property.

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

**STATUTORY ENVIRONMENT**

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

**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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
Clause 5.1.1 (b) (i)	Two Storeys (three storeys in exceptional circumstances)	Four storeys

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Plot Ratio	0.6	1.0	Clause 3.1.1 – P1
No 3 - – “Boundary Setbacks”	East basement – 1.5m West basement – 1.5 East lower – 1.8m East First Floor – 3.3m East Second Floor (Kitchen1) – 9.0m East Second Floor (Stair, Lobby, Lift) – 1.9m East Second Floor (Kitchen 2) – 9.0 West Second Floor (Dining Stair) – 3.8 West Second Floor (Stair, Dining) – 3.8 South Second Floor – 4.5	Nil 0.5 – 2.7m Nil – 2.5m 2.0 – 2.8 4.7 1.4 – 2.4 4.7 3.7 3.7 3.0	Clause 3.3.1 – P1 Clause 3.3.2 – P2

**STRATEGIC IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**CONSULTATION**

REFERRAL

**Internal**

- Building
- Engineering
- Health

**External**

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

**Submissions**

There were 17 letters originally sent out. There were 5 submissions received. One submission was subsequently withdrawn. One of the submissions prepared by Peter Webb represented 6 owners of 134 Marine Parade units. Details of the submissions received were provided in the report to the April Council meeting.

The owners of 134 Marine Parade prepared a letter to the applicant, a copy of which was also provided to Council. The letter sets out concerns of the residents of 134 Marine Parade regarding the various aspects of the proposed Multiple Dwellings on No 1 Eileen Street.

The residents of 134 Marine Parade objected to the proposal due to the following:

- Loss of sunlight;
- Excessive bulk of the building (70% over the allowed Plot Ratio of 0.6)
- The negative impact on the quiet enjoyment of our property;
- Non-compliance with the TPS 2.

**BACKGROUND**

The Council decided at its April meeting to defer the original proposal to the May meeting and requested the architect to address the following issues:

- (a) Building height;
- (b) Building Bulk;
- (c) Plot Ratio.

The applicant submitted additional information to Council on 7<sup>th</sup> May 2004.

**STAFF COMMENT**

Building Height

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The subject property is zoned Foreshore Centre R50. Clause 5.1.1 (b) states:

*“Foreshore Centre Zone – Two storeys height limit except in exceptional circumstances where the amenity of the area would not be adversely affected, the Council may permit buildings up to three storeys in height.”*

The owners of the units (Units: 10; 11; 12; 13; 14; 15) on 134 Marine Parade strongly objected to the proposal. In the letter signed by the owners of 134 Marine Parade addressed to the applicant Overman & Zuideveld Architects the following was stated:

*“To reiterate, these concerns can be summarized as follows:*

- 1. Loss of sun light;*
- 2. The huge bulk of the property (70% over the allowed plot ratio) creating a negative and imposing visual impact on the outlook from our units and courtyards;*
- 3. The fact that we purchased the property on the basis that TPS 2 Clause 5.1.1 (b) was in place with the understanding the amenity of our property would be protected by the policy. It is our understanding that Council policies are in place for these specific reasons.*
- 4. The negative impact on the quiet enjoyment of our property.”*

The applicant submitted a letter dated 7<sup>th</sup> May 2004 in response to the Council's deferral and the neighbours' objections, which in summary stated the following:

*Building Height*

- The building will be lowered to 26.5 AHD;*
- The proposed building will be 1.6m higher than the top of the fascia on 134 Marine Parade;*
- This height difference reflects the fact that the proposed building is uphill....*
- The proposed development is entirely consistent with its neighbours and the immediate locality.*

*Building Bulk*

- The proposed building is 34m long but has large open balconies on the front and the rear of the building.*
- It is only 10 m wide....*
- The sidewalls are articulated so that solid walls are not longer than 11m before there is an indent in the building.*
- ....when placed in the overall context of the streetscape it will be less bulky than its neighbour.*

*Plot Ratio*

- The propose development seeks to vary the plot ratio requirement for multiple dwellings in the R50 zone on the basis that the site is suitable for 3 grouped or three multiple dwellings.*
- In the case of grouped dwellings there is not plot ration applicable;*
- ....it is possible with 45% open space requirement to build to a plot ratio well in excess of 1.0 with this form of housing;*
- The proposed development provides 57% open space.*
- Given the site restriction of a long narrow site, the proposed development has been very carefully designed to take into account the sensitivities of the immediate environment and has been set back a suitable distance from its neighbours. (For a full copy of applicant's letter please refer to attachments)*

By lowering the building wall height to 26.5 AHD as per the officer's recommendation in the previous report to Council the proposal was made compliant with the statutory height limits for a three storey building in accordance with the Clause 5.1.1 (c).

The main objection of the adjoining neighbours is that the proposal does not comply with the TPS 2 as it is not two storeys and it will affect the amenity of their properties.

Although the building wall height was lowered the proposed the number of storeys was not changed. Clause 5.1.1 (b) "Specific Policy" (i) – "Foreshore Centre Zone" allows Council to approve three storey developments only in *exceptional circumstances where the amenity of the area would not be adversely affected*.

The Council received strong objections from 6 unit owners of 134 Marine Parade due to the negative impact of the proposed three storey development on the amenity of their units.

Except for lowering of the building wall height to 26.5 AHD and offering to cut back the eaves of the two recessed portions on the western elevation and to use light paint for the western side of the building there were no other changes made to the proposal. There was no agreement reached between the applicant and the affected 134 Marine Parade unit owners to date.

The applicant did not sufficiently demonstrate that the proposed development, which exceeds the number of storeys permitted under the Scheme and utilises the increased plot ratio of 1.0 (0.6 required under the R-Codes) will not adversely affect the amenity of the adjoining neighbours.

The Council was also in the opinion that there are no exceptional circumstances in regard to this proposal that would allow a three storey development on the subject site in accordance with the Clause 5.1.1 (b).

Therefore it is considered that the proposed development does not satisfy the Clause 5.1.1 (b) (i) and should be refused.

### **Number of Storeys**

The proposal incorporates stores within the undercroft space. Clause 5.1.1 (a) states:

*"Council's general policy for development within the district favours low rise development of no more than 2 storeys to maintain privacy, views and general amenity notwithstanding that Council may consider the circumstances and merits of each case in terms of the amenity and development control provisions of this Scheme. In exercising height control policies Council will not regard as a storey undercroft space used for lift shafts, stairways, or meter rooms, bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles where that space is not higher than 1 metre above the footpath level measured at the centre of the site along the boundary to which the space has frontage or where that space is below the natural ground level measured at the centre of the site as determined by Council."*

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

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

The above quoted Clause 5.1.1 (a) does not list a store as one of the spaces that can be located in the undercroft area without it being considered a storey.

According to the recent Planning Tribunal decisions and legal advice received by Council, TPS 2 Clause 5.1.1 (a) does not allow for any discretion to allow uses in the undercroft other than the ones listed in the Clause 5.1.1 (a).

Therefore the basement level would constitute a storey, unless the storerooms are deleted from the basement floor plan.

### **CONCLUSION**

The proposal also does not comply with the Clause 5.1.1 (a) as it is proposed to have stores in the undercroft level. The undercroft constitutes a storey in accordance with the Clause 5.1.1 (a), which results in the development being four storeys.

It is recommended that the application for three multiple dwellings be refused as:

- The proposal development is four storeys;
- The proposal does not satisfy the Clause 5.1.1 (b) (i) - Specific Policy – Foreshore Centre Zone as it is not considered that it represents exceptional circumstances and
- The proposal will have a negative impact on the amenity of the adjoining property.
- It is considered that the proposal does not satisfy the objectives of the Town Planning Scheme under the Clause 5.1.2 – “General”

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Manager, Development Services explained to the Committee that condition (1)(a) of the recommendation related to the Zito appeal tribunal decision and that the recommendation of refusal reflects the comments made by the Development Services Committee from the previous meeting of Committee, when the officers recommendation was not supported.

The majority of the Committee were of the opinion that the application is a very good development, setbacks are adequate and the issue is whether this application will adversely affect the amenity of the neighbours.

Cr Miller moved a motion to delete condition (1)(a) of the Officers Recommendation. The motion was lost.

Cr Jeanes moved another motion to approve the application as per the Officers Recommendation to the April meeting of the Development Services Committee, with condition (h) being deleted, was carried.

The change in the recommendation from refusal to approval was on the basis of the grounds used by the Planning Officer in recommending approval of the application to the April meeting of the Development Services Committee.

Approval was on the basis of the revised plans submitted on the 7 May 2004.

**OFFICER RECOMMENDATION**

That Council:

- (1) REFUSE its Approval to Commence Development for a four storey development of three multiple dwellings at No 1 (Lot 4) Eileen Street, Cottesloe in accordance with the plans submitted on 22 March 2004 and additional information submitted on 7 May 2004, as
  - (a) The proposed development is four storeys as the undercroft would constitute a storey due to the location of storerooms in the undercroft level, which is not one of the uses identified in the Clause 5.1.1 (a), and therefore, contravenes the height controls set out in Clause 5.1.1(b)(i) of the Town Planning Scheme text.
  - (b) Council is of the opinion that having regard to:
    - (i) Clause 5.1.1(b)(i):
      - (A) there are no exceptional circumstances in relation to the development site and the adjoining sites that would warrant a variation to the storey height controls; and
      - (B) the proposed three storey development will have an adverse affect on the adjoining properties through the excessive bulk and height of the proposed development;
    - (ii) the 0.6 plot ratio limit set out in Table 1 – General Site Requirements for Multiple Dwellings, the proposed plot ratio of 1.0 is considered to be excessive and contributes to the excessive bulk of the proposed development and subsequent detrimental impact on the adjoin properties.
    - (iii) the provisions of Clause 5.1.2 (d) and (f) the proposed development, due to its height, bulk and design, will adversely impact on the amenity of the adjoining properties.
- (2) Advise the submitters of Council's decision.

**DECLARATION OF INTEREST**

Cr Furlong declared a proximity interest, left the room at 7.41pm and was not involved in the discussion or voting.

**COMMITTEE RECOMMENDATION**

Moved Mayor Rowell, seconded Cr Robertson

- (1) That Council GRANTS its Approval to Commence Development for three multiple dwellings and basement at No. 1 (Lot 4) Eileen Street, in accordance with the plans submitted on 7 May 2004 subject to the following conditions:
  - (a) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (b) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.



- (c) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
  - (d) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
  - (f) The existing redundant crossover in Eileen Street being removed, the verge, curb, and all surfaces made good at the applicants expense;
  - (g) 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.
- (2) Advise submitters of Council's decision.

Lost 0/9

The Officer Recommendation was put.

#### 11.1.1 OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Morgan, seconded Cr Miller

**That Council:**

- (1) **REFUSE its Approval to Commence Development for a four storey development of three multiple dwellings at No 1 (Lot 4) Eileen Street, Cottesloe in accordance with the plans submitted on 22 March 2004 and additional information submitted on 7 May 2004, as**
- (a) **The proposed development is four storeys as the undercroft would constitute a storey due to the location of storerooms in the undercroft level, which is not one of the uses identified in the Clause 5.1.1 (a), and therefore, contravenes the height controls set out in Clause 5.1.1(b)(i) of the Town Planning Scheme text.**
  - (b) **Council is of the opinion that having regard to:**
    - (i) **Clause 5.1.1(b)(i):**
      - (A) **there are no exceptional circumstances in relation to the development site and the adjoining sites that would warrant a variation to the storey height controls; and**
      - (B) **the proposed three storey development will have an adverse affect on the adjoining properties through the excessive bulk and height of the proposed development;**

- (ii) the 0.6 plot ratio limit set out in Table 1 – General Site Requirements for Multiple Dwellings, the proposed plot ratio of 1.0 is considered to be excessive and contributes to the excessive bulk of the proposed development and subsequent detrimental impact on the adjoin properties.
- (iii) the provisions of Clause 5.1.2 (d) and (f) the proposed development, due to its height, bulk and design, will adversely impact on the amenity of the adjoining properties.

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

Carried 8/1

Cr Furlong returned to the meeting at 7.55pm.

**11.1.2 NO 6 (LOT 3) HAMERSLEY STREET - FOUR MULTIPLE DWELLINGS**

<b>File No:</b>	<b>6 Hamersley</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant (3) Submissions (3) Plans</b>
<b>Report Date:</b>	<b>3 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>J. Treasure, Bayswan Enterprises &amp; Sally Moylan</b>
<b>Applicant:</b>	<b>Hodge &amp; Collard Pty</b>
<b>Date of Application:</b>	<b>27 February, 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>AA - A use that is not permitted unless special approval is granted by the Council</b>
<b>Density:</b>	<b>R30</b>
<b>Lot Area:</b>	<b>1213m<sup>2</sup> (6 Hamersley Street and 18A Eric Street)</b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

**SUMMARY**

The proposal to amalgamate No 6 Hamersley Street and No 18A Eric Street and develop four Multiple Dwellings on the amalgamated lot was dealt with by Council at its meeting of 27 April 2004. The Council decision was to defer the application subject to the applicant addressing certain issues.

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

- Building Heights Policy No 005

**HERITAGE LISTING**

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

- Municipal Inventory N/A
- National Trust N/A

## APPLICATION ASSESSMENT

### AREAS OF NON-COMPLIANCE

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

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

#### Town Planning Scheme Policy/Policies

Policy	Required	Provided
005 – Building Heights	Walls – 6.0 m Roof – 8.5 m	8.0m 10.5m

#### Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Enter details here.		Clause 3.3.1; 3.3.2
North Basement (whole)	1.5	Nil – 1.2	Clause 3.3.1; 3.3.2
South Basement (whole)	1.5	Nil – 1.2	Clause 3.3.1; 3.3.2
East Basement (whole)	1.5	Nil – 10.5	Clause 3.3.1; 3.3.2
North Ground (balcony, dining)	1.5	1.2	Clause 3.3.1; 3.3.2
North Ground (bed 2, Ens, bed 1)	1.5	1.2	Clause 3.3.1; 3.3.2
South Ground (balcony, dining)	1.5	1.2	Clause 3.3.1; 3.3.2
South Ground (bed 2, Ens, bed 1)	1.5	1.2	Clause 3.3.1; 3.3.2
North Upper (Balcony, Dining)	1.6	1.2	Clause 3.3.1; 3.3.2
North Upper (Kitchen, Bed 3)	6.6	2.8	Clause 3.3.1; 3.3.2
North Upper (bed 2, Ens, Bed 1)	1.5	1.2	Clause 3.3.1; 3.3.2
South Upper (Balcony, Dining)	1.6	1.2	Clause 3.3.1; 3.3.2
South Upper (Kitchen, Bed 3)	6.6	2.8	Clause 3.3.1; 3.3.2
South Upper (Bed 2, Bed 1)	1.5	1.2	Clause 3.3.1; 3.3.2

## STRATEGIC IMPLICATIONS

N/A

**FINANCIAL IMPLICATIONS**

N/A

**CONSULTATION**

REFERRAL

**Internal**

- Building
- Engineering
- Health

**External**

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

**Submissions**

The original plans were advertised to the adjoining property owners. There were 12 letters sent out. Two objections were made by the owners of 4 Hamersley and the owners of Unit 1, 9 Torrens Street. The summary of the objections were provided in the previous report to Council.

**BACKGROUND**

It was decided at the Council meeting of 27<sup>th</sup> April 2004 that the application be deferred to the next meeting subject to the applicant providing additional information and addressing the following points:

- “(a) The wall and ridge height of the proposed development to comply with the Planning Policy 005 – Building Heights’*
- (b) The side boundary setbacks to the north and south boundary on the ground and upper level that are shown as being 1.2m on the plans dated 3<sup>rd</sup> March 2004 being increased to 1.5m minimum*
- (c) The landscaped area at the front of the property not being filled by more than 0.5m above the Existing Natural Ground*
- (d) Addressing the overlooking issues of the adjoining properties;*
- (e) Addressing the acceptable development standards or the performance criteria of the Design Element 9 – “Design for Climate”*
- (f) Address the plot ratio, open space and communal open space requirements for multiple dwellings under the R35 density Code in the R-Codes;*
- (g) Lowering the height of the building by 0.5m; and*

(h) *The roof being altered to a hip roof.”*

The applicant submitted a letter dated 4<sup>th</sup> May 2004 addressing the above points.

Below is a summary of the applicant’s comments:

- *The wall and ridge height of the proposed development will now largely comply with the Planning Policy 005 – “Building Heights”. .... Council has discretion to vary the Policy.*
- *It is not proposed to increase the side boundary setbacks to the north and south boundary on the ground and upper level from 1.2m to 1.5m, since the building will be lowered by 0.5m the height and bulk of the building will not adversely affect the amenity of the neighbours.*
- *The proposed filling and stepped retaining walls will soften the proposed front elevation. The Minor overlooking from the landscape area could be solved by providing a 1.6m high screen wall;*
- *The overlooking issues of the adjoining properties have been addressed because the building will be lowered by 0.5m... If Council has concerns about overlooking we are prepared to consider the provision of some form of screening;*
- *The acceptable development standards and /or the performance criteria of Design Element 9 –“Design for Climate” have been addressed..., the overshadowing will be only 32.7% of the total site area of No 4 Hamersley Street....*
- *The proposed development will comply with the open space and communal open space requirements for multiple dwellings under the R35 density code in the R-Codes;*
- *The proposed development will not comply with the plot ratio requirement for multiple dwellings under R35 density codes....*
- *The current plans ....have been prepared to incorporate the recommendations of the Design Advisory Panel and ....we in all ways taken into consideration the desires, comments and concerns of both the Panel and Council’s planning staff.*

## **STAFF COMMENT**

The points requested to be addressed by the applicant in the Council’s deferral decision will be used as heads of consideration further in the report.

### **The wall and ridge height of the proposed development to comply with the Planning Policy 005 – Building Heights**

The applicant submitted amended plans prior to the Council meeting of 27<sup>th</sup> April 2004 showing the building being lowered by 0.5m and the roof being changed to a hipped roof.

The proposal does not comply with the Local Planning Policy 005 “Building Heights”, which states:

*“There are sites within the district on which the natural ground form is such that measurement of building height above natural ground level at the centre of the site, as*

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*determined by the Council, could result in a building height at some point other than the centre of the site being so far above natural ground level at that point as to conflict with Clause 2 hereof to such an extent as to adversely affect the amenity of the neighbouring area.*

*In such instances, the Council may require building heights to be measured from natural ground level as determined by Council, at one or more than one point on the site either in addition to, or alternative to natural ground level, at the centre of the site."*

Lowering the height of the whole building by 0.5m reduced the overall impact of the building bulk on the adjacent properties and the streetscape, but did not achieve compliance with the required building heights under the Policy 005.

The level of the lot drops to the front of the lot by approximately 5.0 m. The revised plans dated 23<sup>rd</sup> April 2004 show the wall height at the front of the building being 8.0m and the roof height being 10.5m. The wall height and the roof height of the proposed multiple dwellings development is over height by 2.0m under the Policy 005 requirements.

The Policy 005 quoted above specifically states that when due to the topography of the particular site the building results in heights significantly over the statutory height requirements so the amenity of the neighbouring area is adversely affected, Council may require the building heights to be measured at from the NGL at other points on the site in addition or alternative to the NGL at the centre of the site.

In the case of No 6 Hamersley Street due to the topography of the site the proposed development resulted in being 2.0m overheight in the front portion of the building. The building is overheight for the length of approximately 15m, which is half of the length of the proposed building.

Therefore the applicant's statement in the letter dated 4<sup>th</sup> May 2004 that "*the wall and ridge height of the proposed development will now largely comply with the Planning Policy 005 – Building heights*", is not correct.

The amenity of the adjoining property to the south 4 Hamersley Street will be adversely affected due to excessive building height of the front half of the proposed building. Coupled with the filling of the front garden area resulting in retaining walls up to 1.5 above the existing NGL, proposed reduced side boundary setbacks and the overall length of the building, the proposed variation to the height requirement under the Policy 005 will cause a negative effect on the amenity of 4 Hamersley Street.

Taking into account all of the above, it is considered that the proposed variation of the building height requirements under the Planning Policy 005 is not acceptable. It is recommended that the Council refuse the proposal due to its non-compliance with the Council's Planning Policy 005 – "Building Heights".

**The side boundary setbacks to the north and south boundary on the ground and upper level that are shown as being 1.2m on the plans dated 3<sup>rd</sup> March 2004 being increased to 1.5m minimum.**

It was specifically requested in Council's deferral decision that the side boundary setbacks to the north and south boundaries on the lower and upper levels be increased from 1.2m to 1.5m.

The applicant's letter dated 4<sup>th</sup> May 2004 stated that the setbacks would not be increased. The applicant also stated that since the height of the building would be lowered by 0.5m *the height and bulk of the building will not adversely affect the amenity of the neighbours.*

The adjoining property owner 4 Hamersley Street expressed an objection to the proposal due to its negative effect on the amenity of 4 Hamersley Street as a result of the increased building heights, building bulk, overlooking and overshadowing.

The proposal does not comply with the acceptable development standards of the R-Codes under the Design Element 3 – "Boundary Setbacks".

The following setbacks do not comply with the acceptable development standards:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
North Basement	Whole	0.0	31.0	No	1.5	Nil – 1.2
South Basement	Whole	0.0	31.0	No	1.5	Nil – 1.2
East Basement	Whole	0.0	22.0	No	1.5	Nil – 10.5
North Ground	Balcony, Unit 1 Dining	4.7	10.5	No	1.5	1.2
North Ground	Bed 2, Ensuite, Bed 1	0.5	11.0	No	1.5	1.2
South Ground	Balcony, Unit 2 Dining	4.7	10.5	No	1.5	1.2
South Ground	Bed 2, Ensuite, Bed 1	1.6	11.0	No	1.5	1.2
North Upper	Balcony, Dining	7.5	10.5	No	1.6	1.2
North Upper	Kitchen, Bed 3	6.2	33.0	Yes	6.6	2.8
North Upper	Bed 2, Ens, Bed 1	4.5	12.9	No	1.5	1.2
South Upper	Balcony, Dining	7.6	10.5	No	1.6	1.2
South Upper	Kitchen, Bed 3	6.2	33.0	Yes	6.6	2.8
South Upper	Bed 2, Ens, Bed 1	4.0	12.9	No	1.5	1.2

The proposed variations to the side boundary setbacks will be assessed under the performance Criteria of the Design Element 3, which are:

*"Buildings set back from boundaries other than street boundaries so as to:*

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

The percentage of overshadowing of the property to the south is 32.7%, which is in compliance with the acceptable development standards of the R-Codes.



Notwithstanding the compliance with the acceptable development standards of the Design Element 9 of the R-Codes – “Design for Climate”, it should be noted that the proposed development on 6 Hamersley Street would cause overshadowing of the north facing courtyard on 4 Hamersley Street, which is used as the main outdoor living area. This is not in accordance with the above Performance criteria of the Design Element 3, which is aimed at ensuring that any proposed variations to setbacks would not affect the amenity of adjoining properties.

The adjoining neighbours 4 Hamersley Street are also concerned with the overlooking into their property from the upper floor bedroom 3 and bedroom 2 windows. The applicant stated in the letter dated 4<sup>th</sup> may 2004 that they would be prepared to provide some form of screening if the Council is concerned with the overlooking issues.

Council’s Town Planning Scheme No 2 also contains general provisions requiring the Council to have regard to:

*“The location and orientation of a building or buildings on a lot in order to achieve higher standards of daylighting, sunshine and privacy.”*

The proposed development as presented does not sufficiently address the issues of overshadowing of the adjoining property to the south and overlooking of the sensitive areas on the adjoining properties to the south and east.

The performance criteria also refer to the effect of the building bulk on the adjoining properties. The proposed multiple dwellings development is overheight for wall and roof ridge height for more than half of the total length of the building.

The adjoining property to the south (4 Hamersley) would be the one most affected by the building bulk of the proposed development. The wall height of the proposed building on 6 Hamersley Street is approximately 3.0m higher than the wall height of the existing residence on 4 Hamersley Street.

The following factors would increase the overall negative impact of the reduced setbacks of the ground and upper floor on the adjoining property: 1.5 high retaining walls at the front of the building with balustrading on top of the retaining walls (2.4m total height from the NGL), 2.5m – 1.65m high screen wall to courtyard on the boundary.

The side of the building on the north and south boundaries consists of two portions of the building separated by the section of wall with openings to a kitchen and bedroom 9.3m in length. The setbacks of these two portions of the southern and northern wall were measured separately in accordance with the figure 2D (page115) of the R-Codes.

The setback of the 9.3m sections of wall on the north and south side separating the portions without major openings were determined based on full length of the wall being 33.0m.

The aim of the requirement under the Figure 2D of the RDC is to ensure that in cases where certain sections of the wall are without major openings, they are permitted to

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be located closer to the side boundary, however they should be separated by gaps of at least 4.0 m (additional 1.0m for every 3.0m increase in height) with a larger setback to reduce the effect of building bulk on the amenity of the adjoining properties.

The proposed reduction of the required 6.6m setback to 2.8m for the 9.3m section of the wall to the kitchen and bedroom on the upper level separating the portions of wall without major openings will have a negative effect of the building bulk on the adjoining property to the south.

The proposed variations to the side boundary setbacks do not satisfy the Performance Criteria of the Design Element 3 – “Boundary Setbacks” for the reasons discussed above. It is recommended that the proposed setback variations not be supported by Council.

**The landscaped area at the front of the property not being filled by more than 0.5m above the Existing Natural Ground**

The applicant is proposing to have terraced gardens in the front setback. It is proposed to have retaining 0.8 – 1.6m in height. The acceptable standards of the R-Codes allow for fill not higher than 0.5m within the three metres of the street alignment.

The 0.8m section of terraced garden is setback 1.8m from the property front boundary, which would need to be lowered by 0.3m to comply with the acceptable standard of the R-Codes. The 1.6m section of terraced garden is setback 3.0m from the front boundary, which is in compliance with the acceptable development standard of the R-Codes.

The performance Criteria of the R-Codes 3.6.1 – “Excavation or Fill” states:

*“Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property”.*

The proposed terraced landscaping does not help retain the visual impression of the natural ground level of the property. The applicant argues in the letter dated 4<sup>th</sup> May 2004 that the terraced landscaping would help soften the proposed front elevation.

The proposed retaining within the front setback would also increase the negative impact of building bulk on the adjoining property to the south. The height of the proposed balustrading on top of the retaining wall is 2.5m.

If the retained area is also provided with screening up to 1.65m to address overlooking it would result in a structure being 3.5m in height measured from the existing ground level.

The proposed retaining walls would have to be assessed as proposed buildings within the front setback, as the definition of a building in the RCodes specifically includes retaining walls as being buildings.

Under the R-Codes the required front setback in R 30 density areas is 4.0 m. Council's October 2002 resolution also stated that:

*"When assessing applications for Development Approval, Council will:*

*(a) generally insist on:*

- (i) A 6.0m setback for residential development in the District, which does not include averaging"*

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

The proposed retaining walls within the front setbacks should not be supported as:

- It is a non-compliance with the Council's front setback requirement of 6.0m;
- It is considered that the proposed fill in the front setback does not comply with the relevant performance of the R-Codes;
- The fill and retaining walls would affect the amenity of the adjoining properties and
- Filling high retaining walls in the front setback area would not contribute to the desired streetscape.

### **Addressing the issues of overlooking of the adjoining properties**

The owners of 4 Hamersley Street and the owners of Unit 1, 9 Torrens Street submitted objections to Council expressing concerns regarding overlooking of the sensitive areas of their properties from the proposed development on 6 Hamersley Street. The applicant was requested to address the overlooking issues.

The applicant states in the letter dated 4<sup>th</sup> May 2004:

*"The overlooking issues of the adjoining properties have been addressed because the building will be lowered by 0.5m and in effect the building will be single storey at the eastern end of the site. If Council has concerns about overlooking we are prepared to consider the provision of screening."*

Notwithstanding that the building was lowered in height by 0.5m the overlooking from the upper level windows of the property to the north-east (Unit1, 9 Torrens Street), the property to the south (4Hamersley Street) and also 18 Eric Street still remains a concern.

The applicant did not demonstrate how compliance with the R-Codes privacy provisions would be achieved. It was not specified what type of screening would be provided and the proposed screening measures were not negotiated with the affected neighbours.

Council's Town Planning Scheme No 2 also requires Council to have regard to the general provisions of the Scheme when assessing development applications which state:

*"The location and orientation of a building or buildings on a lot in order to achieve higher standards of daylighting, sunshine and privacy."*

The privacy issues were not sufficiently addressed by the applicant.

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**Addressing the acceptable development standards or the performance criteria of the Design Element 9 – “Design for Climate”**

The overshadowing of the adjoining property 4 Hamersley Street was reduced to 32.7%, which in compliance with the Acceptable Development Standards of the R-Codes.

This requirement of the Council’s deferral decision was fulfilled by the applicant. The effect of the overshadowing on the amenity of 4 Hamersley Street was discussed in the previous sections of the report.

In accordance with the general clause 5.1.2 of the TPS 2 Council may impose conditions requiring higher standards of daylighting, sunshine and privacy.

**Address the plot ratio, open space and communal open space requirements for multiple dwellings under the R35 density Code in the R-Codes;**

The proposed development complies with the requirement for open space of 50%, communal open space of 20m<sup>2</sup> in accordance with the R35 requirements for Multiple Dwellings.

It was originally recommended to require the applicant to address the R35 criteria for multiple dwellings because the R-Codes do not contain any standards for multiple dwellings in R30 density.

The plot ratio required for multiple dwellings in R35 density areas is 0.6. The proposed development does not comply with the plot ratio of 0.6.

The R-Codes Advice Note on Frequently Asked Questions June 2003 stated that the plot ratio requirements in the R-Codes are discretionary and in exercising such discretion, reference should be made to Performance Criterion 3.1.1 P1 on p.44 of the Codes, which is:

*“Development of Dwellings of the type and density indicated by the R-Codes designated in the Scheme.”*

Multiple Dwelling is an “AA” or discretionary use in the Residential R30 zone, which means that the *“use is not permitted unless special approval is granted by the Council.”*

When considering application in the residential zone Council is required to have regard to the General provisions of Clause 5.1.2. The sub clauses (d), (f) and (i) specifically relate to minimising the negative impact of overlooking, overshadowing and building bulk on adjoining properties.

In addition to the proposed increase plot ratio the applicant is also seeking variations to height requirements under the Local Planning Policy 005, variations to side boundary setbacks, privacy setbacks and proposing retaining within the front setback area.

As a result of all the proposed variations to heights, setbacks and the plot ratio the proposed development would affect the amenity of the adjoining properties and the streetscape.

It is considered that the proposal does not satisfy the amenity provisions of the Council's Town Planning Scheme and the R-Codes.

#### **Lowering the height of the building by 0.5m; and**

This requirement of Council's deferral decision was fulfilled by the applicant. The plans dated 23<sup>rd</sup> April 2004 show the building being lowered by 0.5m.

#### **The roof being altered to a hip roof."**

This requirement of Council was fulfilled by the applicant.

#### **Number of Storeys**

The proposal incorporates stores and cellars within the undercroft space. Clause 5.1.1 (a) states:

*"Council's general policy for development within the district favours low rise development of no more than 2 storeys to maintain privacy, views and general amenity notwithstanding that Council may consider the circumstances and merits of each case in terms of the amenity and development control provisions of this Scheme. In exercising height control policies Council will not regard as a storey undercroft space used for lift shafts, stairways, or meter rooms, bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles where that space is not higher than 1 metre above the footpath level measured at the centre of the site along the boundary to which the space has frontage or where that space is below the natural ground level measured at the centre of the site as determined by Council."*

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

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

The above quoted Clause 5.1.1 (a) does not list stores and cellars as spaces that can be located in the undercroft area without it being considered a storey.

Therefore the proposed development has three levels located above one another which would constitute three storeys.

Clause 5.1.1 (b) (ii) states:

*"Residential Zone – The maximum building height shall be two storeys except that Council may permit a third storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity"*

The proposed development contains three storeys. The top storey is not located within the roof space and therefore does not comply with the TPS Clause 5.1.1(b) (ii) quoted above.

According to the recent Planning Tribunal decisions and legal advice received by Council, TPS 2 Clause 5.1.1 (a) does not allow for any discretion to allow uses in the undercroft other than the ones listed in the Clause 5.1.1 (a).

Therefore the proposal does not comply with the statutory provisions of the Town Planning Scheme and should be refused.

## CONCLUSION

It is recommended that the application for four multiple dwellings on the subject lot be refused by the Council for the following reasons:

- The proposal is overheight for wall and roof ridge height requirements under the Local Planning Policy 005 – “Building Heights”;
- The applicant is proposing variations to the side boundary setbacks for the lower and upper level, which affect the amenity of the adjoining properties due to building bulk, overshadowing and overlooking of sensitive areas and therefore the proposal does not satisfy the Performance Criteria of the Design Element 3 – “Boundary Setbacks”;
- The applicant did not sufficiently demonstrate how the visual privacy issues would be addressed;
- Council is required to have regard to the general provisions of the TPS 2 under the Clause 5.1.2. The Council received objections from the adjoining property owners regarding the negative effect on the amenity of the adjoining properties due to building bulk, reduced setbacks, proposed building height variations, overshadowing and overlooking of sensitive areas of the adjoining properties. It is considered that the proposal does not satisfy the general provisions of the Clause 5.1.2 of the TPS 2.
- The proposed fill over 0.5m within the front setback does not comply with the R-Codes acceptable development standards and Performance Criteria;
- The construction of the proposed retaining walls within the front setback is not in accordance with the Council’s front setback requirements.
- It is proposed to have stores and cellars in the undercroft area, which is not in accordance with the Clause 5.1.1 (a), and therefore the development would constitute three storeys.

