

TOWN OF COTTESLOE



FULL COUNCIL MEETING MINUTES

ORDINARY MEETING OF COUNCIL
HELD IN THE
Council Chambers, Cottesloe Civic Centre
109 Broome Street, Cottesloe
7.00 PM, Monday, 24 May, 2010

1 June 2010

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7:05 PM.

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

Elected Members

Mayor Kevin Morgan	Presiding Member
Cr Jack Walsh	
Cr Jay Birnbrauer	
Cr Rob Rowell	
Cr Greg Boland	
Cr Dan Cunningham	
Cr Jo Dawkins	
Cr Victor Strzina	
Cr Davina Goldthorpe	
Cr Patricia Carmichael	

Officers

Mr Carl Askew	Chief Executive Officer
Mr Graham Patrick	Manager Corporate & Community Services
Mr Geoff Trigg	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Christina Guelfi	Community Development Officer

Apologies

Nil

Officer Apologies

Mrs Lydia Giles

Leave of Absence (previously approved)

Cr Ian Woodhill

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PUBLIC STATEMENT TIME

Mr Foster, 525 Stirling Highway, Cottesloe – Item 11.2.1 Section 64 Application to the Director Liquor Licencing

Mr Foster advised Council that settlement for the sale of the Cottesloe Beach Hotel was yet to be finalised and one of the conditions was transfer of licence without material change. As the new owners, in partnership with the Prendeville Family, Mr Foster requested Council consider a delay in the decision to lodge a S. 64 Application on the basis that they would like the opportunity to demonstrate how their plans for the Hotel would make a change for the better. The reputation and performance of the Prendeville Family in managing hotels was significant and they are proposing extensive renovations for the winter period when the impact on the Town should be minimal. There was a clear understanding by them of the need for change and Mr Foster wanted an opportunity to show what they could do.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Dawkins, seconded Cr Strzina

[Minutes April 27 2010 Council.DOC](#)

The Minutes of the Ordinary meeting of Council held on Tuesday, 27 April, 2010 be confirmed.

Carried 10/0

Unchanged

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

8.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE**BACKGROUND**

At the September 2006 meeting of Council it was agreed that the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.

Standing Orders 12.1 and 21.5 read as follows:

Members to Rise

Every member of the council wishing to speak shall indicate by show of hands or other method agreed upon by the council. When invited by the mayor to speak, members shall rise and address the council through the mayor, provided that any member of the council unable conveniently to stand by reason of sickness or disability shall be permitted to sit while speaking.

Suspension of Standing Orders

- (a) The mover of a motion to suspend any standing order or orders shall state the clause or clauses of the standing order or orders to be suspended.
- (b) A motion to suspend, temporarily, any one or more of the standing orders regulating the proceedings and business of the council must be seconded, but the motion need not be presented in writing.

COUNCIL RESOLUTION:

Moved Cr Strzina, seconded Cr Boland

That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.

Carried 10/0

Unchanged

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

The Mayor advised that the Council process for considering reports was that members would advise him of items that they required to be “withdrawn” for further discussion and that all remaining reports would then be moved “*en bloc*” as per the Committee recommendation. He then advised of the following withdrawn items and order for consideration;

Development Services Committee

- 11.1.1 2 Alexandra Avenue - Swimming Pool and Alterations and Additions to Two - Storey Dwelling with Undercroft

The remainder of the items from the Development Services Committee were dealt with *en bloc*:

- 11.1.2 7 Avonmore Terrace – Two - Storey Dwelling with Undercroft and Swimming Pool
11.1.3 10 Grant Street – Two-Storey Dwelling with Roof-Deck, Undercroft and Pool

Works and Corporate Services Committee

- 11.2.1 Section 64 Application to The Director of Liquor Licensing
11.2.3 Cottesloe Beach Pylon - Second Stage
11.2.4 Cottesloe Tennis Club - Request for Napier Street Parking Area

The remainder of the items from the Works and Corporate Services Committee were dealt with *en bloc*

- 11.2.2 Safer Sustainable Cottesloe Plan 2010 - 2014
11.2.5 North Cottesloe Primary School - Request for Donation to Car Free Project
11.2.6 Property & Sundry Debtors Report for April 2010
11.2.7 Schedule of Investments and Loans as at 30 April 2010
11.2.8 Statutory Financial Statements for the month of April 2010
11.2.9 Accounts Paid in the Month of April 2010

Strategic Planning Committee

- 11.3.1 Town of Cottesloe - Action Plan Review

The remainder of the items from the Strategic Planning Committee were dealt with *en bloc*

- 11.3.2 Local Government Structural Reform
11.3.3 Planning Reforms Update

10 REPORTS OF OFFICERS

Nil

11 REPORTS OF COMMITTEES**11.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 17 MAY 2010****11.1.1 2 ALEXANDRA AVENUE - SWIMMING POOL AND ALTERATIONS AND ADDITIONS TO TWO STOREY DWELLING WITH UNDERCROFT**

File Name: AB170510 2 ALEXANDRA AVENUE SWIMMING POOL AND ALTERATIONS AND ADDITIONS TO TWO STOREY DWELLING WITH UNDERCROFT.doc - This line will not be printed do not delete

File No: 1933**Attachments:** [2AlexAerialPhoto.pdf](#)
[2AlexSitePhotos.pdf](#)
[2AlexPlans.pdf](#)
[2Alex3DDrawing.pdf](#)
[2AlexApplicantJustif.pdf](#)**Responsible Officer:** Carl Askew
Chief Executive Officer**Author:** William Schaefer
Planning Officer**Proposed Meeting Date:** 17 May 2010**Author Disclosure of Interest:** Nil**Property Owner:** Mrs Jane Carter**Applicant:** Walter Hunter and Penny Watson Architects Pty
Ltd**Date of Application:** 1 April 2010**Zoning:** Residential – R20**Use:** P - A use that is permitted under this Scheme**Lot Area:** 1342m²**M.R.S. Reservation:** Not applicable

SUMMARY

This application is seeking the following variation to Council's Scheme:

- Building height

This item is discussed in this report and refers to plans received on 1 April 2010.

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

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PROPOSAL

It is proposed to construct a swimming pool, extend the undercroft area, make minor ground floor alterations and add rooms including a bedroom and balcony to the upper floor of the two storey dwelling at the above address.

Most of the upper floor alterations are proposed to be within the existing roof and will not alter the external profile of the building.

The house dates back to the 1930s but appears to have been extensively altered since its construction and does not occur on the Municipal Inventory. It is evident that great care has been taken by the owner and architects to match the original style of the dwelling.

The dwelling is situated on a 1341m² double lot which is bordered to the west and north by a 3.4 m wide ROW. The nearest neighbouring property is 8.0m from the second storey additions so all dwelling setbacks easily comply with provisions of RDC. No retaining or fill is proposed and all privacy setbacks comply with the Acceptable Development Standards of the RDC. Open space and outdoor living requirements are easily fulfilled and the shadow would fall only on the subject lot/road reserve.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Building height

FINANCIAL IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION**Advertising**

- The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 and Residential Design Codes;
- The advertising consisted of letters to surrounding property owners.
- No written submissions were received.

PROPOSED LOCAL PLANNING SCHEME NO 3

Proposed LPS3 has no bearing on this application.

HERITAGE LISTING

N/A

VARIATIONS

Scheme Clause	Required	Provided
TPS2 Clause 5.1.1 (c) Building Height	6.0m maximum wall height, 8.5m maximum ridge height.	6.58m wall height, 8.87m maximum ridge height.

APPLICANT'S JUSTIFICATION

The applicant has submitted the following justification:

- The neighbouring properties will not be overshadowed by the additions;
- No visual privacy issues have been generated;
- A 3.4m wide ROW separates the property from the western and northern neighbours and the dwelling is set back approximately 14.8m from the eastern neighbour;
- Materials and colours will match the existing dwelling;
- The alterations and additions will modernise the interior of an older building and restore the exterior to its original state.

PLANNING COMMENT**Building height**

It is proposed to construct second floor additions with wall heights that are 6.58m above the NGL, whereas the Clause 5.1.1 (c) of TPS2 sets a wall height of 6.0m. The maximum ridge height of the additions is proposed to be 8.87m above the NGL, in lieu of the 8.5m normally permitted by the Scheme.

Clause 5.1.1 (c) contemplates allowing relaxations to the height standards in cases of extensions to existing buildings. The proposed additions qualify as extensions to a substantial existing dwelling and may therefore be considered as allowable.

The additions will have little impact on the amenity of the surrounding area as they are not readily visible from the street. As the midwinter shadow from the additions would fall entirely on the subject lot and road reserve, the additions would have little adverse impact on neighbouring properties. The additions do not affect views of significance to the neighbours and have been sensitively designed to complement the existing building.

No objections were received.

CONCLUSION

The proposed upper floor additions are expected to perform with no impact on amenity and may be supported under the Scheme. No planning issues are associated with the remainder of the proposal.

Approval is recommended.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

StartOfRecommendation - This line will not be printed Please do NOT delete

THAT Council

GRANT its Approval to Commence Development for the proposed swimming pool and alterations and additions to two storey dwelling with undercroft on Lots 36 and 37 (No 2) Alexandra Avenue, Claremont, in accordance with the plans submitted on 1 April 2010, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (b) Stormwater runoff from any portion of the site shall not be discharged onto the street reserve, ROW or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (d) Air-conditioning plant and equipment shall be located closer to the dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
- (e) Any fencing and gating to the site within the front setback area shall be of an open-aspect design in accordance with the Town's Fencing Local Law and the subject of a separate application to Council.**
- (f) Lots 36 and 37 shall be amalgamated as per the existing WAPC approval prior to the completion of works.**
- (g) The pool pump and filter shall be located closer to the dwelling than the adjoining dwellings and housed or treated to ensure that noise emissions do not exceed the levels prescribed by the Environmental Protection (Noise) Regulations 1997.**
- (h) Wastewater or backwash water from swimming pool filtration systems shall be disposed of into adequate soakwells and contained within the boundary of the property.**

- (i) A soakwell system having a minimum capacity of 763 litres and located a minimum of 1.8metres away from any building or boundary shall be installed to the satisfaction of the Environmental Health Officer.**
- (j) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.**

Advice Note:

The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

Carried 10/0

Unchanged

EndOfRecommendation - This line will not be printed Please do NOT delete

11.1.27 AVONMORE TERRACE - TWO STOREY DWELLING WITH UNDERCROFT AND SWIMMING POOL

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File No: 1862
Attachments: [AerialPhoto7Avonmore.pdf](#)
[SitePhotos7Avonmore.pdf](#)
[Plans21April7Avonmore.pdf](#)
[NeighbourComments7Avonmore.pdf](#)
[ApplicantJustification7Avonmore.pdf](#)
[OwnerJustif7Avonmore.pdf](#)

Responsible Officer: Carl Askew
Chief Executive Officer

Author: William Schaefer
Planning Officer

Proposed Meeting Date: 17 May 2010

Author Disclosure of Interest: Nil

Property Owner: Kathleen E Prosser

Applicant: Kim Stirling Architects

Date of Application: 4 January 2010, Revised Plans received 24 February 2010, 9 April 2010 and 21 April 2010

Zoning: Residential – R30

Use: P - A use that is permitted under this Scheme

Lot Area: 1029 m²

M.R.S. Reservation: Not applicable

SUMMARY

This application is seeking the following variations to Council's Scheme and the Residential Design Codes:

- Building height;
- Front setback;

Each of these aspects is discussed in this report and refers to revised plans received on 21 April 2010.

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

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PROPOSAL

It is proposed to construct a two storey dwelling with an undercroft and swimming pool in the eastern portion of this prominent corner site.

The site is steeply sloped, falling approximately 5.76m from east to west along its 45.26m length, and may be regarded as the sort of lot for which variations to the 6.0m and 8.5m building heights are sometimes supported.

An architect-designed, two-storey brick and iron dwelling dating to the late 1980s presently occupies the site. A substantially overheight limestone fence presents to the street boundaries of the lot.

The plans proposed have been arrived at through extensive liaison with Council Staff that dates back to November 2009.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

- Building height;
- Resolution TP128a October 2002: Front Setbacks.

FINANCIAL IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

SUSTAINABILITY IMPLICATIONS

Nil

PROPOSED LOCAL PLANNING SCHEME NO 3

Proposed LPS3 has no bearing on this proposal.

HERITAGE LISTING

N/A

VARIATIONS

Town Planning Scheme/Resolutions

Scheme Resolution	Clause/	Required	Provided
TPS2 Clauses 5.1.1 (a) and 5.1.1 (c) Undercroft and Building Height		Undercroft no higher than NGL at centre of site. 6.0m maximum wall heights, 8.5m maximum ridge heights.	Undercroft .02m above NGL at centre of site. 6.85m wall height, 9.35m maximum ridge height with apex of pyramidal roof at 9.55m.

Resolution October 2002	TP128a	6.0m front setback for residential development in the district; however, it is noted the RDC could allow a 4.0m setback in this circumstance.	4.522m
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MUNICIPAL INVENTORY

The dwelling is listed as Category 6. Notes for this management category state: "Modern Dwelling – Future Heritage or Recycled Building. Assess in more detail when considering a development application."

Council's heritage advisor has considered the proposal and does not raise any objections to the demolition of the existing dwelling. It is intended to condition the approval to ensure that a full photographic record of the place is submitted prior to the issue of a Building Licence.

APPLICANT'S JUSTIFICATION

The applicant has supplied the following written justification:

- Dwelling is architect designed and a worthy replacement for the large dwelling that presently occupies the prominent site;
- Lot is potentially subdivisible into 3 lots. Single dwelling currently proposed is likely to have significantly less impact on amenity of neighbourhood than 3 new single dwellings;
- Dwelling is substantially sunk beneath road level on both sides and is not expected to present as unduly massive to street or neighbours;
- Need to maximise features of site has necessitated location of proposed dwelling at top of site, near Avonmore Terrace. A much more eco-friendly house design has been enabled by placement of the dwelling at the top of the site;
- Building height variation only 200mm if property is formally subdivided. Variation will not have negative effect on amenity of neighbours;
- Staggered effect of Princes Street elevation ameliorates impact of reduced setback.

Advertising

- The Application was advertised as per Town of Cottesloe Town Planning Scheme No 2 and Residential Design Codes;
- Advertising consisted of letters to adjoining and surrounding property owners.
- Two written submissions were received. Outlines of the submissions are as follows:

Mr Michael Beech, 5a Avonmore Terrace, Cottesloe

- No apparent objection to any aspect of the proposal;
- Request for dilapidation report prior to commencement of works.

Ms Freddi Wilkinson, 1/9 Princes Street, Cottesloe

- Reduced street setback will impact sight lines to ocean;
- 700mm height variation (shown on plans dated 24 February 2010) excessive given height of adjoining structures;
- Request for confirmation that tree and walls on corner of Avonmore Terrace and Princes Street will be removed;
- Request for management of building activity during construction period.

PLANNING COMMENT**Building Height****Assessment based on existing lot dimensions**

Four corner averaging for the existing site gives a NGL datum of 25.15m. Based on this datum, the wall height of the dwelling is 0.85m above the 6.0m maximum prescribed by Clause 5.1.1 (c) of TPS2. The main ridge level is also 0.85m over the 8.5m height limit, with the maximum height of the pyramidal loggia roof 1.05m overheight.