The applicant submitted additional plans and a letter on 11<sup>th</sup> May 2004. The Planning Officer did not have enough time to assess the new information and provide comments in the report.

A memo addressing the late additional information received from the applicant will be prepared and distributed to Councillors prior to the Development Services Committee.

## MEMO

*The applicant submitted additional amended plans to Council on 11<sup>th</sup> May 2004. The following changes were made:*

- *The setback of the first front section of the building on the upper and lower level was increased to 1.5m;*
- *There was a horizontal privacy screen provided to the upper floor bedroom 3 windows to prevent overlooking into 4 Hamersley Street.*

The applicant, in the letter dated 11<sup>th</sup> May 2004 refers to the Council decision letter dated 3<sup>rd</sup> May 2004 and states the following:

- “In conformance with item 2(b) in the letter we have increased the setback of the building to 1.5m from the southern boundary which addresses the concern of the Council and the adjoining property owner.
- Also, in conformance with item 2(d) we have shown a screen below the windows to bedroom 3 on the first floor which will prevent any overlook to No 4 Hamersley Street.”

The Council’s decision letter dated 3<sup>rd</sup> May 2004 requested the applicant to submit revised plans incorporating the following changes to the proposed development:

- (a) The wall and ridge height of the proposed development to comply with the Planning Policy 005 – Building Heights’
- (b) The side boundary setbacks to the north and south boundary on the ground and upper level that are shown as being 1.2m on the plans dated 3<sup>rd</sup> March 2004 being increased to 1.5m minimum
- (c) The landscaped area at the front of the property not being filled by more than 0.5m above the Existing Natural Ground
- (d) Addressing the overlooking issues of the adjoining properties;
- (e) Addressing the acceptable development standards or the performance criteria of the Design Element 9 – “Design for Climate”
- (f) Address the plot ratio, open space and communal open space requirements for multiple dwellings under the R35 density Code in the R-Codes;
- (g) Lowering the height of the building by 0.5m; and
- (h) The roof being altered to a hip roof.

Under the point 2 (b) Council requested that all the side boundary setbacks being 1.2m on the original plans be increased to 1.5m minimum.

The amended plans dated 11<sup>th</sup> May 2004 show that only the side boundary setback of the first front section of the south lower (Unit 2) and upper wall (Unit 4) was increased to 1.5m.

This is not in accordance with Council’s condition 2 (b).

Under the point 2(d) Council requested that the applicant submit revised plans “addressing the overlooking issues of the adjoining properties”.

The applicant’s amended plans show a privacy screen on the southern side, to the upper floor Bedroom 3 windows for the purpose of preventing overlooking into No 4 Hamersley Street.

Overlooking from the bedroom 3 windows into No 4 Hamersley Street is not the only overlooking issue with this proposal. The applicant did not address overlooking from the bedroom 2 window on the upper southern wall and overlooking from the upper floor balcony at the rear of the subject lot.

### Conclusion

*The amended plans dated 11<sup>th</sup> May 2004 do not address all the points requested to be addressed by Council and therefore do not affect the officer's recommendation to refuse the application.*

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Manager, Development Services advised the Committee that they cannot compare variations given on one proposal with another proposal. The circumstances are different and each request should be considered on its merits. The Mayor requested the Manager, Development Services to respond to the points raised in the information tabled by the applicant. The Manager, Development Services advised that there were other issues to consider such as the site at 24 Avonmore Terrace was larger in area, a right of way abutted the southern boundary, a three storey development was located south of the right of way and the front setback was 17 metres compared to 8.0m for the No. 6 Hamersley Street proposal.

The No. 6 Hamersley Street is a completely different site with different issues such as there being an existing house to the south of the site and it is not suitable for subdivision based on the Residential Design Codes standards

The Committee moved the application be deferred pending the applicant addressing the issues of heights, setbacks and overlooking.

## **OFFICER RECOMMENDATION**

That Council:

- (1) REFUSE its Approval to Commence Development of four Multiple Dwellings at 6 Hamersley Street and 18A Eric Street, Cottesloe in accordance with the plans submitted on 23<sup>rd</sup> April 2004 and additional information submitted on 11<sup>th</sup> May 2004, as Council is of the opinion that:
  - (a) The proposed development does not comply with the Council's Planning Policy 005 - "Building Heights" for wall and roof ridge height and the proposed variation to the policy height requirements cannot be supported due to the negative impact of the increased heights on the amenity of the adjoining property and the streetscape;
  - (b) The proposed variations to side boundary setbacks do not satisfy the Performance Criteria of the Design Element 3 – "Boundary Setbacks" as the proposed variations to setbacks would affect the amenity of the adjoining property due to the impact of the building bulk and overlooking and overshadowing of sensitive areas;
  - (c) The proposal does not satisfy the general amenity provisions of the Town Planning Scheme No 2 relating to building bulk and the higher standards of daylighting sunshine and privacy;
  - (d) The proposed development does not comply with the Council's front setback requirement due to the proposed construction of high retaining walls within the front setback and would increase the negative impact



on the amenity of the adjoining properties and would not contribute to the desired streetscape;

- (e) The proposed fill and retaining within the front setback does not comply with the Performance Criteria of the R-Codes as the development does not retain the visual impression of the natural level of the site as seen from the street and adjoining properties.
- (f) The proposal is not in accordance with the Clause 5.1.1 (a) as it contains stores and cellars in the undercroft level and therefore the proposed development constitutes three storeys.

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

### COMMITTEE RECOMMENDATION

Moved Cr Furlong, seconded Cr Jeanes

That Council:

- (1) Defer consideration of the application for Approval to Commence Development submitted by Hodge and Collard Architects for four multiple dwellings on 6 Hamersley Street, Cottesloe; and
- (2) Request that the applicant submit revised plans addressing the following:
  - (a) The wall and ridge height of the proposed development to comply with the Planning Policy 005 – Building Heights'
  - (b) The side boundary setbacks to the north and south boundary on the ground and upper level that are shown as being 1.2m on the plans dated 3<sup>rd</sup> March 2004 being increased to 1.5m minimum; and
  - (c) Addressing the overlooking issues of the adjoining properties.

Lost 1/9

### 11.1.2 OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council:

- (1) **REFUSE its Approval to Commence Development of four Multiple Dwellings at 6 Hamersley Street and 18A Eric Street, Cottesloe in accordance with the plans submitted on 23<sup>rd</sup> April 2004 and additional information submitted on 11<sup>th</sup> May 2004, as Council is of the opinion that:**
  - (a) **The proposed development does not comply with the Council's Planning Policy 005 - "Building Heights" for wall and roof ridge height and the proposed variation to the policy height requirements cannot be supported due to the negative impact of the increased heights on the amenity of the adjoining property and the streetscape;**

- (b) The proposed variations to side boundary setbacks do not satisfy the Performance Criteria of the Design Element 3 – “Boundary Setbacks” as the proposed variations to setbacks would affect the amenity of the adjoining property due to the impact of the building bulk and overlooking and overshadowing of sensitive areas;
  - (c) The proposal does not satisfy the general amenity provisions of the Town Planning Scheme No 2 relating to building bulk and the higher standards of daylighting sunshine and privacy;
  - (d) The proposed development does not comply with the Council’s front setback requirement due to the proposed construction of high retaining walls within the front setback and would increase the negative impact on the amenity of the adjoining properties and would not contribute to the desired streetscape;
  - (e) The proposed fill and retaining within the front setback does not comply with the Performance Criteria of the R-Codes as the development does not retain the visual impression of the natural level of the site as seen from the street and adjoining properties.
  - (f) The proposal is not in accordance with the Clause 5.1.1 (a) as it contains stores and cellars in the undercroft level and therefore the proposed development constitutes three storeys.
- (2) Advise the submitters of Council’s decision.

Carried 8/2

Reason:

The Councillors generally felt that it was evident from the objections addressed to Council that the proposal is excessively large and bulky.

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### 11.1.3 NO 208 (LOT 20) MARINE PARADE - THREE STOREY SINGLE RESIDENCE

<b>File No:</b>	<b>No 208 (Lot 20) Marine Parade</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant Submissions (6) Plans</b>
<b>Report Date:</b>	<b>7 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Mr and Mrs Hewson - Bower</b>
<b>Applicant:</b>	<b>Lawrence Scanlan Architects</b>
<b>Date of Application:</b>	<b>7 May, 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>364m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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#### SUMMARY

Council is in receipt of an application for a three storey single residence on 208 Marine Parade.

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

#### STATUTORY ENVIRONMENT

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

#### POLICY IMPLICATIONS

- Building Heights Policy No 005

#### HERITAGE LISTING

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
5.1.1 (b)	Two storeys	Three storeys
5.1.1 (c)	Wall height – 6.0m (15.4 AHD) Roof height – 8.5m (17.9 AHD)	17.4 AHD 18.12 AHD

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks			
North Basement	1.5	Nil	Clause 3.3.2 – P2
South Basement (Whole)	1.5	Nil – 2.2	Clause 3.3.1 – P1 Clause 3.3.2 – P2
South Lower (Whole)	1.1	1.2	Clause 3.3.1 – P1 Clause 3.3.2 – P2
South Lower (Rear Entry, Study/Bed)	1.1	Nil – 1.2	Clause 3.3.1 – P1 Clause 3.3.2 – P2
North Upper (Terrace, Living, Dining)	4.6	1.0 – 1.5	Clause 3.3.1 – P1
North Upper (Walkway, Bed1, WIR, Bath)	3.3	1.3 - 4.9	Clause 3.3.1 – P1
South Upper (Whole)	7.0	1.2 – 3.0	Clause 3.3.1 – P1
East Upper (Whole)	3.5	3.0 – 4.0	Clause 3.3.1 – P1
No 6 – Site Works	0.5m fill	1.5m	Clause 3.6.1 – P1
No 9 – Design for Climate	25% overshadowing	67%	Clause 3.9.1 – P1

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**CONSULTATION**

REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A.

**ADVERTISING OF PROPOSAL**

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

The advertising consisted of:

- Letter to Adjoining Property Owners

**Submissions**

There were 5 letters sent out. There were 6 submissions received, of which 6 were objections. Details of the submissions received are set out below:

**35 Margaret Street**

- *My main concerns are overlooking and privacy;*
- There is a nil setback proposed on the at the south – east corner;
- The proposed building will be much higher than the existing residences on Marine Parade;
- *The areas most affected by the proposal are my bedroom, kitchen, eating room, family room, back yard open space;*
- Due to the proposed height the development will be overpowering and imposing on the areas of our property;

**33 Margaret Street**

- *The existing ground level relationship and boundary walls between the lots at the common boundary is not as shown on the DA drawings;*
- The drawings indicate a three storey building;
- There is a nil setback at the southeast corner;
- *The wall height exceeds 7.0m and the overall height 8.5m with a setback of 2.5, 3.0 and 4.0m with major openings;*
- *The proposal will result in an imposing mass...., overlooking, and shadowing impact on surrounding properties...;*
- There will be significant fill in excess of 500mm;
- There will be overlooking from the area of a stair landing having nil setback to the eastern boundary;
- There will be overlooking from Upper level windows to family room, deck as the slatted screen is see-through;
- There will be overlooking from the first floor bathroom window;
- The existing upper level window on 33 Margaret Street (west elevation) overlooking 208 Marine Parade can be screened.

**206 Marine Parade**

- I would like the balcony encroachment into the front setback be reduced to the minimum allowed and the balustrade to be see-through;

- I object to the overshadowing of 67%, the development should conform to the required 25% overshadowing;
- I object to the fill at the rear of the block, which would result in a wall of 4.0m from the ground level at the rear of my block;
- *I also object to the common wall which is too high and too long.*

#### 216 Marine Parade

We object to the proposed front setback less than 6.0m as:

- *It may compromise the amenity of nearby properties and,*
- *It may establish a precedent for future developments*

#### 210 Marine Parade

- We object to the proposed reduced front setback which does not comply with the Council's requirement of 6.0m;
- The projection into the front setback will affect the due to loss of amenity (views);
- We request that Council uses its discretion and sets the minimum setback of the 7.5 for the development on 208 Marine Parade as per the existing setbacks of the neighbouring houses;
- We object to the overlooking from the first floor northern deck and windows;
- The height should be increased to 1800mm and have proper aesthetic treatment.

#### 214 Marine Parade

We object to the reduced front setback of 5.0m;

*Our objection being that all residences (one north + One south) are all in line which we consider to be the correct alignment for all (by law) Cottesloe Council.*

### **STAFF COMMENT**

#### Building Heights

The proposal does not comply with the statutory height requirements under the Clause 5.1.1 – “Building Height”.

Clause 5.1.1 (c) states:

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

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

The natural ground level (NGL) at the centre of the site was determined by the Planning Officer as being 9.4 AHD. The calculation of the NLG at the centre of the

site was determined using Water Authority Plans of 1934 and the Original Site Survey Plans submitted by the applicant.

The required wall height would be calculated as follows: NLG at the centre 9.4 AHD + 6.0m = 15.4AHD. The proposed wall height is 17.4AHD, which is 2.0m over the requirement.

The required roof height would be calculated as follows 9.4AHD + 8.5m = 17.9AHD. The proposed roof height is 18.12AHD, which is 0.2m over the requirement.

It is not considered that the natural ground forms on the subject site are such as to indicate that a variation to the required building heights is warranted.

Therefore the application should be refused on the basis of its non-compliance with the Town Planning Scheme height restrictions.

### Number of Storeys

The proposal incorporates a workshop within the undercroft space. Clause 5.1.1 (a) states:

*“Council's general policy for development within the district favours low rise development of no more than 2 storeys to maintain privacy, views and general amenity notwithstanding that Council may consider the circumstances and merits of each case in terms of the amenity and development control provisions of this Scheme. In exercising height control policies Council will not regard as a storey undercroft space used for lift shafts, stairways, or meter rooms, bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles where that space is not higher than 1 metre above the footpath level measured at the centre of the site along the boundary to which the space has frontage or where that space is below the natural ground level measured at the centre of the site as determined by Council.”*

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

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

The undercroft of the proposed residence contains a workshop, which is approximately 29m<sup>2</sup> in area. A workshop is not listed as one of the spaces that can be located in the undercroft area without it being considered a storey under the TPS Clause 5.1.1 (a).

Therefore the proposed residence has three levels located above one another which would constitute three storeys.

Clause 5.1.1 (b) (ii) states:

*“Residential Zone – The maximum building height shall be two storeys except that Council may permit a third storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity”*

The proposed development contains three storeys. The top storey is not located within the roof space and therefore does not comply with the TPS Clause 5.1.1(b) (ii) quoted above.

According to the recent Planning Tribunal decisions and legal advice received by Council, TPS 2 Clause 5.1.1 (a) does not allow for any discretion to allow uses in the undercroft other than the ones listed in the Clause 5.1.1 (a).

The proposal does not comply with the statutory provisions of the Town Planning Scheme and therefore has to be refused.

#### Variations to Side Boundary Setbacks

The following variations to the side boundary setbacks are proposed:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
North Basement	Whole	1.2	24.8	No	1.5	Nil
South Basement	Whole	1.0	26.7	No	1.5	Nil – 2.2
South Lower	Rear Entry, Study/Guest Bedroom	4.0	7.3	No	1.1	Nil – 1.2
North Upper	Terrace, Living, Dining	6.7	15.5	Yes	4.6	1.0 – 1.5
North Upper	Walkway, Bed 1, WIR, Bath	7.0	27.8	No	3.3	1.3 - 4.9
South Upper	Whole	7.0	28.0	Yes	7.0	1.2 – 3.0
East Upper	Whole	7.2	7.5	Yes	3.5	3.0 – 4.0

The above variations will be considered under the Performance Criteria of the Design Element 3 – “Boundary Setbacks”, which state:

*Buildings set back from boundaries other than street boundaries so as to:*

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

The applicant is proposing a reduced setback to the south upper wall. The property to the south is being overshadowed on the winter solstice by 67%, which is not in compliance with the acceptable development standard of 25% of the Design Element 9 – “Design for Climate”

The proposed development will also cause overlooking into the adjoining properties at the rear and to the north and south.



Council received objections from the owners of adjoining properties at the rear (33 and 35 Margaret Street) and property to the north (210 Marine Parade) objecting to loss of privacy due to the proposal on the subject lot.

The applicant did not provide any details of the proposed screens to the rear deck and north facing outdoor terrace, therefore it cannot be determined if the proposed screens would be sufficient to prevent overlooking.

The applicant proposes over 1.5m of fill at the rear of the property in the south eastern corner, which would contribute to loss of privacy for the adjoining rear neighbours and also increase the negative impact of the building bulk.

It is considered that the proposed reduced side boundary setbacks do not satisfy the above quoted performance Criteria. It is recommended that Council refuse the application as the applicant did not sufficiently address the Performance Criteria of the Design Element 3 – “Boundary Setbacks”.

#### Buildings on Boundaries

The applicant is also proposing the following walls having Nil setbacks to the side boundaries:

- North Basement (garage, workshop, drying yard);
- South basement wall (laundry);
- South Lower (Study/Guest bedroom)

The proposed Nil setbacks to side boundaries do not comply with the acceptable development standards of the R-Codes for the following reasons:

- The proposed nil setbacks are to more than one side boundary;
- The length of the North basement wall is more than 9.0m;
- The average height of the Lower South wall (laundry) is higher than 3.0m.

The proposed buildings on boundaries should be assessed under the following Performance Criteria;

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

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

The adjoining neighbour to the south objected to the proposed wall on the boundary due to its negative impact on the amenity of his property. The proposal results in 67% overshadowing of the property to the south.

The increased overshadowing coupled with the proposed section of the wall with a nil setback over 3.0m in height will have a negative impact on the amenity of 206 Marine Parade.

### Front Setback

The applicant is proposing a reduced front setback 5.0m to the upper floor outdoor terrace. The required front setback in R20 is 6.0m, which allows averaging in accordance with the Figure 1 page 113 of the R-Codes.

Council requires a 6.0m front setback without averaging. Council's October 2002 resolution also stated that:

*"When assessing applications for Development Approval, Council will:*

*(a) generally insist on:*

- (i) A 6.0m setback for residential development in the District, which does not include averaging"*

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

Council received objections to the proposed reduced front setback from the neighbouring property owners. The owners of 206, 210, 124 and 216 Marine Parade are concerned with the effect of the reduced front setback on views, amenity and potential to create a precedent in the locality.

The Planning Department did not receive a response from the applicant to the neighbours' objections at the time of writing of this report. The applicant did not demonstrate that the amenity and views of the adjoining properties would not be affected due to the proposed reduced front setback.

Council's Town Planning Scheme No 2 also requires Council to have regard to the general provisions of the Scheme when assessing development applications which state:

*"The need for limitation of height or location of buildings to preserve or enhance views"*

It is recommended that the reduced front setback not be supported by Council unless the applicant provides a satisfactory demonstration that the amenity and views of the adjoining properties would not be affected.

### Overshadowing of the Adjoining Properties

The adjoining property to the south will be overshadowed by 67% at midday on 21 June, which is not in accordance with the acceptable development standards of the Design Element 9 – "Design for Climate". The proposed overshadowing will be assessed under the following Performance Criteria:

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

- outdoor living areas;*
- major openings to habitable rooms;*
- solar heating devices; or*
- balconies or verandahs"*

The proposed development on 208 Marine Parade will overshadow habitable room windows and the rear courtyard of 206 Marine Parade. The owner of 206 Marine Parade submitted a letter to Council expressing objection to the proposed amount of overshadowing.

It is considered that the applicant did not sufficiently address the neighbours concerns and the Performance Criteria quoted above.

### Site Works

The proposed fill at the rear exceeds 500mm, which is not in accordance with the acceptable development standard under the Clause 3.6.1 (A1.4) of the R-Codes. The proposed variation should be assessed under the Performance Criteria 3.6.1 (P1), which is:

*“Development that retains the visual impression of the natural level of a site as seen from the street or other public place, or from an adjoining property.”*

It is not considered that the proposed retaining and fill of approximately 1.5m would retain the visual impression of the natural level of the site as seen from the adjoining properties to the east.

### **CONCLUSION**

It is recommended that the application for a three storey single residence be refused for the following reasons:

- The proposal does not comply with the statutory height requirements for building wall and roof ridge height under the Clause 5.1.1 (c) of the TPS 2;
- The proposal includes a workshop in the undercroft level which is not in accordance with the uses listed in the Clause 5.1.1 (a) as uses allowed in the undercroft level. Therefore the proposed development is three storeys;
- It is proposed to have a front setback of 5.0m to the upper floor balcony, which is not in accordance with Council's 6.0m front setback requirement and will affect the amenity of the adjoining properties;
- The proposal does not comply with the acceptable development standards and the performance criteria of the Design Element 9 – “Design for Climate” of the R-Codes;
- Council is required to have regard to the General Provisions of the Scheme under the Clause 5.1.2. It is not considered that the overshadowing of 67% of the adjoining property is acceptable;
- The applicant seeks variations to side boundary setbacks. It is considered that the proposed variations do not comply with the Performance Criteria of the R-Codes due to the negative impact on the amenity of the adjoining properties.
- The proposed fill at the rear exceeds 500mm allowed by the Acceptable Development Standards of the R-Codes. It is considered that the proposal does not satisfy the Performance Criteria of the R-Codes due to the negative impact of the proposed fill on the adjoining properties.

The applicant submitted a response to the neighbours' objections on the 10<sup>th</sup> May 2004 after this report was completed. The Planning Officer did not have enough time to incorporate the detailed assessment of the applicant's comments into this report.

A memo addressing the late additional information received from the applicant will be prepared and distributed to Councillors prior to the Development Services Committee.

**MEMO**

*The applicant submitted additional information to Council on 12<sup>th</sup> May 2004, which consisted of a letter addressing the objections from the adjoining neighbours and amended plans.*

*The applicant makes comments on the following issues:*

- *Building height and Bulk;*
- *Overshadowing;*
- *Boundary Walls;*
- *Fill;*
- *Front Setback;*
- *Overlooking;*
- *Location of Air-conditioning Equipment.*

**Calculation of NGL at the Centre of the Site**

*The applicant disagrees with the Planning Officer's calculation of the NGL (Natural Ground Level) of the centre of the site.*

*The applicant uses a level of 9.9 AHD for the purpose of calculation of building heights. The applicant refers to the explanatory text of the R-Codes for the Design Element 7 – "Building Heights" and concludes that an average of four corners should be used by Council for the purpose of calculation statutory building height limits.*

*The issue of the proposed building height was discussed with the applicant on several occasions at which time it was stressed that Council does not use the average of four corners as a method of calculating the NLG at the centre for the purposes of the Clause 5.1.1 (c) of the Scheme.*

*The relevant clauses of the TPS 2 override the R-Code provisions for determining building height. It was pointed out to the applicant that Clause 5.1.1 (c) states:*

*"The maximum building height shall be measured from the Natural Ground Level at the centre of the site **as determined by Council**....."*

*The above TPS 2 Clause does not specify any particular method that is required to be used by Council for calculation of the NLG at the centre of the site and therefore does not provide an avenue for disputing Council's determination of this figure.*

*As it was discussed in the report to Council on this Item the NLG at the centre of the site was determined by the Planning Officer as being 9.4 AHD using the Water Authority Plans of 1934 and the original Site Survey plans submitted by the applicant.*

**Building Height**

*The amended plans submitted by the applicant on 12<sup>th</sup> May 2004 show that the height of the roof and the parapet on the southern side was lowered by 0.3m. The building roof height was only changed marginally by 0.08m. Notwithstanding that the top of the parapet and the lower section of the roof on the southern side were*

lowered by 0.3m, the proposal still does not comply with the statutory height limits for wall and roof height and should be refused.

The proposed development also constitutes three storeys as the proposed workshop in the undercroft level does not fall within the uses permitted in the undercroft space under the Clause 5.1.1 (a).

#### Overshadowing

The applicant is referring to the negotiations between Scanlan Architects and the adjoining property owner to the south regarding the proposed overshadowing of 67% of his property 206 Marine Parade. The applicant states that the owner of 206 Marine Parade “unconditionally given support for the proposal”.

Council did not receive any written confirmation from the owner of 206 Marine Parade advising Council that the previous objection to the proposal on 208 Marine Parade was being withdrawn.

It is considered that the proposed amount of overshadowing is excessive and it doesn't comply with the Performance Criteria of the R-Codes.

The additional information submitted by the applicant does not change the Planning Officer's position regarding the overshadowing issue and does not change the recommendation to refuse the application.

#### Proposed Fill

The applicant states that the level in the south-eastern corner of the lot was lowered by 0.7m. The amended plans show the level in the south-eastern corner as 10.24 AHD. The proposed fill is 0.83 which is over the acceptable development standard of the R-Codes.

The filling along the side boundaries of the lot is also above 0.5m, which contributes to the excessive building height and overshadowing of the property to the south.

It is considered that the proposed amendments would not make the development comply with the relevant Performance Criteria of the R Codes and the General provisions of the Scheme.

The proposed lowering of the level in the south-eastern corner does not change the Planning Officer's position regarding the issue of excessive fill on the property and the recommendation to refuse the proposal.

#### Reduced Front Setback

The additional Plans submitted by the applicant did not change the proposed front setback. The front setback to the upper storey balcony is 5.0m. The upper level balcony is 5.0m in length, which is 50% of the lot frontage. The proposed front setback incursion does not comply with the acceptable development standard of the R-Codes, which states:

“A porch, balcony, verandah, chimney or the equivalent may (subject to the building code of Australia) project not more than one metre into the building setback area,

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*provided that the total of such projections does not exceed 20% of the frontage at any level."*

*The proposed upper level balcony incursion into the front setback does not comply with the Performance Criteria (Clause 3.2.2 page 53 of the R-Codes), as a 5.0m long balcony would not constitute a minor projection.*

*The front setback averaging diagram submitted by the applicant was not prepared correctly. The required setbacks for the front portion of the northern and southern upper walls are not 1.2m as shown on the applicant's diagram.*

*The required side setback for the north upper wall (outdoor terrace and dining) is 4.6m, as the wall length is 15.5m with major openings and wall height is 6.7m.*

*The side setback for the south upper wall is required to be calculated for the whole length of wall (length 28.0m, height 6.0m, with major openings) and was determined to be 6.3m.*

*The side boundary setbacks of the upper walls to the north and south do not comply with the acceptable development standards and therefore there are no available areas behind the 6.0m building line to compensate for the proposed incursion of the upper floor balcony/outdoor terrace into the front setback.*

*The additional plans and the letter dated 12 May 2004 submitted by the applicant do not change the Officer's Recommendation in the report to Committee.*

#### Overlooking

*The letter dated 12<sup>th</sup> May 2004 states that the overlooking issues were addressed by the applicant. The following additional information was provided:*

- *Cone of Vision diagrams for the upper floor Dining Room and Bed 1 windows on the northern side and Kitchen window on the southern side;*
- *Details of the proposed privacy screens*

*The Cone of Vision diagrams were prepared incorrectly. The privacy setback distances prescribed by the R-Codes are required to be measured from the outside edge of the window glazing and not from 0.5m inside the subject habitable room. Therefore the Cones of Vision would protrude further into the adjoining neighbours' properties than shown on the applicant's diagram.*

*There was no cone of vision diagram provided for the upper floor outdoor terrace. The proposed privacy screen on the northern side and the obscure glazing on the southern side do not eliminate overlooking from the terrace into the adjoining properties to the south and north behind the 6.0m building line.*

*There is also overlooking from the Kitchen Dining room windows into the adjoining property to the south.*

*The Planning Department does not agree with the applicant's justification for including a portion of the kitchen room space as part of the walkway and considering it as a nonhabitable room.*

*Council did not receive any correspondence from the affected property owners advising the Planning Department that their objections were being withdrawn.*

*The additional information provided by the applicant regarding privacy issues does not affect the Officer's Recommendation to refuse the application.*

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Committee have concerns with fill, overlooking, north elevation windows, 6m front setback and fill cannot be above 500mm as per R Codes as this will affect adjoining properties. Committee moved that the application be deferred pending the applicant addressing these issues.

## **OFFICER RECOMMENDATION**

That Council:

- (1) Determine the Natural Ground Level at the centre of the site to be 9.4 AHD.
- (2) REFUSE its Approval to Commence Development for the three storey Single Residence at No 208 (Lot 20) Marine Parade, Cottesloe in accordance with the plans submitted on 31 March 2004, as Council is of the opinion that:
  - (a) The proposal does not comply with the statutory height requirements under the Clause 5.1.1 (c);
  - (b) The proposal does not comply with the Clause 5.1.1 (a) as the proposed workshop in the undercroft area is not one of the uses listed in the Clause as being permitted in the undercroft without it being considered a storey;
  - (c) The proposed front setback is not in accordance with Council's 6.0m front setback requirement;
  - (d) The proposed 67% overshadowing of the adjoining property does not satisfy the Performance Criteria of the Design Element 9 –“Design for Climate”;
  - (e) The proposed variations to the side boundary setbacks do not satisfy the Performance Criteria of the Design Element 3 – “Boundary Setbacks”;
  - (f) The proposed fill at the rear of the property is not in accordance with the acceptable development standard of 500mm under the Clause 3.6.1 (A1.4) of the R-Codes and it does not satisfy the Performance Criteria of this Clause (3.6.1 P1);
- (3) Advise the submitters of Council's decision.

**COMMITTEE RECOMMENDATION**

That Council:

- (1) DEFER consideration of the application for Approval to Commence Development for the three storey Single Residence at No 208 (Lot 20) Marine Parade, Cottesloe; and
- (2) Request that the applicant to submit revised plans addressing the following matters:
  - (a) compliance with statutory height controls;
  - (b) compliance with statutory storey controls;
  - (c) overlooking;
  - (d) compliance with a front setback of 6m;
  - (e) reduction of fill;
- (3) Advise the submitters of Council's decision.

**AMENDMENT**

Moved Cr Utting, seconded Cr Cunningham

That the following item be added to Committee Recommendation point (2):

- (f) neighbours objections.

Carried 8/2

**11.1.3 COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council:**

- (1) **DEFER consideration of the application for Approval to Commence Development for the three storey Single Residence at No 208 (Lot 20) Marine Parade, Cottesloe;**
- (2) **Request that the applicant to submit revised plans addressing the following matters:**
  - (a) **compliance with statutory height controls;**
  - (b) **compliance with statutory storey controls;**
  - (c) **overlooking;**
  - (d) **compliance with a front setback of 6m;**
  - (e) **reduction of fill;**
  - (f) **neighbours objections; and**
- (3) **Advise the submitters of Council's decision.**

Carried 8/2



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**11.1.4 NO 88 (LOT 1) MARINE PARADE - PROPOSED CONVERSION OF EXISTING MULTIPLE DWELLING UNIT INTO A TAVERN**

<b>File No:</b>	<b>88 Marine Parade</b>
<b>Author:</b>	<b>Mr Stephen Sullivan</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>4 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>
<b>Attachments:</b>	<b>Location Plan Covering letters Reduced copy of plans Memo from Engineer dated 27 April 2004 Council letter to applicant dated 28 April 2004</b>
<b>Property Owner:</b>	<b>Sandalwood Investments Pty Ltd</b>
<b>Applicant:</b>	<b>Sandalwood Investments Pty Ltd</b>
<b>Date of Application:</b>	<b>7 April, 2004</b>
<b>Zoning:</b>	<b>Foreshore Centre</b>
<b>Use:</b>	<b>A Tavern use is not a listed land use in Table 1 – Zoning Table of the No. 2 Town Planning Scheme text. Council is required to make a determination under Clause 3.3 of the Scheme Text in relation to the land use, before it can deal with the development application.</b>
<b>Density:</b>	<b>R50</b>
<b>Lot Area:</b>	<b>1,265m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>The site abuts a Metropolitan Region Scheme Reserve – Park and Recreation Reserve (Marine Parade is reserved under the Metropolitan Region Scheme as a Park and Recreation Reserve)</b>

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**SUMMARY**

The development site is located on the north-eastern corner of Forrest Street and Marine Parade and consists of a mixed use development. The commercial uses front onto Marine Parade with a residential development located to the rear of the commercial uses, which have a frontage to Forrest Street. Located above Tropicana Cafe is one of the 10 multiple dwellings that are located on this site.

The commercial uses located on the ground level have a concrete roof deck which is used by the unit above as a courtyard.

It is proposed to convert the residential unit into a tavern and to enclose the concrete deck (with glass screen walls only) as an extension of the tavern area. The outdoor area includes a stage for a jazz band. It should be noted that any type of group music can be played if approval is granted for live entertainment or background music.

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It is proposed that the use would only operate until the current lease of Tropicana Café expired when a re-development proposal for the site would be submitted to Council for consideration.

A tavern is an unlisted land use in Table 1 of the Town Planning Scheme text.

It is recommended that Council agree that a Tavern use is consistent with the objectives of the Foreshore Centre Zone and therefore, the applicant is required to follow the advertising requirements set out in Clause 3.3(b) of the scheme text. Having undertaken that process, Council would then be in a position to make a determination on the application for Planning Consent.

Before commencing the advertising process, critical information is required to be submitted to ensure the application is complete.