It is noted that as per the requirements of TPS2 the undercroft does not constitute habitable space. Despite that, the ceiling of the undercroft is 0.2m above the level arrived at by following the formula given, which provides that the space is below (ie not higher than) the natural ground level measured at the centre of the site as determined by Council. On this basis the undercroft could be assessed to qualify as a storey, and the dwelling would therefore be regarded as a three-storey proposal, which is not permitted by the Scheme. In this regard it is observed that the undercroft floor-to-ceiling height of 2.7m is relatively generous, which, as well as the gradient of the access ramp, should be able to be modified to achieve compliance with the Scheme. In turn, depending on the design of the balance of the dwelling and its interconnection with the undercroft, the modification may achieve a corresponding reduction in the height of the overall dwelling. A condition is recommended accordingly.

The overheight portions of building must be assessed as variations to Clause 5.1.1 (c) of TPS2, which gives Council discretion to vary from the height requirement in "particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished."

The applicant has supplied the following justification for the height variations:

- The high, eastern portion of the lot is the logical choice for the location of the proposed new dwelling as it maximises the best features of the site. It is the

need to situate the dwelling here, rather than an inappropriate scale of development, that has generated the necessity of applying for a variation;

- The 1031m² lot could either support a single dwelling with a footprint of more than 550m² or subdivision into three 300 m² + lots, each of which could be 55% developed. The proposed dwelling may be overheight but it is relatively modest given what could be approved for the site;
- The proposal preserves the views of neighbours by keeping much of the lot free from development;
- The modest dimensions of the proposed dwelling ensure that little shadow falls on the properties adjoining to the south;
- The “resort style” of the design is consistent with the ocean themes of Cottesloe and is an appropriate replacement for the dwelling that occupies the prominent site at present.

Central to consideration of the above is Council’s tradition of assessing height against a fixed, horizontal line above the centre of site rather than against a height-line that follows the contours of the land at all points. Under such a formula, any dwelling proposed for the high section of a large, sloping lot is likely to require Council discretion for height.

In this instance the slope of the lot is considerable, falling approximately 5.76m from east to west across the Princes Street frontage. If the lot were flat, there would probably be no need for a variation, and the request for such before Council is arguably the function of the “natural ground form” that is contemplated by TPS2.

With the “natural ground form” argument deemed sufficient, it remains to determine whether “the amenity of neighbouring areas is not unreasonably diminished”.

As TPS2 does not particularly define “amenity” in relation to height variations, it may be helpful for Council to consider Performance Criterion 6.7.1 P1 of the RDC, which contemplates the following:

- *Adequate direct sun to buildings and appurtenant open spaces;*
- *Adequate daylight to major openings to habitable rooms; and*
- *Access to views of significance.*

As demonstrated in the shadow diagram, the percentage of shadowfall on the neighbouring lot is well within the 35% allowable under the RDC for areas with a density coding of R30. The provision of direct sun to the habitable rooms and appurtenant open spaces of affected buildings therefore remains satisfactory.

Similarly, the large quantity of site proposed to remain free of development ensures that access to views of significance have been preserved, especially for the southern neighbours.

It should be remarked that there already exists a substantial dwelling on this prominent lot. The proposed dwelling is well-matched to the steep, relatively high-profile site and at any rate is in keeping with mix of building sizes that are found in south Cottesloe generally. The degree of cut proposed is such that when seen from

Avonmore Terrace, the dwelling would appear little more than a single storey building.

One written objection to the overheight nature of the proposal has been received from the owner of 1/9 Princes Street. [Applicant's response forthcoming]

In the light of the above, the variation may be considered allowable under Clauses 5.1.1 (a) and (c) of TPS2.

Assessment based on hypothetical future subdivision

Should Council feel that the above rationale is unsatisfactory, there is another approach to the height variation that can be considered.

An application for subdivision of the lot has been lodged with the Western Australian Planning Commission (WAPC). As it is likely that the lot will be subdivided in the future, it would be prudent considering planning matters such as open space, setbacks and building height as though the subdivision had already occurred.

The proposed subdivision is compliant with WAPC policy and approval to subdivide is considered likely. Nevertheless, the owners wish to avoid subdivision if possible as a new lot west of the proposed dwelling would attract significant annual land taxes.

Four-corner averaging for the hypothetical eastern lot marked on the plans dated 24 February 2010 generates an NGL of 25.96m. The geographical centre of the hypothetical eastern lot is approximately 26.7m but as the site has been extensively terraced it would be more feasible to propose NGL that is closer to the four corner average figure of 25.96m. On this basis, the NGL of 26.0m that is assumed by the applicant appears reasonable and has been used for the calculations below.

Based on this NGL, the wall height of the proposed dwelling would be within the maximum prescribed by Clause 5.1.1 (c) of TPS2. The main ridge height would also be within the level of maximum height, with the maximum height of the pyramidal loggia roof being 0.2m overheight. Such a lot configuration would see the undercroft comply at approximately 0.4m below the requirements of Clause 5.1.1 (a) of TPS2.

It would then only remain to assess the impact of the pyramidal roof on the amenity of surrounding areas. As TPS2 does not provide a detailed framework for the assessment of minor projections, Council has traditionally made use of Performance Criterion 6.7.1 P1 of the RDC, which contemplates:

Building height consistent with the desired height of buildings in the locality, and to recognize the need to protect the amenities of adjoining properties, including, where appropriate:

- *Adequate direct sun to buildings and appurtenant open spaces;*
- *Adequate daylight to major openings to habitable rooms; and*
- *Access to views of significance.*

It should be noted that the roof is pyramidal and therefore proposed to be overheight at one particular point only, rather than along a section of ridge. Furthermore, the roof-point does not exceed a height of 200mm above the maximum level.

The pyramidal roof would thus be unlikely to have a significant adverse impact on the amenities of adjoining properties as it would not compromise the provision of direct sun to any building, including its habitable rooms and appurtenant open spaces.

One written objection to the over height nature of the proposal has been received from the owner of 1/9 Princes Street. However it should be noted that the submitter responded to the plans dated 24 February 2010, which proposed a variation of 700mm rather than the 200mm that is presently proposed. Moreover, as the pyramidal roof would likely have little effect on the view lines of the submitter, the objection could be classified as one made in principle rather than due to adverse effect on amenity.

It is therefore apparent that if the proposal were assessed as though the eastern lot existed, the pyramidal roof would meet the relevant Performance Criterion and be allowable.

Front Setback

Setback requirements for existing lot

It is intended to change the primary street frontage of the property from Avonmore Terrace to Princes Street. The setback requirements from Avonmore Terrace and Princes Street would therefore change to 1.5m and 6.0m respectively.

A setback of 4.522m from Princes Street to the dwelling is proposed. The reduced setback would occur for approximately 7.7m or 17% of the 45.26m Princes Street frontage. (It should be noted that if the parent lot were subdivided as discussed, the reduced setback frontage would be 28.5%.)

The proposal satisfies the 4.0m Acceptable Development Standard of the RDC for areas with density codes of R30 but by resolution Council prefers 6.0m setbacks. By resolution Council also prefers the setback averaging allowed under the RDC.

Notwithstanding, the applicant has submitted the following justification for the proposed reduced setback:

- There are similar examples of reduced setbacks that occur along Princes Street notably to the first three dwellings along the same street elevation, back from the corner of Marine Parade;
- The frontage of the proposed design is staggered, presenting less mass to the street.

On balance, the applicant's justification appears supportable. Several buildings further west along Princes Street have approved reduced setbacks - 3.5m for 1A Princes Street, 3.97m for 1/3 Princes Street and 2.7m for 1 Princes. In addition, the lower half of the site is proposed to remain free of development for some time, with the result being that only 17% of the frontage would contain a dwelling built forward of the 6.0m setback line.

One written objection to the proposed reduced front setback has been received from the owner of 1/9 Princes Street. The submitter has expressed concern about the reduction in ocean views that would follow allowing the setback variation.

The applicant has responded by pointing out that the development would actually improve views from the affected property by virtue of eliminating the tree and overheight walls that surround the site. It is further demonstrated by the applicant that were the lot developed to the full potential of the 6.0m setback requirement, the view lines from the affected property would actually be substantially more impacted (refer attached diagram).

Lastly, it should be noted that the section of dwelling that encroaches into the setback area does not appear to be visible from the affected property (refer attached diagram).

Thus, whilst an objection to the proposed reduced setback has been received, the applicant has sufficiently demonstrated that the amenity of neighbouring areas is not unduly affected.

In general, the proposed reduced setback is expected to function relatively well in the context of the streetscape and can be allowed.

Other variations

Minor variations are proposed to RDC Acceptable Development Standards that relate to privacy and side setbacks. No written objections were received in relation to these variations. All variations meet the relevant Performance Criteria and may be supported.

CONCLUSION

In conclusion, the proposed dwelling seeks concessions to building height that are assessed as justified given the steep topography of the site and being unlikely to negatively impact amenity of neighbouring properties. It is also noted that technically the height variation would be negligible in the event of the lot being subdivided.

The proposed reduced front setback complies with the Acceptable Development Standards of the RDC and could be expected to perform well in its context.

All other aspects of the proposal satisfy the requirements of the RDC.

Approval is recommended.

VOTING

Simple Majority

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COMMITTEE COMMENT

Committee discussed the proposal at length including with officers and the architect. Both the habitability and height of the undercroft were queried. Mr Jackson explained the Scheme provisions, which do not allow for habitable rooms or height variation, and how the design could be amended to suit. Committee saw fit to strengthen condition (m) to cover these two aspects.

The front setback was also queried, in relation to whether the R30 standard of 4m could be allowed (with which the proposal complies) or Council's preference of the R20 standard of 6m should be applied, having regard to the larger lot accommodating a large proposed dwelling rather than smaller lots. It was observed that the design of the dwelling addressing the site to create internal as well as open spaces seeks the lesser setback, and at the same time that recent examples of reduced setbacks in South Cottesloe are either subdivided smaller lots or strata subdivisions. Overall, Committee did not move to amend the setback.

Committee felt that the maximum building height warranted careful consideration and that the variation of over one metre was significant. It was suggested that plans comparing profiles of the existing dwelling, proposed dwelling and Scheme height standard would assist. Mr Jackson, aided by Mr Schaefer, explained the design in terms of the extent and position of the additional height and assessment of its implications. Mr Jackson elaborated on the decision-making approach to the exercise of discretion generally. He observed that in the past Council has supported height variations of about half a metre as acceptable (ie in terms of being discernable, controlling building bulk/scale, managing amenity and protecting streetscapes). With this proposal a main roof ridge and the pyramidal roof are the highest portions of the dwelling in excess of the 8.5m standard, which might be modified in design to be lower. On balance, Committee concluded that a new condition (n) be included to require a reduced maximum building height (ie lesser variation) of 9m relative to the NGL figure.

OFFICER RECOMMENDATION

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THAT COUNCIL:

1. GRANT its Approval to Commence Development for the proposed two storey dwelling with undercroft and swimming pool on Lot 37 (No 7) Avonmore Terrace, Cottesloe, in accordance with the revised plans submitted on 21 April 2010, subject to the following conditions:
 - (a) All construction work shall be 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 shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
 - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (e) Any fencing and gating to the site within the front setback area shall be of an open-aspect design in accordance with Council's Fencing Local Law, and full details shall be shown on the Building Licence plans.
- (f) The property owner shall liaise with Council's Rates Department to formally change the street address of the property to a Princes Street address prior to completion of the development.
- (g) The spa/pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings and housed or treated to ensure that noise emissions do not exceed the levels prescribed by the Environmental Protection (Noise) Regulations 1997.
- (h) Wastewater or backwash water from swimming pool filtration systems shall be disposed of into adequate soakwells and contained within the boundary of the property.
- (i) A soakwell system having a minimum capacity of 763 litres and located a minimum of 1.8metres away from any building or boundary shall be installed to the satisfaction of the Environmental Health Officer.
- (k) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (l) As part of the Building Licence Application a comprehensive construction management plan shall be submitted to the satisfaction of the Manager Development Services.
- (m) A comprehensive photographic survey of the interior and exterior of the place shall be submitted for heritage records prior to the issue of a Demolition Licence.
- (n) The design of the undercroft as part of the overall dwelling shall be amended to ensure compliance with the height requirements of the Scheme, that is, to not exceed the natural ground level measured at the centre of the site as determined by Council, being 25.15m, and the details of this shall be shown in the plans submitted for a building licence, to the satisfaction of the Manager Development Services. The applicant should liaise with the Town's Planning staff accordingly.

Advice Notes:

- (i) Given the concerns of neighbours, it is recommended that dilapidation reports be prepared for the properties to the south as part of the Building Licence process.
- (ii) The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.

AMENDMENT

Moved Cr Dawkins, seconded Cr Birnbrauer

That the following be added to condition (m), to ensure that the undercroft is not used for habitable purposes: "In order to comply with Town Planning Scheme No. 2, the undercroft shall not be designed or used for habitable purposes, in accordance with clause 5.1.1(a). Detailed revised plans demonstrating compliance with this

requirement shall be submitted for approval at Building Licence stage, to the satisfaction of the Manager Development Services.”

Carried 7/0

AMENDMENT

Moved Cr Birnbrauer, seconded Cr Strzina

That the following condition (n) be added: “The design of the dwelling shall be modified to ensure that the maximum building (ie roof) height does not exceed 9.0m relative to the natural ground level determined by Council of 25.15m. Detailed revised plans demonstrating compliance with this requirement shall be submitted for approval at Building Licence stage, to the satisfaction of the Manager Development Services.”

Carried 5/2

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Birnbrauer

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That Council:

- 1. GRANT its Approval to Commence Development for the proposed two storey dwelling with undercroft and swimming pool on Lot 37 (No 7) Avonmore Terrace, Cottesloe, in accordance with the revised plans submitted on 21 April 2010, subject to the following conditions:**
 - (a) All construction work shall be 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 shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
 - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (d) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (e) Any fencing and gating to the site within the front setback area shall be of an open-aspect design in accordance with Council’s Fencing Local Law, and full details shall be shown on the Building Licence plans.**

- (f) The property owner shall liaise with Council's Rates Department to formally change the street address of the property to a Princes Street address prior to completion of the development.
- (g) The spa/pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings and housed or treated to ensure that noise emissions do not exceed the levels prescribed by the Environmental Protection (Noise) Regulations 1997.
- (h) Wastewater or backwash water from swimming pool filtration systems shall be disposed of into adequate soakwells and contained within the boundary of the property.
- (i) A soakwell system having a minimum capacity of 763 litres and located a minimum of 1.8metres away from any building or boundary shall be installed to the satisfaction of the Environmental Health Officer.
- (j) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (k) As part of the Building Licence Application a comprehensive construction management plan shall be submitted to the satisfaction of the Manager Development Services.
- (l) A comprehensive photographic survey of the interior and exterior of the place shall be submitted for heritage records prior to the issue of a Demolition Licence.
- (m) The design of the undercroft as part of the overall dwelling shall be amended to ensure compliance with the height requirements of the Scheme, that is, to not exceed the natural ground level measured at the centre of the site as determined by Council, being 25.15m, and the details of this shall be shown in the plans submitted for a building licence, to the satisfaction of the Manager Development Services. The applicant should liaise with the Town's Planning staff accordingly. In order to comply with Town Planning Scheme No. 2, the undercroft shall not be designed or used for habitable purposes, in accordance with clause 5.1.1(a). Detailed revised plans demonstrating compliance with this requirement shall be submitted for approval at Building Licence stage, to the satisfaction of the Manager Development Services.
- (n) The design of the dwelling shall be modified to ensure that the maximum building (ie roof) height does not exceed 9.0m relative to the natural ground level determined by Council of 25.15m. Detailed revised plans demonstrating compliance with this requirement shall be submitted for approval at Building Licence stage, to the satisfaction of the Manager Development Services.

Advice Notes:

- (i) Given the concerns of neighbours, it is recommended that dilapidation reports be prepared for the properties to the south as part of the Building Licence process.
 - (ii) The applicant/owner is responsible for ensuring that all lot boundaries shown on the approved plans are correct and that the proposed development occurs entirely within the owner's property.
-

2. Advise the submitters of the decision.

The Substantive Motion was put:

Carried 10/0

Unchanged

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**11.1.3 10 GRANT STREET – TWO-STOREY DWELLING WITH ROOF-DECK,
UNDERCROFT AND POOL**

File Name: AB170510 10 GRANT STREET TWO STOREY DWELLING WITH ROOF DECK UNDERCROFT AND POOL.doc
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File No: 1916
Attachments: [10 Grant St Part 1.pdf](#)
[10 Grant St Part 2.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Ed Drewett
Senior Planning Officer
Proposed Meeting Date: 17 May 2010
Author Disclosure of Interest Nil
Property Owner PSR Jackson & Holihox Pty Ltd
Applicant Hartree and Associates Architects
Date of Application 16 March 2010
Zoning: Residential
Use: P - A use that is permitted under this Scheme
Lot Area: 443m²

SUMMARY

This application is seeking the following variations to Council's Town Planning Scheme No. 2 and the Residential Design Codes:

- Building height;
- Visual privacy

Both of these issues are discussed in this report. The proposed development complies with the Scheme and Residential Design Codes in all other respects.

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

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PROPOSAL

This application is for the demolition of the existing dwelling and construction of a two-storey dwelling with a roof-deck, undercroft and pool.

The proposed dwelling is of contemporary design comprising a north-facing living room, study, main courtyard and pool on the ground floor and 3 bedrooms, bathrooms and a sitting area above. A roof-deck is also proposed within the south-eastern portion of the roof which is accessible from the upper-level sitting area. Photovoltaic cells will be concealed within the roof area.

STATUTORY ENVIRONMENT

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

PROPOSED LOCAL PLANNING SCHEME NO. 3:

No changes are proposed to the zoning of this lot.

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE****Town Planning Scheme No. 2**

Policy	Required	Provided
Height	6m wall height; 8.5m roof height (where pitched)	7.5m above the determined natural ground level (flat roof design)

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.8 – Privacy requirements	4.5m cone of vision to bedrooms; 7.5m cone of vision from accessible rooftop and raised courtyard	Distances from western boundary: 2.8m & 3.4m from bedrooms; 5.8m from roof-deck; 4m from raised rear courtyard	Clause 6.8.1 – P1
6.7 – Building height	7m to top of external wall (concealed roof)	7.5m	Clause 6.7.1 – P1

ADVERTISING OF PROPOSAL

The application was advertised in accordance with TPS 2. The advertising consisted of a letter to three neighbouring properties, including on the opposite (eastern) side of the Margaret Street. Three submissions were received.

Susan Cann & Peter Landau, 8 Grant Street (submitted by applicant)

- Supports the application with the variations sought to the wall height;

Carlo Del Corso, 12 & 14 Grant Street

- The proximity of the proposed dwelling to our 1st floor living area window and verandah would substantially affect our sea view but appears unavoidable as it is compliant with the Codes;
- The new dwelling should not exceed 7 metres, to reduce the impact of the eastern side of the new building which stands directly in front of our verandah and living room windows;
- The roof deck will overlook our property and, if covered or screened, it will appear 3 storeys.

Joe Zito, 2 Margaret Street

- Had no success in obtaining copy of plans from applicant and therefore expresses concern to additional height above normal height restrictions;
- Reserves decision to support the proposal until plans have been made available by applicant showing any overlapping of the current building height.

MUNICIPAL INVENTORY

The existing dwelling is not on the Town's Municipal Inventory.

APPLICANT'S JUSTIFICATION

The applicant has submitted a detailed submission in support of the proposal. A model has also been provided.

A summary of the main points relevant to the variations sought are as follows:

- The natural ground level (NGL) of the lot is 1.1m below Grant Street and between 1.5m and 0.25m below Margaret Street;
- The amount of additional height sought is generally less than the amount by which the site is lower than the adjoining streets and therefore is not excessive;
- The apparent height of the building above the centreline of Margaret Street ranges from 5.97m at the south to 6.92m at the North. The apparent height of the building above the centreline of the northern lane of Grant Street ranges from 6.17m at the east to 6.64m at the west. The proposed dwelling will be even less prominent when viewed from the intersection of Margaret and Grant Street and would have no negative impact on the streetscape or have any adverse impact on neighbouring properties;
- The existing buildings at 4 & 6 Grant Street have an apparent height greater than that proposed;
- The open space which surrounds the building on three of its four sides will serve to disguise the proposed additional 0.5m wall height, ensuring that no variation to the existing street pattern is present;
- The house does not create any overshadowing of winter sun to adjoining properties;
- Due to topography, the house to the east has an NGL more than 3m higher than that of the subject lot and so the proposed additional 0.5m height will not obstruct coastal views. This is particularly the case when considering the taller, pitched roof form of houses on Grant Street west of the lot;
- Two upper level major openings, from the north secondary bedroom and south secondary bedroom, create minor overlooking incursions across the western boundary. However, the NGL for 8 Grant Street is 1.41m below that of 10 Grant Street and the difference in finished floor levels of the upper floors is

2.35m. Therefore, the south facing bedroom primarily overlooks the neighbour's roof and the north facing bedroom is prevented from overlooking by a boundary fence. Both therefore will not adversely impact on privacy or amenity.

APPLICANT'S RESPONSE TO NEIGHBOUR'S OBJECTIONS

The main points raised by the applicant in response to the comments received are summarised below:

- The living room and verandah of the neighbour's property at 12 & 14 Grant Street is over 45m away so it would be difficult for the proposed additional 0.5m wall height to have any discernable negative impact on the occupants;
- Due to the topography of the area, the sites along Grant Street to the west of No. 10 are higher and therefore have a greater impact on sight lines than the proposed development (refer drawing SK05-rev 5);
- The ground floor level of the eastern neighbour's property is higher than the upper floor level of the proposed house thereby reducing any visual impact;
- A compliant development on the site with a pitched roof would have a greater visual impact on the neighbour's property than the proposed flat roof;
- The proposed roof deck complies with the privacy requirements of the Residential Design Codes and is well separated from the eastern neighbour's property so will not create unreasonable privacy concerns.

PLANNING COMMENT

Two variations are being sought by the applicant to Council's Town Planning Scheme No. 2 and the Residential Design Codes. These are both discussed below:

Building Height

The calculation of building height stems from Council's determination of natural ground levels (NGL). Clause 5.1.1 of the Council's Town Planning Scheme No.2 expresses policy in relation to building height and paragraph (c) of that clause provides a basic formula in relation to measurement of such height.

The Scheme does not specifically address flat or concealed roof designs and so it has been Council practice to use the Residential Design Codes as the basis for determining building heights for this form of development. Privacy, views and general amenity also are relevant factors to be considered under the Scheme.

The Town has determined the natural ground level (NGL) at the centre of the lot to be RL:10.3 based on an average of the four corners. It is difficult to determine an exact NGL at the centre of the lot due the presence of an existing dwelling but recent calculations by the Town of average ground levels on adjoining lots reaffirms this figure.

The maximum permitted wall height under the acceptable development standards of the RDC for a concealed or flat roof is RL: 17.3 (7 metres) for this lot. The proposed development has a wall height of RL: 17.8 (7.5m) and therefore does not meet this standard but may be supported under performance criteria.

The relevant performance criteria (Clause 6.7.1) states:

Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining properties, including, where appropriate:

- *adequate direct sun to buildings and appurtenant open spaces;*
- *adequate daylight to major openings to habitable rooms; and*
- *access to views of significance.*

There is a variety of housing types in the area including single-storey and two-storey dwellings as well as older-style flats (multiple dwellings) and height concessions have previously been approved by Council for new developments in the locality (eg: 191 Broome Street, on the corner of Grant Street - approved with roof projections to height of 7.6m above a concealed roof). The adjoining dwelling to the north of the lot at 1 Margaret Street also has a current approval for a proposed two-storey dwelling with a concealed flat roof and undercoft, albeit being compliant with the Codes in terms of its building height.

The actual roof height of the proposed dwelling will be only 6.5m above the average natural ground level. The proposed additional 1m wall height enables a solid balustrade to be constructed around the roof-deck and solar panels and is required under the Building Regulations. Although the balustrade could be of an open-aspect design (ie; have a railing around it or glass) to reduce its visual impact this would not necessarily suit the contemporary design of the building, it may further reduce privacy for the occupants, and it is unlikely to make a significant difference to the building bulk.

The topography of the land surrounding the site also warrants special consideration as the lot is less elevated than the adjoining street level so the overall building height will appear below 7 metres when viewed from Margaret Street and Grant Street (refer: Drawing SK05-rev. 4 for detail). Furthermore, the ground floor level of the proposed dwelling will be 1.6m lower than the ground floor in the existing dwelling so is more consistent with natural levels on the lot and probably less intrusive.

The location of the lot on the northern side of Grant Street ensures that adequate direct sun and daylight will be maintained to adjoining dwellings despite the proposed increased height as overshadowing will be predominantly restricted to the road reserve.

Views of significance will not be significantly affected by the proposal as the adjoining properties on the east side of Margaret Street are two-storey, separated by a reasonable distance and are elevated above road level. Furthermore, if the proposed development had a pitched roof it would be permitted under the Scheme and would extend 1m higher than that proposed (to 8.5m) thereby having a greater impact on views than that proposed (refer: Drawing SK05-rev 5 for detail). The proposed 6m

front setback to the new dwelling should ensure that a view corridor still exists from 12/14 Grant Street westwards.

In summary, the 0.5m height variation sought would be unlikely to have a significant adverse visual impact on the streetscape or the amenity of adjoining neighbours and the proposal can be supported under performance criteria of the Residential Design Codes.

Visual Privacy

The proposed development complies with the majority of visual privacy requirements of the Residential Design Codes as most windows and outdoor living areas will overlook the adjoining streets or the right of way at the rear of the lot. However, the proposed rear upper floor bedroom windows, rear courtyard and the roof deck do not meet the acceptable development standards of the Codes in relation to the western boundary and therefore need to be assessed under performance criteria.

The relevant performance criteria (Clause 6.8.1) states:

Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscape, or remoteness.

Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscured glass.

Where they are used, they should be integrated with the building design and have minimal impact on residents' or neighbours' amenity.

Where opposite windows are offset from the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.

Due to the existing differences in ground levels between 8 and 10 Grant Street the overlooking from the south-facing rear bedroom window and the proposed roof-deck will avoid active habitable spaces, major openings and outdoor living areas as the cone of vision will generally be over the adjoining roof. The proposed north-facing bedroom window could potentially overlook a section of the neighbour's outdoor living area but again due to the level differences and also the location of an existing high boundary wall along the common boundary and proposed operable batten solar screening on the rear elevation significant loss of privacy is unlikely to occur. The existing boundary wall and the location of the proposed driveway to the undercroft garage will also minimise any potential overlooking from the proposed raised courtyard area at the rear of the dwelling.

CONCLUSION

The proposed two-storey dwelling with undercroft, roof-deck and pool can be supported with the variations sought as it satisfies the performance criteria of the Residential Design Codes. Furthermore, while Council's discretion is sought in regards to the height, it is assessed that issues such as privacy, views and general amenity have been satisfactorily addressed in this case.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Birnbrauer

That Council:

1. **GRANT its Approval to Commence Development for the proposed two-storey dwelling with roof-deck, undercroft and pool at No. 10 (Lot 56) Grant Street, Cottesloe, in accordance with the plans submitted on 12 & 28 April 2010, subject to the following conditions:**
 - (a) **All construction work shall be 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 shall not be discharged onto the street reserve, right of way or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
 - (c) **The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (d) **The existing redundant crossover being removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.**
 - (e) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (f) **Any fencing to the site within the front setback area shall be of an open- aspect design in accordance with Council's Fencing Local Law.**
 - (g) **The pool pump and filter shall be located so as not to impact on adjoining properties and suitably housed or treated as may be necessary so 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.**
 - (h) **Wastewater or backwash from pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.**
 - (i) **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 1.8 metres away from any building or boundary.

- (j) Wastewater or backwash shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (k) The right-of-way located at the rear of the lot being paved and drained and/or upgraded to the satisfaction of the Manager of Engineering Services with details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.

2. Advise the submitters of its decision.

Carried 10/0

Unchanged

11.2 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 18 MAY 2010**11.2.1 SECTION 64 APPLICATION TO THE DIRECTOR OF LIQUOR LICENSING**

File No: SUB/362
Attachments: [S64 agenda item1.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 20 April 2010
Author Disclosure of Interest Nil

SUMMARY

A recommendation is made to pursue the lodgement of a Section 64 application with the Director of Liquor Licensing.

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BACKGROUND

At the May 2008 meeting of Council it was resolved:-

- (1) *That the Town of Cottesloe withhold consideration of any further development of a strategy to support an amendment to the Liquor Control Act 1988 until a complaint under section 117 of the Liquor Control Act 1988 has been finalised or a review of liquor license conditions has been undertaken under section 64 of the Act.*
 - (2) *That the Town of Cottesloe review the measures available under the Liquor Control Act 1988 and the practicalities of lodging a complaint under section 117 of the Liquor Control Act 1988 in respect to the Cottesloe Beach Hotel.*
 - (3) *That the Town of Cottesloe review the most practical manner of obtaining information that will support a change in liquor license conditions either under section 64 or the lodging of a complaint under section 117.*
 - (4) *That the Town of Cottesloe adopt a similar plan of action for developing a strategy to finding a solution to problems associated with the Ocean Beach Hotel.*
 - (5) *That the Town of Cottesloe not consider, until after the complaint under section 117 of the Liquor Control Act 1988 has been finalised or a review of liquor license conditions has been undertaken under section 64, any further development of a strategy to support an amendment to the Liquor Control Act 1988.*
 - (6) *That the Town of Cottesloe develop a succinct communications strategy to locally publicise the need for residents to provide better evidence in support of complaints, and to also more widely publicise the need to address problems that arise from the high patron numbers allowed at the Cottesloe Beach Hotel and the Ocean Beach Hotel.*
-

- (7) *That Council form a Liquor Licensing Working Group comprised of the Mayor and Council members of the Community Safety & Crime Prevention Committee, together with executive support from the Chief Executive Officer, to oversee the completion within four months of the abovementioned reviews and the preparation of the abovementioned plans of action and communications strategy, including the preparation for Council approval of any proposal to lodge a submission with the Liquor Licensing Authority seeking to invoke a review under section 64.*

A Liquor Licensing Working Group was formed as per the Council directive and met for the first time on 24 June 2008. The group has met a number of times since then and:

- Reviewed the available information.
- Listened to representatives from the Department of Racing, Gaming and Liquor on the issues surrounding appeals to the Liquor Licensing Court.
- Worked up a strategy to address the situation as uncovered during previous meetings.
- Present agreed strategy to Council for ratification before proceeding further.