However, it should be noted that the development does not comply with the car parking requirement set out on the Town Planning Scheme text and further non-compliance may exist following receipt of the additional information requested.

## **PROPOSAL**

Correspondence has been received in support of the application for a Tavern. The details in relation to this matter are set out in the correspondence. The correspondence makes reference to a small tavern business, cocktail bar or sunset lounge bar.

It is considered that the application is for a change in land use from residential to a Tavern.

The proposal involves the following:

- conversion of the residential unit located above Tropicana Café into a tavern;
- construction of a new floor above the existing concrete roof which will become an outdoor area for the tavern;
- glass walls are proposed to be erected around the perimeter of the premises;
- a jazz stage is proposed to be constructed against the Marine Parade frontage of the outdoor area;
- the courtyard is not proposed to be totally enclosed;
- the capacity of the tavern is between 200 – 250 people;
- a new entry point with stairs from Marine Parade to the upper level is proposed to be located in the space between the northern side of the development site and the adjoining residential/commercial development to the north;
- approval for a temporary period of use of this section of the site as a tavern until 30 June 2009, when the lease of the Tropicana Café expires;
- parking to be provided on Council's road verge in Forrest Street. The applicant is proposing to pave and drain the area east of the existing car parking area located on the southern side of Forrest Street in lieu of the 54 bays (minimum) required to be provided on-site. The existing street, car parking area is proposed to be extended by approximately 125m (new eastern edge would be about the midpoint of No. 32 Forrest Street).

**STATUTORY ENVIRONMENT**

- Town of Cottesloe Town Planning Scheme No 2
- Metropolitan Region Scheme
- The applicant will need to apply for a Tavern Licence under the Liquor Licensing Act (1988). The details that form part of this application should be the same as those to be submitted to the Department for Racing Gaming and Liquor for its consideration of this application.

**POLICY IMPLICATIONS**

- N/A

**HERITAGE LISTING**

- State Register of Heritage Places N/A
- TPS No 2 N/A
- Town Planning Scheme Policy No 12 N/A
- Draft Heritage Strategy Report N/A
- Municipal Inventory Category 4
- National Trust N/A

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
Table 2 – Vehicle Parking Requirements	55 (minimum)	Nil

**Town Planning Scheme Policy/Policies**

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

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering
- Health

**External**

- Western Australian Planning Commission

#### ADVERTISING OF PROPOSAL

The application was not required to be advertised at this point. Consideration of this proposal is a two step process as the proposed land use is not a listed use in Table 1 – Zoning Table of the Town Planning Scheme text.

The first step requires Council to determine whether the land use is in-keeping with the objectives for the Zone. If Council determines that the use is not consistent, then a Tavern land use is deemed to be a prohibited land use and Council would have to refuse the application. There is not right of appeal against Council's decision to the Town Planning Appeal Tribunal, although the matter could be challenged in the Supreme Court.

If it is determined by Council that the Tavern land use is a in keeping with the objectives for the Foreshore Centre Zone, then it is treated as a discretionary land use and the applicant would then need to advertise the proposal before a decision could be made on the development application.

#### BACKGROUND

The site currently is a mixed use site containing two shops and 10 residential units.

A proposal in 1998 was considered by Council where the applicant sought to re-develop the site with a four/five storey mixed use development of a restaurant and 19 residential units. Only thirty nine car parking spaces were proposed for residential use although 43 car parking spaces were required. It was also proposed to have a 100 seat restaurant with no on site parking for this use.

The applicants sought a variation of 29 car parking spaces. Council sought advice from the Valuer Generals office in relation to the cash in lieu provisions of the Town Planning Scheme. They advised Council in 1998, that the land value was \$1,580 per square metre. Council resolved that a payment of \$20,000 per parking space was required. As 25 additional parking spaces were required, this resulted in a total cost of \$500,000 for the cash in lieu payment. This did not allow for the cost of the paving and draining of a car parking area. The applicants offered \$200,000 and the offer was rejected by Council. The proposal did not proceed.

#### STAFF COMMENT

The proposal is for the conversion of the existing residential dwelling and roof deck into a Tavern. This is the best description for the proposed use based on the definition contained within the Town Planning Scheme text definitions. There is no definition in the Town Planning Scheme text for a "cocktail lounge" or "sunset bar", which are descriptions used by the applicant.

There are two steps in this process:

#### Land Use Determination

The proposed land use of a Tavern is not a listed land use in Table 1 – Zoning Table of the Town Planning Scheme text. Therefore, the provisions of Clause 3.3 become relevant. This clause states the following:

3.3 *Table No. 1: Zoning Table indicates the several uses permitted by this Scheme in various Zones, such uses being determined by cross reference between the list of "Use Classes" on the left-hand side of the Table and the list of "Zones" on top of the Table. The symbols used in the cross reference in Table 1 have the following meanings -*

- P A use that is permitted under this Scheme.  
AA A use that is not permitted unless special approval is granted by the Council.  
IP A use that is not permitted unless such use is incidental to the predominant use as decided and approved by Council.  
X A use that is not permitted.*

*If the use of land for a particular purpose is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the interpretation of one of the use classes, the Council may -*

- (a) determine that the use is not consistent with the objectives and purpose of the particular zone and is, therefore, not permitted, or  
(b) determine by absolute majority that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clauses 7.1.4 to 7.1.6 in considering an application for approval to commence development.*

The site is located within the Foreshore Centre Zone and the objectives of this zone are as follows:

3.4.4 *Foreshore Centre Zone*

*It is the intention of the Foreshore Centre Zone to provide for the development of land within the Zone in a manner which –*

- \* shall preserve the recreational attraction of the area;*
- \* shall retain the natural and economic conditions which have in the past caused it to be used for business, entertainment, residential and recreational purposes associated with the foreshore;*
- \* shall be of a scale and character consistent with the Residential Planning Code densities applying to the zone and adjoining Residential Zone.*

It is important at this stage not to consider the matters associated with the specific development application, but focus on the principle of establishing Taverns within the Foreshore Centre Zone.

For the application to proceed to the second stage, Council is required to determine by absolute majority, as set out in 3.3(b), that a Tavern use within the Foreshore Centre Zone is in keeping with the objectives set out above.

In relation to the three Foreshore Centre Zone objectives listed above, the following comments are made:

Objective 1

Cottesloe Beach is the primary destination point for recreational and social needs of the residents and the community. To a lesser extent, the existing uses along the

beachfront provide a secondary destination point, however, this can vary during different times of the year.

A tavern use would be "neutral to contributing" to the recreational attraction of the area.

#### Objective 2

The use of a tavern in the Foreshore Centre Zone would add to the entertainment provided within the area and would supplement the social attraction of the area and the development within the Foreshore Centre Zone.

#### Objective 3

Not relevant as it relates to the conversion of an existing building rather than the addition or construction of a new building.

The use of land for a tavern would not adversely impact on the recreational attraction of the area and therefore, it is considered that such a use would be in-keeping with the objectives for the zone.

If Council resolves by absolute majority that a Tavern is in keeping with the objectives for the Zone, then the applicant is required to undertake the advertising requirements as determined by Council, having regard to Clause 3.3(b). Council would then have to make a determination on the application for Planning Consent.

### **Consideration of Development Application**

If council supports the principle of taverns in the Foreshore Centre Zone, then it must then deal with the development application.

#### Advertising Requirements of Clause 3.3(b)

The advertising process set out in Clause 3.3(b) sets out the criteria for advertising.

The recommended advertising requirements for a proposal of this type are outlined below:

- (a) sign to be erected on each street frontage;
- (b) newspaper notice in a local newspaper circulating within the District; and
- (c) letters to be sent by registered mail to owners and occupiers in the vicinity of the development site, that may be impacted by the proposal.

The extent of the notification in part (c) can be determined by the Manager, Development Services following the receipt of further information that is currently lacking in relation to the development proposal.

#### Issues to be Addressed prior to the Commencement of the advertising process

The information supporting the application is deficient in a number of areas and these are briefly outlined below. Items (a) – (d) have previously been requested of the applicant.

(a) Development Against the Northern Boundary

The proposal shows construction of stairs and disabled stairclimber being attached to the adjoining building, which will be the main entrance to the tavern.

Further, there is no fire rated wall located on the northern side of the development site that abuts the property to the north. This new fire wall will then support the stairs and stair climber. However, concern exists in relation to whether the space between the proposed fire wall and the existing building on the development site is adequate to meet Building Code requirements. Details of this information has been requested.

(b) Acoustic Report

The proposal involves an outdoor jazz stage and tavern courtyard. Due to the outside nature of this stage, the hours of operation, the number of people to be accommodated (200-250) and the location of surrounding residential uses, noise is a critical issue.

The existing development on the site exceeds the current plot ratio provision of the Town Planning Scheme text. Therefore, if there are any proposals to enclose an area or add to the building area, plot ratio will be increased and be in conflict with the statutory requirement of the Town Planning Scheme text and the development application must be refused.

An amendment to the Town Planning Scheme text would be required to address this matter if Council supported the proposal.

(c) Liquor Licensing Detail

The applicant was requested to details that were to be submitted to the Department for Racing and Gaming in support of their application for a liquor licence. This is to ensure that the proposal dealt with by Council is the same as that dealt with by the Department. For instance, the report submitted by the applicant makes reference to this proposal as a "cocktail bar", "sunset lounge" and a "tavern".

(d) Social Factors

It was requested that the applicant submit a draft management plan to address this operation and management of this proposal.

(e) Seating Layout

A plan should be submitted demonstrating the seating arrangement and capacity of the proposed use. The supporting documents refer to a capacity of 200-250 people. The parking calculations are based on patrons being either seated or standing. The floor plan should clearly identify the seating and standing areas of the proposed tavern.

## Car Parking

The provision of Clause 3.4.4(b)(ii) and 3.4.4(c)(ii) (which relate to development within the Foreshore Centre Zone) in Part III of the Town Planning Scheme text (both clauses are identical) state the following:

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

Clause 5.5.2 of the Town Planning Scheme text states the following

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

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

Based on this provision and the parking standard in Table 2 of the Town Planning Scheme text for seated patrons, the development requires a minimum of 55 car parking spaces to be provided on-site.

The applicant is not proposing to provide any car parking spaces on site. Instead, they are proposing to pave the southern side of the Forrest Street road reserve, east of the existing car parking area instead of providing any on-site car parking spaces or the provision of the cash in lieu payment. The car parking area would extend to about the midpoint of No. 32 Forrest Street.

The Town Planning Scheme text allows Council to consider a cash in lieu payment subject to certain criteria being met. The clause is reproduced below:

### **“5.5.4 Cash in Lieu of Parking**

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

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



Based on the 1998 figures, the cash in lieu payment for this proposed development would be approximately \$2,172,500, plus the cost of paving and draining the car parking area.

The City Engineer has responded in relation to the request to use the Forrest Street Road Reserve as the car parking area for the proposed Tavern. His comments form part of the attachments. The engineer has not supported the use of the Forrest Street Road Reserve for parking on the basis that the:

- area is already used as an overflow car parking by beach patrons;
- cost of paving and draining this area is approximately \$40,000 compared to the cash in lieu cost of some \$2,000,000 (based on 1998 figures).

The provisions of the Town Planning Scheme do not allow Council to forgo the car parking requirements for the proposed land use. The parking is either required to be provided on site or cash in lieu is paid based on the criteria set out in Clause 5.5.4 out the Scheme Text.

### **CONCLUSION**

It is considered that a tavern use within the Foreshore Centre Zone use is in keeping with the objectives for the zone.

However, there are major concerns in relation to the development application. Council cannot make a decision on the development application until the advertising has been carried out. As a pre-requisite, the applicant is required to submit additional information to complete the application, before, the advertising is carried out. Submission of this information may result in further statutory non-compliance with the Town Planning Scheme text.

### **VOTING**

Absolute Majority

### **COUNCIL COMMENT**

Cr Utting raised concerns over providing preliminary approval.

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

Moved Cr Furlong, seconded Cr Jeanes

**That Council:**

- (1) Is of the opinion that a Tavern Use in the Foreshore Centre Zone is in keeping with the objectives of that Zone.**

Carried by Absolute Majority 8/2

For: Against:

Mayor Rowell	Cr Morgan
Cr Cunningham	Cr Utting
Cr Furlong	
Cr Jeanes	

Cr Miller  
Cr Robertson  
Cr Sheppard  
Cr Walsh

- (2) **Requires the applicant to submit the additional information contained in Council's letter to them dated 28 April 2004 and additional information as determined by the Manager, Development Services, before the application is considered to be complete and suitable for advertising for public comment; and**

Carried 7/3

For:	Against:
Mayor Rowell	Cr Miller
Cr Cunningham	Cr Morgan
Cr Furlong	Cr Utting
Cr Jeanes	
Cr Robertson	
Cr Sheppard	
Cr Walsh	

- (3) **Subject to the Manager, Development Services being satisfied with the detail and adequacy of the additional information that has been requested in (2) above, authorise the Manager, Development Services to determine the extent of advertising required under Clause 7.1.4 to 7.1.6 of the Town Planning Scheme text.**

Carried 7/3

For:	Against:
Mayor Rowell	Cr Miller
Cr Cunningham	Cr Morgan
Cr Furlong	Cr Utting
Cr Jeanes	
Cr Robertson	
Cr Sheppard	
Cr Walsh	

**11.1.5 NO 23 (LOT 44) MARGARET STREET - TWO STOREY EXTENSION**

<b>File No:</b>	<b>23 Margaret Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant Submissions (2) Plans Extract from R Codes</b>
<b>Report Date:</b>	<b>7 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Mrs Thomas</b>
<b>Applicant:</b>	<b>Alexander Planning Consultants</b>
<b>Date of Application:</b>	<b>28 January 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

**SUMMARY**

The applicant is proposing a second storey addition and an outdoor spa and deck area.

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**APPLICATION ASSESSMENT****AREAS OF NON-COMPLIANCE****Town of Cottesloe Town Planning Scheme No 2 - Text**

<b>Clause</b>	<b>Required</b>	<b>Provided</b>
N/A	N/A	N/A

**Town Planning Scheme Policy/Policies**

<b>Policy</b>	<b>Required</b>	<b>Provided</b>
003 Carports & Garages in the Front Setback Area	6.0m	0.7m

**Residential Design Codes**

<b>Design Element</b>	<b>Acceptable Standards</b>	<b>Provided</b>	<b>Performance Criteria Clause</b>
3 – Boundary Setbacks	Setback from southern boundary to upper wall of 1.5m	1.2m	Clause 3.2.1
3 – Boundary Setbacks	Setback from northern boundary to deck of 1.5m	Nil	Clause 3.2.1
9 – Design for Climate	25% overshadowing	32.4%	Clause 3.9.1

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

**Submissions**

There were 21 letters sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

21 Margaret Street

The applicant has objected to the proposal as the level of overshadowing is over the 25% allowable under the R-Codes.

**BACKGROUND**

The site is located on the western side of Margaret Street next to a drainage sump on the northern side.

The applicant originally submitted plans for a basement on the site, however an engineers report highlighted that there was a possibility of flooding on the site and therefore that Council should not approve any basement on the site.

As a result of this the applicant has submitted revised plans for a two-storey extension instead.

**STAFF COMMENT****Carport**

The applicant is proposing to construct a single carport in the front setback area. The carport is proposed to be setback from the front boundary by 0.7m and a nil setback to the southern boundary.

Policy No. 005 allows for carports to be built up to the street boundary as long as the carport is constructed in the same style and materials as the house and there is no other alternative location.

In this instance the proposed carport has the same roof pitch and uses the same materials as the main house. The Planning Department believes that the proposed location of the carport is the most suitable.

Furthermore the adjoining property (21 Margaret Street) has an existing carport forward of the setback line.

Therefore the Planning Department recommends that the proposed carport be approved.

**Setbacks**

The setback to the upper floor on the southern side does not comply with the acceptable standards of the codes.

Notwithstanding the applicant has advised that they will modify this setback so that it complies with the acceptable standards.

Therefore a condition will be imposed requiring the setback to be modified to 1.5m.

The applicant is proposing a nil setback to the northern boundary from the deck area and the proposed studio. This boundary is to a drainage sump and therefore the Planning Department believes that a variation in this instance is acceptable as the impact on the amenity of adjoining neighbours is not adversely affected.

**Solar Access**

The Design Codes state that it is acceptable to overshadow an adjoining lot by no more than 25% on land coded R20, in this instance the applicant is proposing to overshadow the adjoining lot to the south by 32.4%

The existing development already overshadows the adjoining lot by approximately 26%.

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

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

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

The overshadowing diagram clearly demonstrates that the majority of the additional overshadowing falls on the roof of No. 21 Margaret Street and that only an additional 0.8m<sup>2</sup> falls on the backyard. There will be no additional overshadowing of habitable rooms to what exists now.

In addition the applicant has also agreed to increase the setback of the upper floor on the southern side from 1.2m to 1.5m, so as to comply with the Acceptable Standards of the codes. This will also further reduce the amount of the shadow cast at the Winter Solstice.

Therefore the Planning Department believes that the additional .8m<sup>2</sup> overshadowing of the backyard is acceptable in this instance as all other aspects of the development comply with the codes and the scheme.

**CONCLUSION**

That the proposed development be approved subject to conditions relating to setbacks.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**11.1.5 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council:**

- (1) **GRANT its Approval to Commence Development for the two storey extension and deck at No 23 (Lot 44) Margaret Street, Cottesloe in accordance with the plans submitted on 30 April 2004, subject to the following conditions:**

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
  - (f) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
  - (g) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services
  - (h) Revised plans being submitted for approval by the Manager, Development Services, showing:
    - (i) the upper wall located near the southern side boundary being set back 1.5m from the side boundary in accordance with the provisions of the Residential Planning Codes;
    - (ii) delete the upper floor balcony.
- (2) Advise the submitters of Council's decision.

Carried 10/0

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**11.1.6 NO 6 (LOT 58 & 59) WINDSOR STREET - SWIMMING POOL, FRONT FENCE, FILLING OF REAR YARD & 3.5M SCREEN WALL**

<b>File No:</b>	<b>6 Windsor Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachment:</b>	<b>Location plan Submission from neighbour Plans</b>
<b>Report Date:</b>	<b>11 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Mr Wedgwood &amp; Ms McLeod</b>
<b>Applicant:</b>	<b>Hofman &amp; Brown Architects</b>
<b>Date of Application:</b>	<b>7 November 2003</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

The applicant is proposing to construct a new fence, pool and 3.5m high screen wall on the right of way in addition to filling the rear yard with up to 1.4m of fill.

Given the assessment that has been undertaken, the recommendation is to Approve the Application subject to conditions requiring the levels to be reduced.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

- |                                     |   |
|-------------------------------------|---|
| • State Register of Heritage Places | N/A   |
| • TPS No 2                          | N/A   |
| • Town Planning Scheme Policy No 12 | N/A   |
| • Draft Heritage Strategy Report    | Claremont Hill Heritage Precinct - Contributory |
| • Municipal Inventory               | Category 3                                      |
| • National Trust                    | N/A   |

**APPLICATION ASSESSMENT****AREAS OF NON-COMPLIANCE**

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

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

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6 – Site Works	No more than 500mm of filling at any point	1.4m	Clause 3.6.1
6 – Site Works	Setback of retaining walls 1.5m from eastern & northern boundaries	Nil	Clause 3.6.2
8 – Privacy	Visual Privacy setback to northern neighbour of 7.5m	Nil	Clause 3.8.1

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

REFERRAL

**Internal**

- Engineering

**External**

N/A.

**ADVERTISING OF PROPOSAL**

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

The advertising consisted of:

- Letter to Adjoining Property Owners

**Submissions**

There were 4 letters sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

### 5 Parry Street

The owners objected to the following:

- The height of the retaining / screen walls on the right of way;
- The amount of fill on the subject site;
- The visual impact of the screen wall;
- Possible spilling over of floodlighting into their bedroom windows on the western side.

### **BACKGROUND**

The subject site is located on the eastern side of Windsor Street with a right of way located at the rear of the property. The lot slopes from the south, down to the northern side by about 2.6m. The rear of the site currently is terraced into two separate areas which both slope with the natural ground level.

### **STAFF COMMENT**

#### **Filling**

The applicant is proposing to fill the rear yard with up to 1.4m of fill. And create two new terraced areas. The southern terraced area would have up to 1.4m of fill and the northern terraced area would have up to 800mm of fill.

The rear yard currently has two terraced areas, which follow the natural ground level, with no fill over 500mm currently.

The applicant has stated that they would prefer to fill the rear yard so that the proposed terraced area and pool area are at the same level as the existing finished floor level of the house.

As a result of the excess filling a retaining wall of up to 1.4m high is required on the northern and eastern boundaries. Furthermore additional screening to a height of 2.2m is proposed to prevent overlooking of adjoining neighbours, this will result in a wall / fence of up to 3.4m in height, which is about 2.5 times higher than the existing fence.

The adjoining neighbour at No. 5 Parry Street has objected to the filling and the height of the wall along the eastern boundary (right of way), as it will impact on his outlook and amenity from their bedrooms on the western side of their house.

When an application does not comply with acceptable development standards of the codes then the applicant has to address the performance criteria of the codes which state:

*“Development that retains the visual impression of the natural level of the site, as seen from the street or other public space or from an adjoining property.”*

The applicant has not provided any written justification for the filling or the overheight retaining walls and has not addressed the performance criteria or the objections from the neighbour.

The planning department believes that the filling should not be supported, as the proposal does not comply with the acceptable standards or the performance criteria of the R Codes. Furthermore the neighbour has objected to the impact on their amenity as a result of the filling, retaining and screen walls / fences.

In addition Council has consistently required walls along rights of ways to be around 2.0m in height to preserve safety and security and the amenity of the neighbours and locality in general.

Approval to such a proposal would set a negative precedent in the locality. An existing dividing fence located on the eastern side of the right of way has some retaining also, however this retaining is only to a height of 600mm at its highest point and the majority well below 500mm and has been stepped down along the natural ground level.

Therefore the planning department recommends that the pool and terrace area be reduced in height to R.L. 10.8 and that the lower garden area be reduced in height to R.L. 9.7.

#### **Retaining Walls & Visual Privacy**

The applicant is proposing to construct retaining walls up to 1.4m high on the eastern boundary and up to 0.8m on the northern boundary.

The acceptable development standards of part 6 of the R Codes require that any retaining higher than 0.5m be set of the boundary in accordance with Table 1 of the codes.

In this instance the required setback is 1.5m from both the northern and eastern boundaries, however the applicant is proposing constructing the retaining on the boundaries.

The applicant has not provided any justification for the retaining on the boundary and does not comply with the performance criteria of the codes either.

Therefore it is recommends that the retaining walls be reduced so as to be below 500mm in height.

Visual Privacy screening of 7.5m to the nearest boundary is required when more than 500mm of fill is being placed on a lot. Assessment of this application illustrates that overlooking will occur to the neighbours to the east and to the neighbours to the north.

The applicant has proposed screening to the east to prevent overlooking, however the screening placed upon the proposed retaining wall will result in a wall height of 3.4m.

The adjoining neighbour at No. 5 Parry Street has objected to the screen walls as they believe it will affect their amenity from their bedroom windows.

In relation to the overlooking to the north the applicant has not provided any justification for the overlooking into the outdoor living area of No. 10 Windsor Street.

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It is concluded that if the filling is reduced to below 500mm then there is no necessity for retaining walls or privacy screens which further degrade the amenity of the surrounding residents.

Therefore it is recommended that the proposed screening walls do not exceed a height of 1.8m above the recommended new ground levels.

### **CONCLUSION**

That the proposed development be approved subject to the following conditions addressing filling, retaining walls and privacy screens.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

The Committee advised that they do not have any issues with the fill to the rear of this property as it does not affect any adjoining neighbours and will provide safety for the pool.

Condition (g)(i) be amended to read RL 11.1 and condition (g)(ii) be removed.

### **OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the Swimming Pool, Front Fence, Filling of Rear Yard & 3.5m Screen Wall at No 6 (Lot 58 & 59) Windsor Street, Cottesloe in accordance with the plans submitted on 7 November 2003, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The spa pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
  - (d) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells;
  - (e) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres

and located a minimum of 1.8 metres away from any building or boundary.

- (f) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
  - (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
    - (i) The proposed terraced area and pool area FFL being reduced in height to R.L. 10.8;
    - (ii) The proposed northern lower garden FFL being reduced to R.L. 9.7;
    - (iii) The screen walls being reduced to a maximum height of 1.8m from the recommended ground levels.
- (2) Advise the submitters of this decision.

### **COMMITTEE RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the Swimming Pool, Front Fence, Filling of Rear Yard & 3.5m Screen Wall at No 6 (Lot 58 & 59) Windsor Street, Cottesloe in accordance with the plans submitted on 7 November 2003, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The spa pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
  - (d) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells;
  - (e) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
  - (f) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.

- (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
  - (i) The proposed terraced area and pool area FFL being reduced in height to R.L. 11.1;
  - (ii) The screen walls being reduced to a maximum height of 1.8m from the recommended ground levels.
- (2) Advise the submitters of this decision.

### AMENDMENT

Moved Cr Walsh, seconded Cr

That (1) be amended to read:

- (1) GRANT its Approval to Commence Development for the Swimming Pool, Front Fence, Filling of Rear Yard & Screen Wall at No 6 (Lot 58 & 59) Windsor Street, Cottesloe in accordance with the plans submitted on 7 November 2003, subject to the following conditions:

Carried 10/0

### 11.1.6 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Jeanes

That Council:

- (1) **GRANT its Approval to Commence Development for the Swimming Pool, Front Fence, Filling of Rear Yard & Screen Wall at No 6 (Lot 58 & 59) Windsor Street, Cottesloe in accordance with the plans submitted on 7 November 2003, subject to the following conditions:**
  - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
  - (c) **The spa pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.**
  - (d) **Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on**

which the swimming pool is located and disposed of into adequate soakwells;

- (e) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
  - (f) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
  - (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
    - (i) The proposed terraced area and pool area FFL being reduced in height to R.L. 11.1;
    - (ii) The screen walls being reduced to a maximum height of 1.8m from the recommended ground levels.
- (2) Advise the submitters of this decision.

Carried 10/0

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**11.1.7 NO 166 CURTIN AVENUE – PROPOSED FENCE & GATES FOR COTTESLOE POLICE STATION**

<b>File No:</b>	<b>166 Curtin Avenue</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant Site plan</b>
<b>Report Date:</b>	<b>5 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>WA Police Service</b>
<b>Applicant:</b>	<b>Transfield Services</b>
<b>Date of Application:</b>	<b>17 March, 2004</b>
<b>Zoning:</b>	<b>N/A</b>
<b>Use:</b>	<b>N/A</b>
<b>M.R.S. Reservation:</b>	<b>Public Purposes</b>

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**SUMMARY**

The applicant is proposing to build a new fence and gates on land Reserved as Public Purposes under the Metropolitan Region Scheme.

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

**STATUTORY ENVIRONMENT**

- Metropolitan Region Scheme

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

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**CONSULTATION**

## REFERRAL

**External**

- Western Australian Planning Commission

## ADVERTISING OF PROPOSAL

The application was not required to be advertised.

**BACKGROUND**

The applicant is proposing to construct a new fence and gates for the Cottesloe Police Station and quarters.

**STAFF COMMENT**

The planning department supports the proposal and has no objections to the proposal. The Western Australian Planning Commission is the decision making authority and Council may make recommendations to the Commission.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**11.1.7 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council notify the Western Australian Planning Commission that it holds no objection to the proposed development at No. 166 Curtin Avenue Cottesloe.**

Carried 10/0

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**11.1.8 NO 16A (LOT 23) ROSSER STREET - TWO STOREY ADDITIONS & CARPORT IN THE FRONT SETBACK**

<b>File No:</b>	<b>16A Rosser Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant Submissions (2) Plans Photos</b>
<b>Report Date:</b>	<b>5 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Kingsley &amp; Serena Pearce</b>
<b>Applicant:</b>	<b>Kingsley Pearce Architect</b>
<b>Date of Application:</b>	<b>17 March 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>445m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

The applicant is proposing to construct a second storey extension to an existing single storey residence and also a new carport within the front setback.

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

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

**HERITAGE LISTING**

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
5.1.2 – Wall Heights	6.0m	7.2m

**Town Planning Scheme Policy/Policies**

Policy	Required	Provided
005 Wall Heights	6.0m	7.0m
003 Carports & Garages in the Front Setback Area	6.0m front setback	1.5m

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6 - Site Works	No more than 0.5m of fill	1.3m	Clause 3.6.1

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

**Submissions**

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

19 Jarrad Street

The owner raised the following concerns with the proposed development:

- The proposed upper floor windows will overlook their property;
- That the design of the building is not in keeping with the surrounding heritage style of development;
- That access to the laneway is not impeded during construction;
- That the applicants will not complain about vehicle lights coming from their proposed garage, once it is constructed.

21 Jarrad Street

The owner objected to overlooking from the rear window.

**BACKGROUND**

The site is located on the northern side of Rosser Street with a right of way to the rear of the property.

**STAFF COMMENT****Carport**

The applicant is proposing to construct a carport within the front setback area on an existing paved parking area.

Policy No. 005 allows for carports to be built up to the street boundary as long as the carport is constructed in the same style and materials as the house and there is no other alternative location.

In this instance there is a right of way at the rear of the site and clause 3.5.4 of the Residential Design Codes states that if a right of way exists then access should be from the right of way.

Notwithstanding an existing parking area already exists in the front setback area and the two adjoining neighbours also have parking structures within the front setback area.

Therefore it is recommended that the carport should be approved.

**Wall Heights**

The wall height as measured from the centre of the site, for the extension to the dwelling, exceeds the 6.0-metre limit imposed by Clause 5.1.1 of the Scheme by 1.2m. The applicant is proposing to have similar ceiling heights for the upper floor (3.2m) and the ground floor (3.0m).

Council may consider variations for extensions to existing buildings so long as the amenity of adjoining neighbours is not affected.

The adjoining neighbours have not objected directly to the height of the building only the impact on privacy from windows.

It is considered that the wall height of the building, as measured from the centre of the site, could be reduced by 200mm which would still allow ceiling heights on the upper floor of 3.0m well above the minimum of 2.4m which would be in keeping with the lower floor level.

Therefore it is recommended that the height of the wall height be reduced to R.L. 14.9m.

### **Building Height – Policy No. 5**

In addition to the measurement of building heights from the centre of the site Council's Planning Policy No. 5 enables Council to measure the height of a building at any point on the site to avoid any adverse impact on adjoining neighbours. Variations to the height limits may be given in circumstances where the amenity of the area is not unreasonably diminished.

Assessment of this application has shown that the building does not conform to this policy at the rear of the site as the wall height limit is exceeded by 1.7m. The site slopes down from the front to the rear by approximately 3.0m.

The existing ground floor level at the rear of the property is 1.2m below the front of the house, however the applicant hasn't changed the level of the proposed upper floor to match the existing ground floor level. Instead the applicant has maintained the same upper floor level from the front of the house to the rear even though the ground floor level drops 1.2m. This has resulted in a ground floor ceiling height of 3.8m and an upper floor ceiling height of 3.25m.

It is considered that the upper floor level of bed 1, WIR and ensuite could be lowered to match the ground floor level by reducing it by 1.2m.

Therefore it is recommended that the wall height and finished floor level of the rear section of the upper floor be reduced by 1.2m.

### **Overlooking.**

Both neighbours have objected to overlooking from the proposed rear window from Bed 1. The required visual privacy setback to a bedroom window is 4.5m from the nearest boundary, in this instance the window is 11.2m to the nearest neighbours boundary. In addition the reduction in the wall height of the building at the rear by 1.2m will also significantly reduce any perceived overlooking.

Assessment of the overlooking to 19 Jarrad Street is not considered to be of a concern for the following reasons:

- The privacy setback complies with the acceptable standards of the Residential Design Codes;
- The owner of No. 19 Jarrad Street has building approval for a new garage at the rear of the property with a roof ridge height of 4.5m, which will block any overlooking;
- The nearest habitable windows at No. 19 Jarrad Street are over 33m away from the proposed rear window of 16A Rosser Street

Assessment of the overlooking to No. 21 Jarrad Street is not considered to be of a concern for the following reasons:

- The privacy setback complies with the acceptable standards of the Residential Design Codes;
- The nearest habitable window at No. 21 Jarrad Street to the proposed window at 16A Rosser Street is over 27.0m away;
- The pool area is sunken approximately 1.6m below the level of the right of way, which shields the area from overlooking;
- There is considerable vegetation in the rear yard, which inhibits any overlooking.

Therefore it is considered that the overlooking does not warrant any additional conditions being placed upon the proposed development.

### **Filling**

The applicant has shown an area in the backyard being filled by approximately 1.3m to locate a possible future pool. The acceptable standards of the Residential Design Codes allow up to 0.5m of fill behind the setback line to limit the potential for overlooking and limit the height of dividing fences.

The proposed filling would result in a wall of around 3.0m high on the ROW and adjoining properties.

Council has consistently resolved that walls on right of ways should be limited in height to limit the impact on neighbours and improve security and safety.

Therefore it is recommended that no filling above 0.5m should occur in the rear yard and no dividing fences above 2.0m in height.

### **Design**

The neighbour at No. 19 Jarrad Street has objected to the design of the building stating that it is not in keeping with the prevailing design in the area.

The building design is clearly not in keeping with surrounding development as the majority have pitched roofs and are all of a similar era.