At the Working Group meeting of the 15 July 2008 it was noted that the objectives of the *Liquor Control Act 1988* have changed (emphasis added).

s5. Objects of the Act

- (1) The primary objects of this Act are —
- (a) to regulate the sale, supply and consumption of liquor; and
 - (b) to minimize harm or ill-health caused to people, or any group of people, due to the use of liquor; and
 - (c) **to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.**
- (2) In carrying out its functions under this Act, the licensing authority shall have regard to the primary objects of this Act and also to the following secondary objects —
- (a) **to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and**
 - [(b), (c) deleted]*
 - (d) to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
 - (e) to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act.
- (3) If, in carrying out any of its functions under this Act, the licensing authority considers that there is any inconsistency between the primary objects
-

referred to in subsection (1) and the secondary objects referred to in subsection (2), the primary objects take precedence.

From the Working Group meeting of the 29 July 2008 it was concluded that:

- Police resourcing is an issue and is tending to be concentrated in entertainment precincts.
- There is a need for a “grandfathering” clause to reduce adverse health impacts by reducing patron numbers over several years to further the objectives of Section 64. We need to gather scientific evidence of the adverse health impacts of large liquor establishments.
- Focus should be on social betterment through the progressive removal of an anachronistic formula that determines patron numbers.

The working group meeting of the 12 August 2008 concluded that the desired outcome of any action undertaken by the Town against the hotels must be to dramatically reduce the numbers of patrons at both hotels.

To achieve this outcome, irrefutable evidence would need to be gathered. Rather than collect piece-meal and anecdotal of evidence over a summer, a comprehensive effort to gather evidence should be undertaken.

The initial surveillance during the summer of 2008/2009 was extended until summer 2009/2010.

STRATEGIC IMPLICATIONS

Objective 1: Lifestyle

To protect and enhance the lifestyle of residents

- Reduce beachfront hotel patron numbers to a sustainable level.

The strategy detailed within this item is focused on this objective.

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

The relevant sections of the *Liquor Control Act 1988* provide the following:

s64. Power of licensing authority to impose, vary or cancel conditions

- (1) Subject to this Act, in relation to any licence, or to any permit, the licensing authority may at its discretion impose conditions —
 - (a) in addition to the conditions specifically imposed by this Act; or
 - (b) in such a manner as to make more restrictive a condition specifically imposed by this Act,

and may vary or cancel any condition previously imposed by the licensing authority, having regard to the tenor of the licence or permit

and the circumstances in relation to which the licensing authority intends that it should operate.

- (1a) The licensing authority may impose, vary or cancel a condition under subsection (1) —
- (a) of its own motion; or
 - (b) on the application of the licensee; or
 - (c) at the written request of the parties to a liquor accord.

- (1b) In subsection (1a) —

“liquor accord” means a written agreement or other arrangement —

- (a) that is entered into by 2 or more licensees in a local community, and persons who represent the licensing authority, departments of the Public Service, State agencies or local government, and other persons; and
- (b) that has the purposes of minimising the harm caused in the local community by the excessive consumption of liquor and promoting responsible practices in the sale, supply and service of liquor in the local community; and
- (c) that is approved by the Director.

- (2) The power conferred by subsection (1) may, subject to compliance with section 31(6)(b), be exercised at any time, but a condition takes effect on —

- (a) the date of the grant of the licence or the issue of the permit in relation to which it was imposed; or
- (b) such other date as is specified in the notice setting out the particulars, or in the endorsement or revised version of the licence or permit made, under section 31(6),

whichever is the later.

- (2a) If the licensing authority proposes to impose, vary or cancel a condition under this section, the licensing authority may, by notice in writing, require the licensee to show cause to the licensing authority why the condition should not be imposed, varied or cancelled.

- (2b) Subsection (2a) does not apply in relation to a condition proposed to be imposed, varied or cancelled in accordance with an application under subsection (1a)(b).

- (3) Without derogating from the generality of the discretion conferred on the licensing authority, the licensing authority may impose conditions which it considers to be in the public interest or which it considers desirable in order to —

- (a) ensure that the noise emanating from the licensed premises is not excessive; or
- (b) minimize the offence, annoyance, disturbance or inconvenience that might be caused to those who reside or work in the vicinity of the licensed premises, or to persons in or making their way to or from a place of public worship,

- hospital or school, in consequence of activities on the licensed premises or the conduct of those making their way to or from the licensed premises; or
- (ba) ensure that local laws of a local authority under the Local Government Act 1995 or by-laws of an Aboriginal community under the Aboriginal Communities Act 1979 are complied with; or
 - (c) ensure that the safety, health or welfare of persons who may resort to the licensed premises is not at risk; or
 - (ca) ensure that liquor is sold and consumed in a responsible manner; or
 - (cb) ensure that all persons involved in conducting business under the licence have suitable training for attaining the primary objects of this Act; or
 - (cc) minimize harm or ill-health caused to people, or any group of people, due to the use of liquor; or
 - (cd) limit or prohibit the sale of liquor on credit; or
 - (d) ensure public order and safety, particularly where circumstances or events are expected to attract large numbers of persons to the premises or to an area adjacent to the premises; or
 - (e) limit —
 - (i) the kinds of liquor that may be sold;
 - (ii) the manner in which or the containers, or number or types of containers, in which liquor may be sold;
 - (iii) the days on which, and the times at which, liquor may be sold;or
 - (ea) without limiting paragraph (e)(iii), limit the times when packaged liquor may be sold on and from the licensed premises to those times when liquor may be purchased for consumption on those premises; or
 - (f) prohibit persons being, or limit the number of persons who may be, present on, or on any particular part of, the licensed premises or any area which is subject to the control or management of the licensee and is adjacent to those premises; or
 - (fa) prohibit entry to the licensed premises after a specified time; or
 - (g) prohibit the provision of entertainment, or limit the kind of entertainment that may be provided, on, or in an area under the control of the licensee adjacent to, the licensed premises; or
 - (ga) prohibit promotional activity in which drinks are offered free or at reduced prices, or limit the circumstances in which this may be done; or

- (gb) prohibit any practices which encourage irresponsible drinking; or
 - (h) otherwise limit the authority conferred under a licence or permit; or
 - (j) require action therein specified to be undertaken by the licensee —
 - (i) within a time or at times therein specified; or
 - (ii) on occasions or in circumstances therein specified, in relation to the licensed premises or any part of those premises, the conduct of the business carried on under the licence, or otherwise in the public interest; or
 - (k) prevent improper arrangements or practices calculated to increase any subsidy payable; or
 - (m) ensure compliance with the requirements of, or with terms fixed or conditions imposed by or under, this Act.
- (4) If there is an inconsistency between a condition imposed under this Act and a requirement of, or made under, any other written law, the condition or requirement which is more onerous for the licensee shall prevail.
- [(5) repealed]*
- (6) A condition imposed under this section may relate to —
 - (a) any aspects of the business carried on under the licence; and
 - (b) any activity carried on at the licensed premises, at any time and whether or not related to the business carried on under the licence.
- (7) Where a condition imposed under this section in relation to a licence has been contravened the licensing authority may —
 - (a) impose a more restrictive condition in relation to that licence; or
 - (b) impose on the licence holder a monetary penalty not exceeding \$500 for each day on which the contravention continues, which shall be payable to the Crown by that person,or both.
- (8) The imposition, variation or cancellation of a condition, or the imposition of a monetary penalty, under this section is not to be regarded as the taking of disciplinary action for the purposes of section 96.

s117. Complaints about noise or behaviour related to licensed premises

- (1) A complaint in writing may be lodged with the Director alleging —
 - (a) that the amenity, quiet or good order of the neighbourhood of the licensed premises is frequently unduly disturbed by reason of any activity occurring at the licensed premises; or
 - (b) that any —
-

- (i) behaviour of persons on the licensed premises;
- (ii) noise emanating from the licensed premises; or
- (iii) disorderly conduct occurring frequently in the vicinity of the licensed premises on the part of persons who have resorted to the licensed premises,

is unduly offensive, annoying, disturbing or inconvenient to persons who reside or work in the vicinity, or to persons in or making their way to or from a place of public worship, hospital or school.

- (2) A complaint under subsection (1) may be lodged by —
 - (a) the Commissioner of Police;
 - (b) the local government of the district in which the licensed premises are situated, or of any other district adjacent to the licensed premises and appearing to the Director to have an interest in the amenity, quiet or good order of the neighbourhood of the licensed premises;
 - (c) a government agency or statutory authority; or
 - (d) a person claiming to be adversely affected by the subject matter of that complaint who —
 - (i) resides, works or worships;
 - (ii) attends, or is a parent of a child who attends, a school; or
 - (iii) attends, or is a patient in, a hospital,in the vicinity of the licensed premises concerned.
- (2a) If a complaint is lodged by a person referred to in subsection (2)(d), the complaint is to be signed, unless the Director otherwise approves, by 3 unrelated adults (including the complainant).

(2b) In subsection (2a) —

“3 unrelated adults” means 3 adults each of whom —

- (a) resides at different residential premises; and
- (b) is not —
 - (i) a child; or
 - (ii) a parent; or
 - (iii) a brother or sister; or
 - (iv) an aunt or uncle; or
 - (v) a spouse or former spouse; or
 - (vi) a de facto partner or former de facto partner,of either of the other 2 adults.

(3) The Director shall give notice of each complaint lodged to the licensee of the licensed premises with respect to which the complaint is made.

(3a) When a complaint is lodged with the Director under subsection (1), the Director is to attempt to settle the matter by conciliation or negotiation.

- (3b) If the Director determines at any stage of the proceedings under this section that the complaint is frivolous or vexatious, the Director is to dismiss the complaint.
- (4) If the matter referred to in a complaint is not settled by conciliation or negotiation, the Director is to give the complainant, the licensee and any other person appearing to the Director to have a relevant interest in the matter a reasonable opportunity to be heard or to make submissions.
- (4a) Having complied with subsection (4), the Director —
- (a) subject to subsection (4c), may determine the matter; and
 - (b) if of the opinion that the allegation in the complaint is established on the balance of probabilities and that the licensee has failed to show cause why an order should not be made under this section — may make an order under this section,
- but otherwise the Director is to dismiss the complaint.
- (4b) Without limiting the matters that the Director may have regard to when making a determination under subsection (4a), the Director may have regard to —
- (a) any alteration, including any structural change, made —
 - (i) to the licensed premises; or
 - (ii) if the complainant is a person referred to in subsection (2)(d) — to any relevant premises where the complainant (or, if subsection (2)(d)(ii) applies, the complainant's child) resides, works, worships, attends or is a patient;
- and
- (b) any changes that have taken place over time to the activities that take place on the licensed premises; and
 - (c) the kind of business conducted under the licence and how that business is managed; and
 - (d) if the complainant is a person referred to in subsection (2)(d) — whether the complainant (or, if subsection (2)(d)(ii) applies, the complainant's child) began to reside, work, worship, attend or be a patient at any relevant premises before or after the licensee began to conduct business at the licensed premises; and
 - (e) any provision of the Environmental Protection Act 1986, or of any regulations made under that Act, that is relevant to the subject matter of the complaint.
- (4c) The Director —
- (a) may defer making a determination under subsection (4a) for any period the Director considers appropriate; and

- (b) may make an interim order that has effect for that period for any purpose for which an order may be made under subsection (5).
- (5) For the purposes of this section, whether pursuant to conciliation or negotiation or by way of an order, the Director may —
- (a) vary the existing conditions of the licence;
 - (b) redefine, or redesignate a part of, the licensed premises;
 - (c) prohibit the licensee from providing entertainment or any other activity of a kind specified by the Director during a period specified by the Director or otherwise than in circumstances specified by the Director, and impose that prohibition as a condition to which the licence is to be subject; or
 - (d) otherwise deal with the matter in such a manner as is likely, in the opinion of the Director, to resolve the subject matter of the complaint.
- (6) Where, under section 25, a determination made by the Director under this section is to be reviewed by the Commission —
- (a) effect shall be given to any determination made by the Director; and
 - (b) any order made, or other action taken, by the Director under subsection (5) remains in force until revoked by the Director or quashed by the Commission,
- unless the Commission, by way of interim order, otherwise directs.
- (7) A licensee who contravenes an order made under this section commits an offence.

Penalty: \$10 000.

FINANCIAL IMPLICATIONS

There will be some legal costs in preparing the request to the Director of Liquor Licensing to consider a s64 review of the hotels based on the evidence we provide. It is anticipated this will be approximately \$5,000.

SUSTAINABILITY IMPLICATIONS

Nil

STAFF COMMENT

It is fair to say that this process has been long and drawn out and, whilst there has been some recent change, in relative terms, in both frequency and severity of reported incidents it is difficult to confirm the reasons for this or if those changes are temporary or permanent. Such change could be due to increased police presence/action or actions by the Town and/or Hotels themselves to reduce aspects of anti-social behaviour that have been of concern for some time e.g. timed car parking, CBH mini-bus service, Cott Cat extension service, voluntary *shut-outs*, increased security patrols around hotels etc. Equally there is also concern that we may be experiencing a possibility of general “*fatigue*” by local residents due to continued experience/reporting of anti-social behaviour. In reality it is likely that any

noticeable change will be as a result of a combination of these and other factors however it is clear that the primary problem has not gone away nor is at an *acceptable* level. The only way that this will be gained is through the achievement of Council's primary goal of reduced patron numbers at both hotels.

In the last two years there have been a number of reports to Council and even more to meetings of the Working Party, as well as meetings of local residents and Hotel management. During the last two summers the Town has collected evidence which can be used to support an application to the Dept. of Liquor Licensing.

Council has two main options;

1. act now using the information gathered to date from all sources; or
2. continue to monitor the situation and work with the relevant Agencies (e.g. Police, Dept of Liquor Licensing) and the Hotels to see if it is possible to substantially remove or reduce this behaviour;

It is the officer's view that Council should use the information it has to follow through with the commitment to its community and lodge a section 64 application to the Director of Liquor Licensing for a reduction in the number of patrons at each Hotel. The potential risk is that if the information is not sufficient to warrant any action or change by Liquor Licensing, then Council may need to consider alternative strategies to achieve its goals.