Clause 5.1.2 (c) of the Scheme states:

*“The choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally”*

The clause allows Council to impose conditions relating to the above point.

It is considered such issues should be addressed in a policy relating to the preservation of character in such areas where there is a high degree of harmonious character.

**CONCLUSION**

That the application be approved subject to conditions addressing wall heights and filling.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**11.1.8 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council:**

- (1) GRANT its Approval to Commence Development for the Two Storey Additions & Carport in the Front Setback at No 16A (Lot 23) Rosser Street, Cottesloe in accordance with the plans submitted on 17 March 2004, subject to the following conditions:**
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.**
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
  - (g) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.**
  - (h) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
  - (i) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services**
  - (j) Revised plans being submitted for approval by the Manager, Development Services, showing:**

- (i) The wall height of the proposed development being reduced to R.L. 14.9m to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text;
  - (ii) The wall height of the rear section of the building (Bed 1, Ensuite & WIR) being reduced to R.L. 13.9m to comply with Policy 005 Building Heights.
  - (iii) The Finished Floor Level of the proposed pool area be no higher than R.L. 6.8m.
  - (iv) No Dividing Fences or boundary walls higher than 2.0m abutting the Right of Way.
- (2) Advise the submitters of this decision.

Carried 8/2



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**11.1.9 NO 71 JARRAD STREET - SEA VIEW KINDERGARTEN - SHADE SAIL FOR PLAYGROUND**

<b>File No:</b>	<b>No. 71 Jarrad Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Attachments:</b>	<b>Location plan Plans</b>
<b>Report Date:</b>	<b>13 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Department of Land Administration</b>
<b>Applicant:</b>	<b>Sea View Kindergarten</b>
<b>Date of Application:</b>	<b>7 May, 2004</b>
<b>Zoning:</b>	<b>N/A</b>
<b>Use:</b>	<b>N/A</b>
<b>M.R.S. Reservation:</b>	<b>Regional Park and Recreation Reserve</b>

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**SUMMARY**

Council is required to provide advice to the Western Australian Planning Commission in relation to developments on areas Reserved as Parks & Recreation for the Commission to make a determination.

Given the assessment that has been undertaken it is recommended that advised that Council advise the Western Australian Planning Commission that it holds no objections to the proposal.

**STATUTORY ENVIRONMENT**

- Metropolitan Region Scheme
- Local Government Act 1995

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

The application was not required to be advertised.

**BACKGROUND**

The applicant is requesting to construct a shade sail over an existing sand pit.

**STAFF COMMENT**

There are no issues in relation to the construction of a shade sail over a sand pit on this site.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**11.1.9 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council advise the Western Australian Planning Commission that it holds no objections to the proposed shade sail.**

Carried 10/0

**11.1.10 PROPOSED PIAZZA DEVELOPMENT TOWN CENTRE**

<b>File No:</b>	<b>D4.15</b>
<b>Author:</b>	<b>Mr Stephen Sullivan</b>
<b>Attachments:</b>	<b>Location Plan Extract from Cottesloe Village Report</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>12 May, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

A number of meetings have been held to discuss the potential of a piazza development occurring towards the eastern end of Clapham Lane. The meetings have been held with business owners, staff and the Mayor.

It is considered that no further work be undertaken at this stage on this proposal, pending:

- a review of the submissions received on the Strategic Planning process; and
- the development of a comprehensive town centre study that addresses all current and future issues.

Should Council wish to continue with the current concept, then an appropriate urban design company should be engaged to undertake all the necessary work to carry out a formal consultation process, report and recommendations.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Should Council proceed with the current proposal, then there would be a financial cost in terms of carrying out the study then implementing the recommendations of that study.

**BACKGROUND**

During the 1980s, Council carried out a study of the town centre – Cottesloe Village Study. The report developed various recommendations, some which have been implemented, others that were not.

One of the recommendations was for a "Village Green" to be developed. The relevant portion of the report and the location of this area is shown on the information circulated with this report.

Council did not implement any of the recommendations relating to the development of this concept. Further, Council did not develop a Town Planning Scheme Policy or Scheme Amendment to protect the private land abutting Clapham Lane to help facilitate the creation of the mews style development that was envisaged in the report.

### **STAFF COMMENT**

The report identified Napoleon Street as the busy heart of the precinct. To complement Napoleon Street, the report saw a need to develop a civic space that was a "...quiet place to pause and relax." The location for this village green was between Jarrad Street and Napoleon Street and at the eastern end of Clapham Lane.

Since the preparation of this report in the 1980s, development has been occurring contrary to the concepts of the study.

In addition, the dynamics relating to the area that underpinned the study have changed or could be changed and therefore, a new study is warranted.

The town centre has changed in use from the time of the original study. The food retail uses, such as the supermarket, fruit and vege store, butcher in Napoleon Street have moved out and the centre is becoming more of a lifestyle centre rather than a retail centre. The area is developing into a café strip with uses supporting those uses such as bookshops, two health centres and health stores.

At a more regional level rather than a local level, the concept for the western suburbs highway has changed from purely an engineering road solution to an integrated traffic solution (road and rail) to more of an urban design solution. The design solution that is being promoted is the sub-centro style of development incorporating road/rail/urban development. This should result in a comprehensive study from Curtin Avenue through to the Grove Centre as the core area, with the surrounding suburbs as the secondary areas.

Such a development will change the dynamics of the Town Centre.

Even if this major development does not proceed, Westrail have been looking at rebuilding and re-locating the Cottesloe train station further west. This could free up land that is currently being used for railway purposes and the residual area could possibly become an extension of the Town Centre.

If the focus is taken down a further level, the development of the sump and the car parking area (corner Station Street and Railway Street) will raise the level of use of Station Street. Further, this area could be impacted if the concept of extending Forrest Street and the removal of the Jarrad Street crossing, as shown in the draft Strategic Plan, occurs.

It is considered that the development of the piazza in Clapham Lane will not develop into the heart and soul of the Town Centre. Development over the years has undermined the potential of this concept to work in this area.

Napoleon Street functions as this heart and soul at present. However, with the potential of two major sites (controlled by Council) in Station Street being developed, Council has the potential to strengthen and better integrate the Town Centre. This could be achieved by developing stronger pedestrian links between the north and south of the Town Centre.

For instance, the development at No. 7 Station Street is a "U" shaped development, has a car parking court and it has a direct link to Napoleon Street through the Napoleon Close development. The removal of the car parking requirements and conversion of the car parking court into a pedestrian courtyard could be the start of a stronger north-south link.

The existing "U" shaped design already provides for a good inter-relation between the shop fronts and this pedestrian court/walkway and a north facing courtyard.

Whether the development at No. 11 Station Street, which is of a similar design, warrants the same consideration, would need to be investigated further.

In addition, it is understood that the Peppermint Grove Council may be receiving an application to create a new entry point to the Grove Shopping Centre. The entry point would be located at the north-western corner of the building (Stirling Highway and Leake Street intersection). If this eventuates, coupled with changes to the traffic light controlled intersection to improve pedestrian movement, it is envisaged that there may be a greater movement of people between the two centres.

Parking will always be an issue for the Town Centre due to the constraints of the major transport routes that form the eastern and western boundaries of the Town Centre.

Therefore, it is considered important that Council addresses the Town Centre at the macro level before going too far in terms of the micro level. It is also important to the Town Centre that any development on the two Council controlled sites contribute to the vitality and function of the Town Centre.

## **CONCLUSION**

In relation to the Clapham Lane proposal, it is considered that no further action should be taken in relation to this area pending Council's deliberations in relation to the Town Centre at the macro level.

Issues raised by the business owners in the area concerning the appearance and safety of Clapham Lane should be referred to Works and Corporate Service for consideration.

Further, following the review of submissions on the Strategic Plan, Council should:

- (a) consider the preparation of a Town Centre Plan; and
- (b) ensure that any decisions made in relation to the Council owned sites in Station Street, contribute to the integration, vitality and function of the Town Centre.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee would like 3 quotes from appropriate urban design company for a study of the Town Centre and Piazza development. The study should consider current and future issues. Council would then determine whether the study should continue based on the cost of the studies.

**OFFICER RECOMMENDATION**

That Council:

- (1) Advise the business owners in the Town Centre that:
  - (a) It is not prepared to further develop the concept of a piazza until it has reviewed the findings of the Strategic Planning consultation process;
  - (b) Council believes that an overall approach to the development of the town Centre is required; and
  - (c) The matter of the appearance of the Clapham Lane and the safety of people in Clapham Lane will be referred to the July meeting of the Works and Corporate Services Committee;
- (2) Refer the matter of the appearance of the Clapham Lane and the safety of people in Clapham Lane to the June meeting of the Works and Corporate Services for consideration.

**COMMITTEE RECOMMENDATION**

That:

- (1) Council request the Administration to obtain 3 quotes from appropriate urban design companies to undertake all the necessary work to carry out a study, formal consultation process, preparation of a report and recommendations on the following:
  - (a) The Town Centre, looking at current and future issues; and
  - (b) The development of a Piazza at the eastern end of Clapham Lane.
- (2) A report on the submissions and costs associated with the proposed studies be referred to Council for consideration.

**AMENDMENT**

Moved Cr Walsh, seconded Cr Cunningham

That the Chief Executive Officer write to relevant owners and request written confirmation that they would be prepared to accept a caveat over a portion of their land.

Lost 4/6

Cr Sheppard left the meeting from 8.23pm – 8.26pm.

**AMENDMENT**

Moved Cr Morgan, seconded Cr Utting

That (1)(b) be deleted from the committee recommendation.

Lost 4/6

**11.1.10 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That:**

- (1) Council request the Administration to obtain 3 quotes from appropriate urban design companies to undertake all the necessary work to carry out a study, formal consultation process, preparation of a report and recommendations on the following:**
  - (a) The Town Centre, looking at current and future issues; and**
  - (b) The development of a Piazza at the eastern end of Clapham Lane.**
- (2) A report on the submissions and costs associated with the proposed studies be referred to Council for consideration.**

Carried 7/3

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**11.1.11 LISTING OF NORFOLK ISLAND PINES ON THE STATE REGISTER OF HERITAGE PLACES**

**File No:** E17.10.24  
**Author:** Mr Daniel Heymans  
**Author Disclosure of Interest:** Nil  
**Attachments:** Correspondence from HCWA 31 March 2004  
With Heritage Assessment  
**Report Date:** 12 May, 2004  
**Senior Officer:** Mr Stephen Sullivan

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**SUMMARY**

The Heritage council of Western Australia has advised Council that they are considering whether to enter the Curtin Avenue Norfolk Island Pines in the State Register of Heritage Places and requested Council's comments on this proposal.

The Chief Executive Officer and the Mayor have a meeting with the Chairman of the Heritage Council on the 19 May 2004 when further advice will be given to Council.

**STATUTORY ENVIRONMENT**

1. Heritage of Western Australia Act 1990

**POLICY IMPLICATIONS**

- Street Tree Policy

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Heritage Council of Western Australia has advised Council that they are considering entering the Norfolk Island Pines in certain streets within the District in the State Register of Heritage Places.

The Norfolk Island Pines are located in the following streets:

- Curtin Avenue, between Grant and Jarrad Street;
- Marmion Street;
- John Street;
- Loma Street
- Forrest Street;
- Railway Street from Jarrad Street to Grant Street;
- Broome Street;
- Marine Parade; and
- Beach Foreshore



**STAFF COMMENT**

Further comments will be made to Council following the meeting between the Heritage Council, the Mayor and the Chief Executive Officer.

Councils Works Supervisor has made the following comments:

- Council already has a comprehensive tree policy in place that accords significant emphasis to the Norfolk Island Pine trees;
- The existing trees are nearing the ends of their lives and removals will begin to occur more frequently over the next decade;
- The Council has a replacement tree policy;
- Heritage Registering will give the trees a level of protection that may generate an onerous level of management depending upon the approval processes required by the Heritage Council.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Chief Executive Officer advised that the Mayor and himself are meeting with Mr Stephen Carrick from the Heritage Council and the Chief Executive Officer will report back to Council.

**OFFICER & COMMITTEE RECOMMENDATION**

For further consideration following a briefing by the Chief Executive Officer.

**CHIEF EXECUTIVE OFFICER COMMENT**

The Chief Executive Officer and Mayor met with Stephen Carrick and Patric De Villiers from the Heritage Council on Wednesday, 19 May, 2004. During discussions it was agreed that the Town of Cottesloe should not ordinarily have to refer routine maintenance tasks and minor improvements to the Heritage Council for approval. Further, that the same should apply to the proposed listing of the Cottesloe Beachfront Precinct (item 11.1.7 of the March 2004 meeting of Council refers).

**11.1.11 CHIEF EXECUTIVE OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council support the heritage listing of the Norfolk Island Pines and the Cottesloe Beachfront Precinct subject to agreed guidelines being documented with respect to routine maintenance tasks and minor improvements not having to be referred to the Heritage Council for approval.**

Carried 10/0

**11.1.12 HERITAGE DECISION MAKING BODY**

**File No:** D3.3  
**Author:** Mr Daniel Heymans  
**Author Disclosure of Interest:** Nil  
**Report Date:** 29 April, 2004  
**Senior Officer:** Mr Stephen Sullivan

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**SUMMARY**

This report is seeking direction from Council in order to establish a heritage decision-making body, four options are provided to Council. The recommendation is to establish a Heritage Advisory Panel.

**STATUTORY ENVIRONMENT**

- Local Government Act
- Heritage Act
- Town Planning & Development Act

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

The cost associated with a decision making body will depend upon which option is chosen by Council.

**BACKGROUND**

At Council's meeting on the 27 October 2003 a comprehensive report dealing with the numerous strategic heritage matters was deferred by Council until the November round of meetings to allow for an education session held in November. At the November round of meetings the item was again delayed so that a further information session could be organised.

However this education was cancelled as it was felt that the issues outstanding could be dealt with by Council at a meeting.

**STAFF COMMENT**

The advancement of the following strategic heritage issues has yet to be finalised:

- Process for Removal of Properties from the various heritage lists;
- Schedule No. 1
- Policy No. 12
- Category 1 & 2 buildings;
- Character Areas;
- Design Guidelines;
- Heritage Advisory Panel;

- Education, Promotion & Information Strategies;
- Review of Municipal Inventory.

The background to these items has been discussed in detail in the report that went to Council's meeting in October 2003.

Council requires a simple and clear process for advancing these strategic heritage matters. It is essential for Council to receive relevant expert advice on these matters.

A survey of relevant local authorities in the Metropolitan Area has revealed that the majority of Council's have in place one of the following structures to deal with heritage matters:

- Heritage staff member in Council; or
- Heritage consultants; or
- Advisory panel.

The following 4 options are provided for Council's consideration.

1. Heritage Staff Member

If council was to engage a heritage staff member then this member would require relevant qualifications to make determinations on the architectural, historical and social significance of buildings. The benefits of this option would be consistency in advice, and relevant experience in dealing with these issues in other local authorities. However a negative may be the perceived narrow point of view presented from one person.

2. Heritage Consultants

The administration believes that it would be more appropriate to have a number of heritage consultants that could be called upon an as need basis to provide relevant comments. The benefits of this would be a variety of advice from a number of suitably qualified professionals, which would eliminate any perceived narrow points of view. However advice may vary significantly.

3. Heritage Advisory Panel

A Heritage Advisory Panel could be made up of heritage professionals, local residents, councillors and other interested parties to provide Council with relevant advice on an as need basis. The benefit of this system is that the advice received is perceived to be a balanced view from a wide spectrum of people. However this option would result in longer time frames.

4. Heritage Committee

This committee would be made up of Councillors only and they would provide Council with recommendations on Heritage Matters. This system would provide a fast track way of dealing with heritage issues, however the committee would not have the ability to provide professional heritage advice as no suitably qualified professionals would be on the committee.

## Conclusion

The administration believes Option No. 3 would provide the most balanced point of view and would also have more standing in the community, as a wide cross section of the community would be on the committee.

It is believed that the Heritage Advisory Panel would be similar to the Design Advisory Panel, which is also utilised on an as need basis.

Once a system is in operation then the list of outstanding strategic heritage issues raised above could be addressed by the relevant body or person set up to deal with these.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Committee would like to defer the matter pending another briefing session by Patrick De Villiers on the categories of the Municipal Inventory and the Burra Charter. Also copies of the Municipal Inventory and the Burra Charter to be forwarded to all Councillors.

## **OFFICER RECOMMENDATION**

That Council

- (1) Request the administration to develop terms of reference for a new Heritage Advisory Panel.
- (2) Notify property owners that have made a submission on the review of the Municipal Inventory that:
  - (a) Council is establishing a Heritage Advisory Panel;
  - (b) All submissions will be reviewed by the Heritage Advisory Panel before deliberation by Council; and
  - (c) They will be informed of the Heritage Advisory Panels findings prior to deliberation by Council.

### **11.1.12 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council DEFER the matter on the review of the Municipal Inventory pending the following:**

- (1) The Manager Development Services to arrange a briefing for elected members using a consultant on the Municipal inventories and the Burra Charter;**
- (2) That all Councillors be provided with a copy of:**
  - (a) the category listings associated with the Municipal Inventory and all properties on the Municipal Inventory; and**
  - (b) the Burra Charter.**

Carried 8/2

**11.1.13 RESOLUTIONS FROM THE SPECIAL ELECTORS MEETING**

**File No:** X4.8  
**Author:** Mr Stephen Sullivan  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A special electors meeting was held on Monday the 27<sup>th</sup> April 2004. The meeting was called in relation to development within the district and more specifically, Marine Parade and the Cottesloe Beach Hotel site.

It is recommended that Council note or endorse resolutions 1, 5 and 6 of the special electors meeting and that resolutions 2, 3 and 4 be referred to the Strategic Planning Committee for further consideration and comment.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Certain resolutions of the meeting require Council to undertake specific consultative processes when town planning scheme amendments are undertaken. Whilst they have a cost, the processes can provide Councillors with feedback on some major issues prior to making a determination on whether or not to amend a town planning scheme.

**BACKGROUND**

The following resolutions were passed at the special electors meeting.

- “1. Council adhere to its mission statement contained in its Principal Activities Plan dated July 2003 “To preserve and improve the unique village and coastal character of Cottesloe by using sustainable strategies in consultation with the community”.
  2. The community considers that limiting building heights to 12 metres is important to maintain the ambience, scale and amenity of Cottesloe’s village character.
  3.
    - a) There be no building heights above 12 metres permitted in TPS 3.
    - b) There be no discretion to approve any building height above 12 metres in TPS 3.
-

- c) *Council recognise the community's view on height in considering development applications under TPS 2 or amendments to TPS 2.*
- 4. *That the Council, prior to commencing formal processing under the Act of a Town Plan Amendment under TPS 2 or TPS 3:*
  - a) *Make available to all electors draft plans for changes or amendments to the Town Planning Scheme, clearly indicating any changes to zoning, uses, heights and setback controls.*
  - b) *Provide background information to the proposed changes addressing:*
    - (i) *the reasons for and the objectives of the proposed changes;*
    - (ii) *alternatives that can be considered;*
    - (iii) *the short and long term implications to the community of these changes.*
  - c) *Organise a series of public workshops in the form of precinct planning groups for each proposed precinct affected by the change, unless Council decides by a two thirds majority that the changes are not material to the overall Town Plan and do not warrant a public workshop being held.*
  - d) *By not later than 30 June, 2004 establish guidelines and timeframes for public consultation on changes to be made in the new Town Plan No. 3.*
- 5. *That Council do not employ any Planning Consultants who have a conflict of interest in relation to parties with development interests in Cottesloe.*
- 6. *That Council properly fund and/or defend any legal proceedings which may be necessary to protect and enforce decisions made by Council in relation to planning applications or Town Planning Schemes.*

Minutes of the electors meeting show that in addition to Council members and staff, there were 198 electors present at the meeting.

Nearly all resolutions were passed without dissent, based on a show of hands.

## **STAFF COMMENT**

The following comments are made in relation to the resolutions:

### Resolution 1

This resolution relates to the mission statement which is contained in Council's Strategic Plan. Staff are cognizant of the mission statement and comments are made in agenda reports to Councillors whenever there is a strategic implication.

It is recommended that Council confirm its mission statement.

### Resolution 2

It is not known whether all those present at the meeting were aware that:

- (a) existing height controls in the Residential Zone, Foreshore Centre Zone and the Residential/Office Zone, have statutory height limits that are lower than 12.0m;

- (b) within other Zones, such as the Business Zone, Town Centre Zone and other zones there are no statutory height control limits, other than those that fit the objectives for those Zones or the general height principles of Clause 5.1.1(a).

It was explained by the Manager, Development Services at the Electors Meeting that the:

- Special Development Zone has a 12m height limit, that could be varied if Council prepared a Town Planning Scheme Policy based on the process set out in the Town Planning Scheme text; and
- Hotel Zone was restricted to a height limit of 12m.

The recommendation appears to contemplate the establishment of a norm of 12m that is at odds with the current variety contemplated by TPS 2.

Nevertheless the spirit of this recommendation is generally understood and should be referred to the Strategic Planning Committee for further consideration and comment within the context of the current and proposed town planning schemes. The Strategic Planning Committee has responsibility for the review of Council's town planning scheme.

#### Resolution 3 and 4

Recommendations 3 and 4 should also be referred to the Strategic Planning Committee for further consideration as these relate to processes under the existing and the proposed town planning schemes.

In relation to recommendation 4d, the timeframe may be unachievable. The target date of 30<sup>th</sup> June is largely dependent on the extent of work required to review, report and deliberate on the results of the community consultation process in relation to the Beachfront Development Objectives and the Strategic Planning Workshops.

Nevertheless the intent of setting a target date should be acknowledged.

#### Resolution 5

It is the practice of staff to determine whether a potential contractor has a conflict of interest based on:

- (a) the nature and extent of that interest;
- (b) whether the interest is relevant;
- (c) whether the interest is historic or current.
- (d) the potential impact of the conflict of interest on the work to be undertaken; and
- (e) the availability of others to undertake the required work.

It is recommended that Council acknowledge the intent of the recommendation noting that:

- (a) That there are degrees of conflict of interest,
- (b) That declarations relating to conflicts of interest depend largely on the honesty and integrity of the contactor,
- (c) That Section 5.70 of the Local Government Act provides the following:

***“5.70. Employees to disclose interests relating to advice or reports***

*(1) In this section —*

*“employee” includes a person who, under a contract for services with the local government, provides advice or a report on a matter.*

*(2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.*

*(3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.*

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

### Resolution 6

Council is required to meet certain standards in responding to an appeal, failing which, costs can be awarded against Council. It is therefore difficult to contemplate a set of circumstances where Council would deliberately set out to incur added rather than less expense by being less than diligent in defending a town planning decision.

The overall cost burden on Council is highly dependent upon the number of appeals it is required to defend during any financial year - which is extremely difficult to budget for.

A contingency is set aside in Council's annual budget to fund the cost of appeals however, the total cost of these appeals is highly variable and depends largely upon the type of and complexity of the appeal.

Appeals under the new system have been defended by the Council, with costs varying from a couple of hundred dollars to about \$30,000.

Nevertheless it is recommended that Council endorse resolution 6.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Mayor Rowell advised that the Strategic Planning Committee will be held on 31 May 2004 and all Councillors will be invited to attend.

The Committee amended the resolution to ensure that all electors that attended the Electors meeting were advised of Council's resolution.



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**OFFICER RECOMMENDATION**

- (1) That Council confirm its mission statement namely “To preserve and improve the unique village and coastal character of Cottesloe by using sustainable strategies in consultation with the community”.
- (2) That resolutions 2, 3 and 4 be referred to the Strategic Planning Committee for further consideration and comment.
- (3) That Council acknowledge the intent of resolution 5 noting that:
  - (i) That there are degrees of conflict of interest,
  - (ii) That declarations relating to conflicts of interest depend largely on the honesty and integrity of the contactor,
  - (iii) That Section 5.70 of the Local Government Act provides the following:

*5.70. Employees to disclose interests relating to advice or reports*

    - (1) *In this section —*

*“employee” includes a person who, under a contract for services with the local government, provides advice or a report on a matter.*
    - (2) *An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.*
    - (3) *An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.*

*Penalty: \$10 000 or imprisonment for 2 years.*
- (4) That Council properly fund and/or defend any legal proceedings which may be necessary to protect and enforce decisions made by Council in relation to planning applications or Town Planning Schemes.

**11.1.13 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

- (1) That Council confirm its mission statement namely “To preserve and improve the unique village and coastal character of Cottesloe by using sustainable strategies in consultation with the community”.
  - (2) That resolutions 2, 3 and 4 be referred to the Strategic Planning Committee meeting on the 31 May 2004 for further consideration and comment.
  - (3) That Council acknowledge the intent of resolution 5 noting that:
    - (i) That there are degrees of conflict of interest,
    - (ii) That declarations relating to conflicts of interest depend largely on the honesty and integrity of the contactor,
    - (iii) That Section 5.70 of the Local Government Act provides the following:

*5.70. Employees to disclose interests relating to advice or reports*
-

(1) *In this section —*

*“employee” includes a person who, under a contract for services with the local government, provides advice or a report on a matter.*

(2) *An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.*

(3) *An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.*

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

- (4) That Council properly fund and/or defend any legal proceedings which may be necessary to protect and enforce decisions made by Council in relation to planning applications or Town Planning Schemes.
- (5) That Council advise all electors that attended the Special Electors Meeting on 27 April 2004 of Council’s resolution.

Carried 8/2

**11.1.14 REVIEW OF DELEGATION TO MANAGER DEVELOPMENT SERVICES**

**File No:** X4.6  
**Author:** Mr Daniel Heymans  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 May, 2004  
**Senior Officer:** Mr Stephen Sullivan

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**SUMMARY**

To review the delegation of authority from Council to the Manager of Development Services and the Chief Executive Officer under Section 7.10 of the No. 2 Town Planning Scheme Text. The delegation is reviewed every May. A few areas of the delegation need to be reviewed and this is currently occurring, however will not be completed until next month.

It is recommended that the delegation be extended for a further 1 month until the review is completed.

**STATUTORY ENVIRONMENT**

- Town Planning Scheme No. 2
- Metropolitan Region Scheme

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The delegation relating to the Manager, Development Services and the Chief Executive Officer was reviewed by Council at its May, 2003 meeting and is required annually.

**STAFF COMMENT**

A review of delegation is occurring in relation to the areas outlined below and is expected to be completed by the June round of meetings.

- Enabling delegation powers for areas Reserved under the Metropolitan Region Scheme for minor developments, e.g. shade sails, fences and outbuildings etc.
- Eliminating the need for call in of Delegated Planning Approvals for developments such as shade sails, garden sheds, swimming pools, front fences, patios, amended plans, and other minor alterations to buildings.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**11.1.14 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

**That Council extend the delegation granted to the Manager Development Services and the Chief Executive Officer at its May 2003 meeting to the 30 June 2004.**

Carried 10/0

## 11.2 HEALTH

### 11.2.1 BARCHETTA CAFE - OUTDOOR EATING AREA APPLICATION

**File No:** 149 Marine Parade  
**Author:** Ms Ruth Levett  
**Author Disclosure of Interest:** Nil  
**Attachments:** Location plan  
Site plan  
**Report Date:** 12 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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#### SUMMARY

The purpose of the report is to reconsider an application for an outdoor eating area immediately adjacent to Barchetta Cafe. The recommendation is to approve the application.

#### STATUTORY ENVIRONMENT

In accordance with the Metropolitan Region Town Planning Scheme Act 1959 the Town of Cottesloe is required to refer this application to the Western Australian Planning Commission for determination.

#### POLICY IMPLICATIONS

Commercial use on beach.

#### STRATEGIC IMPLICATIONS

Nil.

#### FINANCIAL IMPLICATIONS

Annual fee of \$1,083.00

#### BACKGROUND

The application is to place up to 5 tables and 18 chairs on the pavement outside Barchetta. It is proposed that most of the tables will be located on the eastern side of the building facing Marine Parade with one wrapping around the north east corner. A plan of the proposal is attached.

This matter was considered by Council in February, 2003 and was resolved as follows:

*"That the owner of Barchetta be advised that:*

- (1) the areas proposed to be used for outdoor seating are:
  - (a) located outside of the lease area; and*
  - (b) not located on a thoroughfare or public place, and therefore, not subject to Activities On Thoroughfares And Trading In Thoroughfares And Public Places Local Law;**
- (2) the area to the east of the café was extensively re-modelled to improve pedestrian, cyclist and vehicular safety, and the proposal for outdoor seating was not part of the design considerations for the re-modelling of this area;*

- (3) *Council's beach policy sought to keep commercial development west of Marine Parade within the confines of the footprint of the existing building;*
- (4) *Council is not prepared to support the location of tables and chairs outside of the lease area."*

At the time of the application, the area outside Barchetta Café was being considered by Council and the Department for Planning and Infrastructure (DPI) for the relocation of the cycle path located at the bottom level. It was of the view that the addition of tables and chairs on the footpath on the eastern side of Barchetta would cause a conflict between cyclists and pedestrians and could be potentially unsafe.

### **STAFF COMMENT**

There has previously been considerable confusion over Council's ability to approve this application and under which legislative power. Barchetta lease the adjoining land from Council, however, the application is to use land outside of the leased area and therefore, it can not be considered as part of the lease agreement. Under the Local Government Act 1995, Council issues licences for Outdoor Eating Areas on footpaths. As the land is a 'Reserve' under the Metropolitan Region Scheme (MRS), this legislation cannot be applied. Council does not have powers under the Metropolitan Region Town Planning Scheme Act 1959 and must refer any application for the use of land classed as a Reserve in the MRS to WAPC for determination.

The matter of the cycle path has been reconsidered by the Manager of Engineering Services and an alternative option that directs cyclists away from this area has now been adopted.

A visit to the site has revealed that the placement of tables and chairs in the location suggested will allow safe pedestrians movement in any direction. There is sufficient space available for people to move freely without obstruction, however, should Council support the application, it is recommended that a barrier be required around the designated area. The barrier is required to be safely constructed and aesthetically attractive. For example planter pots to a maximum height of one metre may be considered. Any proposed barrier will be to the satisfaction of Council's administration.

A recommendation for approval of this application does not constitute an approval. Council's decision must be forwarded to the WAPC for consideration. The WAPC will impose the conditions recommended by Council if, in their view, they are reasonable conditions.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Council is to advise the Western Australian Planning Commission of its decision as they are the decision making body on this matter.

**OFFICER RECOMMENDATION**

That Council:

- (1) Supports the application by Barchetta Café to place tables and chairs on the pavement outside the café in the manner shown on the attached plan, subject to the following conditions;
    - (a) No table, chair or structure other than of a type shown in the photographs submitted with the application shall be provided or permitted to remain in the eating area unless approved by the administration of the Town of Cottesloe;
    - (b) Up to 5 tables and 18 chairs are permitted to be placed in the outdoor area during the hours of operation of the cafe;
    - (c) All tables, chairs and structures provided in the eating area shall be:
      - (i) readily portable and free standing;
      - (ii) constructed of non-absorbent materials and free of rust;
      - (iii) kept in a clean and sanitary condition and in good and safe repair;
      - (iv) construction or fitted so as to prevent the likelihood of damage to the surface of the eating area;
    - (d) All tables, chairs and structures shall be removed from the eating area forthwith upon the direction of any person authorised by the Town of Cottesloe;
    - (e) The eating area shall be kept free of litter, refuse, rubbish and disused material;
    - (f) No table, chair or structure shall be fixed to the eating area or to any public facility in the eating area;
    - (g) The eating area shall be well lit when the same is set up or conducted during the hours of darkness;
    - (h) The supply and/or consumption of alcohol in the licensed eating area shall be in accordance and the requirements of the Liquor Licensing Act 1988, and shall be ancillary to a meal supplied by the registered proprietor of the cafe.
    - (i) An unobstructed pedestrian access way of not less than 1.5 meters shall be maintained at all times;
    - (j) This approval is subject to review by the Town of Cottesloe annually in December;
    - (k) The licensee is responsible to ensure that all conditions and additional conditions of this approval are complied with at all times failing which Council may revoke the licence prior to the expiry date of this licence.
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- (2) The applicant shall indemnify the council from any liability associated with the use of the area and provide a copy of a certificate of currency for Public Liability cover for not less than \$10,000,000.00.
- (3) Request the applicant to submit details of a suitable barrier for approval of the administration of the Town of Cottesloe.
- (4) The applicant shall pay an annual fee of \$1,083.00 per annum as prescribed by the Town of Cottesloe for the use of the area designated.

#### **11.2.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Jeanes

##### **That Council:**

- (1) **Advise the Western Australian Planning Commission that it supports the application by Barchetta Café to place tables and chairs on the pavement outside the café in the manner shown on the attached plan, subject to the following conditions;**
  - (a) **No table, chair or structure other than of a type shown in the photographs submitted with the application shall be provided or permitted to remain in the eating area unless approved by the administration of the Town of Cottesloe;**
  - (b) **Up to 5 tables and 18 chairs are permitted to be placed in the outdoor area during the hours of operation of the cafe;**
  - (c) **All tables, chairs and structures provided in the eating area shall be:**
    - (i) **readily portable and free standing;**
    - (ii) **constructed of non-absorbent materials and free of rust;**
    - (iii) **kept in a clean and sanitary condition and in good and safe repair;**
    - (iv) **construction or fitted so as to prevent the likelihood of damage to the surface of the eating area;**
  - (d) **All tables, chairs and structures shall be removed from the eating area forthwith upon the direction of any person authorised by the Town of Cottesloe;**
  - (e) **The eating area shall be kept free of litter, refuse, rubbish and disused material;**
  - (f) **No table, chair or structure shall be fixed to the eating area or to any public facility in the eating area;**
  - (g) **The eating area shall be well lit when the same is set up or conducted during the hours of darkness;**



- (h) The supply and/or consumption of alcohol in the licensed eating area shall be in accordance and the requirements of the Liquor Licensing Act 1988, and shall be ancillary to a meal supplied by the registered proprietor of the cafe.
  - (i) An unobstructed pedestrian access way of not less than 1.5 meters shall be maintained at all times;
  - (j) This approval is subject to review by the Town of Cottesloe annually in December;
  - (k) The licensee is responsible to ensure that all conditions and additional conditions of this approval are complied with at all times failing which Council may revoke the licence prior to the expiry date of this licence.
- (2) The applicant shall indemnify the council from any liability associated with the use of the area and provide a copy of a certificate of currency for Public Liability cover for not less than \$10,000,000.00.
  - (3) Request the applicant to submit details of a suitable barrier for approval of the administration of the Town of Cottesloe.
  - (4) The applicant shall pay an annual fee of \$1,083.00 per annum as prescribed by the Town of Cottesloe for the use of the area designated.

Carried 6/4

For:	Against:
Mayor Rowell	Cr Miller
Cr Cunningham	Cr Morgan
Cr Furlong	Cr Walsh
Cr Jeanes	Cr Utting
Cr Robertson	
Cr Sheppard	

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 18 MAY 2004****12.1 ADMINISTRATION****12.1.1 BEACH POLICY**

**File No:** C2 / X4.11  
**Author:** Mr A Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 April, 2004  
**Senior Officer:** Mr S Tindale

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**SUMMARY**

The purpose of this report is to bring before Council a draft *Beach Policy*, together with public submissions received, for final review and adoption.

**STATUTORY ENVIRONMENT**

All beaches are on a number of reserves under the care, control and management of Council. Council's *Beaches and Beach Reserves Local Law* was put in place to facilitate Council's management of the beach reserves and has application here.

Division 2 of the local law deals with and provides controls in relation to matters such as environmental protection, quiet amenity, safety, decency, animals, fishing, netting and spear fishing, watercraft, organised sport and other activities, and functions.

Clause 11, provides that "*In order to manage the Defined Area, written permission from Council is required prior to holding any Function.*" The local law defines Function as "... *without limiting the generality of such term, includes a carnival, show, fete, concert, exhibition, gymkhana, sporting event, a training or practice session in connection with a sport by a group or team of five or more persons, or a picnic for a gathering of more than 10 persons.*"

The Defined Area is the area comprising the beach reserves to the extent the reserves are in the district, the sea adjoining the district for a distance of 200 metres seaward from the low water mark, and all land or any building vested or in the care, control, or management of the town where such land or building is located within the reserves. Other clauses also require Council approval if certain things are to be done and Council may set aside defined areas where these things may be done.

Division 3 of the local law deals with permissions and offences and sets out that every application for permission shall be in writing and specifies what the application should include. It provides Council with the power to, at its discretion, grant or refuse permission, or grant permission subject to conditions as it thinks fit. Further, it sets a requirement for the person who is granted permission to ensure that any conditions are observed at all times and where conditions are not met, it provides that an offence has been committed and for Council to withdraw permission.

**POLICY IMPLICATIONS**

Council has three current policies relating to beaches.

The *Commercial Use of Beach Policy* was adopted in December 1994 and provides that applications to conduct commercial activities on the beach shall be considered by the Manager Corporate Services and if not rejected, referred to the Corporate Services Committee.

The *Beach Policy* was adopted in October 1996 and is broad in application. It deals with matters such as finance, building control, conservation and environmental issues, paths, traffic, parking, watercraft, and beach usage.

The *Applications for Events to be Held on the Beachfront Policy* was adopted in June 2000 and set a framework for dealing with significant events on the beach.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

At its February Meeting, Council received the draft *Beach Policy* and resolved to advertise for public comment. An advertisement was placed in the *Post* newspaper (13 March 2004) and on Council's notice boards calling for comments by 12 April 2004.

Because of the Easter break, submissions received immediately after the closing date have been included. Six submissions were received by close of business on 14 April 2004 (none were received after that date). Copies are attached.

**CONSULTATION**

An advertisement was placed in the *Post* newspaper on Saturday March 13, 2004 and copies of the advertisement were placed on Council notice boards inviting public comment on the draft policy. A letter inviting input was posted, together with a copy of the draft policy and copies of the three existing policies that relate to beaches, to:

- Cottesloe Coast Care,
- Council's Coast Care Officer,
- Cottesloe Fish Habitat Protection Area Working Group,
- Cottesloe Surf Life Saving Club,
- North Cottesloe Surf Life Saving Club,
- WA Winter Swimming Association,
- Cottesloe Long Board Club,
- Cottesloe Board Riders,
- Cottesloe Swanborne Outrigger Club,
- Western Australian Volleyball Association,

- Mr Peter Lalor (as correspondence from Mr Lalor in part prompted the policy review), and
- Surf Life Saving Western Australia.

### STAFF COMMENT

Attached is a copy of the draft policy as presented to Council in March. Much of the draft policy comes directly from the current *Beach Policy* that was adopted by Council in October 1996 following fairly extensive public consultation.

Responses were received from Mr Fulvio Prainito (Cottesloe resident), Mr Peter Lalor (Cottesloe resident), Mr Ron Batholomaeus (Claremont resident), Western Australian Volleyball Association, Cottesloe Surf Life Saving Club, Cottesloe Longboard Club.

Taking each response separately and in order of date of receipt;

#### Mr Prainito

Mr Prainito raised the following three points:

1. The policy does not deal with the problem of buses keeping their engines running whilst parking in Marine Parade. In particular tour coaches keep their engines running for 10 to 30 minutes whilst waiting for passengers to return. The noise and exhaust from the running engines cause problems for residents and alfresco patrons.

Staff comment – Mr Prainito has raised these concerns previously. Council's Environmental Health Officer has looked at the environmental aspect and rangers have looked at parking controls. In the absence of local environmental controls, Council rangers have been dealing with the tour bus companies seeking agreement from bus drivers to turn engines off when parked. The situation is being monitored. A recommendation may be made to Council that the bus parking area be relocated or removed. It is suggested that this matter is outside the beach policy area and is best dealt with under current parking controls.

2. Noise from buildings west of Marine Parade, specifically the Indiana Tea House.

Staff comment – Noise is controlled under noise legislation and complaints are dealt with by Council's Environmental Health Officer. There is no need to include an area of noise control in the policy because noise is currently controlled under noise legislation.

3. New Years Eve celebrations at the beach front tend to be of an anti social nature and the suggested alternative is a properly organised beach party with bands and the closure of Marine Parade to traffic. State funding should be sought and an organising committee formed.

Staff comment – This suggestion should not be dealt with in the context of the policy review at this time because it relates to a specific significant event rather than significant events in general. Nevertheless Council may wish to consider the suggestion at some later date.

Mr Lalor

Mr Lalor raised the following points:

1. The definition of “Coastal Zone” could be made clearer.

Staff comment - The definition of “Coastal Zone” was taken verbatim from the current *Beach Policy*. The term is generally used to describe a particular environment. It is recommended that the term be replaced in the draft policy with “beach reserve” where it appears and that the term “Coastal Zone” and its definition be deleted from the “Definitions.”

- 2-3 The matter of safety should be included under the heading “Issues” and “Primary Objectives”.

Staff comment - The suggestion that safety matters should be included under the heading “Issues” and “Primary Objectives” is noted. Council’s *Beaches and Beach Reserves Local Law* has a section on safety and provides a higher level of control than can be found in existing policies. The local law provides controls over a range of activities. As a matter of good practice, local law provisions should not be reiterated in Council policies.

Matters relating to safety that are not covered by the local law include signage and lifeguard services.

It is therefore recommended that the draft policy be amended to include these aspects by adding safety to the “Primary Objectives” and making the following changes.

- By adding after the fourth paragraph under the “Issues” heading – “Safety is always a factor that should be considered in natural environments such as the beach. Safe swimming areas are set up and patrolled by the Cottesloe and North Cottesloe Surf Life Saving Clubs and Council’s life saving contractor during the main beach-going months. Council has instituted annual beach safety audits to ensure that signage and other safety measures are noted for inclusion in works plans.”
  - By adding after the word “Cottesloe” in the second line of (c) under “Primary Objectives” the words “and safety”.
4. The definition of areas of major recreational use under 5 (a) “Secondary Objectives” must include areas other than Cottesloe and North Cottesloe beaches.

Staff comment - This section refers to one of the "Secondary Objectives" which is to maintain the areas of major recreational use. Council's current maintenance practices centre on Cottesloe Beach and to a lesser extent, North Cottesloe Beach. This is consistent with the current and proposed policy (6(e) in both cases) which makes it clear that Council will focus on the two major beaches. Both beaches have public ablution and other facilities.

While other beaches are well used (and noting that another respondent seeks facilities on one of these) the Cottesloe Surf Life Saving Club has indicated that it is willing to work with Council in gathering data on the level of usage and future planning for these beaches. In the absence of the data and funds for resource provision, it is felt that the focus should remain on the two main beaches.

5. There should be some "Secondary Objectives" relating to the control of usage of the beach.

Staff comment - this is touched on under "Primary Objectives" (5(c)) and in some detail in the local law.

It is readily apparent that some activities current conducted on beaches are in breach of local laws. Whilst rangers patrol all of the Cottesloe area, beach patrol work tends to be concentrated on Cottesloe Beach due to the relatively large numbers of people visiting that beach.

It is assumed that most activities that breach local laws occur at weekends and on public holidays. While Sunday patrols were instigated to address car parking problems they could be extended to include other beach reserve areas if this is Council's wish.

Similarly, the draft policy could include under "Primary Objectives" (c) after "region" in the last line, "...and Council rangers will conduct regular patrols of all beach reserves to enforce provisions of Council's local laws". Additional patrols will have an impact on costs unless services are reduced in other areas.

6. That in 6(a) it is unclear if the term "Use" refers to developments or usage. Also that the requirement for buildings west of Marine Parade to fit within the footprints of existing buildings is omitted. There is no reference to safety and the need for activities to not constitute a nuisance to residents/ratepayers/the public.

Staff comment - This part was taken verbatim from the current policy and is intended to cover a wide range of things. It is noted that the "Policy" section is supported by other sections of the document and the matter of buildings west of Marine Parade is dealt with under 7 Strategies, (b) Building (i). Nuisance is covered under "Quiet Amenity" in the local law except where an activity has been booked with Council. The control of these activities is covered under "Significant Events" and "Other Beach Events" in the draft policy.

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7. Concern that the wording of the draft policy under 7 Strategies, (b) Building Control in the draft policy varies from the current policy specifically in relation to replacement buildings west of Marine Parade being built “without significant expansion of the footprint, height or mass of the structure”.

Staff comment - The wording of this section is the same as the existing policy except that “council” in the first line has been replaced with “Town of Cottesloe”.

8. In relation to “Conservation” it is suggested that if material work or development takes place for conservation purposes the provisions relating to the western side of Marine Parade should apply and that residents should be contacted beforehand.

Staff comment - The “Building Control” clause currently relates to enclosed and roofed structures. It could be extended to include other structures if Council so wishes.

Consultation mechanisms relating to any proposed development are better handled under a specific policy designed for that purpose (or included in Council’s *Communication Policy*).

9. In relation to 7(i)(i) Traffic, policy on reducing the width of Marine Parade and widening footpaths should be included in debate on Town Planning not beach policy.

Staff comment - This section is taken, except for a change from ‘Council’ to “The Town of Cottesloe”, directly from the existing policy which was adopted in 1995. It should be read in context with Council undertaking significant works to Marine Parade to enable the imposition of a 40kph speed limit for a section of the road.

Council is currently looking at planning issues related to the beachfront area. Until these are firmed up, it is felt that the *Beach Policy* should remain as is. The policy can be amended at a later date.

10. In relation to “Significant Beach Events”, Mr Lalor makes a number of comments suggesting that many activities conducted on various beaches should be classified as significant. Also that significant events that are commercial or profit making ventures should be referred to Council. Additionally that the beach volleyball should be moved from its current location to a site between North Cottesloe and Cottesloe beaches.

Staff comment - It is apparent that Cottesloe’s beaches are well used and that a number of activities impact on other users of the beach. Some of the concerns raised might be addressed, at least in part, by tighter enforcement of current controls.

In relation to significant events with any commercial or profit making goals, the draft policy provides that such events will not be approved by the CEO and that the CEO may refer such events to Council for consideration. The effect of this is that all such applications would be vetted and that some may be put to Council for its determination.

In relation to the commercial activities reported, enforcement is currently being addressed via ranger patrols and it is possible that commercial activities are being conducted without detection. Periodic specific purpose ranger patrols might resolve this concern.

11. Clarification was sought as to what was meant by “along the beach front” under “7 Strategies, (n) Other, (iii) Shade”, noting that the planting of trees outside of areas where trees are already planted would be opposed by residents.

Staff comment - This section was taken from the current policy. It is presumed that no new plantings would be undertaken without prior consultation and it is recommended that the draft policy be amended by adding the following sentence at the end of the paragraph headed “(iii) Shade” under “(n) Other” - “No new plantings will be undertaken without prior community consultation.”

12. Comment was made in relation to “Surf Skis” - that this should be extended to include windsurfers and kite surfers.

Staff comment - This section came from the current policy under the heading Water Craft. Much of that section of the current policy is a repeat of a similar section in the local law and so was not repeated in the draft policy.

Mr Ron Batholomaeus

Mr Batholomaeus raised the following six points:

1. Council should solve the existing parking and road congestion problems before embarking on further development in this area.

Staff comment – It is presumed that the point relates to private development. Private developments are covered by the Town Planning Scheme No. 2 and policies made under it.

2. The existing beachfront facilities should be upgraded to a higher standard as Cottesloe Beach is a major tourist attraction.

Staff comment – It is assumed that this point relates to the ablution facilities on Cottesloe Beach. These facilities are provided by the Indiana Tea House site lessee as part of the lease agreement. The lease provides that the building “will become and remain the property of the lessee”, that the “Use of the Premises”, “Purpose” includes “the provision of changerooms and toilet facilities for use by the public”. Also that the Lessee is to maintain the “Premises”. There is no provision in the lease for

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the facilities to be increased in size or number of fixtures, or otherwise upgraded and so Council would have to negotiate with the lessee if it were to take up on this point.

3. Council should be more determined in its approach to paid parking.

Staff comment – The draft policy makes reference to periodic examination options for paid parking within the major carparks adjacent to the beachfront and along Marine Parade (under 7 Strategies, (j) Parking).

4. The unique character of the beachfront should be retained and the current height restrictions of 12 meters should remain.

Staff comment – This is a town planning matter and more appropriately dealt with under the town planning scheme.

5. Council should fully embrace the idea that the beach is for all Western Australians and the people, through the state government, should fund some of the upkeep of the area.

Staff comment – The draft policy makes reference to both points. Under 3 “Issues” reference is made to a coordinated approach to the conservation and management of the beach that includes involvement by a wide range of entities. Part (c) of the Primary Objectives notes that the beach reserves are to be managed in the interests of the people of WA and part (f) of the Secondary Objectives sets the objective to identify and develop mechanisms to offset the cost of maintaining the beach in order that costs are not borne solely by Cottesloe residents and ratepayers.

6. The beachfront policy should be determined by the Town’s residents not the Council.

Staff comment – This public consultation process provides for community input and Council is the only entity that can adopt and enforce Council policy.

#### Western Australian Volleyball Association Inc.

The Association supports provisions of the draft policy that provide for one playing day per month during December, January and February, and two playing days in March.

#### Cottesloe Surf Life Saving Club (Inc)

The club raised the following points:

1. The club supports the view that the beach is used recreationally by local and broader WA communities as well as interstate and overseas visitors.

Staff comment – Noted.

2. The club agrees with that the primary areas of Cottesloe and North Cottesloe Beaches are coming under increasing pressure but also note that there is increasing use of areas south of the Cottesloe groyne by bathers, in addition to the board, sail board and kite surfers. It suggests that this may create the need for increased life saving services in the future and the need to store relevant essential equipment at beaches and so flexibility regarding new facilities being developed west of Marine Parade is required.

Staff comment –The policy can be amended to accommodate this at a later date - if required.

3. The club suggests that the Objectives should include a statement on water safety and an objective that Council employees, Council, surf life saving clubs and community work closely on the matter of beach safety.

Staff comment – Council has sought to address the matter of safety by contracting with Surf Life Saving WA to provide lifeguard patrols at Cottesloe Beach and for it to conduct annual beach safety audits.

The first safety audit conducted some years ago resulted in the installation of warning signage to relevant standards and other measures to improve safety.

The “Objectives” section could be amended to acknowledge the measures Council is already undertaking (lifeguards and annual beach safety audits) and this could be along the lines recommended in the comment to Mr Lalor’s points 2-3. With the increasingly heavy use of beaches and potential for conflict in types of activities, and noting concerns raised by Mr Lalor, Council may wish to consider a mechanism to get the various groups together in an effort to reduce possible dangers.

This larger group might also be a good sounding board for operational matters that have caused problems in the past such as when should the beach be closed (e.g. when weather conditions dictate or when sharks are sighted) and how this should be enforced. The draft policy could be amended to include such a group however matters such as its membership and functions may need to be resolved first.

4. The club flagged the expected need to expand its boatshed facilities to accommodate relevant equipment.

Staff comment –The club notes that Policy (a) provides that no use will be permitted west of Marine Parade unless it contributes directly to the amenity of the recreational users of the beach reserve. However “Building Control (i)” limits enclosed roofed structures to replacement only without significant expansion of the footprint, height or mass of the structure. This would limit the club’s options unless Council were to deviate from or change the policy.

5. The club notes with respect to Policy (e) that whilst the main focus is on Cottesloe and North Cottesloe Beaches, there is increased usage of beaches south of the Cottesloe groyne. It is interested in working together with Council on data collection and future planning for the area.

Staff comment – It is suggested that Council take the club up on this offer.

6. The club points out that in relation to paid parking, its volunteers would be adversely affected if they had to pay for parking and so the club would seek a concessional arrangement should paid parking be introduced.

Staff comment – It is envisaged that Council would look favourably at this request if and when paid parking at the beachfront is implemented.

7. The club expressed concerns over the restrictions “Building Control” would have on any plans it may have to increase equipment storage.

Staff comment – As for 4 above.

8. The club notes the limitations on significant events and that most of its club events would fit into this category. It seeks an ongoing exemption from the need to seek permission, and from being limited to one per month, for surf life saving activities.

Staff comment – This point is noted and it is suggested that the need to apply for approval to conduct events remain as is. This is consistent with provisions of the local law and fosters the keeping of a beach bookings calendar.

However both surf clubs should not unnecessarily be caught up with the “Significant Beach Events” constraints for normal club activities that are not fundraisers or interclub events. Whilst these activities may well fall within the definition of a significant event as it currently stands, the definition of “Significant Beach Event” in the draft policy should be amended by adding after the last sentence, “Cottesloe and North Cottesloe Surf Life Saving Club’s surf life saving activities are not considered to be Significant Events for the purposes of this policy.”

9. The club recommends that the definition of “Significant Event” be amended by changing “more than 50 people” to more than 100 people”.

Staff comment – This is dealt with at point 8, however Council may wish to review the numbers.

10. The club expressed concern over the use of the term “passive recreation” under the third bullet point of the first section of “(l) Significant Events”.

Staff comment - Here the term was intended to describe activities that are not organised, that is the type of activities that most beach goers engage in alone or in small groups as opposed to organised activities such as beach volleyball games, and the like. The term could be changed and

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Council could review the thrust of this clause however it is suggested that most people go to the two main beaches for a swim and other such unstructured activities and their quiet enjoyment of these areas of the reserves is the prime use and that organised activities should be a secondary use.

11. The club notes that some of its surf events are of a fund raising nature and is concerned that it may be restricted by being classified as commercial events.

Staff comment – It is suggested that these events be dealt with in accordance with “Other Beach Events” and the clubs be required to lodge detailed applications in advance of proposed bookings, as is currently the practice and that the events not be classified as commercial under the terms of the draft policy. It is suggested that the draft policy be amend by adding after the word “club” in the third line of (a) under (i) of “Other Beach Events”, “(including fund raising events such as the Cottesloe Classic Mile, Cottesloe Port to Pylon and the like that have a clear relation to surf club operations but also have a fund raising aspect to them)”.

12. The club suggests that the two surf life saving clubs be notified by either Council or the organisers of “Significant Beach Events” and that the organisers of these events be required to submit an aquatic safety plan that has been developed by the resident surf life saving club.

Staff comment – The requirement for an aquatic safety plan could be incorporated into the listed requirements of applicants for “Significant Beach Events” and could be included after the existing wording of the third bullet point under (iv), “Significant Beach Events”, “An aquatic safety plan is considered an appropriate safety measure for significant events with more than 3000 attendees.”

13. The club notes the use of the term “passive recreation” and refers to its earlier point (10 above).

Staff comment - See 10 above.

14. The club is concerned that under the terms of the policy it may be required to submit applications to the CEO each time it conducts lifeguard patrols or small training events where five or more persons are involved.

Staff comment – This refers to the definition of “Function” in the local law where five or more persons engaged in a training or practice session, among other things, constitutes a function. Clause 11 of the local law requires that prior written approval from Council is required for holding any “Function”. Whilst there may be a number of possible resolutions to this problem, one that may be considered is for the clubs to make one application each year that includes their anticipated patrol dates.

15. The club supports the view that where conflict occurs in proposed bookings of the beach, the surf life saving clubs bookings will be given priority.

Staff comment – Noted.

16. The club suggests that the volleyball be relocated to the north of the Indiana Tea House.

Staff comment – This has been looked at in the past and the area suggested was not seen as suitable (primarily by the Volleyball Association) as the current location. There has also been a call to no longer permit volleyball on the beach, and support for its continuance has been expressed. Among its options, Council could work with the club and the association on reviewing current practices in relation to the volleyball courts and play on the beach.

17. The club seeks to be added to (e) under “Other Beach Events”.

Staff comment – This part of the draft policy provides the CEO authority to approve Surf Life Saving WA training sessions. It is noted that (a) under the same heading deals with the surf life saving clubs and would cover training sessions as these would be seen to be a Part of “functions normally associated with the operation of a surf life saving club”.

18. The club supports the need for surf club support for water based activities at Cottesloe and North Cottesloe beaches.

Staff comment – Noted, this refers to “Other Beach Events (g)”.

19. The club suggests that “Other (ii) should be referenced to the *Commercial Use of Beach Policy*.”

Staff comment – This policy would no longer exist once Council adopts a new *Beach Policy*. One of the reasons for reviewing the three existing policies relating to beaches was to roll them into the one policy.

20. The club notes, in relation to “Surf Skis” (iv) under “Other”, that there is a need for them to conduct regular training with surfboards and boats and in-shore Rescue Boats within the surf break zone.

Staff comment – Clause 10.1 of the local law provides that *Surf life saving craft, used in their capacity as training and competition Boats of a Life Saving Club, are permitted at both Cottesloe Beach and North Cottesloe Beach within areas set by the council from time to time*. The local law defines a Boat as any structure or vessel whether propelled manually or by the wind or power or wave, used to float and travel upon or above the water. The only restrictions on the clubs are that they can only use areas set aside by Council from time to time for the purposes of the training mentioned. It is recognised that this restriction may not be practical. Options include the clubs including in their annual application as

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suggested at 14 above, the request to train in broadly specified areas (could be the areas between the Cottesloe Groyne and the northern boundary of the North Cottesloe Surf Life Saving Club building for example).

21. The club raised points in relation to the Commercial Use of Beaches Policy.

Staff comment – this policy would be superseded once the new *Beach Policy* is adopted.

#### Cottesloe Longboard Club

The club raised the following three points:

1. The club makes formal application to Council for a shelter to be constructed at Isolated surf break to seat eight persons, next to the bus stop south of the Cottesloe groyne.

Staff comment – It is recommended that this matter be referred to a later meeting of the Works and Corporate Services Committee for consideration.

2. The club requests that levelling and grassing of the area at Isolated be considered by Council.

Staff comment – It is recommended that this matter be referred to a later meeting of the Works and Corporate Services Committee for consideration.

3. The club requests that the walk between Cottesloe groyne and Dutch Inn groyne be called Longboard Walk and signed as such.

Staff comment – It is recommended that this matter be referred to a later meeting of the Works and Corporate Services Committee for consideration.

#### Town of Cottesloe

Council has indicated that it would like to see charges raised for some activities on beaches and it is recommended that these be set annually when Council adopts its Fees and Charges as part of the budget process. The draft policy can be amended to provide for this by adding the following fourth bullet point under “(i) Subject to” under the headings “Significant Beach Events” and “Other Beach Events” – “the payment of the fee as set out in Council’s List of Fees and Charges”.

In summary, it is recommended that the draft policy be amended as follows:

*Adding the following fourth bullet point under “(i) Subject to” under the headings “Significant Beach Events” and “Other Beach Events” – “the payment of the fee as set out in Council’s List of Fees and Charges”.*

**VOTING**

Simple majority

**COMMITTEE COMMENT**

Cr Morgan stated that he would prefer to see events on the beachfront run by not for profit organisations, rather than a commercial venture.

**OFFICER RECOMMENDATION**

That Council rescind the current *Application for Events to be held on Beachfront, Commercial Use of Beach and Beach* policies and adopt the draft *Beach Policy*, as put out for public comment, with the following changes:

- (1) The term "Coastal Zone" be replaced in the draft Policy with "beach reserve" where it appears and that the term and definition of "Coastal Zone" be deleted under the "Definitions" heading.
- (2) Adding after the fourth paragraph under the "Issues" heading – "Safety is always a factor that should be considered in natural environments such as the beach. Safe swimming areas are set up and patrolled by the Cottesloe and North Cottesloe Surf Life Saving Clubs and Council's life saving contractor during the main beach-going months. Council has instituted annual beach safety audits to ensure that signage and other and other safety measures are noted for inclusion in works plans." and by adding after the word "Cottesloe" in the second line of (c) under "Primary Objectives" the words "and safety".
- (3) Adding the following sentence at the end of the paragraph headed "(iii) Shade" under "(n) Other" - "No new plantings will be undertaken without prior community consultation."
- (4) Adding after the last sentence of the definition of "significant beach event" under the "Definitions" heading - "Cottesloe and North Cottesloe Surf Life Saving Club's surf life saving activities are not considered to be Significant Events for the purposes of this policy."
- (5) Adding after the word "club" in the third line of (a) under (i) of "Other Beach Events", "(including fund raising events such as the Cottesloe Classic Mile, Cottesloe Port to Pylon and the like that have a clear relationship to surf club operations but also have a fund raising aspect attached to them).
- (6) Adding after the existing wording of the third dot point under (iv), "Significant Beach Events", "An aquatic safety plan is considered an appropriate safety measure for significant events with more than 3000 attendees."

**12.1.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council rescind the current *Application for Events to be held on Beachfront, Commercial Use of Beach and Beach* policies and adopt the draft *Beach Policy*, as put out for public comment, with the following changes:**

- (1) The term “Coastal Zone” be replaced in the draft Policy with “beach reserve” where it appears and that the term and definition of “Coastal Zone” be deleted under the “Definitions” heading.
- (2) Adding after the fourth paragraph under the “Issues” heading – “Safety is always a factor that should be considered in natural environments such as the beach. Safe swimming areas are set up and patrolled by the Cottesloe and North Cottesloe Surf Life Saving Clubs and Council’s life saving contractor during the main beach-going months. Council has instituted annual beach safety audits to ensure that signage and other and other safety measures are noted for inclusion in works plans.” And by adding after the word “Cottesloe” in the second line of I under “Primary Objectives” the words “and safety”.
- (3) Adding the following sentence at the end of the paragraph headed “(iii) Shade” under “(n) Other” – “No new plantings will be undertaken without prior community consultation.”
- (4) Adding after the last sentence of the definition of “significant beach event” under the “Definitions” heading – “Cottesloe and North Cottesloe Surf Life Saving Club’s surf life saving activities are not considered to be Significant Events for the purposes of this policy.”
- (5) Adding after the word “club” in the third line of (a) under (i) of “Other Beach Events”, “(including fund raising events such as the Cottesloe Classic Mile, Cottesloe Port to Pylon and the like that have a clear relationship to surf club operations but also have a fund raising aspect attached to them).
- (6) Adding after the existing wording of the third dot point under (iv), “Significant Beach Events”, “An aquatic safety plan is considered an appropriate safety measure for significant events with more than 3000 attendees.”
- (7) Adding the following fourth bullet point under “(i) Subject to” under the headings “Significant Beach Events” and “Other Beach Events” – “the payment of the fee as set out in Council’s List of Fees and Charges”.

Carried 10/0



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**12.1.2 COTTESLOE BUSINESS ASSOCIATION - SPECIFIED AREA RATE**

**File No:** X5.1  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The Cottesloe Business Association seeks the assistance of Council in promoting the town centre as a shopping destination. Specifically the association seeks;

1. In principle support for the imposition of a specified area rate covering the town centre zone to fund a promotional campaign.
2. The appointment of Mayor Rowell and Cr Cunningham to a sub committee to determine a budget and appropriate rate in the dollar.
3. A block on the transfer of any of the specified area rate funds until such time as a license agreement and a new incorporated body is formed.

**STATUTORY ENVIRONMENT**

Section 6.37 of the *Local Government Act 1995* applies:

**6.37. Specified area rates**

- (1) A local government may impose a specified area rate on rateable land within a portion of its district for the purpose of meeting the cost of the provision by it of a specific work, service or facility if the local government considers that the ratepayers or residents within that area —
  - (a) have benefited or will benefit from;
  - (b) have access to or will have access to; or
  - (c) have contributed or will contribute to the need for,that work, service or facility.
- (2) A local government is required to —
  - (a) use the money from a specified area rate for the purpose for which the rate is imposed in the financial year in which the rate is imposed; or
  - (b) to place it in a reserve account established under section 6.11 for that purpose.
- (3) Where money has been placed in a reserve account under subsection (2)(b), the local government is not to —
  - (a) change the purpose of the reserve account; or
  - (b) use the money in the reserve account for a purpose other than the service for which the specified area rate was imposed,

and section 6.11(2), (3) and (4) do not apply to such a reserve account.

- (4) A local government may only use the money raised from a specified area rate —
- (a) to meet the cost of providing the specific work, service or facility for which the rate was imposed; or
  - (b) to repay money borrowed for anything referred to in paragraph (a) and interest on that money.
- (5) If a local government receives more money than it requires from a specified area rate on any land or if the money received from the rate is no longer required for the work, service or facility the local government —
- (a) may, and if so requested by the owner of the land is required to, make a refund to that owner which is proportionate to the contributions received by the local government; or
  - (b) is required to allow a credit of an amount proportionate to the contribution received by the local government in relation to the land on which the rate was imposed against future liabilities for rates or service charges in respect of that land.

### **POLICY IMPLICATIONS**

Nil.

### **STRATEGIC IMPLICATIONS**

One of the strategic objectives of Council is to:

Define, enhance and preserve the following precincts: Marine Parade (commercial and residential); Napoleon Street and Town centre; Heritage; Recreational and Residential.

### **FINANCIAL IMPLICATIONS**

Nil.

### **BACKGROUND**

The Cottesloe Business Association has provided the following background information:

#### **History**

The association has been discussing the issue of promoting the area for the past 10 years at their AGMs and with their members in general. The problem was that we had never had a good look at the situation until 5 years ago.

The committee did a survey of all businesses, about 5 years ago, to determine what issues were of most important to them about the area. The results were very interesting in that the majority had to do with the look of the area, which was outside our control, but the other area was promotions or rather the lack of it.

After the survey we had further meetings and brainstorming sessions with the businesses proprietors, which resulted in a mandate to see how we could organize ways in which we could have a system to promote the area.

The committee set about looking at various ways and came up with the concept we needed to brand name the area. We had discussions with a company regarding the way this could be achieved. A seven stage plan was developed by the committee based on an outline from the company. After

investigating the cost involved it was decided that we could not afford the whole process. It was then decided that we could implement the first 3 stages if we had the help of the council.

An application was made to the council based on the first 3 stages of the plan on a dollar for dollar basis. The Council rejected the application for funds on the basis that it was promoting businesses, which it could not support. The committee accepted the decision and the reasoning but then had to determine what was another way to get funding to achieve the outcome.

The problem the business Association had that although most businesses wanted the area promoted not all were prepared to pay for it as there were about 20% who were reluctant to be part of any levy scheme. On top of this was the fact that the levy would be voluntary which has its own problems. Other proprietors were saying if not everyone paid then they would not be involved as well creating a Catch 22 scenario.

The committee then discovered the process used in Subiaco and decided to look at this in a more detailed manner. The Subiaco concept was a system that started in Tasmania and has subsequently been used by many Councils throughout Australia. The concept is based on a special levy being charged to businesses in the business area. The money is then channelled to a company set up for this purpose to use the money as set out in an agreement between the Council and the company. This agreement has input from the traders, who are the members, and Council. The agreement is in a way of a licence. The best part of this process is that the levy is compulsory so that all proprietors pay for the promotion and not just a majority while others get free advertising. (As a basis for comparison all businesses in shopping centres pay a compulsory levy through their rents)

A sub-committee was set up to look at this in more detail. At the fourth meeting it became evident that the process the committee was hoping for was not going to eventuate due to two factors. The discussion was moving to improving the area, which we already know is the Councils responsibility not the business Association and the second reason was that some members wanted to call a public meeting to discuss the issue which the Cottesloe Business Association did not feel was warranted.