The most recent surveillance of the area around the beachfront hotels, including video footage, was undertaken during November and December 2009. The surveillance was supervised by Hammond Legal, a law firm with experience in dealing with the preparation of liquor licensing court applications. Hammond Legal has reviewed the video footage and report logs and has determined there is sufficient evidence for an argument to be made for conditions to be imposed, based upon incidents that have occurred, and that a section 64 application to the Director of Liquor Licensing be prepared and lodged.

VOTING

Absolute Majority

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OFFICER RECOMMENDATION

Moved Cr Carmichael, seconded Cr Boland

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That Council

1. authorise the preparation of a section 64 application under the Liquor License Control Act to the Director of Liquor Licensing to reduce the patron numbers at the Cottesloe beachfront hotels based on the evidence collected by the Town, including surveillance over the past 2 summers.
2. seek the support of local Police, Police Liquor Enforcement Division, and related Agencies to provide evidence to supplement its claims.
3. provide sufficient supporting information, including a cover letter from the Mayor which outlines the Town's concerns and request the Mayor meet with

the Director of Liquor Licensing and Commission of Police as part of lodging its application.

Committee Comment:

Committee discussed the report and Officer recommendation and asked questions about the information that had been obtained via the surveillance. They also discussed the potential impact of the proposed sale of the Cottesloe Beach Hotel and wanted Officers to work with the new owners in relation to Council's concerns. Cr Rowell asked about the potential cost to lodge the associated application and, in line with the officer report, proposed an amendment to the Officer Recommendation.

AMENDMENT**Moved Cr Rowell, seconded Cr Cunningham**

That an additional point (4) be added to state "*That Council not exceed its budget of \$5,000 in preparing its application to the Director of Liquor Licensing.*"

Carried 4/0

COMMITTEE RECOMMENDATION**Moved Cr Boland, seconded Cr Goldthorpe****That Council:**

- 1. authorise the preparation of a section 64 application under the Liquor License Control Act to the Director of Liquor Licensing to reduce the patron numbers at the Cottesloe beachfront hotels based on the evidence collected by the Town, including surveillance over the past 2 summers.**
- 2. seek the support of local Police, Police Liquor Enforcement Division, and related Agencies to provide evidence to supplement its claims.**
- 3. provide sufficient supporting information, including a cover letter from the Mayor which outlines the Town's concerns and request the Mayor meet with the Director of Liquor Licensing and Commission of Police as part of lodging its application.**
- 4. not exceed its budget of \$5,000 in preparing its application to the Director of Liquor Licensing.**

Council Discussion

In speaking to this matter the Mayor highlighted the issues of concern and the changes that have been noticed in recent times. He referred to the impact of the surveillance activities and concerns with the current "grandfathering" of licence conditions, as compared to current requirements for determining patron numbers. He was of the opinion that a deferral for 3 months had merit and would allow the new owners time to present their plans and make changes. He proposed an amendment to the Committee recommendation and this was supported by Council.

AMENDMENT

Moved Mayor Morgan, seconded Cr Rowell

That Council defer this item until August 2010.

Carried 10/0

Unchanged

THE AMENDED SUBSTANTIVE MOTION WAS PUT

That Council defer this item until August 2010.

Carried 10/0

EndOfRecommendation - This line will not be printed Please do NOT delete

11.2.2 SAFER SUSTAINABLE COTTESLOE PLAN 2010 - 2014

File Name: AC Safer Sustainable Cottesloe Plan 2010 - 2014.doc - This line will not be printed do not delete

File No: sub/551
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Christina Guelfi
Community Development Officer
Attachment A Safer Sustainable Cottesloe Plan
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

SUMMARY

This report presents the Safer, Sustainable Cottesloe Plan that outlines seven strategies to creating a safer Cottesloe and recommends Council receive the document into its strategic documents.

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BACKGROUND

The Office of Crime Prevention requires each Local Government to have a Community Safety and Crime Prevention Plan. In 2005 the Town received a grant to have a consultant assist in putting the Community Safety and Crime Prevention Plan together, with consultation from relevant organisations. The Safer, Sustainable Cottesloe Plan acts as an addition to the Community Safety and Crime Prevention Plan, and continues its principles, not replacing them.

The Safer Sustainable Cottesloe Plan was put to the Community Safety and Crime Prevention Plan at its 29 April meeting and was unanimously accepted for referral to Council at its May 2010 meeting through the Works & Corporate Committee.

Cottesloe Police's new OIC was present at this meeting and expressed interest in assisting the Town achieve the outcomes listed in the Safer Sustainable Cottesloe Plan.

The Plan aims to structure a target based safety plan for the Town with a breakdown in steps to achieve each strategy.

STRATEGIC IMPLICATIONS

The Town of Cottesloe's Action Plan Objective 1.9 requests staff "*Develop and implement a Community Safety Strategy*". This document has been prepared to address Objective 1.9.

Objective 1: Lifestyle

To protect and enhance the lifestyle of residents

- Develop a strategy to ensure access and inclusion of aged persons and persons with disabilities (Action Plan Objective 1.7)
- Implement a Community Safety Strategy (Action Plan Objective 1.9)

The following Town of Cottesloe documents are also relevant to the strategic implications of the Safer Sustainable Cottesloe Plan.

- The Town of Cottesloe's Future Plan 2006 -2010
- The Town of Cottesloe's Action Plan 2009 – 2010
- The Town of Cottesloe's Community Safety & Crime Prevention Plan 2005 - 2008

POLICY IMPLICATIONS

None known

STATUTORY ENVIRONMENT

None known

FINANCIAL IMPLICATIONS

Grants have been applied for from the Office of Crime Prevention to implement strategies 1, 2, 3, 5 and 6.

Strategy 4 is covered by a \$30,000 ongoing budget commitment to continue to upgrade and maintain access to Council owned buildings

Strategy 7 primarily requires officer time from the Town's Community Development Officer in order to achieve, so the financial commitment is in salaries/work priorities.

SUSTAINABILITY IMPLICATIONS

The Safer Sustainable Cottesloe Action plan specifically includes the consideration of strategies that implement a sustainable outcome for the Town and its residents. The Town's Sustainability officer has been consulted through the process of developing the plan and will be participating in its implementation.

CONSULTATION

The Town consulted several key people in the process of developing the Safer, Sustainable Cottesloe Action Plan, including the following;

- Scott Birmingham, OCP for the Town's statistics as referenced in the Plan
- Kerryn Campbell – member of the Community Safety Crime Prevention and Professor in Security at Edith Cowan University
- Michael Coe – OCP – CCTV Officer
- Cottesloe Police;
- Procott (Cottesloe's Business Association);
- Community Safety and Crime Prevention Committee

STAFF COMMENT

The aims of the Safer Sustainability Cottesloe Strategy are;

1. *To reduce and monitor anti-social behaviour on the beachfront area by improving the Town's security systems and CCTV networks.*
2. *To reduce crime, including graffiti, in the Central Business District of the Town, by extending the CCTV network to the area.*
3. *To raise awareness in the local community about safety on the roads, including safe roads and roadsides, safe vehicles, safe speeds and safe road use as outlined in the Road Safety Council's Strategic Action Plan.*
4. *To increase the safety and access to the Council owned buildings according to the Town's Access and Inclusion Plan 2007 – 2011.*

5. *To educate residents on the importance of home, business and vehicle security to prevent theft and damage to property.*
6. *To promote safe consumption of alcohol and raise awareness the outcomes of abuse of alcohol and other drugs.*
7. *To increase communication between the Council, the Community Safety and Crime Prevention Committee and the residents of Cottesloe, to achieve accountability, feedback and progress reports.*

This document aims to cover a wide range of areas that concern residents safety, through the reduction of crime, access and inclusion and education of visitors to our community on safety and provision of information to our local residents.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

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That Council receive the Safer Sustainable Cottesloe Plan 2010-2014 as an addition to its Community Safety and Crime Prevention Plan.

Carried 10/0

Unchanged

EndOfRecommendation - This line will not be printed Please do NOT delete

11.2.3 COTTESLOE BEACH PYLON - SECOND STAGE

File Name: AC180510 B COTTESLOE BEACH PYLON SECOND STAGE.doc - This line will not be printed DO NOT delete

File No: SUB/214
Attachments: [Historical Information on Pylon Condition.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

SUMMARY

Council has completed Stage 1 of the restoration of the Cottesloe Beach Pylon, using Federal Government Stimulus Package grant funding and a Lottery West grant. Stage 2 remains to be undertaken, being the base section from the sea bed to within 0.5 meters of the base of the spire.

The recommendation is for Council to:

1. Support a fundraising campaign to undertake Stage 2 of the Cottesloe Beach Pylon project in 2011/2012, once current major projects have been resolved and completed.
2. Nominate Councillor _____ to represent Council and participate on any Appeal Advisory Committee as required.
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BACKGROUND

Council would be aware of the project to undertake Stage 1 of the Cottesloe Beach Pylon restoration project. Funding was received from Lottery West and from part of the Federal Stimulus Package to undertake the work. Stage 1 entailed restoration and strengthening of the pylon itself plus a base section depth of approximately 0.8 metres.

Stage 2 would be below that section, involving a cylindrical section approximately 2 metres diameter in the active wave zone plus a wider section down to bedrock. The bedrock connection was originally blasted out and the hole filled with concrete and shaped into a cylinder, designed to be below water most of the time.

Works would be aimed at preventing any further 'shelling' of concrete portions off the 2 metre diameter section and the exposure of any reinforcing steel. This would require a water-sealed outer shell which would allow an outer concrete layer to be applied to protect and restore the base cylinder.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Nil

FINANCIAL IMPLICATIONS

Without proper design or cost quotations, the size of the project is estimated to be in the order of \$300,000. Council has not included any allowance for this work in 2010/2011.

SUSTAINABILITY IMPLICATIONS

Undertaking Stage 2 works will increase the longevity and sustainability of the Pylon.

CONSULTATION

Nil

STAFF COMMENT

Stage 1 works dealt with the most fragile part of the pylon – the connection of the narrow shaft into the base cylinder with concrete and steel reinforcing. The structure then greatly increases in diameter and then increases again for the section normally under water to the base connection into bedrock. There is a very low possibility that this base section will fall apart or collapse.

However, ongoing ‘flaking’ of concrete from the outer surface and the subsequent exposure of reinforcing steel will continue to make contact with the very rough outer surfaced damaging. Eventually if not repaired or re constructed, larger scale ‘shelling’ may endanger the structure.

In 2009 the National Trust agreed to establish a tax-deductible appeal, with funds to be donated to Stage 2 of the pylon project. The local member and Premier Mr Colin Barnett agreed to be patron of such an appeal. A Draft Project Report and Business Plan was prepared but not finalised. It is attached for the information of elected members.

In regards to establishing a more accurate cost estimate of the works involved, a design plan would be required, potentially from Wood and Grieve Engineering Consultant at no cost to Council. (Note: Wood and Grieve were involved in Stage 1 and provided expertise at no cost to Council). A quotation from a construction company, e.g. the company that undertook Stage 1, would then be needed.

However, with no funds to undertake works at present, no company undertaking a construction quotation could expect works to come from the effort. It is also probable that, at a cost of around \$300,000 full plans and specifications would be needed for tenders to be called, to achieve an accurate cost of the works. Without some certainty of funding it is unlikely that companies will invest significant resources to undertake preliminary analysis in order to quote or tender for this work.

Staff currently are committed to several large scale projects, including the finalisation of the 2010/2011 budget, plans for sale of the old depot/construction of the new site, the proposal to undertake major Civic Centre re-roofing works, and the Foreshore Development Project, along with 'normal' budget capital works. Council should determine the relative priority of this project compared to existing commitments. Leadership would also be needed from individual Councillors to develop community contacts and assist in the support of significant fundraising efforts.

VOTING

Simple Majority

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OFFICER RECOMMENDATION

Moved Cr Carmichael, seconded Cr Boland

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That Council

1. Support a fundraising campaign to undertake Stage 2 of the Cottesloe Beach Pylon project in 2011/2012, once current major projects have been resolved and completed.
2. Nominate Councillor _____ to represent Council and participate on any Appeal Advisory Committee as required.

Committee Comment:

Committee discussed the report at length and in particular the possibility of requesting that Wood and Grieve provide, pro bono, a design concept for the stage two works and that this design be costed by a quantity surveyor so that the fundraising campaign has a more specific goal to achieve. Committee determined to add two new parts to the officer recommendation to reflect these comments.

AMENDMENT

Moved Cr Carmichael, seconded Cr Rowell

That points (1) and (2) become points (3) and (4)

That a new point (1) be added to the recommendation that states, "*Consult with Wood and Grieve for an accurate design concept for Stage 2 of the Cottesloe Beach Pylon Project.* That a new point (2) be added to state, "*Engage a Quantity Surveyor to provide a cost estimate based on the design from point 1 for Stage 2 of the Cottesloe Beach Pylon Project*"

The word "a" be added to point (4) to state, "*Nominate a Councillor to represent Council and participate on any Appeal Advisory Committee as required*"

Carried 4/0

COMMITTEE RECOMMENDATION

Moved Cr Boland, seconded Cr Rowell

That Council:

1. Consult with Wood and Grieve for an accurate design concept for Stage 2 of the Cottesloe Beach Pylon Project.
2. Engage a Quantity Surveyor to provide a cost estimate based on the design from point 1 for Stage 2 of the Cottesloe Beach Pylon Project
3. Support a fundraising campaign to undertake Stage 2 of the Cottesloe Beach Pylon project in 2011/2012, once current major projects have been resolved and completed.
4. Nominate Councillor _____ to represent Council and participate on any Appeal Advisory Committee as required.

Council Discussion:

There was general discussion in relation to the officer report and Committee Recommendation. In relation to Part 4 of the Committee Recommendation, Cr Rowell nominated himself as the Councillor to represent Council and Cr Dawkins seconded his nomination.

AMENDMENT

Moved Cr Rowell, seconded Cr Dawkins

That Cr Rowell be nominated to represent Council and participate on any Appeal Advisory Committee as required.

Carried 9/1

Unchanged

THE AMENDED SUBSTANTIVE MOTION WAS PUT

That Council:

1. **Consult with Wood and Grieve for an accurate design concept for Stage 2 of the Cottesloe Beach Pylon Project.**
2. **Engage a Quantity Surveyor to provide a cost estimate based on the design from point 1 for Stage 2 of the Cottesloe Beach Pylon Project**
3. **Support a fundraising campaign to undertake Stage 2 of the Cottesloe Beach Pylon project in 2011/2012, once current major projects have been resolved and completed.**
4. **Nominate Councillor Rowell to represent Council and participate on any Appeal Advisory Committee as required.**

Carried 8/2

Unchanged

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11.2.4 COTTESLOE TENNIS CLUB - REQUEST FOR NAPIER STREET PARKING AREA

File Name: AC180510 B COTTESLOE TENNIS CLUB REQUEST FOR NAPIER STREET PARKING AREA.doc - This line will not be printed DO NOT delete

File No: SUB/236
Attachments: [Letter to Mayor from Cottesloe Tennis Club.pdf](#)
[Proposed Constructed Parking Area for Cottesloe Tennis Club.pdf](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

SUMMARY

The Cottesloe Tennis Club has requested funding in the 2010/2011 budget for a new constructed parking area on the northern Napier Street road verge, to remove parking problems of over parking during busy tennis days.