The committee then conducted another survey of the businesses proprietors. A newsletter and a form (shown below) was sent to all business proprietors with the form to be returned to the committee within a week. The form is shown below and the newsletter is attached.

“NAME OF SHOP: \_\_\_\_\_

*I have read the newsletter number 1/2004 regarding the Special Rate Levy to be applied by the Cottesloe Council.*

*TICK APPROPRIATE*

*I agree with the Special Rate Levy to be applied* \_\_\_\_\_

*I disagree with the Special Rate Levy to be applied* \_\_\_\_\_

*Signed:* \_\_\_\_\_

*Name of person signing* \_\_\_\_\_

*Position of person signing* \_\_\_\_\_ “

The result was that we had over 70 replies from the 85 businesses that we know are in the area. We had a positive response rate of 78%. From the negative responses there were 5 that felt they could not respond to the positive due to the fact they were closing down, in process of selling or did not trust the council but all were in favour of the levy personally. If we add this to the mix then the approval rate was over 80%.

**Reasons for the levy**

If we look at the business district in the Cottesloe area we find that there has been a steady decline in business if we allow for inflation. The businesses that have closed, shifted, or sold have been quite high for an area like Cottesloe. Sure there are some businesses that do well but most are struggling.

The business proprietors on the whole are in favour of the levy and realize we need to do something to revitalize the place. We are all aware that we need to also upgrade the place but that is the role of council not the business association. The proprietors will still do their own advertising but in many cases it will be complimented by the overall promotional plan for the area.

The Business Association has also had some contact with some of the owners who have indicated their support of the levy as it will help them if the area flourishes.

The Council does not have to pay any money for the proposal but is only the avenue for the funds to flow through so that the traders can set up a process to promote the business area of Cottesloe.

Other local authorities in WA are already using this approach with success and we will only fall behind if we do not implement this in Cottesloe.

The committee is very aware that if the Council does not move in this direction then it will not work on a voluntary basis and we go back to relying on proprietors to do their own advertising. The area will not have the coverage it requires to make a difference.

The Business Association made one major observation with the Cottesloe Business area, which is that in all the road directories it is not listed or noted as being a shopping complex. We all assume people know but the feedback we get from people who outside the area only know the precinct is there when they find us through specific shops. We need to change this perception.

**NEWSLETTER NUMBER 1/2004**

**URGENT**

**READ AND REPLY**

When we did the survey two years ago, the majority of traders (70%+) indicated that the promotion of the area was the most important item that the Cottesloe Business Association should pursue. The achievement of this aim meant that we had to have money, which we would not get if we asked traders to participate in a joint approach.

The committee looked at the Subipro set up and decided that was the way to go. This concept came from Tasmania where it worked well in Launceston. The concept has been used in various shopping areas throughout Australia with great success.

Effectively it works along the line that the Council puts a levy on the rates of the businesses in the designated area. This levy is transferred to an incorporated body, whose board is elected by the traders. The money is then used to promote the area in an efficient way. The **annual** levy is somewhere in the vicinity of 50% and 70% of one week's rent.

The levy will also employ a person to do the organizing of the promotion as the committee are all volunteers and have their own businesses to run.

We set up a subcommittee consisting of 3 from our association, 2 councillors from Cottesloe and Peppermint Grove and a representative from The Grove Shopping area.

At our last meeting, the Mayor of Cottesloe wanted to call a meeting to discuss this concept. We feel that this would take too long and we would have 20 people making the decision. As an organization we need a quick answer.

Can I be very blunt with you that if the majority decides against the levy then the committee feels that the area will not pick up but will go backwards. The committee also feels that we are really redundant in what we are doing and will put a motion to disband the organization.

I ask that you fill in the attached and either return it to us as soon as possible or we will collect it early next week.

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If you have any queries please do not hesitate to call Leo Schaper on 9383 2817.

As a point of interest all tenants at shopping centres pay a levy for advertising the centre, which is about the same amount as we are proposing. They all have to still pay for their own advertising.

### **CONSULTATION**

The CEO has been in contact with the President of the Cottesloe Business Association, Leo Schaper, and has provided advice to him on rating mechanisms and appropriate recommendations that Council might wish to consider.

Advice from the Shire of Peppermint Grove indicates that they have refused a similar approach from the Cottesloe Business Association.

### **STAFF COMMENT**

The positive response rate from businesses is quite remarkable and should not be summarily dismissed.

It is understood that "in principle" support is being sought at this early stage so that it can marry in with Council's budget process for 2004/2005. Leo Schaper has indicated that delaying the implementation of the specified area rate until 2005/2006 is likely to seriously undermine the resolve of the Cottesloe Business Association.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Nil.

### **AMENDMENT**

Moved Cr Morgan, seconded Cr Utting

That the following be added to the committee recommendation:

- (4) That Council formulate a consultation strategy to proceed the Council's decision on a licence agreement.

Lost 3/7

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

Moved Cr Miller, seconded Cr Furlong

**That Council**

- (1) **Give "in principle" support to the imposition of a specified area rate for the Town Centre Zone as defined by Town Planning Scheme No.2 .**

- (2) Support the appointment of Mayor Rowell and Cr Cunningham to a sub-committee to be formed by the Cottesloe Business Association to work out an appropriate rate and budget for the coming year to be presented to the June Council meeting for discussion and possible recommendation through to Council's budget-setting meetings; and
- (3) That subject to the adoption of a specified area rate, no money be transferred from the Town of Cottesloe to any service agency until the following has occurred:

  - (i) A license agreement has been put in place between the Town of Cottesloe and the Cottesloe Business Association that has the complete support of the Cottesloe Town Council and the majority of traders from Cottesloe as determined at a special meeting of the traders.
  - (ii) An incorporated body (service agency) has been set up with the powers to be agreed to by the above-mentioned groups who will administer the funds as laid down in the license agreement and the constitution of the incorporated body.

Carried 10/0

**12.1.3 REVIEW OF FINANCIAL MANAGEMENT SYSTEMS**

**File No:** C7.2  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A number of recommendations are made to improve the effectiveness of the Town of Cottesloe's financial management systems.

The recommendations relate to:

- The asset register;
- Purchase orders; and
- Process documentation.

**STATUTORY ENVIRONMENT**

Regulation 5 (2) (c) of the Local Government (Financial Management) Regulations requires the CEO to "...undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews."

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Graham Lee of Jandarra Park Pty Ltd undertook a review of the appropriateness and effectiveness of the Town of Cottesloe's financial management systems and procedures in April 2004.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The review report makes three recommendations:

1. That the [purchase orders] policy be updated to reflect the new management structure, and dollar limits be placed against all authorities to incur.

2. That a standard asset register report that does not include deleted assets be added to the asset register reports menu, and this report be reconciled with the general ledger monthly.
3. That hard copies of the relevant process maps be printed and kept with the CKA LOGIS training manuals and the suite be labelled accordingly.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Furlong

**That Council:**

- (1) **Note the contents of the review report;**
- (2) **Direct that a standard asset register report that does not include deleted assets be added to the asset register reports menu, and this report be reconciled with the general ledger monthly;**
- (3) **Direct that hard copies of the relevant process maps be printed and kept with the CKA LOGIS training manuals and the suite be labelled accordingly; and**
- (4) **Adopt the following updated policy in relation to purchase orders.**

**PURCHASE ORDERS****OBJECTIVE**

To maintain control over expenditure.

**PRINCIPLE**

Procedures for the authorisation of and payment of accounts are required to ensure there is effective security for, and properly authorised use of, local purchase orders.

**ISSUES**

- (a) Authority to sign purchase orders is limited to officers occupying nominated management positions. Officers acting in a nominated management position are authorised to sign orders.
- (b) Orders for goods and services can only be issued if;  
provision has been made for the purchase in the annual budget, or  
the expenditure must be incurred in a financial year before the adoption of the annual budget, or



the expenditure is authorised in advance by resolution of an absolute majority of the Council where the expenditure is unbudgeted, or

the expenditure is authorised in advance by the Mayor in an emergency where the expenditure is unbudgeted.

**POLICY**

- (c) Officers holding the following positions are authorised to sign official Council Orders:

Chief Executive Officer; no limit.

Manager, Corporate Services; limited to a maximum of \$50,000 per purchase order within departmental expenditure areas;

Manager, Engineering Services; limited to a maximum of \$50,000 per purchase order within departmental expenditure areas;

Manager, Development Services; limited to a maximum of \$50,000 per purchase order within departmental expenditure areas;

Works Supervisor: limited to a maximum of \$5,000 per purchase order within departmental expenditure areas;

Executive Assistant: limited to a maximum of \$2,000 per purchase order;

Principal Environmental Health Officer limited to a maximum of \$2,000 per purchase order within departmental expenditure areas; and

Assistant Works Supervisor: limited to a maximum of \$500 per purchase order within departmental expenditure areas.

**RESOLUTION NO:** 12.1.3

**ADOPTION DATE:** 24<sup>th</sup> May 2004

**REVIEW DATE:** 24<sup>th</sup> May 2012

Carried 10/0

**12.1.4 REVIEW OF WARDS & BOUNDARIES**

**File No:** X4.7  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to support current levels of elected member representation and the existing ward boundaries.

**STATUTORY ENVIRONMENT**

Schedule 2.2 of the Local Government Act requires that:

*A local government the district of which is divided into wards is to carry out reviews of*

—  
*(a) its ward boundaries; and*

*(b) the number of offices of councillor for each ward,*

*from time to time so that not more than 8 years elapse between successive reviews.*

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Town of Cottesloe last undertook a formal review of its ward boundaries and representation in 1996. The review resulted in the number of councillors being reduced from 12 to 10 and the changes took effect at the May 1997 ordinary local government elections together with some relatively minor ward boundary adjustments.

Council is now obliged to review its ward boundaries and representation with a view to submitting the results of the review to the Local Government Advisory Board by 31 July, 2004 which will ensure that any changes that are agreed to are undertaken in time for the May 2005 elections.

**CONSULTATION**

An advertisement was placed in the *Post* newspaper on Saturday, 20 March, 2004 and Saturday, 17 April, 2004 and on Council notice boards seeking submissions on ward boundaries and the number of offices of councillor for each ward.

The public were advised that a discussion paper outlining the current situation and the available alternatives could be obtained from the Council Offices and our website.

Further, that ward boundaries and representation would be reviewed against the following factors:

- Community of interest;
- Physical and topographic factors;
- Demographic trends;
- Economic factors; and
- Ratio of councillors to electors in the various wards.

The discussion paper put the following options and indicated that it was open to members of the community to suggest others:

- Option 1** Maintain the current ward system.
- Option 2** Maintain the current number of councillors at 10.
- Option 3** Reduce the current number of councillors from 10 to 8.
- Option 4** Reduce the current number of councillors from 10 to 6.
- Option 5** No wards.

It was also stated that the names of the wards would also be considered be considered by Council. For example, rather than north, east, south and central it may be preferable to use the names of pioneers of the district.

No submissions were received by the closing date of 3 May, 2004.

## **STAFF COMMENT**

### **Features of the District**

#### **Community of interest**

Cottesloe is a relatively affluent residential suburb that is but one of many localities that make up the Western Suburbs region. It has a shopping precinct, primary school, playing fields, golf course and a number of beaches.

Most residents commute to work outside the district and rely, in the main, on services and facilities that can be found within the Western Suburbs region.

#### **Physical and topographic features**

Cottesloe has two arterial roads and a railway line:

- Stirling Highway - which forms the Town's easternmost boundary.
- Curtin Avenue - which separates what is locally known as East Cottesloe from the balance of Cottesloe.
- Perth – Fremantle railway line - which parallels Curtin Avenue where it traverses Cottesloe.

The westernmost boundary of the Town of Cottesloe is the Indian Ocean.

### **Demographic Trends**

The population of Cottesloe has remained stable over several years.

### **Economic Factors**

Local economic activity is mainly confined to retail activities associated with the shopping precinct centred on Napoleon Street and the beachside precinct on Marine Parade.

The bulk of the community's disposable income is obtained through work outside the district.

### **Ratio of councillors to electors**

Currently the Town of Cottesloe has 10 councillors elected from 4 wards as follows:

<b>Ward</b>	<b>Number of Electors</b>	<b>Number of Councillors</b>	<b>Councillor: Elector Ratio</b>	<b>% Ratio Deviation</b>
North	2226	4	1:556	- 8.27%
Central	929	2	1:465	8.82%
East	940	2	1:470	7.84%
South	1023	2	1:502	1.57%
<b>Total</b>	<b>5131</b>	<b>10</b>	<b>1:513</b>	

The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole of the Town of Cottesloe and the councillor/elector ratio for each ward.

A balanced representation would be reflected in the % ratio deviation being within plus or minus 10%. It can be seen that under present arrangements Cottesloe has balanced representation.

### **Option 1      Maintain the current ward system**

The following is an assessment of the current system against the review factors.

#### **Community of Interest**

Ward boundaries tend to reflect communities of interest as generally defined by primary school catchments (North Cottesloe & Cottesloe) and retail precincts.

#### **Physical and topographic features**

Ward boundaries are defined by the railway line in the first instance and east-west streets (Napier and Pearse) in the second.

### **Demographic Trends**

The population of Cottesloe has remained consistently stable throughout the district over several years. There is no case to be made for boundary adjustments based on population changes within the district.

### **Economic Factors**

Cottesloe is a predominantly residential suburb. There is no case to be made for boundary adjustments based on differing economic activities.

### **Ratio of councillors to electors**

Currently the Town of Cottesloe has 10 councillors elected from 4 wards as follows:

<b>Ward</b>	<b>Number of Electors</b>	<b>Number of Councillors</b>	<b>Councillor: Elector Ratio</b>	<b>% Ratio Deviation</b>
North	2226	4	1:556	- 8.27%
Central	929	2	1:465	8.82%
East	940	2	1:470	7.84%
South	1023	2	1:502	1.57%
<b>Total</b>	<b>5131</b>	<b>10</b>	<b>1:513</b>	

The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole of the Town of Cottesloe and the councillor/elector ratio for each ward.

A balanced representation would be reflected in the % ratio deviation being within plus or minus 10%. It can be seen that under present arrangements Cottesloe has balanced representation.

## **Option 2      Maintain the current number of councillors at 10.**

The following is an assessment of the current system against the review factors.

### **Community of Interest**

Ward boundaries tend to reflect communities of interest as generally defined by primary school catchments and retail precincts.

### **Physical and topographic features**

Ward boundaries are defined by the railway line in the first instance and east-west streets (Napier and Pearse) in the second.

### **Demographic Trends**

The population of Cottesloe has remained consistently stable throughout the district over several years. There is no case to be made for boundary adjustments based on population changes within the district.

### **Economic Factors**

Cottesloe is a predominantly residential suburb. There is no case to be made for boundary adjustments based on differing economic activities.

**Ratio of councillors to electors**

Currently the Town of Cottesloe has 10 councillors elected from 4 wards as follows:

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2226	4	1:556	- 8.27%
Central	929	2	1:465	8.82%
East	940	2	1:470	7.84%
South	1023	2	1:502	1.57%
<b>Total</b>	<b>5131</b>	<b>10</b>	<b>1:513</b>	

The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole of the Town of Cottesloe and the councillor/elector ratio for each ward.

A balanced representation would be reflected in the % ratio deviation being within plus or minus 10%. It can be seen that under present arrangements Cottesloe has balanced representation.

**Option 3 Reduce the current number of councillors from 10 to 8.****Community of Interest**

Current ward boundaries tend to reflect communities of interest as generally defined by primary school catchments and retail precincts. Reducing the number of Councillors from ten to eight will necessitate a contrived increase in the number of electors in the East Ward that bears no relationship to the existing community of interest.

**Physical and topographic features**

Ward boundaries are defined by the railway line in the first instance and east-west streets (Napier and Pearse) in the second. Reducing the number of Councillors from ten to eight will necessitate a contrived increase in the number of electors in the East Ward by including electors from the western side of the railway line.

**Demographic Trends**

The population of Cottesloe has remained consistently stable throughout the district over several years. There is no case to be made for boundary adjustments based on population changes within the district.

**Economic Factors**

Cottesloe is a predominantly residential suburb. There is no case to be made for boundary adjustments based on differing economic activities.

**Ratio of councillors to electors**

Currently the Town of Cottesloe has 10 councillors elected from 4 wards as follows:

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2226	4	1:556	- 8.27%
Central	929	2	1:465	8.82%
East	940	2	1:470	7.84%
South	1023	2	1:502	1.57%
<b>Total</b>	<b>5131</b>	<b>10</b>	<b>1:513</b>	

Under present arrangements Cottesloe has balanced representation.

If the Town of Cottesloe had 8 councillors elected from 4 wards then the Councillor:Electors ratio would be 1:641. The following table shows the impact of this on the number of Councillors based on current boundaries.

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2226	3.5	1:641	0.00%
Central	929	1.4	1:641	0.00%
East	940	1.5	1:641	0.00%
South	1023	1.6	1:641	0.00%
<b>Total</b>	<b>5131</b>	<b>8</b>	<b>1:641</b>	

To ensure equity in ward representation numbers (ie to ensure that North Ward did not constitute 50% of the total number of Councillors) its Councillor representation levels would need to be rounded down rather than up. In other words its representation should be reduced to 3 and ideally 2 (if the goal of 50% of ward Councillors retiring each election is to be achieved).

Historically the north east pocket of the North Ward has been used to augment the East Ward's population but this has been viewed as an artificial and confusing construction.

Assuming however that the East Ward's population is augmented with some of the North Ward's current population, then in order to round up the representation in the Central and South Wards to two Councillors each, the northern boundaries of both wards would have to shift north at the expense as it were, of the North Ward's total population.

In the absence of clear east-west roads defining the ward boundaries, the new ward arrangements will be confusing – particularly while the East Ward's current boundary configuration is seen as a basic building block for any new ward configuration.

#### **Option 4A Reduce the current number of councillors from 10 to 6 in four wards.**

#### **Community of Interest**

Current ward boundaries tend to reflect communities of interest as generally defined by primary school catchments and retail precincts. However six Councillors representing four wards will mean that two wards will vote every two years while two will vote every four years. This is seen as inequitable in terms of timely democratic participation on a regular basis and therefore contrary to the overall community interest.

### Physical and topographic features

Ward boundaries are defined by the railway line in the first instance and east-west streets (Napier and Pearse) in the second.

### Demographic Trends

The population of Cottesloe has remained consistently stable throughout the district over several years. There is no case to be made for boundary adjustments based on population changes within the district.

### Economic Factors

Cottesloe is a predominantly residential suburb. There is no case to be made for boundary adjustments based on differing economic activities.

### Ratio of councillors to electors

Currently the Town of Cottesloe has 10 councillors elected from 4 wards as follows:

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2226	4	1:556	- 8.27%
Central	929	2	1:465	8.82%
East	940	2	1:470	7.84%
South	1023	2	1:502	1.57%
<b>Total</b>	<b>5131</b>	<b>10</b>	<b>1:513</b>	

Under present arrangements Cottesloe has balanced representation.

If the Town of Cottesloe had 6 councillors elected from 4 wards then the Councillor:Electors ratio would be 1:855. The following table shows the impact of this on the number of Councillors based on current boundaries.

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2226	2.61	1:855	0.00%
Central	929	1.09	1:855	0.00%
East	940	1.10	1:855	0.00%
South	1023	1.20	1:855	0.00%
<b>Total</b>	<b>5131</b>	<b>6</b>	<b>1:855</b>	

To ensure equity in ward representation numbers (ie to ensure that North Ward did not constitute 50% of the total number of Councillors) its Councillor representation levels would need to be rounded down rather than up. In other words its representation should be reduced to 2.



This would leave 4 Councillors to represent three wards. Given that the East Ward's current boundary configuration is seen as a basic building block for any new ward configuration, it seems that the simplest solution would be to enlarge the Central Ward (north and south) so that it would have two Councillors representing it while the East and South Wards would have one each.

The above arrangement would not be ideal insofar as the East and South Wards would only get to participate in Council elections once in every four years rather than once in two years – Mayoral elections aside.

Unless the number of wards is reduced from four to three and is based on east-west roads clearly defining the ward boundaries, a six person Council representing three wards is seen as less than desirable.

## **Option 5      No ward system**

### **Community of Interest**

Ward boundaries tend to reflect communities of interest as generally defined by primary school catchments and retail precincts.

### **Physical and topographic features**

Ward boundaries are defined by the railway line in the first instance and east-west streets (Napier and Pearse) in the second.

### **Demographic Trends**

The population of Cottesloe has remained consistently stable throughout the district over several years. There is no case to be made for boundary adjustments based on population changes within the district.

### **Economic Factors**

Cottesloe is a predominantly residential suburb. There is no case to be made for boundary adjustments based on differing economic activities.

### **Ratio of councillors to electors**

The ratio of Councillors to electors in a 10, 8 or 6 person Council (plus Mayor) is as follows:

<b>Number of Electors</b>	<b>Number of Councillors</b>	<b>Councillor: Elector Ratio</b>	<b>% Ratio Deviation</b>
5131	10	1:513	0.00%
5131	8	1:641	0.00%
5131	6	1:855	0.00%

The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole of the Town of Cottesloe and the councillor/elector ratio for each ward.

A balanced representation would be reflected in the % ratio deviation being within plus or minus 10%. It can be seen that under any of the above arrangements Cottesloe would have balanced representation.

### Which option is the best one?

To determine which option is the best one for the Town, an example of one approach to making this assessment follows. It involves rating each of the factors in each of the options and uses a simple yes and no assessment.

Option	Community of interest	Physical & topographic features	Demographic trends	Economic factors	Ratio Councillors: Electors
1 Current ward situation	Yes	Yes	Not relevant	Not relevant	Yes
2 Ten Councillors	Yes	Yes	Not relevant	Not relevant	Yes
3 Eight Councillors	No	No	Not relevant	Not relevant	Yes
4A Six Councillors & four wards	No	No	Not relevant	Not relevant	Yes
4B Six Councillors & three wards	No	No	Not relevant	Not relevant	Yes
5. No wards	No	Yes	Not relevant	Not relevant	Yes

Based on;

1. the absence of any submissions from the public; and
2. the above analysis showing that the current levels of representation and ward boundaries represent the best option,

it is recommended that Council advise the Local Government Advisory Board that ward boundaries and representation should remain as is.

**Note:** The foregoing analysis assumes that Cottesloe has discrete communities of interest as exemplified by the current ward boundaries. However, it can be argued that the communities of interest are weak and that Cottesloe has a homogenous residential population that lends itself to a “no ward” system.

In other words, the decisions of Council have never been based on arguments that attempted to reconcile perceived differences of opinion (or differences relating to priorities) amongst the wards and that the existing ward system is simply an anachronism.

If that view is supported by Council, then a case could be made for a “no ward” system. That, in turn, would open up the question of what is an appropriate number of Councillors but that could be left as an issue for another time.

The “no-ward” option is supported from a bureaucratic point of view as it simplifies the Council election process, obviates the need to make periodic reviews of ward representation from time to time and puts Councillors on the same level as the Mayor in terms of “representing” the whole of the electorate.

A “no-ward” system can be easily implemented and does not require the whole of the Council to be spilt at the May 2005 elections. In other words only those Councillors who would normally be up for re-election would find themselves operating in a “no-ward” environment.

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Furlong

**That Council advise the Local Government Advisory Board that the Town of Cottesloe has made a review of its ward boundaries and representation and is unable to recommend an order for change.**

Carried 10/0

**12.1.5 THE AGED PERSONS SUPPORT SERVICE - 2004/2005 BUDGET**

**File No:** C16.7  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 13 May, 2004  
**Senior Officer:** Mr Stephen Tindale

**SUMMARY**

The draft budget was presented by TAPSS Management Committee for consideration by the Combined Councils Aged Support Committee at its meeting on 11 May, 2004.

A recommendation is made to endorse the budget.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

An amount of \$80,200 is required to cover the budgeted expenditure for The Aged Persons Support Service for non-HACC services for 2004/2005.

The amount excludes any operating surplus/deficit from 2003/2004.

Based on the estimated resident population figures provided by the Australian Bureau of Statistics for 30 June, 2003, the proportionate shares are as follows:

<b>Local Government</b>	<b>Population</b>	<b>Share</b>
Town of Claremont	9,152	\$27,268
Town of Cottesloe	7,528	\$22,456
Town of Mosman Park	8,521	\$25,664
Shire of Peppermint Grove	1,562	\$4,812
	<b>26,853</b>	<b>\$80,200</b>

The Town of Cottesloe's expected contribution of \$22,456 is down by \$238 on the previous financial year.

**BACKGROUND**

The draft TAPSS budget has been referred by the Combined Councils Aged Support Services Committee to each member local government for their consideration and endorsement.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The budget was discussed at the last meeting of the Combined Councils Aged Support Services Committee and is considered to be a realistic proposal.

TAPSS has been operating without a service agreement between the four local governments and TAPSS for the past year.

The Combined Councils Aged Support Services Committee has experienced some real difficulties in drafting an improved service agreement and the following recommendations are put with a view to clearly understanding just exactly what services are provided to non – HACC clients by TAPSS.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.1.5 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council endorse the 2004/2005 budget for The Aged Persons Support Service as presented on the understanding that funding for the period 1<sup>st</sup> December 2004 to 30<sup>th</sup> June 2005 will only be paid to TAPSS following the acceptance by the Combined Councils Aged Person Support Services Committee of a service level agreement for non – HACC clients.**

Carried 10/0

**12.1.6 WALGA - DATE OF FUTURE LOCAL GOVERNMENT ELECTIONS**

**File No:** X11.16  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The WA Local Government Association (WALGA) has been lobbied by some of its constituent members seeking a change in the month in which the biennial Council elections are conducted.

WALGA seeks Council's view on whether October (or some other month) should be the preferred election month as opposed to the current May.

A recommendation is made to support biennial elections on the last Saturday in March.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Several of WALGA's zones have requested that consideration be given to changing the date for the conduct of biennial local government elections.

Under Section 4.7 of the *Local Government Act 1995*, elections are held on the first Saturday in May every two years, with one half of the seats (or as near to) being filled for a four year term.

WALGA's zones suggested a date later in the year, possibly September or October, as this will allow all newly elected members to participate in the budget process for the following financial year, in a meaningful way rather than being elected in May when a large number of Councils have already established their budget parameters. With the proposed change to the budget timetable where Councils will be able to adopt the budget during June, this situation could be exacerbated.

One zone suggested holding Local Government elections on the first Saturday in October and another proposed it be held during September.

The State Council at its April meeting decided to survey all members to determine if there is general support for the suggested change in date for the biennial Local Government elections from May to October. It was felt that this change would enable Elected Members to be better informed before having to vote on the adoption of the Local Government's annual budget.

As the Department of Local Government and Regional Development has already indicated that it is undertaking a review of the electoral provision, it was seen as appropriate for the Association to develop a position on the proposal after consultation with members.

Members are invited to provide their views on the proposal of changing the date from May to October. Alternatively if you feel that the date should be changed but do not agree with October then WALGA would also be pleased to have those comments along with your reasons for the suggested alternative. Written responses, on the WALGA fax-back form, are due to WALGA by Monday, 31 May, 2004.

### **CONSULTATION**

Nil.

### **STAFF COMMENT**

It is understood that the NSW Government recently re-scheduled its own local government elections cycle from September to March.

The change followed a request from the Local Government Association of NSW which sought more financial responsibility and control for newly elected officials.

The change was advocated on the basis that a newly elected council in September had to work with the previous council's budget until the start of the next financial year and that it was unfair to expect a newly elected council to implement a previous local government's budget.

Further that changing the timing of local government elections would:

- Provide newly elected councillors with better control over their budgets;
- Improve financial transparency and accountability by reducing the time between elections and drafting council budgets; and
- Ease the workload on the State Electoral Office to conduct a state election and local government elections in the same year.

If the NSW experience is anything to go by then a September or October election month has its own warts and all.

For that reason it is suggested that it is better to bring on local government elections on a little sooner rather than later.

### **VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**OFFICER RECOMMENDATION**

That Council support a change in the election date from the first Saturday in May to the last Saturday in March and advise WALGA of same.

**12.1.6 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council advise WALGA that the election date should remain as is, namely the first Saturday in May .**

Carried 10/0



**12.1.7 CODE OF CONDUCT - CONFIRMATION**

**File No:** X 4.11  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil.  
**Report Date:** 7 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to confirm the existing Code of Conduct for Elected Members and Staff without alteration.

**STATUTORY ENVIRONMENT**

Section 5.103 of the Local Government Act (1995) provides as follows:

*Codes of Conduct*

1. *Every local government is to prepare or adopt a code of conduct to be observed by Council members, committee members and employees.*
2. *A local government is to review its code of conduct within 12 months after each ordinary election day and make such changes to the code as it considers appropriate.*
3. *Regulations may prescribe the content of, and matters in relation to, codes of conduct and any code of conduct or provision of a code of conduct applying to a local government is of effect only to the extent to which it is not inconsistent with regulations.*

**POLICY IMPLICATIONS**

The Code of Conduct for Elected Members and Staff forms part of Council Policy.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Nil.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The Town of Cottesloe last reviewed its Code of Conduct for Elected Members and Staff in March 2002. A minor amendment was made to the Code of Conduct. The amendment related to requests for works and services by elected members.

The code of conduct is based on the WA Local Government Association's model code of conduct which is currently under review at the industry level.

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**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Discussion was held in relation to clause 2.1 Use of Confidential Information, in relation to concern over information being leaked to the media.

It was also noted that some community members have stated their feelings that the Code of Conduct is not suitable.

The Councillors generally felt that the current Code of Conduct was appropriate.

**12.1.7 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council, having reviewed its code of conduct, make no changes to the existing code of conduct.**

Carried 10/0

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**12.1.8 TOWN OF COTTESLOE - REGISTER OF DELEGATED POWERS**

**File No:** X 4.11  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 6 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

In order to expedite decision-making within the Town of Cottesloe, a recommendation is made to delegate a number of powers and duties to the Chief Executive Officer as provided for in the Local Government Act (1995).

**STATUTORY ENVIRONMENT**

Sections 5.42 and 5.43 of the Local Government Act (1995), provides as follows.

**5.42 Delegation of some powers and duties to CEO**

- (1) *A local government may delegate to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*
- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*

**5.43 Limits on delegations to CEOs**

*A local government cannot delegate to a CEO any of the following powers or duties:*

- (a) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;*
- (b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) *appointing an auditor;*
- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.99 or 5.100; **(fee, expenses and allowances)***
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5; **(objection to a decision)***
- (h) *any power or duty that requires the approval of the Minister or the Governor; or*
- (i) *such other powers or duties as may be prescribed. **(nil)***

**POLICY IMPLICATIONS**

Once adopted, the delegation of powers and duties becomes Council policy until 30 May, 2005 unless otherwise resolved.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Council may delegate powers to the CEO in the interests of the efficient day-to-day running of the organisation. The CEO may, in turn, delegate functions to other staff members. It is customary practice at the Town of Cottesloe to review the delegations made to the CEO in May of each year.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The list of delegated powers was considerably reduced in May of 2002. No customer service difficulties have arisen as a result of working with a reduced list.

**VOTING**

Absolute Majority

**COMMITTEE COMMENT**

Nil.

**12.1.8 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council delegate the following powers and duties to the Chief Executive Officer effective to 30 May, 2005.**

**DELEGATED COUNCIL FUNCTIONS**

Section	Local Government Act 1995
3.18	Administration and enforcement of local laws
3.21	Performance of executive functions relating to land
3.24/3.25/3.26(3)	Powers to be exercised by authorised persons in relation to land
3.28/3.29	Powers of entry to land
3.31/3.33/3.34	Powers of entry to land
3.36	Opening/closing of fences
3.39	Authorising employees to impound goods
3.46	Withholding of goods
3.47	Disposal of impounded goods
3.48	Recovery of costs associated with impounded goods
3.50	Closure of thoroughfares to certain vehicles
3.57(1)	Inviting tenders for goods and services under contract

<b>Section</b>	<b>Local Government Act 1995</b>
5.2	Ensuring that an appropriate structure exists for administration
5.36	Employment of persons other than the Chief Executive Officer
6.12	Waive, grant concessions or write off individual debts to a maximum of \$100
6.14	Investing funds not required
6.49	Make agreements with persons regarding payment of rates
6.64	Action taken when rates are unpaid for at least 3 years
6.76(4,5,6)	Dealing with objections to rates records
9.10	Appointment of authorised persons
<b>Section</b>	<b>Local Government (Miscellaneous Provisions) Act 1960</b>
374.(1) (b)	Plans of buildings to be approved
401	Give notice of required alterations to buildings
<b>Law No.</b>	<b>Signs, Hoardings and Billposting Local Law</b>
28	Revoke sign licences
33	Issue and revoke special permits for signs
36A	Remove and dispose of signs unlawfully displayed
	<b>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law</b>
6.2	Approve or refuse an application for a permit to trade, conduct a stall or outdoor eating facility.
<b>Regulation</b>	<b>Building Regulations 1989</b>
20	Issue a certificate of classification
<b>Regulation</b>	<b>Local Government (Financial Management) Regulations 1996</b>
12(1)(a)	Power to make payments from the municipal and trust funds

Carried by Absolute Majority 10/0

## 12.2 ENGINEERING

### 12.2.1 FIVE YEAR FOOTPATH REPLACEMENT PROGRAM

**File No:** E.17. 8. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 7 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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#### SUMMARY

The purpose of this report is to provide Council with its first five year list of proposed footpath replacement and new construction projects, commencing in the 2004/2005 financial year.

#### STATUTORY ENVIRONMENT

Footpath replacement is covered as an activity under the Principal Activities Plan. No policy currently exists on this subject however two new policies ("Footpath Replacement – Residential Streets" and "Long Term Engineering Programs") are included in this agenda for consideration. There are no statutes in Government legislation on this subject.

#### POLICY IMPLICATIONS

Two proposed new policies in this agenda would apply to this subject.

#### STRATEGIC IMPLICATIONS

Under Council's Strategic Plan, goal No. 4 Infrastructure applies:

*To effectively manage, maintain and enhance the Town's physical assets.*

The key strategies addressed are for community safety, the preservation of our built heritage and the development of Asset Management Plans.

#### FINANCIAL IMPLICATIONS

The annual expenditure levels match those under this heading within the Principal Activities Plan. The use of forward plans greatly aids in the pursuit of sustainable infrastructure stewardship and removal of annual peaks and troughs in financial demands.

#### BACKGROUND

Previous annual allocations for footpath improvements, as capital expenditure, have been as 'lump sum' amounts in each budget document.

This five year program allows Council to include a list of works in each budget, with individual paths being listed and costed.

#### CONSULTATION

No consultation has occurred with this program. All works are based on a very recent inspection, by staff, of all footpaths.

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**STAFF COMMENT**

The Town now has approximately 42.5 kilometres of pre-cast concrete slab footpaths remaining. These are constructed throughout the Town primarily in residential streets and some commercial precincts.

In addition, approximately 55.5 kilometres of in-situ concrete and brick paved paths exist.

The Principal Activities Plan identifies funding for the footpath replacement program. The objective is to progressively replace all pre-cast concrete slab paths based on the allocation of funding levels within the Principal Activities Plan and indicative ten year Capital Works Program.

The width of paths that is recommended is based on providing the minimum width of 1.5 metres unless pedestrian numbers or other needs are identified. The current minimum width is considered to be the most appropriate when considering acceptable clearances for prams and manual/electric wheelchairs etc. The latter has become a significant consideration in recent years, as has the adoption of the Australian Road Rules (December 2000) in relation to children under 12 years of age riding 'as of right' on footpaths.

An assessment of footpaths has been completed, based on condition survey and location in relation to schools, commercial precincts, parks etc.

The list of footpaths proposed to be either upgraded or installed each year over the five year period is consistent with funding identified in the draft 2004-2008 Principal Activities Plan.

The estimated cost is based on current dollars and an estimate of \$30 per square metre for slab replacement with in-situ concrete.

The program reflects a recently completed inspection and provides for the worst condition paths to receive earliest attention.

At the same time, provision has been made for improved access to school, commercial areas and other pedestrian/activity generators.

**VOTING**

Simple Majority

**DECLARATION OF INTEREST**

Crs Cunningham and Robertson declared a proximity interest.

**Moved Cr Morgan, seconded Cr Miller**

**That the proximity interests be deemed to be trivial and insignificant and that Crs Cunningham and Robertson be allowed to participate in the debate and vote on the matter.**

Carried 8/0

**COMMITTEE COMMENT**

The Mayor noted that the beachfront paths between North Cottesloe and Cottesloe require upgrading to allow for cyclists.

The Manager Engineering Services advised that he will be working with the Travelsmart Officer to implement a Cyclist Plan.

Cr Morgan stated that the footpath along Marine Parade, between Napier and Forrest Streets is heavily used and very ugly. He has had complaints about the state of the footpath.

The Manager Engineering Services said that this program will not cover aesthetics, this would need to be included as a special project.

Cr Utting suggested that residents be consulted in relation to the works prior to them going ahead.

The Manger Engineering Services advised Councillors that once the budget is set the residents on the affected streets receive a letter advising of the future works, to give the opportunity to provide comment. The contractor also sends out a letter approximately one week prior to commencing the work.

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

Moved Cr Miller, seconded Cr Furlong

**That Council:**

- (1) Adopt the following Five Year Footpath Replacement Program for the purposes of forward planning for the Capital Works Program over the period 2004//2005 to 2008/2009; and**

Year 1 – 2004/2005

<i>Road</i>	<i>From</i>	<i>To</i>	<i>Location</i>	<i>Width (m)</i>	<i>Length (m)</i>	<i>Cost \$</i>	
Pedestrian ramps	Various	Various	Various	-	-	5,000	
Stirling Highway	Forrest Street	Vera Street	West	2.4	70	5,500	
Broome Street	Pearse Street	50m south	West	1.5	50	2,300	
Avonmore Terrace	Rosendo Street	Salvado Street	East	1.5	115	5,200	
Avonmore Terrace	Salvado Street	60m south	East	1.5	60	2,700	
Grant Street	Railway Street	Congdon St	North & South	1.5	110	6,550	
Rosendo Street	Marine Parade	105m east	South	1.5	105	4,800	
Curtin Avenue	Salvado Street	Reginald Street	West	1.5	160	7,200	
Pearse Street	Curtin Avenue	80m west	North	1.5	80	3,600	
Marmion Street	Forrest Street	John Street	West	1.5	90	4,100	
Mc Arthur Street	Marine Parade	Curtin Avenue	South	1.5	135	6,300	
Vera View	Marine Parade	Margaret St	North	1.5	50	3,000	
Marine Parade	Curtin Avenue	Sydney Street	East	1.5	165	7,500	
Eric Street	Railway Street	Stirling Hwy	South	1.5	150	6,750	
Gordon Street	Boreham Street	Edward Street	West	1.5	100	4,500	
					Totals	1440m	\$75,000



Year 2 – 2005/2006

Road	From	To	Location	Width (m)	Length (m)	Cost \$	
Pedestrian ramps	Various	Various	Various	-	-	5,000	
Stirling Highway	Vera Street	Albion Street	West	2.4	70	5,500	
Nailsworth Street	Napier Street	Clarendon St	West	1.5	280	17,000	
Marine Parade	North Street	Vera View	East	2.1	240	15,200	
Broome Street	Salvado Street	Princes Street	East	1.5	105	4,800	
Broome Street	Salvado Street	45m north	East	1.5	45	2,300	
Broome Street	Pearse Street	Lillian Street	East	1.5	70	3,200	
Rosendo Street	Broome Street	45m west	North	1.5	45	2,100	
Rosendo Street	Marine Parade	85m east	North	1.5	85	3,900	
Eric Street	Gadson Street	55m west	South	1.5	55	2,500	
Hawkstone Street	Broome Street	80m west	North	1.5	80	3,600	
Railway Street	Eric Street	Grant Street	West	1.5	50	2,300	
Railway Street	Grant Street	William Street	East	1.5	55	2,500	
Railway Street	Parry Street	Congdon St	South	1.5	70	3,200	
Congdon Street	Grant Street	Stirling Hwy	East	1.5	43	1,900	
					Totals	1293m	\$75,000

Year 3 – 2006/2007

Road	From	To	Location	Width (m)	Length (m)	Cost \$	
Pedestrian ramps	Various	Various	Various	-	-	5,000	
Stirling Highway	Albion Street	Burt Street	West	2.4	115	8,600	
Stirling Highway	Burt Street	Napier Street	West	2.4	130	9,400	
Marine Parade	Warton Street	Gibney Street	East	2.4	165	12,000	
Marine Parade	Gibney Street	Beach Street	East	2.4	115	8,400	
Princes Street	Broome Street	75m west	East	1.5	75	3,500	
Broome Street	Lillian Street	Reginald Street	East	1.5	85	3,900	
Avonmore Street	Pearse Street	Deane Street	East	1.5	120	5,400	
Broome Street	Forrest Street	65m south	West	1.5	65	3,000	
Loma Street	Broome Street	160m east	North	1.5	160	7,200	
Brighton Street	Mid block B/N	Grant & North	East	1.5	70	3,200	
Deane Street	Mid block B/N	Broome & Avonmore	West	1.5	30	1,400	
Town Centre Footpath Allocation				-	-	9,000	
					Totals	1130m	\$80,000

Year 4 – 2007/2008

Road	From	To	Location	Width (m)	Length (m)	Cost \$
Pedestrian ramps	Various	Various	Various	-	-	5,000
Stirling Highway	Napier Street	Edward Street	West	2.4	130	9,400
Stirling Highway	Edward Street	Boreham St	West	2.4	120	7,000
Marine Parade	Beach Street	Princes Street	East	2.4	110	8,100
Marine Parade	Grant Street	Vera View	East	1.5	260	12,000
Hawkstone Street	Broome Street	60m east	South	1.5	60	2,700
Jarrad Street	Broome Street	Curtin Avenue		2.0	230	13,800
Curtin Avenue	Jarrad Street	Finey Street	West	1.5	140	6,300
Napier Street	Marmion Street	Broome Street		1.5	185	8,400
Mann Street	Grant Street	William Street	East	1.5	25	1,500
Parry Street	Railway Street	Hillside Street	Mid	1.5	50	2,300
Perth Street	Railway Street	Laneway	North & South	1.5	95	4,300
Wentworth Street	Railway Street	Laneway	South	1.5	60	2,700
Windsor Street	Railway Street	Hillside Street	East	1.5	120	5,400

Napier Street	Railway Street	Dalgety Street	South	1.5	50	3,100
Town Centre Footpath Allocation						8,000
Totals					1635m	\$100,000

Year 5 – 2008/2009

<i>Road</i>	<i>From</i>	<i>To</i>	<i>Location</i>	<i>Width (m)</i>	<i>Length (m)</i>	<i>Cost \$</i>
Pedestrian ramps	Various	Various	Various	-	-	5,000
Stirling Highway	Boreham Street	Eric Street	West	2.4	120	7,000
Stirling Highway	Eric Street	Congdon St	West	2.4	220	16,000
Napier Street	Broome Street	Marine Parade	South	1.5	285	12,800
Barsden Street	Jarrad Street	Forrest Street	North	1.5	125	5,700
Stirling Highway	Congdon Street	Parry Street	North/West	2.4	245	17,700
Grant Marine Park	Footpaths within park			1.5	286	12,900
Princes Street	Curtin Avenue	Broome Street	North	1.5	60	2,900
Town Centre Footpath Allocation						20,000
Totals					1341m	\$100,000

- (2) That year 1 of this program be included in the draft 2004/2005 budget, subject to sufficient funding being available.

Carried 10/0

**12.2.2 FIVE YEAR LOCAL ROAD REHABILITATION PROGRAM**

**File No:** E17. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 3 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of the report is to provide a program of local road rehabilitation and improvement projects, over a five year period, commencing in the 2004/2005 financial year, with funding levels based on the draft Principle Activity Plan.

**STATUTORY ENVIRONMENT**

There is no specific legislation relevant to this report.

**POLICY IMPLICATIONS**

There are no policy implications relating to the content of this report, other than a draft policy included in this agenda for long term programs.

**STRATEGIC IMPLICATIONS**

The listed works comply with Council's Strategic Plan, particularly in the areas of innovation/improvement, long term vision, consultation/communication and asset management. The applicable Core Goal is "Infrastructure: To effectively manage, maintain and enhance the Town's physical assets".

**FINANCIAL IMPLICATIONS**

This program will allow Council to consider the projects proposed for local road enhancement and rehabilitation, as compared to available finance and the sustainable level required for asset preservation.

**BACKGROUND**

The Town has streets totalling 48.5km in length. These include residential streets and the higher traffic volume use distributor and arterial roads. Local roads, in this context, total some 29.8km in length.

Traffic volumes and age are the major impacts on street surface condition and pavement strength in the Town rather than other variables such as high water table and poor soil conditions, which are factors in other areas.

To maintain the asset condition sustainably for any road system, routine resurfacing of the total road pavement is required on a 15 to 20 year cycle. In general terms, roads require major reconstruction every 40 years. This time can change depending on weight and volume of traffic use, differing soil conditions, quality of materials used and maintenance efficiency. The program proposed is based on the forward estimates in the Principal Activity Plan.

In Cottesloe the typical resurfacing technique is to remove the old surface and portion of the pavement and replace it with a combination of asphaltic concrete mixes. The base layer initially added is 'Thicklift', which is an open grade mix used as a strengthening and connective layer, laid up to 100mm thick, with depth increase dependant on proposed use. The finish or upper layer is the wearing course, which is denser, of better quality and relatively more expensive. It provides the majority of strength and a smooth trafficable surface. This technique is efficient, causes minimal disruption to residents and motorists and is cost effective. Alternative treatments, using various asphalt mixes, are also being trialled.

The proposed program is based on a combination of the data provided from the Town's 'ROMAN' road management software package and from visual inspection of all Town streets. The selected projects are 'local roads' only, with no 'major roads' (higher use distributor/arterial roads) included. A separate program covers the 'major road' projects.

The objective of the proposed program is sustainable asset management to bring the road network to a long term quality condition using all available sources of funding.

### **CONSULTATION**

Nil.

### **STAFF COMMENT**

All Town roads and streets have been visually inspected in the past six weeks, with every road section being allocated a 1-5 score (1 being excellent through to 5 being very poor).

The actual age of the sprayed seal or asphalt surfaces plus the level of obvious cracking in many streets are the two main generators for the need to resurface.

Apart from the actual estimated cost for surface replacement, the total estimated project cost includes kerb replacement, if needed, modifications to existing crossover connections to the new seal or kerb edge, plus relocation of behind-kerb reticulation systems if needed.

Any replacement of drainage grates with soak pits and/or side entry pits will be included in the five year Drainage Improvement Program.

A separate report will be provided to Council on the needs of the road system in terms of the cost of ongoing sustainability of this asset, rather than the funding levels available from the Principal Activity Plan. The proposed program is based on streets catagorised as level 4-5 poor to very poor condition. This list will be re-visited every year in February/March.

### **VOTING**

Simple Majority

**DECLARATION OF INTEREST**

Cr Robertson declared a proximity interest.

Moved Cr Morgan, seconded Cr Miller

**That the proximity interest be deemed to be trivial and insignificant and that Cr Robertson be allowed to participate in the debate and vote on the matter.**

Carried 9/0

**COMMITTEE COMMENT**

It was noted that funding for right of ways is not included in the road program.

**12.2.2 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council:**

- (1) Adopt the following Five Year Local Road Rehabilitation Program and that it form the basis for future annual Capital Works Programs; and**

Year 1 – 2004/2005

<i>Road</i>	<i>Road No.</i>	<i>From</i>	<i>To</i>	<i>Width (m)</i>	<i>Length (m)</i>	<i>Est. Cost \$</i>
McArthur St – service road	93	Warton St	McArthur St	5.5	110	12,500
Brixton Street	84	Jarrad St	Dead end	6.1	90	11,500
Bird St	88	Napier St	Dead end	7.5	180	20,000
Parry St	50	Railway St	Alexandra Ave	5.6	260	26,000
Mann St	22	Eric St	Grant St	6.4	350	30,000
Totals					990m	\$100,000

Year 2 – 2005/2006

<i>Road</i>	<i>Road No.</i>	<i>From</i>	<i>To</i>	<i>Width (m)</i>	<i>Length (m)</i>	<i>Est. Cost \$</i>
Pearse St	26	Broome St	Curtin Ave	6.4	340	47,500
Burt St	37	Railway St	Dead end	6.4	290	24,500
Wentworth St	77	90° bend	Dead end	5.0	40	8,600
Princes St	27	Marine Pde	Avonmore Tce	5.8	200	27,000
Nailsworth St	73	Napier St	Clarendon St	4.7	280	32,400
Totals					1150m	\$140,000

Year 3 – 2006/2007

<i>Road</i>	<i>Road No.</i>	<i>From</i>	<i>To</i>	<i>Width (m)</i>	<i>Length (m)</i>	<i>Est. Cost \$</i>
Napier St	10	Marine Pde	Broome St	7.2	380	40,000
Lyons St	33	North St	Grant St	5.5	480	39,500
Sydney St	53	Marine Pde	Curtin Ave	6.1	140	13,500
Rosendo St	25	Marine Pde	Broome St	6.5	390	24,000
Ozone Pde	31	Grant St	Margaret St	5.7	380	49,000
Wentworth St	77	Railway St	Dead end	5.6	190	19,000
Totals					1960m	\$185,000

## Year 4 –2007/2008

<i>Road</i>	<i>Road No.</i>	<i>From</i>	<i>To</i>	<i>Width (m)</i>	<i>Length (m)</i>	<i>Est. Cost \$</i>
Napier St	10	Broome St	Curtin Ave	7.5	520	55,000
Albion St	36	Railway St	Stirling H'way	6.4	270	29,000
Birbeck Ave	79	Hawkstone St	Grant St	7.5	120	13,500
Greenham St	69	Railway St	Dead end	5.5	110	17,000
Princes St	27	Avonmore Tce	Broome St	5.8	190	14,200
Marmion St	8	North St	Grant St	7.5	480	51,000
Torrens St Torrens Ct	59 72	Total of both streets		5.6	290	23,000
Totals					1980m	\$202,700

## Year 5 –2008/2009

<i>Road</i>	<i>Road No.</i>	<i>From</i>	<i>To</i>	<i>Width (m)</i>	<i>Length (m)</i>	<i>Est. Cost \$</i>
Melville St	80	Congdon St	Seaview Tce	4.9	105	14,000
Perth St	48	Railway St	Dead end	6.8	190	21,000
Forrest St	11	Broome St	Marine Pde	9.9	390	50,000
Florence St	30	Curtin Ave	Marmion St	5.6	360	27,000
Marmion St	8	Forrest St	Napier St	7.5	350	31,000
Brighton St	32	North St	Grant St	5.7	480	40,000
Eileen St	52	Marine Pde	Gadson St	7.5	160	18,500
Totals					2035m	\$201,500

- (2) Include year 1 of this program in the draft 2004/2005 budget, subject to sufficient funding being available.

Carried 10/0

**12.2.3 FIVE YEAR ROAD DRAINAGE IMPROVEMENT PROGRAM**

**File No:** E15. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 3 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to provide a program of improvements to the Town's road drainage systems, over a five year period, commencing in the 2004/2005 financial year, with funding levels based on the draft Principal Activities Plan.

**STATUTORY ENVIRONMENT**

There is no specific legislation relevant to this report.

**POLICY IMPLICATIONS**

There are no policy implications relating to the content of this report, other than a draft policy included in this agenda for long term programs.

**STRATEGIC IMPLICATIONS**

The listed works comply with Council's Strategic Plan, particularly in the areas of innovation/improvement, long term vision, consultation/communication and asset management. The applicable Core Goal is "Infrastructure: To effectively manage, maintain and enhance the Town's physical assets".

**FINANCIAL IMPLICATIONS**

This program will allow Council to consider the range of projects proposed for the next five years and their connection to the Local Road Rehabilitation projects, the long term rehabilitation of large road verge sumps and the progressive increase in drainage water infiltration rates into the water table for long term positive environmental benefits, as apposed to the financial costs of such works.

**BACKGROUND**

Council's past practice for drainage works has been the adoption of a lump sum allocation for such works, with a variety of jobs, particularly the conversion of grated inlet pits into side entry and soak pits occurring over the budget year, separate to any roadworks being undertaken. No consideration has been detailed in the past as to where Council plans to be in, say, five years time in the development of its drainage systems.

**CONSULTATION**

No public consultation has taken place on these projects. Advice to residents and landowners will be provided through notification of works letters provided in advance of individual projects and also as part of other associated road works.

**STAFF COMMENT**

The Town of Cottesloe has been installing, upgrading and extending its comprehensive drainage system for many years. The minority volume of the drainage water collected runs into the ocean. A large and growing amount exits through absorption pits into the water table.

Over many years, with a variety of changes of standards, material types, invasion of pipes by tree root systems, intrusion of systems by service authorities when installing their own pipes and cables etc, refurbishment is required to bring older sections of the network up to current standards, including entry pits and pipeline junctions.

In addition, a number of streets have no longitudinal pipeline system or soak pits to pick up water flows from the kerb face. This water flows down the kerb line, over intersections and is eventually taken into the system at a low point or entry to a cross street drain.

Current standards now require regular entry points for kerbside drainage to remove intersection safety problems caused by surface drainage flows as well as ensuring kerbside flows do not flood over into private property.

At a catchment level, the area of porous or absorbent surface, ie grass, soil, gardens, is being progressively replaced with non-porous surfaces, such as concrete, brick paving, buildings of various types and asphalt, as the Town develops and residential improvement increases.

An increased area of non-porous surface means a greater run off into the road and street surfaces and then down the kerbside to the first drainage entry point. At a time of very high rainfall, a large number of private property absorption pits cannot cope with the rainfall. This drainage water then finds its way to the Town drainage system.

The Town needs to ensure that all entry pits and junctions are built to modern standards, that all restrictions eg tree roots and other services are removed from drainage pipelines, that gully cleaning (educating) takes place regularly, that all pipelines have a properly designed capacity, with small pipe sizes being replaced, and that the maximum installation of soak pits is achieved, to feed water into the water table.

The ongoing Western Suburbs Stormwater Quality Strategy study identifies opportunities for improvements to the current drainage system by increasing local infiltration.

In essence, the Town already has a large portion of its road surface drainage water entering soakage pits. A number of ocean outfalls still exist, collecting water from a series of inlet pits and pipelines and allowing this water to enter the beach zone or the sea. A number of large sumps also exist which are both high maintenance and low aesthetics, with liability concerns and no control of pollution through these sumps to the water table.

The Drainage Improvement Program is aimed at:



- Reducing the potential for property flooding, erosion and safety hazards to motorists caused by wide gutter flows.
- Progressively implementing innovations to the drainage system, based on the Stormwater Quality Strategy.
- Replacing low capacity pipeline sections with soakage pits or high capacity pipelines.
- Removing obstructions in pipelines and soakage or entry pits.
- Providing drainage soak pits for streets not yet equipped with drainage systems.
- Progressively replacing ocean outfalls with alternative systems.
- Progressively replacing open sumps with underground 'buffer' type soakage tanks.
- Replacing grated entry pits with side entry and soak pits.

The Five Year Drainage Improvement Program addresses all drainage problems known to staff, however, this program is to be reviewed each year to ensure gaps in the system are resolved as they become known of.

This program is linked to the Five Year Local Road Rehabilitation program, with all drainage changes required on the listed roadworks being undertaken as part of the Drainage Program.

## VOTING

Simple Majority

## COMMITTEE COMMENT

Nil.

### 12.2.3 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

**That Council:**

- (1) Adopt the following Five Year Road Drainage Improvement Program and that it form the basis for the future annual Capital Works Programs for drainage; and**

Year 1 – 2004/2005

<i>Road</i>	<i>Road No.</i>	<i>From</i>	<i>To</i>	<i>Works</i>	<i>Est. Cost \$</i>
McArthur St – service road	93	Warton St	McArthur St	2 soak pits	6,000
Brixton Street	84	Jarrad St	Dead end	2 soak pits	6,000
Bird St	88	Napier St	Dead end	2 soak pits	6,000
Parry St	50	Railway St	Alexandra Ave	8 soak pits	24,000
Mann St	22	Eric St	Grant St	6 soak pits	18,000
Conversion of small open sump to 'buffer' type tanks					10,000
Total					\$70,000

## Year 2 – 2005/2006

Road	Road No.	From	To	Works	Est. Cost \$
Pearse St	26	Broome St	Curtin Ave	5 soak pits	15,000
Burt St	37	Railway St	Dead end	6 soak pits	18,000
Wentworth St	77	90° bend	Dead end	1 soak pit	3,000
Princes St	27	Marine Pde	Avonmore Tce	2 soak pits	6,000
Nailsworth St	73	Napier St	Clarendon St	2 soak pits	6,000
Conversion of one ocean outfall to soak pits					7,000
Conversion of open sump to 'buffer' type tanks					20,000
Total					\$75,000

## Year 3 – 2006/2007

Road	Road No.	From	To	Works	Est. Cost \$
Napier St	10	Marine Pde	Broome St	4 soak pits	12,000
Sydney St	53	Marine Pde	Curtin Ave	2 soak pits	6,000
Rosendo St	25	Marine Pde	Broome St	2 soak pits	6,000
Ozone Pde	31	Grant St	Margaret St	2 soak pits	6,000
Wentworth St	77	Railway St	Dead end	4 soak pits	12,000
Conversion of one ocean outfall to soak pits					8,000
Conversion of large open sump to 'buffer' type tanks					30,000
Total					\$80,000

## Year 4 – 2007/2008

Road	Road No.	From	To	Works	Est. Cost \$
Napier St	10	Broome St	Curtin Ave	8 soak pits	24,000
Birbeck Ave	79	Hawkstone St	Grant St	2 soak pits	6,000
Greenham St	69	Railway St	Dead end	2 soak pits	6,000
Princes St	27	Avonmore Tce	Broome St	4 soak pits	12,000
Marmion St	8	North St	Grant St	4 soak pits	12,000
Conversion of one ocean outfall to soak pits					9,000
Conversion of open sump to 'buffer' type tanks					16,000
Total					\$85,000

## Year 5 – 2008/2009

Road	Road No.	From	To	Works	Est. Cost \$
Melville St	80	Congdon St	Seaview Tce	4 soak pits	12,000
Perth St	48	Railway St	Dead end	4 soak pits	12,000
Forrest St	11	Broome St	Marine Pde	6 soak pits	18,000
Florence St	30	Curtin Ave	Marmion St	6 soak pits	18,000
Eileen St	52	Marine Pde	Gadson St	2 soak pits	6,000
Conversion of open sump to 'buffer' type tanks					24,000
Total					\$90,000

- (2) Include year 1 of this program in the draft 2004/2005 budget, subject to sufficient funding being available.

Carried 10/0

**12.2.4 MAJOR ROAD REHABILITATION AND IMPROVEMENT PROGRAM**

**File No:** X 8.14  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 16 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to provide a program of major road rehabilitation and improvement projects for the next five years.

**STATUTORY ENVIRONMENT**

No specific statutory requirements are associated with this report, however the intention is to provide forward planning for major road projects to satisfy State Government guidelines for the Metropolitan Regional Road Grant program.

**POLICY IMPLICATIONS**

No specific policy applies to this report, however, a proposed policy is included in this agenda, for Council consideration.

**STRATEGIC IMPLICATIONS**

The strategic aims of community safety, preservation of built heritage and Asset Management Plans apply, as the preservation of the Town's assets is essential where those assets are to be retained. The provision of well-maintained and designed roads recognises the need to provide a safer environment for the community.

**FINANCIAL IMPLICATIONS**

The proposed expenditure is consistent with the draft Principal Activities Plan. Identifying projects in this timeframe allows the Town to seek significant funding grants from Government sources, reducing the potential burden on the Town.

**BACKGROUND AND STAFF COMMENT**

Development of the five year programs provides for a strategic view of asset management funding, that includes preservation or improvements of existing, as well as development of new, assets.

The Principal Activities Plan provides for total expenditure of between \$216,500 and \$480,000 per year over the next five years for the Major Road Rehabilitation Program, from both anticipated grant income and Council funding.

The Road Rehabilitation category of projects listed in this report are those eligible for funding through the Metropolitan Regional Road Group (MRRG) pool of funds. These projects attract two-thirds funding from the State Government. Generally roads having a traffic threshold of 2000 vehicles per day and classified as Local Distributor, District Distributor A or B are eligible.

The nature of the work eligible under the guidelines is for pavement rehabilitation (reconstruction). That is, the focus is on the road pavement component and not on major streetscape, footpath, street lighting and drainage improvements. The submission guidelines incorporate a weighted point scoring system that allows comparison with other projects across the metropolitan area.

A major factor in the 'point score' achieved is the 'efficiency' calculation wherein the project's overall 'per square metre' rate is compared to benchmark figures. This calculation effectively penalises submissions structured with unnecessary expensive reconstruction techniques or excessive ancillary components added in to the submission, for example footpath upgrades, major drainage improvements etc.

In previous years, the State Government through MRWA has funded approximately \$8.5m per year for this program in the Perth Metropolitan area. This figure was reduced to \$5.0m when the 2003/2004 State Budget was approved. This has, in turn, reduced the maximum amount any local government authority can receive from the MRRG process to below \$500,000 per year.

The 2004/2005 MRRG program has been confirmed by MRWA but awaits the Minister's final approval. The Town has developed a proposed program beyond 2004/2005 with the opportunity for MRRG funding. Completion of the MRRG submissions in the past showed that the visually 'worst' roads proposed for funding submissions were often not the technically 'worst' roads after road testing has been completed.

Submissions for MRRG grant funding have been previously forwarded to MRWA for assessment. The 2004/2005 submissions have been assessed by MRWA and two Town of Cottesloe projects submitted fall within the list of projects to be funded. However, confirmation will not be received until after the State Government adopts their 2004/2005 Budget.

For the 2004/2005 financial year two sections of Curtin Avenue and one section of Broome Street and Railway Street were applied for and would have previously been approved, but the funding reduction referred to above meant that Railway Street from Grant Street to Parry Street plus Curtin Avenue from the southern boundary to Victoria Street has had to be carried over into the 2005/2006 submissions.

A successful road funding submission aimed at maximising the grant funds received reduces the financial burden on the Town of maintaining and upgrading its major road network.

This report outlines the coordinated application of major road rehabilitation funding allocations proposed over the next five years. The strategy has been developed from anticipated funding levels as incorporated in the Principal Activities Plan.

Submissions to MRWA are made annually, with changes being possible in the five year program every year. This program is aimed at maximising the income from MRRG sources per annum, based on the potential maximum points scored in each road submission. All roads involved are fully Council's responsibility, with Council total funding eventually required if no MRRG funds are provided.

The benefits of a strategic view include:

- forward planning of MRRG project submissions;
- more detailed planning within the framework of the Principal Activities Plan and 10-year Capital Works Program;
- synergies gained through integration of road rehabilitation and other road-type programs, eg local street works, laneway improvements and footpath projects.

Main Roads WA requires that a five (5) year forward program of projects be updated and submitted annually with detailed submissions for the first two years. The list of projects proposed for submission later this year is attached.

## CONSULTATION

Consultation will take place for each road project on a case by case basis, when funds are approved and draft designs completed. The majority of these projects are purely the replacement of failing asphalt surfacing and kerbing, plus the upgrading of grated damage puts to side entry puts and soak pits, requiring little consultation.

## VOTING

Simple Majority

## COMMITTEE COMMENT

Nil.

## 12.2.4 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

**That Council:**

- (1) Adopt the following Five Year Major Road Rehabilitation and Improvement Program and that the program form the basis of future annual Capital Works Programs; and**

Year 1, 2004/2005

		<i>Total Cost Estimate</i>
Broome Street	- Napier Street to Grant Street	\$130,000
Curtin Avenue	- Eric Street to Grant Street	<u>\$86,500</u>
Total		<u>\$216,500</u>

Year 2, 2005/2006

		<i>Total Cost Estimate</i>
Railway Street	- Grant Street to Parry Street	\$160,000
Curtin Avenue	- Southern boundary to Victoria Street	\$98,500
Marine Parade	- Jarrad Street to Napier Street	<u>\$140,000</u>
Total		<u>\$398,500</u>

Year 3, 2006/2007

		<i>Total Cost Estimate</i>
Marine Parade	- Grant Street to North Street	\$200,000
Grant Street	- Marine Parade to Marmion Street	\$90,000
Broome Street	- Salvado Street to Jarrad Street	\$80,000
North Street	- Servetus Street to Marmion Street	<u>\$110,000</u>
Total		<u>\$480,000</u>

## Year 4, 2007/2008

		<i>Total Cost Estimate</i>
Marine Parade	- Curtin Avenue to Salvado Street	\$230,000
North Street	- Marmion Street to Marine Parade	\$80,000
Railway Street	- Jarrad Street to Napier Street	\$81,000
Railway Street	- Napier Street to Eric Street	<u>\$51,000</u>
Total		<u>\$442,000</u>

## Year 5, 2008/2009

		<i>Total Cost Estimate</i>
Marine Parade	- Salvado Street to Jarrad Street	\$132,000
Jarrad Street	- Stirling Highway to Broome Street	\$75,000
Salvado Street	- Avonmore Terrace to Broome Street	\$40,000
Congdon Street	- West side – Stirling Highway to Grant Street	\$25,000
	East side – Grant Street to Railway Street	<u>\$44,000</u>
Total		<u>\$316,000</u>

- (2) Include year 1 of the Major Road Rehabilitation and Improvement Program in the draft 2004/2005 budget, subject to sufficient funding being available.**

Carried 10/0

**12.2.5 NORTH COTTESLOE SURF LIFE SAVING BOATSHED DECK**

**File No:** E 2. 9

**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 4 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

In August 2003, Council resolved the following, regarding this matter.

*That:*

- (1) Council investigate the cost of sealing the surface of the North Cottesloe Surf Life Saving boatshed deck, providing shade over approximately 50% of the area and supplying robust street furniture to provide seating for up to thirty persons;*
- (2) A public consultation process be undertaken if Council sees merit in this project once it has indicative costings.*

The Agenda report provided to Council in August 2003, gives further information on proposed treatments and indicative costs for the provision of a deck surfacing, shade cover and street furniture for this area.