The recommendation is for Council to:

1. Inform the Cottesloe Tennis Club that, due to a lack of an agreed design of the proposed carpark and an accurate cost estimate, plus a very tight 2010/2011 budget year, funds will not be available for the requested construction of a carpark on Napier Street, in 2010/2011.
2. Work with the Cottesloe Tennis Club to determine the parking requirements for the northern verge of Napier Street agree on a design and estimate a construction cost for consideration in the 2011/2012 budget deliberations.

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BACKGROUND

The issue of a constructed parking area fronting the total tennis courts southern boundary on Napier Street was considered by Council in 2007/2008. Council resolved to consider funding in the 2008/2009 budget. Subsequently, as part of the budget discussion no funds for this work, were provided.

During very long summer periods, with heavy use being made of this grassed and reticulated verge for both tennis patrons and for people using the beach and hotels, surface damage has occurred and over-parking takes place.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Council has no statutory obligations in this matter.

FINANCIAL IMPLICATIONS

The cost of this parking area would be in excess of \$40,000. However a design plan is required for a proper estimate. The application has arrived very late in the budget cycle, with no discussions having taken place on the exact requirements.

SUSTAINABILITY IMPLICATIONS

A grassed verge will absorb water into the aquifer but it will require reticulation in summer. An asphalt surface requires no reticulation and can act as a catchment for drainage water for the direction into the aquifer.

Water Usage/Quality

Nil

Coastal Environments

Nil

Waste Management and Recycling

Nil

Energy Efficiency

Nil

Purchasing

Nil

Flora and Fauna Conservation and Biodiversity

Nil

CONSULTATION

Nil

STAFF COMMENT

This proposal has recently been received and, in order to undertake a cost estimate, a full design of the car park is required, agreed on by both Council and the Club and the works given a priority level when compared to all other requests. This process could take place in the next 12 months to ensure that the exact project design and costs are known.

VOTING

Simple Majority

Endstrip - This line will not be printed Please do NOT delete

Cr Boland and Cr Dawkins declared a non-financial interest in item 10.2.2 being members of the Tennis Club.

Mayor Morgan declared an impartiality interest in item 10.2.2 being the patron of the Tennis Club.

All declared that as a consequence there may be a perception that their impartiality on the matter may be affected. They declared that they would consider the matter on its merits and vote accordingly.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Rowell

StartOfRecommendation - This line will not be printed Please do NOT delete

That Council:

- 1. Inform the Cottesloe Tennis Club, that due to a lack of an agreed design of the proposed carpark and an accurate cost estimate, plus a very tight 2010/2011 budget year, funds will not be available for the requested construction of a carpark on Napier Street, in 2010/2011.**
- 2. Work with the Cottesloe Tennis Club to determine the parking requirements for the northern verge of Napier Street agree on a design and estimate a construction cost for consideration in the 2011/2012 budget deliberations.**

Carried 10/0

EndOfRecommendation - This line will not be printed Please do NOT delete

11.2.5 NORTH COTTESLOE PRIMARY SCHOOL - REQUEST FOR DONATION TO CAR FREE PROJECT

File Name: AC180510 B NORTH COTTESLOE PRIMARY SCHOOL REQUEST FOR DONATION TO CAR FREE PROJECT.doc - This line will not be printed DO NOT delete

File No: SUB/143
Attachments: [North Cottesloe Primary School proposed steel sculpture locations.pdf](#)
[Donations Application - North Cottesloe Primary School - Car Free Project 2010\(2\).PDF](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

SUMMARY

The North Cottesloe Primary School has requested a \$5,000 donation for the creation and installation of a series of steel cut out figures (5) in the shape of children, to be installed behind the Eric Street kerb line fronting the school. The steel thickness is 5 millimetres and the aim is to slow vehicles on Eric Street down as they pass the school and to reduce the use of vehicles past the school. The problem is the safety and liability of such steel figures close to cyclists and vehicles using Eric Street, and the level of distraction to drivers and cyclists.

The recommendation is that Council:

1. Seek advice from Main Roads WA and LGIS on the suitability and liability issues raised by the proposed installation of five steel silhouette figures to be installed on the Eric Street road verge fronting the North Cottesloe Primary School.
2. Inform the North Cottesloe Primary School of Councils decision, which will not affect the grant application approval but may affect the final location or material of the proposed structures.

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BACKGROUND

This school application for a \$5,000 donation is aimed at increasing the cyclist and motorist attention to the need to slow down past the school by the use of five steel silhouette cut-outs of children, placed on the island fronting the school on the north side of Eric Street. The sculptures would be five millimetres thick steel, 1.5 to 2.0 metres high. The silhouettes will not be painted and will rust naturally.

This idea seems to be the first use of steel rather than plastic and its first use on a road reserve close to moving traffic fronting a school. The fall back position for the school is for the installation to be inside the school grounds.

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

Main Roads WA and Councils insurers (LGIS) need to be contacted regarding the proposal siting of these steel silhouettes, close to a busy road and beside a cycle lane. The minimum distance away from the kerb line for safety, the 'frangibility issue' and Councils exposure to liability if there is an accident are issues needing answers.

FINANCIAL IMPLICATIONS

\$5,000 is the donation request. Ongoing maintenance, including removal of graffiti, would be a cost issue. If Council is liable for injury claims (because of the road reserve location), then the cost could be substantial.

SUSTAINABILITY IMPLICATIONS

Nil, apart from energy efficiency where slower vehicles would use less fuel and less car use to deliver or pick up children at the school.

CONSULTATION

The matter has been discussed only with the school contact.

STAFF COMMENT

This appears to be the first time this silhouette proposal has been in sheet steel in front of a school, on the road verge, beside a busy road and a cycle lane.

Standard attitudes to objects to be installed on road verges is to have them well back from the kerb line, not of a nature that will attract a drivers concentration away from driving, and the materials would be as 'soft' as possible to minimise any damage if someone does hit the object.

Main Roads WA and good safety practice calls for 'frangibility' - the object will easily collapse if hit by a vehicle, to minimise potential injury to the drivers. Because the installations are proposed for the road reserve, vested in Council, the liability responsibility would normally rest with Council if an accident occurs. The aims of slowing traffic down in front of a school and reducing the use of vehicles is to be encouraged, however normal Main Roads WA advice should be requested along with advice from Councils' insurers, prior to any approval on the installation of steel structures close to the kerb line on Eric Street.

VOTING

Simple Majority

Endstrip - This line will not be printed Please do NOT delete

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

StartOfRecommendation - This line will not be printed Please do NOT delete

That Council:

- 1. Seek advice from Main Roads WA and LGIS on the suitability and liability issues raised by the proposed installation of five steel silhouette figures to be installed on Eric Street road verge fronting the North Cottesloe Primary School.**
- 2. Inform the North Cottesloe Primary School of Councils decision, which will not affect the grant application approval but may affect the final location or material of the proposed structures.**

Carried 10/0

EndOfRecommendation - This line will not be printed Please do NOT delete

11.2.6 PROPERTY & SUNDRY DEBTORS REPORT FOR APRIL 2010

File Name: AC180510 CA Property Sundry Debtors Report for April 2010.doc - This line will not be printed DO NOT delete

File No: SUB/145
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 April 2010 to Council.

Startstrip - This line will not be printed Please do NOT delete

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

No financial resource impact.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report commences on page 20 of the Financial Statements and shows a balance of \$169,442.36 of which \$147,221.01 relates to the current month. The balance of aged debtors over 30 days stood at \$22,221.35

Property Debtors are shown in the Rates and Charges analysis on page 23 of the Financial Statements and show a balance of \$315,040.54. Of this amount \$220,711.77 and \$30,214.86 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$94,022 in 2010 compared to \$119,916 last year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

StartOfRecommendation - This line will not be printed Please do NOT delete

That Council receive the Property and Sundry Debtors Report for the period ending 30 April 2010, as per the attached Financial Statements, as submitted to the 18 May 2010 meeting of the Works and Corporate Services Committee.

Carried 10/0

EndOfRecommendation - This line will not be printed Please do NOT delete

11.2.7 SCHEDULE OF INVESTMENTS AND LOANS AS AT 30 APRIL 2010

File Name: AC180510 CA Schedule of Investments and Loans as at 30 April 2010.doc - This line will not be printed DO NOT delete

File No: SUB/150 & SUB/151
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 April 2010, as per attachment, to Council.

Startstrip - This line will not be printed Please do NOT delete

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

No financial resource impact.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 18 of the Financial Statements shows that \$2,946,253.71 was invested as at 30 April, 2010.

Reserve Funds make up \$918,812.55 of the total invested and are restricted funds. Approximately 27% of the funds are invested with the National Australia Bank, 39% with Westpac, 20% with BankWest and 14% with Commonwealth.

The Schedule of Loans on page 19 shows a balance of \$6,840,714.24 as at 30 April, 2010. There is \$459,792.00 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

Endstrip - This line will not be printed Please do NOT delete

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

StartOfRecommendation - This line will not be printed Please do NOT delete

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 April, 2010, as per the attached Financial Statements, as submitted to the 18 May 2010 meeting of the Works and Corporate Services Committee

Carried 10/0

EndOfRecommendation - This line will not be printed Please do NOT delete

**11.2.8 STATUTORY FINANCIAL STATEMENTS FOR THE MONTH OF APRIL
2010**

File Name: AC180510 CA Statutory Financial Statements for the month of April 2010.doc - This line will not be printed DO NOT delete

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Patrick
Manager Corporate Services
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

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 2010, to Council.

Startstrip - This line will not be printed Please do NOT delete

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$860,838 as at 30 April 2010. Operating Revenue is above budget by \$376,931 (4%). Operating Expenditure is \$512,757 (7%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 30 April 2010 is shown on page 7.

The Capital Works Program is listed on pages 24 - 29 and shows total expenditure of \$5,079,617 compared to YTD budget of \$7,323,099. The reason for the significant

difference is a timing delay with the library and delayed general capital expenditure due to cashflow restrictions at the start of the year.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

StartOfRecommendation - This line will not be printed Please do NOT delete

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 April, 2010, as per the attached Financial Statements, submitted to the 18 May 2010 meeting of the Works and Corporate Services Committee.

Carried 10/0

Unchanged

EndOfRecommendation - This line will not be printed Please do NOT delete

11.2.9 ACCOUNTS PAID IN THE MONTH OF APRIL 2010

File Name: AC180510 CC Accounts paid in the month of April 2010.doc - This line will not be printed DO NOT delete

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Proposed Meeting Date: 18 May 2010
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 30 April 2010 to Council, as per attachment Financial Statements

Startstrip - This line will not be printed Please do NOT delete

STRATEGIC IMPLICATIONS

Nil

POLICY IMPLICATIONS

Nil

STATUTORY ENVIRONMENT

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

FINANCIAL IMPLICATIONS

Resource requirements are in accordance with existing budgetary allocation.

SUSTAINABILITY IMPLICATIONS

Nil

CONSULTATION

Nil

STAFF COMMENT

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 9 of the Financial Statements:

- \$15,300.31 to WA Local Govt Super Fund for staff deductions
 - \$17,397.82 to WA Local Govt Super Fund for staff deductions
 - \$17,121.50 to Blackwell & Associates for consulting on Cottesloe depot
 - \$14,305.89 to Cobblestone Concrete for kerbing & footpath work
 - \$15,530.83 to WA Local Govt Super Fund for staff deductions
 - \$12,296.33 to WMRC for disposal and tipping fees
 - \$124,082.01 to WATC for loan repayment
 - \$15,818.00 to Westside Bus & Coach for Cott Cat service in March 2010
-

- \$10,955.05 to WMRC for disposal and tipping fees
- \$29,656.00 to PRW Contracting for sump conversion
- \$16,840.34 to B&N Waste for green waste verge collection
- \$13,345.45 to WATC for loan repayment
- \$17,482.35 to WMRC for disposal and tipping fees
- \$46,332.22 to Transpacific Cleanaway for domestic & commercial waste disposal in March 2010
- \$507,255.93 to the Shire of Peppermint Grove for contributions towards new library construction
- \$32,362.00 to Holcim Australia for soakwells & related items
- \$11,384.06 to WMRC for disposal and tipping fees
- \$78,596.00 and \$71,192.81 for staff payroll.

VOTING

Simple Majority

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OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Boland, seconded Cr Strzina

StartOfRecommendation - This line will not be printed Please do NOT delete

THAT Council receive the List of Accounts for the period ending 30 April 2010, as per the attached Financial Statements, as submitted to the 18 May 2010 meeting of the Works and Corporate Services Committee.

Carried 10/0

EndOfRecommendation - This line will not be printed Please do NOT delete

11.3 STRATEGIC PLANNING COMMITTEE MINUTES - 19 MAY 2010**11.3.1 TOWN OF COTTESLOE - ACTION PLAN REVIEW**

File Name: A TOWN OF COTTESLOE ACTION PLAN REVIEW.doc - This line will not be printed do not delete

File No: SUB/108
Attachments: [Action Plan 19 May 2010](#)
Responsible Officer: Carl Askew
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 19 May 2010
Author Disclosure of Interest Nil

SUMMARY

This report recommends that Committee receive the updated *Action Plan* report and provide feedback to the CEO and senior staff present at the meeting on agreed modifications to the Action Plan for subsequent presentation to Council.

Startstrip - This line will not be printed Please do NOT delete

BACKGROUND

The *Future Plan 2006 to 2010* for the Town of Cottesloe was finalised and adopted by Council in June 2007. At that time two review dates for the Future Plan were set, so that the document would return to Council. The first of those review dates was set at November 2008 and the second was in November 2010. Following the adoption of the *Future Plan*, an *Action Plan* was developed and an updated review of that plan is tabled for consideration at each meeting of the Strategic Planning Committee.

In September 2009, Committee determined to make changes to objectives 5.2 and 6.1 by updating the intent and focus of each. These changes were subsequently approved by Council. In November 2009 Council resolved to receive the Action Plan report as amended and also agreed to review the Action Plan priorities in November 2010.

STRATEGIC IMPLICATIONS

The Action Plan has obvious strategic implications.

POLICY IMPLICATIONS

None known

STATUTORY ENVIRONMENT

Statutory Environment

Division 5 — Annual reports and planning principal activities

5.56. *Planning principal activities*

- (1) *Each financial year, a local government is to prepare a plan for the next 4 or more financial years.*
 - (2) *The plan is to contain details of—*
-

- (a) *the principal activities that are proposed to be commenced or to be continued in each financial year affected by the plan;*
- (b) *the objectives of each principal activity;*
- (c) *the estimated cost of, and proposed means of funding, each principal activity;*
- (d) *how the local government proposes to assess its performance in relation to each principal activity;*
- (e) *the estimated income and expenditure for each financial year affected by the plan; and*
- (f) *such other matters as may be prescribed.*

Regulation 19C of the Local Government (Administration) Regulations 1996 refers, i.e.