**STATUTORY ENVIRONMENT**

The area involved is Cottesloe Lot 365, Reserve No. 28199, vested in the Town of Cottesloe. In 1995 the WA Planning Commission gave approval for development, with conditions relating to a landscaping plan to be approved by the Commission. In 1996 the Ministry of Planning approved a Council proposal to proceed with an option to pave and landscape this deck area.

The Department of Planning and Infrastructure still has to approve any development of this site, the land being reserved under the Metropolitan Regional Scheme as Park and Recreation.

**POLICY IMPLICATIONS**

Council adopted a policy in July, 1999 which accepts the Streetscape Policy and Manual as the control document for design features of streetscape in the three main precinct areas – Marine Parade, Town Centre and Residential.

**STRATEGIC IMPLICATIONS**

Two strategic goals relate to this matter.

Goal 3: Environmental Management – To maintain and enhance the Town's unique, natural and built environment.

Goal 4: Infrastructure – To effectively manage, maintain and enhance the Town's physical assets. Key strategies relate to community safety, protection and enhancement/development of icon sites and enhancement of streetscape.

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**FINANCIAL IMPLICATIONS**

No allocation exists in the current 2003/2004 budget for any capital works at this site. The draft 2004/2005 budget does not currently include funding proposed for these works. All costs would have to be met from Council funding and the costs of the various components of this work are included in the report.

**BACKGROUND**

This matter has dragged on for approximately eight years. Council has previously committed itself to completing these works and a previous design and materials have been approved by the WA Planning Commission. Since that agreement, the matter has lapsed and no current development approvals now exist for this site.

Grant funding has been applied for under a "Coastwest" grant but was unsuccessful. Previous total costs for brick paving, sealant, shade 'sails' and furniture have totalled up to \$80,000 and Council has not been prepared to fund the works to this level.

The site remains in a poor aesthetic condition with a high potential for pedestrian use and enjoyment.

**CONSULTATION**

Discussions have taken place with the proprietor of the Blue Duck. No public consultation has recently been undertaken. A public consultation process has been proposed as well as a submission for approval to the Department of Planning and Infrastructure, once an initial Council agreement is reached on development.

**STAFF COMMENT**

The original idea of using high cost paving bricks created several problems for Council:

1. The cost of the bricks were high, beyond the point of Council acceptance at that time.
2. The weight of the bricks, amounting to several tonnes, was not an advantage, when added to the strength and weight of the reinforced, elevated concrete slab.
3. The laying of paving bricks required a layer of bedding sand, which had to be properly drained, and a water sealant also added to the concrete slab.

The use of decorative, patterned and coloured high strength sealant from 'Faux Bricks' is proposed. This would remove the weight, sand bedding, sealant and cost problems, with a total completed cost of less than \$12,000 including GST, over an area of 286m<sup>2</sup>.

This material can be applied in a range of colours, patterns and textures. It has been used in very high wear areas such as speed humps on Hay Street, Subiaco, taking 20,000 vehicles/day over three years. The surface can also be 'refreshed' as required and is completed with a poly-urethane sealer.



Quotations for the installation of sail type shade shelters have also been received, ranging from \$16,750 to \$20,500 (plus GST) depending on shape and fabric of the sail, type of installation poles and area of sail.

This shelter, if installed, can be removed by the manufacturer each winter for a small fee, to extend its useful life.

The shape of this sail plus colours can be varied to meet Council's requirements, but a dark colour, such as blue, would not show staining as much as white or very light colours. With regards to furniture, including seats, tables and planter boxes, the cost, style and quality of these fittings range, depending on choice and number.

Attachments to the concrete deck can take place by using chemical anchors which are sealed off from air and moisture ingress. They need to withstand heavy weather and salt corrosion, plus the expectation of vandalism and graffiti.

The site currently provides concerns regarding public liability issues. The area is often used by children using in-line skates playing hockey. Hockey 'pucks' have been hit through the Blue Duck windows, and there is potential for high speed skaters going over the top of the protective balastrading. A solution to these concerns is urgently required. Permanent furniture to obstruct such use would be a great advantage.

#### **VOTING**

Simple Majority

#### **COMMITTEE COMMENT**

Discussion was held in relation to concerns over the use of the deck as an ice-hockey training area.

Cr Furlong noted that there is a commitment with the WA Planning Commission in relation to developing this area.

#### **AMENDMENT**

Moved Cr Walsh, seconded Cr Utting

That the tables be removed from recommendation point (1).

Lost 8/2

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

Moved Cr Miller, seconded Cr Furlong

**That Council:**

- (1) Resolve to consider the inclusion of an allocation of \$45,000 for the development, for public use, of the North Cottesloe Surf Life Saving Boatshed Deck, in the 2004/2005 financial year budget, based on \$12,000 for a Faux Brick type deck surface, \$21,000 for a sail type shade/shelter and \$12,000 for seats, tables and planter boxes;**

- (2) Commit to the attitude that the deck area will remain as a general public access area, free from the provision of a commercial café service, but that a contribution towards the permanent supply of furniture, to further enhance the area, would be acceptable;
- (3) Have staff develop display plans and details, if a budget allocation for the work is adopted, for public consultation, and as a submission to the Department of Planning and Infrastructure for approval to develop the site; and
- (4) Commit to all development being in place by December 2004, if a budget allocation is made.

Carried 9/1

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**12.2.6 PROPOSED NEW CROSSOVER POLICY**

**File No:** E17. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 16 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to seek Council approval of a new policy regarding financial contributions towards crossover construction, between the road edge and the private property boundary.

**STATUTORY ENVIRONMENT**

The Local Government Act (1995) applies:  
Schedule 9.1 clause 7(2), (3) and (4)  
Local Government (Uniform Local Provisions) Regulations 1996

**12 Crossing from public thoroughfare to private land or private thoroughfare – Sch. 9.1, cl. 7(2)**

- (1) Upon the application of the sole owner, or a majority of the owners, of private land the local government may, subject to regulation 14(2) –
- (a) approve the construction, under the supervision of, and to the satisfaction of, the local government, of a crossing giving access from a public thoroughfare to –
- (i) the land; or
- (ii) a private thoroughfare serving the land;
- or
- (b) agree to construct for the applicant a crossing giving access from a public thoroughfare to –
- (i) the land; or
- (ii) a private thoroughfare serving the land.
- (2) A person is not to construct a crossing for vehicles from a public thoroughfare that is a Government road as defined in section 5(1) of the *Road Traffic Act 1974* to –
- (a) land on which premises have been or are about to be constructed; or
- (b) a private thoroughfare serving the land,

unless the construction of the crossing has been approved by the local government under subregulation (1) and the crossing is constructed in accordance with the approval.  
Penalty: \$1,000.

Subregulation (2) is of a kind prescribed in Schedule 3.1, Division 2, item 2A(a). This means that an offender might be given a notice under section 3.25(1)(b) of the Act and if the notice is not complied with the local government may, under section 3.26, itself do what the notice required and recover the cost from the offender.

**13 Requirement to construct or repair crossing – Sch. 9.1, cl. 7(3)**

- (1) A local government may, subject to regulation 14(2), give a person who is the owner or occupier of private land a notice in writing requiring the person to construct or repair a crossing from a public thoroughfare to the land or a private thoroughfare serving the land.
- (2) If the person fails to comply with the notice, the local government may construct or repair the crossing as the notice required and recover 50% of the cost of doing so as a debt due from the person.
- (3) A person to whom a notice is given under subregulation (1) commits an offence if the person fails to comply with the notice.
- (4) The penalty for an offence under subregulation (3) is \$1,000.

#### 15 Contribution to cost of crossing – Sch. 9.1, cl. 7(4)

- (1) Where –
  - (a) a local government –
    - (i) under regulation 12 constructs or approves the construction of; or
    - (ii) under regulation 13(1) requires the construction of, a crossing giving access from a public thoroughfare to private land or a private thoroughfare serving the land;
  - (b) the crossing is the first crossing in respect of the land; and
  - (c) the crossing is a standard crossing or is of a type that is superior to a standard crossing,

the local government is obliged to bear 50% of the cost, as estimated by the local government, of a standard crossing, but otherwise the local government is not obliged to bear, nor prevented from bearing, any of the cost.
- (2) In subregulation (1) –

“**first crossing**”, in respect of land, means the first crossing to the land or a private thoroughfare serving the land constructed under regulation 12 or section 358 of the *Local Government Act 1960* as in force at any time before 1 July 1996;

“**standard crossing**” means, subject to any local law as to what is or is not a standard crossing, a crossing of a kind that the local government, by resolution, decides is a standard crossing.

### POLICY IMPLICATIONS

Council has no policy on its attitude to contribution of subsidies to crossover construction, replacement and maintenance. This report proposes a new policy on this subject.

### STRATEGIC IMPLICATIONS

Over the past five years, Council has funded the subsidy of crossover construction by between \$32,000 and \$78,000 per year. If the majority of this subsidy was redirected to the improvement of general public use infrastructure, then the positive strategic impact on the Town’s infrastructure would be obvious, liability claims due to poor quality infrastructure reduced and the general quality of the Town’s assets improved.

The diversion of crossover funding to local roads, drainage, footpaths and laneway improvements is a definite advantage to ratepayers and residents.

**FINANCIAL IMPLICATIONS**

Funds saved in one area can be redirected to other works in any annual budget year. High priority requirements for infrastructure would be met earlier if funds saved from crossovers can be redirected.

**BACKGROUND AND STAFF COMMENT**

The Local Government Act basically requires that a local government will provide a 50% cost subsidy, based on that local government's estimate of cost, for one crossover construction per property.

That crossover will be the first established to that property, without the requirement for the local government to ever maintain it or update it in future years. Crossover subsidies in Cottesloe appear to have got out of control, with very few 'first crossovers' to a property being subsidised but replacements and heavy maintenance being funded, as well as much wider construction and modifications to old crossovers also involved.

A policy is required on the matter to clearly define Council's responsibility with regards to these private property access points.

**CONSULTATION**

No resident consultation has been undertaken on this matter.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Furlong

**That Council resolve to adopt the following policy on Crossover Construction:**

- (1) Objective: To provide financial assistance to landowners for the construction of the first crossover to any property and the maintenance of existing crossovers.**
- (2) Principle: The Town of Cottesloe will provide for the financial requirements of the Local Government Act 1995 regarding new crossover establishment.**
- (3) Policy Application: The Town will contribute \$200 towards the cost of a first crossover being constructed to a residential or commercial property.**

**When road frontages, streets or footpaths are being rebuilt or asphalt resurfaced, the Town will contribute \$150 towards old crossovers being resurfaced, with any extra cost for this resurfacing being paid by the**

property owner to the asphalt or concrete contractor before works are undertaken.

These contributions will be subject to construction being to at least the standard set out in the Town's specifications. No contribution will be made unless the surfacing is asphalt, in-situ concrete or brick paving.

Crossover construction standards will be detailed on drawings to be made available upon request.

The Town's maintenance staff will carry out minor patching, on asphalt crossovers and undertake minor repairs on in situ concrete and brick paved crossovers if these crossovers were originally built to the Town's standards.

Carried 10/0

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**12.2.7 PROPOSED NEW POLICY - FOOTPATH REPLACEMENT - RESIDENTIAL STREETS**

**File No:** E17. 8  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 16 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

Staff are currently inspecting all footpaths in the Town of Cottesloe, recording all details including a condition rating (1 = excellent to 5 = poor). From this rating, a five year programme of concrete slab replacement with in situ concrete will be provided to Council. This report proposes a system of setting priorities on the scheduling of this replacement.

**STATUTORY ENVIRONMENT**

Footpath replacement is normally covered as an activity under the Principal Activity Plan. No policy exists on the subject of residential footpath upgrading. There are also no statutes in Government Legislation on this subject.

**POLICY IMPLICATIONS**

No policy exists on this matter. This proposes the content of a new policy.

**STRATEGIC IMPLICATIONS**

Council's Strategic Plan goals and strategies met by this new policy are for community safety, the preservation of our built heritage and the development of Asset Management Plans.

**FINANCIAL IMPLICATIONS**

Any financial impact is to be handled through a five year footpath replacement program. This item has no direct financial implication.

**BACKGROUND AND STAFF COMMENT**

The creation of a policy to define the parameters of concrete slab footpath replacement with in-situ concrete in residential streets is timely, given the proposed new five year footpath replacement program. Collection of all details on the existing footpath network is currently being completed. This data will be used to create a Geographical Information System (GIS) map of the location of all footpaths, their surface materials and widths, for use by Councillors, staff, residents, ratepayers and other stakeholders. With improvements, replacements and additions being completed annually, these changes will be added to the GIS footpath map. This, in turn, together with annual condition inspections, provides the ongoing priorities for a rolling five year program.

**CONSULTATION**

No consultation has occurred on this subject.

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**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.2.7 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council adopt the following policy on Footpath Replacement – Residential Streets.**

**(1) Objective:**

**The Town of Cottesloe aims to replace pre-cast concrete slab footpaths with in-situ concrete in residential areas to improve access, public safety and amenity and provide universal access for all users including people with prams, children, the elderly and people with disabilities.**

**(2) Policy Application:**

**Various factors influence the priority of replacement of concrete slab footpaths. These include:**

- **condition rating**
- **history of repairs, eg tree roots, vehicles, building works**
- **usage levels**
- **proximity to pedestrian generators/attractors**
- **user needs and age groupings, eg aged persons homes, hospitals**
- **existing utility services, eg underground power, water mains, telecommunications**
- **single or parallel footpaths, eg a majority of streets have footpaths on both verges.**

**The minimum width of a new in-situ concrete footpath in a residential street will be 1.5 metres, increasing to 2.0 metres where increased use and traffic generators eg shopping centres, schools, hospitals, aged persons complexes etc justify this increased width. Major access routes, eg from the railway stations, to the Cottesloe beach area, will also require an increased width.**

**In assessing the factors, the intent is to avoid replacement of existing serviceable slab footpaths with a low maintenance history ahead of higher priority paths. On this basis, condition rating and history of repairs will have the highest weighting for priority.**

**Usage levels, pedestrian generators and attractors, user needs and age groupings are prioritised as follows:**

- **aged persons hospitals/homes complex**
  - **medical centres**
-



- schools
- local shops
- parks/reserves

Where there are footpaths on both sides of the road within a street block where one of the above facilities is located, preference is to be given to the footpath replacement on the side which abuts the facility.

Following adoption of the annual program, the residents abutting the footpaths to be replaced will be advised in writing of the Council resolution.

Prior to commencement of works, a minimum of one (1) week notice will be provided to abutting residents detailing the extent and duration of works.

Carried 10/0

**12.2.8 PROPOSED NEW POLICY - LONG TERM ENGINEERING PROGRAMS**

**File No:** 3-E  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 16 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A number of rolling Five Year Engineering programs are in the process of being prepared, with year one of each program becoming the next draft budget inclusion under those headings. The proposed policy adopts this as an annual requirement with all programs to be upgraded and presented by the end of March each year.

**STATUTORY ENVIRONMENT**

The only major requirement for long term planning (Local Government Act 1995) is for annual Principal Activity Plans to be created. The Engineering five year programs will link into this document.

**POLICY IMPLICATIONS**

No policy exists on this matter. This proposes the content of a new policy.

**STRATEGIC IMPLICATIONS**

Council's Strategic Plan goals and strategies met by this new policy are for community safety, the preservation of our built heritage and the development of Asset Management Plans.

**FINANCIAL IMPLICATIONS**

This policy, and it's delivery per year, by Engineering staff, will greatly aid in the pursuit of sustainable infrastructure stewardship and remove the year to year planning of financial commitment.

**BACKGROUND AND STAFF COMMENT**

The provision of long term programs covering Council's objectives in a large variety of infrastructure areas will be of great interest and use to Councillors, staff, ratepayers and residents. Projects not capable of being funded in one year will be listed for future years, with the listing based on priority levels as determined by Council and senior staff. The gathering of data regarding the viability of such projects, availability of alternative funding sources, the use of new techniques and materials and the linking of Cottesloe projects across Council boundaries with neighbouring Council objectives will all be benefits of such programs. Debate on the possibility of infrastructure replacement, rehabilitation or creation will centre on "when" over the next five years, rather than "if" a job can be fitted into only the next budget year.

**CONSULTATION**

No consultation has occurred on this matter.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.2.8 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council adopt the following policy on Long Term Engineering Programs.**

**(1) Objective:**

**The provision of long term programs for the construction, upgrading and rehabilitation of all significant infrastructure within the Town of Cottesloe.**

**(2) Principle:**

**Within the context of a ten year capital works program and a Principal Activities Plan, five year forward plans for urban roads, drainage, footpaths, parks and gardens, parking areas and other significant infrastructure areas are to be created and reviewed annually, with updated programs being available to the public.**

Carried 10/0

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**12.2.9 TENDER FOR THE SUPPLY AND LAYING OF ASPHALTIC CONCRETE - THREE YEARS**

**File No:** E 1. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 7 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

On behalf of the municipalities of Mosman Park, Cottesloe, Claremont, Subiaco and Peppermint Grove a tender was advertised and administered by the Town of Mosman Park for the supply and laying of all road asphaltic concrete (hotmix) for a tender period of three years. This follows the completion, at the end of June 2004, of the previous three year contract. This report details the results of that tender process.

**STATUTORY ENVIRONMENT**

The Local Government Act requires that all purchases in excess of \$50,000 be the subject of a tender process. This has legally been completed via this regional tender on behalf of all WESROC Council's apart from Nedlands.

**POLICY IMPLICATIONS**

Council's Purchasing Policy applies to this tender.

**PURCHASING POLICY****(1) OBJECTIVE**

- (a) Provide guidance to Council officers when purchasing goods or services.

**(2) PRINCIPLE**

- (a) General authority to purchase is provided by the adopted annual budget. Purchases not provided for in the budget must be authorised in advance by an absolute majority of Council (Section 6.8 Local Government Act 1995), unless authorised in advance by the Mayor in an emergency.
- (b) Sustainable development is a focus of both the Council and the community and forms the basis of Council's Strategic Plan. Therefore, the Town of Cottesloe will base procurement decisions on the principle of 'value for money' over the life cycle of products and sustainability rather than 'lowest cost'.

**(3) ISSUES**

- (a) While every effort should be made to obtain the lowest price, it is not always appropriate to make purchasing decisions based solely on price. Expenditure policies and practices should:
- ensure that expenditure is cost effective;
  - promote ethical behaviour;
  - seek value for money over the life cycle of the product;

- promote open competition between suppliers; and
- encourage regional cooperation.

#### **(4) POLICY**

##### **4.1 Sustainability**

Procurement decisions will have due regard for and give preference, where the price is no more than 5% more than other suppliers, where:

- (1) the purchase supports a local business,
- (2) the product is Australian made;
- (3) the supplier is an Australian company; and
- (4) goods and service suppliers can demonstrate, or it can otherwise be determined, that prospective purchases are environmentally and socially responsible in aspects including, but not limited to:
  - (a) production, packaging and distribution.
  - (b) use - preference shall be given to items that are aesthetic and emit less pollutants, noise and odour.
  - (c) content – preference shall be given to products made of recycled materials.
  - (d) disposal options - products that can be refurbished, reused, recycled or reclaimed shall be given priority in that order.
  - (e) eco-labelling - e.g. energy efficiency ratings.
  - (f) product life – preference shall be given to products that are able to sustain more wear and tear.

Price will not necessarily be the determining factor and all purchases should be based on value for money over the life cycle of the product.

##### **4.2 Tendering and Group Purchases**

All purchases will be made in accordance with relevant legislation including, but not limited to, the provisions of the Local Government Act and Local Government (Functions and General) Regulations.

Where practicable, use should be made of the services of the WALGA's Council Purchasing Service and other such group schemes that local governments may access.

##### **4.3 Quotations**

In cases where there is no requirement to call tenders and where the services of WALGA's Council Purchasing Services, or a similar group purchasing scheme that Council may access, is not used, then quotations should be obtained. It is recognised that there will be instances where quotations will not be practical due to the value or unique nature of the products to be supplied. However it is expected that at least two quotes will be obtained for most purchases.

A quotations register will be maintained for the purpose of recording goods or services to be procured, the quotations obtained, the supplier selected and the reason for selection.

**STRATEGIC IMPLICATIONS**

There are no strategic implications relating to this tender.

**FINANCIAL IMPLICATIONS**

This Council uses in excess of 1,000 tonnes of asphaltic concrete per year. Any change in cost per tonne could have an immediate impact on road construction and maintenance costs.

**BACKGROUND**

Mosman Park have called tenders for a variety of material supply items on behalf of the majority of WESROC Council's for a number of years, to achieve a bulk purchase benefit for all participants. Only asphaltic concrete is up for renewal this year. A three year contract period is normally sought to allow long term financial planning and to reduce the time required compared to annual tenders.

The City of Nedlands has previously chosen not to be part of this process.

**CONSULTATION**

Consultation has taken place between the Engineering Departments of the various WESROC Council's. No public comments are seen as being necessary for this item.

**STAFF COMMENT**

A total of six suppliers submitted tenders which complied with the tender requirements. There is obviously a very tight competition for this product at this time, resulting in historically low prices per tonne being offered.

The findings of the Mosman Park Executive Manager Technical Services are totally agreed with. Roads 2000 has given good service to participants for this tender for a number of years. The prices offered by Roads 2000 are the most advantageous to the Town of Cottesloe.

The price for milling (removing of old asphalt) have remained virtually unchanged for three years. The prices per tonne of asphalt have reduced by between 15% and 20%. The savings this will provide to the draft Year 1 (2004/2005) Local Roads Construction Program are estimated as \$11,500. The recommendation is that this saving be used to extend the Local Roads Programme, with the short section of the end of Wentworth Street being resurfaced.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**12.2.9 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Furlong

**That Council resolve to adopt the tender prices submitted by Roads 2000 for the supply and laying of all construction asphaltic concrete within the Town of Cottesloe for a three year period, commencing July 1, 2004.**

Carried 10/0

**12.2.10 TOWN CENTRE ZONE - STREETScape PLAN**

**File No:** E17. 8  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 6 May, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

At its meeting in April 2004, Council resolved in the following way:

**12.4.2 ENGAGEMENT OF STREETScape CONSULTANT TO REVIEW TOWNScape PLAN****12.4.2 COUNCIL RESOLUTION**

That staff prepare a report on the potential engagement of a streetscape consultant to prepare a streetscape plan for the Town Centre Zone.

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING****14.1.1 VIVIAN'S CORNER DEVELOPMENT REPAVING OF STREET**

With the Vivian's corner development completed, the repaving of the street will shortly commence. The current paving policy is to be confirmed to ensure that it is appropriate for the town centre zone.

**14.1.1 COUNCIL RESOLUTION**

That a streetscape consultant be engaged to provide a recommendation on complementary street paving to the Vivian's development site surrounding and adjoining Clapham Lane.

This report provides information on both of these resolutions.

**STATUTORY ENVIRONMENT**

There is no specific legislation relevant to this report.

**POLICY IMPLICATIONS**

Council's policy relating to this matter is its Streetscape Policy and Manual, adopted as policy in 1999.

**STRATEGIC IMPLICATIONS**

The major goal, under the Strategic Plan for this item is Infrastructure, with the key strategy being "Enhance Streetscape".

**FINANCIAL IMPLICATIONS**

The cost of any consultant's work to modify or upgrade the current Streetscape policy and manual would be a cost to Council, to be taken from the \$40,000 allocated for the repaving of the Station Street footpaths.

The Manual requires the Town Centre Zone footpaths to be an 'Autumn Glow' sand/cream colour, with a red brick as a header course against the building edge and behind the kerb line.

The application of this requirement would mean all existing red brick paving in the area would require removal and full replacement, at considerable cost.



**BACKGROUND**

Council has adopted, as policy, the contents of the Streetscape Policy and Manual document. The Manual gives exact details of brick types, colours and patterns, as well as the design, colour and type of all street furniture ie light poles & luminaries, rubbish bins, bollards, bike rails and seats.

This item deals with the content of the Manual, as it applies to the Cottesloe Town Centre Precinct. No changes are discussed regarding the Marine Parade and Residential Precincts.

**CONSULTATION**

Consultation has occurred with Council officers and staff regarding the practical application of the specifications in the Streetscape Manual, plus other Local Government Authorities regarding various options, particularly with paving bricks.

**STAFF COMMENT**

Since the adoption of this policy in 1999, there has been a limited application of the technical requirements. Because no footpaths in the Town Centre have been replaced since 1999, the brick paving colours and style proposed in the Manual have never been 'tested'.

Seats, bins, bollards and street lights have begun to be replaced, with mixed results.

**Street Lights**

The three colours chosen (red/brown, purple and green) may have been attractive when new but now appear faded and dull. These lights, however, are not of a design which can be expected to be readily available in future years. Any refurbishment of existing lights should first include investigation of long term availability. Western Power now have available a decorative range of CBD type lighting, with large/long term stocks available. This is one major alternative for a future light choice.

**Seats**

The seats installed in Napoleon Street appear robust, can still be ordered and have not given undue maintenance problems.

**Rubbish Bins**

Only 10 have so far been installed in Napoleon Street. These have been found to be dangerous to staff cleaning out the bins, due to sharp metal edges on the inserts being placed on a sharp metal surround. A short term solution has been to put blocks of wood under the inserts to elevate the sharp metal flanges of the inserts, and remove the possibility of fingers being cut. These bins should be replaced, over time, with a different model without this problem.

**Bollards (special area bollards)**

The manual describes these as recycled underground power boundary probes with recycled plastic battens. Staff have been unsuccessful in locating a new source for these 'boundary probes'. Western Power knows of no availability from their resources. The plastic battens break down quickly, possibly because they are not UV stabilised. Therefore a new bollard type is required, to ensure long term availability,

low maintenance costs, and retention of the long term objectives for style and aesthetics which can be practically met by Council maintenance staff.

### **Brick Paving**

The Manual recommends a Midland Brick 'Autumn Glow' paving brick for the main paving areas, with a red brick as a header course against the building line, behind the kerb line and surrounding all sheet tree installations, pit covers and vehicle crossover edges in special areas such as the CBD footpaths. No installations of this requirement have been, as yet undertaken.

Inspection of the Jarrad Street/Napoleon Street/Station Street area reveals that the footpaths are either red paving brick, old concrete slabs on in-situ concrete. The majority of the area of private brick paving in the CBD is red brick, which is unlikely to change in the future.

A number of alternatives, in terms of brick paving styles and colours, have been investigated and photos will be available at the Committee meeting.

The brick paving in Napoleon Street is in good condition and will not need replacement for 5+ years. The concrete slab paths in Station Street are overdue for replacement with brick paving. The replacement of the damaged footpaths on the two sides of Vivian's Corner is also a high priority, funded by Council and by a developer contribution/reinstatement cost.

The use of red paving brick is recommended, rather than the Manual recommendation of a cream colour, because of the major problem of keeping a cream brick clean from oil, grease, chewing gum and other stains, particularly under parked vehicles.

The idea of a header course is supported, to add interest to an area and also define obstructions and changes in the nature of the path for the sight impaired.

In many of the example locations visited, concrete paving bricks have been used as a header course. These have been installed as a strong colour, easily defining the red brick edge. However, the nature of concrete bricks is that the colour will wash out, leaving a pale version of the original colour. Dark header course bricks also can add to the darkness of a dark main brick and reduce the contrast effect being sought.

Therefore, for the previous reasons covered, it is recommended that the main paving brick to be used in the Town Centre Precinct become a red paver, readily available from several suppliers.

The header course brick colour should become 'Autumn Glow' or equivalent, with the patterns and placement to be as covered in the Policy Manual. This colour would link the brick to the main brick colour in the Marine Parade precinct.

The combination will save Council the cost of repaving Napoleon Street, will link into the main private paving brick colour, will retain the benefits of a dark main brick, but will be lifted by a light header course colour which links into the Marine Parade precinct.

With regards to the employment of a consultant to complete a streetscape plan of the Town Centre Zone, the current policy and manual was prepared recently by such a consultant firm, with a less than practical success in implementation.

The Manager of Development Services will report in a separate agenda item regarding this resolution, and the strategic decisions yet to be made by State Government Departments affecting this precinct.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Discussion was held in relation to paving selections.

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

Moved Cr Miller, seconded Cr Furlong

**That Council resolve to modify the content of the technical requirements for the Town Centre Precinct of the Streetscape Policy and manual in the following areas:**

- (1) Brick paving colours – main brick colour to be red with all header course bricks to be ‘Autumn Glow’ or equivalent;**
- (2) Staff to provide recommendations on alternative rubbish bin types, street bollard styles and street light pole colours and luminaire types, to replace those recommended for the Town Precinct streets; and**
- (3) Once Council has resolved on any streetscape furniture changes, these changes to be drawn up for inclusion or substitution in the Technical Manual.**

Carried 10/0

**12.3 FINANCE****12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 APRIL, 2004**

**File No:** C7.14  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 April, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**BACKGROUND**

The Financial Statements are presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Looking at the Operating Statement on page 3 of the April Financial Statements, it will be noted that there are a number of variances between the predicted year to date figures and the actual to the end of April. Some of this appears to relate to timing differences. Other variances are the higher than expected expenditure in the area of Administration (up \$50,963) which results from higher than budgeted for depreciation costs, higher than expected meeting costs (resulting from more meetings than expected), and costs associated with the sustainability project. The latter is offset by grant funding.

Expenditure in the area of Recreation and Culture is \$92,522 lower than expected due to lower than expected costs to date for Civic Centre maintenance (building and grounds – mainly timing), the Shenton Park Hockey grant has not been called for as yet and may not be paid before June 30, insurance costs were lower than expected (for example public liability for the beach was nearly \$8,500 lower than expected), and overhead charges on works is lower than expected. Transport was \$184,611

lower than expected due in part to lower than expected cost for works (a combination of lower contractors cost, lower overhead charges to jobs and other variances).

Revenue in the area of General Financing was \$25,600 lower than expected mainly due to lower than expected revenue from interim rates (this area was higher in past years due to the high level of redevelopment, when properties are demolished the valuation, for rating purposes, of the vacant land is often higher than for the developed land. This is because the GRV for vacant land is a set 5% of the land value). Administration revenue was \$52,630 higher due to grants for the sustainability project, higher than expected income from the WALGA advertising rebate, and a rebate on the workers compensation insurance premium. Health revenue is \$12,946 higher than expected due to the recoup through Fines Enforcement of a court judgement. Planning fees are higher to date than expected pushing Community Amenities \$30,686 higher than expected at this time. Recreation and Culture revenue was \$64,780 more than expected due to higher than expected coast care project revenue and unexpected revenue from the beach concert. Building permit fees have pushed revenue in Economic Services \$41,912 higher than expected.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

The Committee requested the Manager Corporate Services to provide a more detailed explanation of the sundry debtors statement, in relation to the debtors dating back to January.

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

Moved Cr Miller, seconded Cr Furlong

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 April, 2004, as submitted to the May meeting of the Works and Corporate Services Committee.**

Carried 10/0

**12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 30 APRIL, 2004 FOR THE PERIOD ENDING 30 APRIL, 2004**

**File No:** C12 / C13  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 April, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

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

**CONSULTATION**

Nil.

**STAFF COMMENT**

As will be seen from the Schedule of Investments on page 36 of the April Financial Statements \$1,799,601 was invested at 30 April. \$533,615.66 was reserved and so restricted funds. 56.72% of the funds were invested with the National Bank, 31.3% with Home Building Society and 11.98% with BankWest.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Furlong

**That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 April, 2004, as submitted to the 18 May, 2004 meeting of the Works and Corporate Services Committee.**

Carried 10/0

**12.3.3 ACCOUNTS FOR THE PERIOD ENDING 30 APRIL, 2004**

**File No:** C7.8  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the List of Accounts for the period ending 30 April, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The List of Accounts is presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

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

- \$11,960.38 to Rentworks for IT equipment lease.
- \$11,550 to Sustainable Energy Development Office for refund of grant monies.
- \$92,381.27 and \$128,749.50 to the Town of Mosman Park for works done.
- \$13,669.05 and \$11,967.50 to Western Metropolitan Regional Council for transfer station fees.
- \$10,058.01 and \$10,417.14 to the WA Local Government Superannuation Plan.
- \$12,229.95 to ATO for tax liability payments.
- \$13,475 to Airflow Maintenance for the new air conditioner at the TAPSS building.
- \$32,653.03 to Wasteless for waste collection services.
- \$148,130.61 to Fire and Emergency Services Authority of WA for levies collected with rates.



- \$19,094.85 to Wanneroo Bus Link for Cott Cat bus hire.
- \$10,563.30 to Watts and Woodhouse for legal fees.
- \$49,023.36 and \$49,129.10 payroll April.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Furlong

**That Council receive the List of Accounts for the period ending 30 April, 2004, as submitted to the April meeting of the Works and Corporate Services Committee.**

Carried 10/0

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**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD  
ENDING 30 APRIL, 2004**

**File No:** C7.9  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 April, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 April, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Property and Sundry Debtors Reports are presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The Sundry Debtors Report commencing on page 33 of the April Financial Statements shows a balance of \$43,303.00 of which \$21,179.29 relates to the current month.

**VOTING**

Simple majority

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

Moved Cr Miller, seconded Cr Furlong

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the period ending 30 April, 2004; and**
- (2) Receive the Sundry Debtors Report for the period ending 30 April, 2004.**

Carried 10/0

**13 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

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

Nil.

**15 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 9.20pm.

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