19C. Planning for the Future – section 5.56 of the LGA

- (1) *In this regulation – “**plan for the future**” means a plan made under section 5.56.*
- (2) *A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).*
- (3) *A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.*
- (4) *a local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.*
- (5) *A council is to consider a plan, or modifications, submitted to it and is to determine* whether or not to adopt the plan, or the modifications, as is relevant.*

**Absolute majority required.*

FINANCIAL IMPLICATIONS

Adoption of the Future Plan and associated Action Plans will inevitably require expenditure as per Council's adopted budget and long term financial plan.

SUSTAINABILITY IMPLICATIONS

The Town has continuously demonstrated a high level of regard for the sustainable management of Council's resources and the Future Plan not only supports sound financial management but also meets the legislative requirements contained within the Local Government Act 1995 and associated Regulations

CONSULTATION

The Future Plan was developed in consultation with the community by way of public submission periods and refined by the Town's Strategic Planning Committee prior to adoption by Council

STAFF COMMENT

In relation to the Action Plan, the following strategies were identified by Council as priorities for 2009/10 at its July 2009 meeting.

- 1.2 Reduce beachfront hotel numbers to a sustainable level.
- 1.5 Identify increased opportunities to use existing facilities or provide new venues for formal community cultural events and activities.
- 1.9 Develop a Community Safety Strategy
- 2.1 Produce a draft Structure Plan for consultation purposes showing the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links.
- 3.1 Develop the 'Foreshore Vision and Master Plan' in consultation with the community.
- 3.4 Introduce electronically timed parking.
- 4.1 Develop planning incentives for heritage properties.
- 4.5 Consider undeveloped Government owned land for higher density development provided there is both public support and benefit for the Cottesloe community.
- 5.1 Adopt a policy position on assets that have a realisable value such as the Depot and Sumps.
- 5.2 Subject to the satisfactory resolution of land tenure, design and funding requirements, progress the development of new joint library facilities.
- 5.3 Develop an integrated Town Centre plan to improve all aspects of the infrastructure of the Town Centre.
- 5.6 Develop a long term asset management plan and accompanying financial plan.
- 6.1 Further improve the community consultation policy in recognition that there are different techniques for different objectives.
- DP1 Complete the adoption of Local Planning Scheme No. 3 including the preparation of all draft policies to a stage where they can be advertised for public comment.
- DP2 Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe

The following *program summary* in relation to the above strategies is provided. More detail is contained in the attachment 1.

Rating	Ref	Comment
O	1.2	Council's strategy to monitor anti-social behaviour is ongoing.
O	1.5	Civic Centre future use study reported to Council in February 2010. Ongoing.
O	2.1	As per Council resolution in October 2009, Draft Plan progressed through EbD. Working Group reconvening with a view to further community consultation on a preferred alignment.
C/O	1.9	Develop a Community Safety Strategy. Report to Council in May 2010.
O	3.1	As per Council resolution in October 2009, Foreshore Implementation Working Group meeting regularly to consider and oversee realisation of the Concept Plan. Consultant engaged.

C	3.4	Meter Eyes have been installed at the Foreshore and Town Centre with a second phase roll out in the Town Centre planned for the 2011/12 budget.
C/O	4.1	Proposed LPS3 and related draft policy as well as practice by staff and the Heritage Advisor have addressed the consideration and application of heritage incentives so far.
O	4.5	Council has resolved to pursue structure planning for the area which will include consideration of higher density development. At present the focus is on resolving Curtin Avenue, the railway and east-west connectivity as the key infrastructure prerequisites to overall structure planning for land uses and development.
C/O	5.1	Plan is currently progressing for the Depot. Station Street sump site under consideration.
C/O	5.2	Joint Library construction underway. Estimated completion date is October 2010.
O	5.3	A consultant has been appointed to and commenced this study having regard to the related Station Street and railway lands planning initiatives influencing the future of the Town Centre.
O	5.6	WAAMI program has been restarted and will become the basis for the Town's asset management plan and will link to the long term financial plan.
H	6.1	This matter has not progressed due to other priorities.
C/O	DP1	LPS3 was submitted to WAPC in May 2009 and is pending approval by the Minister for Planning which is expected in June 2010.
O	DP2	Draft 2010/11 budget includes a proposed geological study to determine the rock/sand sections of the foreshore.
Legend	O=Ongoing C=Complete/substantially complete H=On Hold	

This agenda item represents an opportunity for Committee members to review progress and provide informal feedback on where staff should be headed in terms of implementing individual actions. It is recommended that Committee receive the Action Plan and provide comment to the CEO and senior staff present at the meeting on agreed modifications to the Action Plan prior to presentation to Council.

VOTING

Simple Majority.

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OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Boland

StartOfRecommendation - This line will not be printed Please do NOT delete

That Council receive the Action Plan Report as amended by the Strategic Planning Committee.

AMENDMENT

Moved Cr Cunningham, seconded Cr Rowell

That a new item 2 be added to the recommendation to read: "request the Manager of Development Services to report on the future treatment of the lanes and adjacent

properties bounded by Mann Street, Eric Street, Stirling Highway, Congdon Street and Grant Street for presentation to the Development Services Committee within three months.

Carried 10/0

Unchanged

THE AMENDED SUBSTANTIVE MOTION WAS PUT

That Council;

- 1. receive the Action Plan Report as amended by the Strategic Planning Committee**
- 2. request the Manager of Development Services to report on the future treatment of the lanes and adjacent properties bounded by Mann Street, Eric Street, Stirling Highway, Congdon Street and Grant Street for presentation to the Development Services Committee within three months.**

Carried 10/0

Unchanged

EndOfRecommendation - This line will not be printed Please do NOT delete

11.3.2 LOCAL GOVERNMENT STRUCTURAL REFORM

File Name: A LOCAL GOVERNMENT STRUCTURAL REFORM.doc - This line will not be printed do not delete

File No: SUB/793
Attachments: [March 2010 Report to Council Local Government Structural Reform](#)
[On line survey forms](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 19 May 2010
Author Disclosure of Interest The author has an interest in the matter as any potential amalgamation would directly relate to his employment

SUMMARY

In March 2010 Council resolved as follows;

THAT Council

1. *Advise the Minister for Local Government that the Town of Cottesloe is willing to enter into a Regional Transition Group (RTG) process to stage 1 (development of a Regional Business Plan) and then review its position based upon the outcomes of that Business Plan ,subject however to:*
 - (a). *The Town not formally entering into the RTG, during the next month, until the Council has undertaken prior community consultation confirming support for Cottesloe to enter into the RTG.*
 - (b). *The participants in the RTG being entitled (if they so choose after stage 1) to not proceed to amalgamate and to instead adapt the Business Plan for use by a regional council.*
 - (c). *The Business Plan being prepared on the basis that:*
 - (i). *The Cottesloe Civic Centre, grounds and the War Memorial Town Hall, will be preserved as a community asset accessible to the general community; and*
 - (ii). *An amalgamation will not cause any forced redundancies of Council's staff.*
 - (d). *That the Minister notify the Town of Cottesloe of the quantum of state funding for any Regional Transition Group development of a Regional Business Plan prior to entering into any agreement.*
 2. *Join with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove to form a Regional Transition Group.*
-

3. *Ensure, as part of the RTG process and before Council confirms its final intentions, that the Town reaffirm the community's support for entering into a Regional Transition Group.*
4. *Appoint the Mayor as the member of the RTG Board and the Deputy Mayor as the deputy member of the Board.*
5. *Support a negotiated RTG Agreement being submitted to Council for endorsement prior to it being executed on behalf of the Town.*
6. *Request that the Minister for Local Government support and approve the boundary adjustments as resolved by Council in September 2009 as part of the RTG, to include the communities of Swanbourne in the north and North Fremantle in the south.*
7. *That the Regional Transition Group agreement incorporate the scope to include a Regional Business Plan with boundary adjustments.*
8. *That the Regional Transition Group agreement incorporate that elections for any new local government take place prior to the commencement of the new Local Government*

For ease of reference the report to Council in March 2010 has been included as an attachment to this report so that information is not repeated but sufficient background information is available to Council.

This report specifically addresses part 1 (a) of Council's resolution, that the Town not formally enter into the RTG, during the next month, until the Council has undertaken prior community consultation confirming support for Cottesloe to enter into the RTG.

It recommends that Council reaffirm its resolved position from March 2010 and join with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove to enter into a Regional Transition Group (RTG) process to stage 1 (development of a Regional Business Plan) and then review its position based upon the outcomes of that Business Plan, recognising that some members do not wish to join an RTG at this time but may in the future.

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BACKGROUND

Council lodged its structural reform submission in September 2009. The assessment of all local government reform submissions was undertaken by the Local Government Reform Steering Committee and, based on those assessments, the Committee provided advice to the Minister on preferred options for reform. Some finalised proposals were referred to the Local Government Advisory Board for consideration and recommendation.

As a consequence of the reform submissions made by all local governments the Minister determined that the Town of Cottesloe should be considered as part of a Regional Transition Group (RTG) with other western suburbs local governments, and formally wrote to the Mayor advising of such and inviting Council to become part of an RTG. The Minister also provided a draft RTG Agreement and asked that Council consider and report back to him on its preferred position by March 2010. The March

report to Council advised of the process to date since submission of its reform submission and recommended that Council support the RTG process to stage 1 (production of a Regional Business Plan) and then review its position based upon the outcomes of that Business Plan, and forward that advice to the Minister.

Specifically it recommended that Council participate in the Regional Transition Group (RTG) process with a preference to have RTG partners from within the Western Suburbs, including the Towns of Claremont, Mosman Park and Shire of Peppermint Grove, and to use the Business Plan process to explore options and opportunities that will result in increased efficiency, value and service provision for its community, as well as preserving those matters that are important to Cottesloe.

STRATEGIC IMPLICATIONS

The potential strategic implications for Council are significant. Whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2009-10 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform.

The announcement by the Minister for Local Government in relation to reform strategies has brought into sharp focus the need for the Town to consider its position. Any significant change to existing boundaries or an amalgamation will require a complete review of all strategic and financial plans and priorities and this can be achieved, in part, through an RTG Business Plan process.

POLICY IMPLICATIONS

None known.

STATUTORY ENVIRONMENT

RTG Agreements do not over-ride the requirements of the Local Government Act 1995 – particularly Section 2.1, Schedule 2.1 and Section 3.1 (2). (refer to March 2010 report, as attached, for full details).

FINANCIAL IMPLICATIONS

The potential cost of any future amalgamation, boundary change or shared services arrangement has been considered in a general sense within the commissioned Price Waterhouse Coopers (PWC) report but will require more detailed analysis and will be dependent upon specific decisions of Council. The impact of structural reform on the western suburbs was estimated by PWC, who indicated a range of savings, depending on “best” or “minimum” case scenarios.

The report based its financial analysis on two key scenarios developed by PWC:

- 1. “Blue Sky”: the best potential outcomes for all benefits and costs from the amalgamation are achieved - also seen as the maximum achievable financial position; and*
- 2. “Grey Sky”: the minimum indicative outcomes for all benefits and costs from the amalgamation - also seen as the minimum achievable position.*

The report identifies the following potential recurrent net annual amalgamation savings after three years (after allowing for transition costs in the first few years):

Option 1: G6 [an amalgamation of all six WESROC Councils]: \$2.8m to \$7.7m;

Option 2: G3 [an amalgamation of Cottesloe, Mosman Park and Peppermint Grove]: \$0.6m to \$1.0m; and

G2 [an amalgamation of Claremont and Nedlands]: \$0.5m to \$0.8m.

However the report also noted that there are many external factors which may prevent the realisation of the predicted amalgamation benefits. These include;

- *actual amalgamation costs exceeding forecast costs,*
- *cost synergies not being realised,*
- *residents resisting amalgamation,*
- *staff integration issues,*
- *other employee issues (such as staff being unfamiliar with new and expanded roles), and*
- *regulatory issues deriving from State government amalgamation legislation.*

No projections were made for the other potential scenarios however annual savings in the order of \$1million could be reasonably expected for the G4 model, based on a very preliminary examination by the CEO's of the four local governments.

There will clearly be a cost to participate in an RTG and this will involve time [officer resource] and some direct funding. The RTG agreement provides for the members to accept 50% of the cost of *administration of the RTG* with the State funding the remaining 50%. The member's contribution can be *in cash or in kind*, e.g. this may include time allocated by officers who undertake work for the RTG, provision of meeting secretariat and venues etc. The Minister has indicated that State funding will be injected into an RTG, including for the creation of a Regional Business Plan, and whilst the quantum of funding is unknown it is expected that the direct financial impact should be substantially covered by the State funding. This has also been identified as one of the matters for further negotiation and confirmation prior to moving forward with any RTG proposition.

The Minister has also indicated State funding to assist members of an RTG to *implement* the Regional Business Plan once it adopted. Such funding could be a major benefit for the Town, providing a source of finance for a range of capital and/or operational improvements which are identified. Overall, the financial implications of change associated with local government reform have the potential to be significant however the State is currently prepared to negotiate and/or contribute to or meet these costs. In the immediate term there will continue to be ongoing human resource costs (officer time) to Council in responding to the Minister's reform agenda.

SUSTAINABILITY IMPLICATIONS

The final outcome in regard to the implementation of the recommendations of the Dollery and Anne Banks-McAllister reports, plus the information contained within the Price Waterhouse Coopers (PWC) report, as well as the Minister's reform agenda, may have an impact upon Council's future objectives and plans however this is unknown at this stage.

CONSULTATION

- Town of Claremont
- Town of Mosman Park
- City of Nedlands
- Shire of Peppermint Grove
- City of Subiaco
- WESROC
- Elected Members
- Cottesloe community

COMMUNITY CONSULTATION

As a consequence of the Council resolution in March 2010 officers placed a significant amount of information onto Council's website, including an on-line survey questionnaire similar to that used in September 2009. The questions asked included;

- *Question: Do you support or oppose the Town entering into the Regional Transition Group process?*
- *If Council were to enter into the RTG process, which local governments should it partner with?*
- *If one or more of the partners chose not to participate should Council continue with the process?*
- *Do you have additional comments?*

In addition an advertisement was placed in the Western Suburbs Weekly (April 6–12 page 4) and there was a significant part of Council's April Cottesloe News Page in the POST (April 10 page 18) inviting residents to have their say, either via the website survey or direct to the Town via e-mail or letter. At the time of preparing this report no direct response via e-mail or letter had been received, and only five (5) on-line survey responses had been submitted.

[Note: the on-line survey was anonymous in that those who completed the survey were not required to identify themselves or their address, which would have allowed for some verification of data. However it is possible that such a requirement, if requested, could be falsified and/or may have reduced people's willingness to make comment. This needs to be considered by Members when making decisions based upon the results.]

It is possible that not all information received via the survey process came from local residents or that there was not a duplication of respondents. However based upon the extremely low response rate there is little need to consider these issues in the analysis of the data received. The five responses have been included within the attachments. Similar to the comments received in August 2009, those opposed to the reform process claim *no compelling benefits for local communities, loss of local voice and interests and first step towards amalgamation*, whilst those who support reform argue *effective and efficient local government operations, regional cooperation and resource sharing*. In addition the Mayor and CEO attended the SOS Annual General Meeting on Monday 3 May 2010 to make a presentation on local government reform and the RTG process and to receive comments and feedback from the group. Overall the comments were limited with most discussion focussing on the recently announced changes to the Planning legislation and processes, including Development Assessment Panels and Improvement Schemes.

In August 2009 the Town undertook a more extensive community consultation process and at that time a total of 3,970 questionnaires were distributed to all residential homes and business premises throughout the Town of Cottesloe. In addition, the questionnaire was also placed on the Town's website and the opportunity was made available to complete and lodge the form online. A total of 679 forms were received representing a 17% return rate. The following is a summary of the questions and responses received;

- Question: supporting/opposing amalgamation? - 55% were in favour - primary reasons included;
 - more effective use of resources,
 - economies of scale,
 - more efficient and logical,
 - value for money,
 - reduce admin costs/overheads,
 - reduce duplication,
 - increased quality of staff and elected members, and
 - more strategic.

- Question: if State Government created an amalgamation, who?;
 - Mosman Park and Peppermint Grove (46% - 314 responses),
 - Peppermint Grove alone (20% - 134 responses) and
 - Mosman Park alone (9% - 60 responses)
 - **an overall total of 75%.**

- Question: PWC report: "G6" model?
 - Only 15% (104 responses) favoured this option.

- Question: supporting or opposing adjusting boundaries?;
 - 51% (347 responses) supported adjusting boundaries and
 - 36% (244 responses) opposed.

- Question: boundary adjustments?
 - 39% (300 responses) supported an adjustment north to include Swanbourne,
 - 41% (309 responses) supported an adjustment eastward towards Peppermint Grove and Mosman Park and a further
 - 20% (154 responses) supported a move south to include Mosman Park/North Fremantle.

- Question: reducing number of elected members to between 6 and 9?;
 - 200 responses (30%) were in favour of six,
 - 120 responses (18%) were in favour of seven,
 - 138 responses (20%) were in favour of eight, and
 - 163 responses (24%) were in favour of nine.

Feedback in relation to the Town of Claremont was not specifically sought during the initial consultation in August 2009 (the original options were G2, G3 and G6) however a number of comments were received from residents which did make reference to Claremont as being a potential partner in any future amalgamation.

Given the importance of community consultation and ownership of this process and the need to have support from the community that we represent, it is recommended that the RTG process continue to include the opportunity for the Town to engage with the community. In particular, once the Regional Business Plan has been developed it would be appropriate to reaffirm the community's support for Council entering into a Regional Transition Group at that time.

STAFF COMMENT

In a meeting prior to Christmas with the Mayors/President of the WESROC Councils, the Minister indicated his preference was for all of the local governments of the Western Suburbs to work together i.e. the G6 option.

The Minister has since confirmed that it is open to each Council to choose which local governments should make up the membership of a Regional Transition Group (RTG). However it requires a mutual decision for membership to be agreed. For example if one or more potential members are willing to work together with Cottesloe but not with another local government, Council may have to determine which option it believes is most likely to benefit the Cottesloe community.

The Minister stated that he wants to see a reduction in the overall number of local governments *including metropolitan councils*. The reform checklist analysis and reform submissions had indicated to the Minister that there is significant scope for reform within the sector and that there are currently opportunities for councils to self determine their future with meaningful change, including the capacity to plan and act regionally, and with elected members who are prepared to act strategically.

It is the officer's advice that Council should consider the RTG process subject to the interests of the Town of Cottesloe community not being adversely affected and there being sound, demonstrated economic and social justification for any such reform. The Minister's proposal of a Regional Transition Group appears to offer an opportunity that will allow the Town to examine the potential for structural reform in a manner that should address the issues flagged in the September submission, and if they cannot be addressed to the satisfaction of Council then it remains open for the Town to withdraw from the process. A further important point is that the Council's concern that the poll provisions of the Act should apply has been addressed and it is quite clear that they have not been altered.

If an RTG is formed, it will be implemented through an Agreement. The Minister has been clear that the government is open to the RTG Agreement having certain issues negotiated and/or addressed by the inclusion of specific clauses or requirements, as identified by the members. An agreement does not have to be finalised before the Minister's deadline and discussion with the other members can continue in order to finalise the Agreement, including the requirements of the Regional Business Plan. It is proposed that if the RTG process is agreed, the representatives from each member Council should work together to finalise the Agreement to be submitted to the Minister. The workload and commitment associated with the RTG process is envisaged to be both critical for Council and therefore significant.

The outcome of the community consultation in April was disappointing and there may have been a number of possible reasons as to why this occurred. However given that

feedback it is the officer's opinion that Council demonstrate leadership on this critical issue by proceeding as previously resolved. This should include ongoing negotiations with the Minister, Department of Local Government and WESROC members as part of the Regional Business Plan process.

OPTIONS

Council has a number of options including;

1. Amend or rescind its current position and advise the Minister that the Town does not wish to join an RTG at this time; **or**
2. Maintain its resolved position from March 2010 and advise the Minister that the Town is willing to join an RTG with the Towns of Claremont, Mosman Park and Shire of Peppermint Grove (G4), inclusive of associated boundary changes; **and**
3. Advise the Minister that should any of the proposed RTG members not wish to participate, that Council will support joining the RTG process with the remaining identified members and will work with other identified members to join during the RTG process.

VOTING

Simple Majority

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OFFICER RECOMMENDATION

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That Council:

1. reaffirm its resolved position from March 2010 and join with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove to form a Regional Transition Group, recognising that some members do not wish to join an RTG at this time but may choose to do so in the future
2. work with the Towns of Claremont, Mosman Park and the Shire of Peppermint Grove and encourage them to fully participate in the RTG process, including development of the Regional Business Plan, so that each Council can explore opportunities that will result in increased efficiency, value and service provision for its community.

Committee Discussion:

Committee discussed the report and current issues associated with the Minister's reform process as well as the known positions of the WESROC Councils. In light of the current resistance to a Regional Transition Group (RTG) process, the committee were of the opinion that a Regional Collaborative Group (RCG) approach may be an acceptable compromise, whilst still allowing for the development of a regional business plan as well as creating opportunities for regional resource sharing. As a consequence the Committee supported a new motion as circulated by the Mayor.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- 1. Notify the Minister that, in light of the positions adopted by The Town of Mosman Park and the Shire of Peppermint Grove, the Town of Cottesloe is unable to participate in a Regional Transition Group with suitable partners;**
- 2. Resolve to form the west coast regional council with one or more of the Town of Mosman Park, the Town of Claremont and the Shire of Peppermint Grove insofar they agree to participate;**
- 3. Invite the Towns of Mosman Park and Claremont and the Shire of Peppermint Grove to participate in such a regional council, and on the basis that one or more of them agree to participate, then collectively apply to the Minister for the participating councils to form a Regional Collaborative Group with pre-determined State funding to prepare a Regional Business Plan.**

Carried 10/0

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11.3.3 PLANNING REFORMS UPDATE

File Name: A PLANNING REFORMS UPDATE.doc - This line will not be printed do not delete

File No: SUB/843
Attachments: [Approval and Related Reforms No 4 Planning Bill 2009](#)
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 19 May 2010
Author Disclosure of Interest: Nil

INTRODUCTION

The Minister for Planning has introduced the *Approvals and Related Reforms (No. 4) (Planning) Bill 2009* into Parliament. The Bill proposes to make several amendments to the *Planning and Development Act 2005*, in order to streamline and improve the planning approvals process.

These proposed amendments are part of a series of legislative amendments being progressed by the State Government to planning, environmental, mining and other legislation. The Government is committed to improving the approvals process to ensure that the economic growth through resource and other development is not unduly hindered by the approvals process.

The proposed amendments to the Planning and Development Act 2005 will:

- Extend the use of improvements plans to land not subject to a region planning scheme, to strengthen state and regional planning.
- Enable more efficient, consistent and coordinated decision-making in development applications at local, regional and state levels through the establishment of development assessment panels.
- Include provisions enabling the Minister to direct a local government to amend its local planning scheme to give effect to a state planning policy;
- Provide exemptions from planning approval for projects funded through the nation building and jobs plan stimulus package to facilitate meeting the Commonwealth's funding requirements.
- Enable the collection of data on local government development decisions to monitor the effectiveness of reforms to the approvals process.

The Bill was first presented to the Legislative Assembly in November 2009. The second reading speech was scheduled for 4 May 2010.

This report is to update Council on two of these key reforms to the WA town planning system currently being implemented by the Government; for information and any action it may wish to take.

1. DEVELOPMENT ASSESSMENT PANELS (DAP)

Discussion Paper

In September 2009 the Department of Planning (DoP) released a Discussion Paper on this reform and invited submissions. Council made a submission strongly critical of the proposal, reflecting wide opposition by local government generally.

Policy Statement

In April 2010 the DoP released a Policy Statement as the basis for implementing the DAP, ie to help make it happen, which does not call for submissions. The Manager Development Services provided summary advice to Council as below:

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Introduction

- *Attached for your information is a just-released covering letter and policy statement on implementing the Development Assessment Panels (DAP).*
- *The CEO has asked me to provide this material to you together with some preliminary comment.*
- *You will recall that in October 2009 Council made a submission to the discussion paper on DAP, and be aware that local government widely criticised the proposal.*
- *Nonetheless the State Government is committed to introducing the DAP model and the policy is the next step in the process.*
- *This is to be followed by a report on the submissions, statutory regulations, operational guides, then going live.*
- *The policy statement is a concise expression of the Government's direction for DAP and response to the main issues raised in the submissions, leading to a number of revisions in the detail of the DAP.*
- *The policy is not open for comment or negotiation – unless local government mounts any action.*

Specifics

- *The policy document is fairly easy to read and clarifies several basic elements of the DAP as follow:*
 1. *The financial threshold for DAs to go to DAP has been raised significantly to \$7M, however, applicants have otherwise been given the option of choosing to go to a DAP instead of the LG.*
 2. *The class categories of DAs which qualify for DAP or are exempt have been streamlined.*
 3. *The composition of DAP where technical expertise outweighs elected members has been retained as a core principle.*
 4. *The arrangements for panel proxies has been rationalised.*
 5. *The sitting fees have been made equal for technical or LG panel members.*
 6. *The application fees for proposals going to DAP have been enhanced to cover the extra costs of administration.*
 7. *In the event of appeals, the DAP have been made the defendant of their decision rather than the LG or WAPC.*

Comment

- *In terms of proper process, it seems odd to release a policy statement ahead of the report on submissions influencing its content, which implies that the*

policy might be predetermined and the analysis of submissions written to support its outcome.

- In terms of administrative arrangements, the practical improvements are appropriate for more efficient and equitable operations.*
- In terms of the all-important decision-making implications, there is no doubt that the intention of distancing certain proposals from the control of LG has been preserved and strengthened. The situation regarding defending appeals is plainly sensible.*
- For Cottesloe, major proposals at the beachfront and in the town centre, large/expensive residential proposals, and some lesser yet contentious proposals, would all be candidates to go before a DAP.*
- In summary, the State Government is proceeding with DAP despite the LG outcry and has not altered the model fundamentally, only administratively. Implementation of DAP is expected to continue throughout the coming months with panel nominations likely to be called late in the year. Council may wish to consider its approach to the matter accordingly.*

From subsequent discussions the following additional observations have been made:

- The threshold for applicants opting to go a DAP is \$3M.*
- The panel size/composition may at times limit the capacity to deal with major/complex proposals, which is where the reports from the LG offices will be important.*
- The existing planning rules/development requirements apply in terms of both local and regional planning; ie the DAP only changes the decision-making process, hence the TPS, RDC and Policies remain the relevant framework for assessment and determination.*
- What the DAP model is intended to do, however, is favour technical determination over local councils (as occurs with the SAT), although that may be regarded as an erosion of democracy.*
- It also provides for a greater emphasis to be placed on regional strategies and policies as influences on local planning outcomes.*
- There is also a ministerial call-in power for proposals deemed to be of state or regional significance, and with no appeal right – so this is where the significant change lies; with the Minister reporting to Parliament on what he calls-in.*
- The normal appeal rights apply for applicants. There is no special avenue of appeal or review if the LG doesn't like the panel's decision.*
- Monitoring of the panels is outlined in 4.3.10 of the Discussion Paper and the new Regulations would elaborate on the procedures. As it reads, the DoP would have administrative responsibility while the Minister would be accountable to Parliament for the performance and fairness of this planning reform. If LGs lose confidence in or have concerns about the operation of panels and the implications of their decisions, then they would have to make representation to the Minister or other MPs.*
- In terms of Scheme Amendments, it is correct that they would be needed where a proposal doesn't comply/can't be approved. The DAP proposal included that a panel may recommend to the Minister that a Scheme Amendment is desirable, and a parallel reform in the overall reform Bill is that the Minister may direct a LG to amend its TPS to be consistent with a state planning policy. The public consultation and decision-making process for Scheme Amendments would otherwise prevail.*

- The *timeline* for the introduction of DAP is following proclamation of the Bill, completion of the Regulations, provision of the guiding governance documents, appointment of panel members and putting in place all the administrative arrangements, all of which is anticipated to stretch over the rest of this year and into next year for commencement of DAP.

Report on Submissions

Latterly the DoP has released its report on the 177 submissions received, which summarises them and focuses on those addressing procedural aspects of DAP rather than those challenging the basic concept. Consequently the Policy Statement addressed six key operational aspects raised and did not reconsider the fundamentals.

The DoP is proceeding to draft the *Planning and Development (Development Assessment Panels) Regulations 2010*, to provide the detail on their establishment and operation, and is consulting with the WALGA, Planning Institute of Australia and development industry via joint working groups.

Experience Elsewhere

Feedback gleaned from the experience of DAP in other states, such as in Ku-ring-gai Council in NSW, is that they can be practically problematic, cause conflicts in local communities and be disruptive to the development industry.

2. IMPROVEMENT PLANS

Another reform initiative attracting attention is Improvement Plans, as outlined below:

What is an improvement plan?

- *An improvement plan identifies an area or site that will be subject to special planning provisions in order to advance the development of that land. The WAPC may acquire land within the improvement plan area and undertake works on that land to fulfill the objectives of the improvement plan.*
- *At the moment, improvement plans may only be declared in areas where a region planning scheme applies. The proposed changes will enable the WAPC to declare improvement plans in any area of the state, whether or not a region planning scheme applies or is pending.*
- *Currently, there are three region schemes in operation in Western Australia: the Metropolitan Region Scheme, the Peel Region Scheme and the Greater Bunbury Region Scheme.*

Why are these changes being made?

- *Given the cost and time involved in preparing region planning schemes, the Department of Planning and the WAPC consider that frameworks and strategies in the regions, combined with targeted state instruments such as improvement plans and planning control areas, will be more effective in achieving desired outcomes for State regional land use planning.*
- *Improvement plans may be used, for example, to implement regional strategies, to facilitate significant state projects, and to ensure that land use*

surrounding major infrastructure or resource projects is consistent with state objectives.

What is an improvement scheme?

- *Where there is an improvement plan and the area is a strategic site of regional significance, an improvement scheme may be prepared to guide development in the area and give effect to the objectives of the improvement plan. The provisions of the improvement scheme will prevail over the provisions of any applicable local or region planning scheme. Previous planning mechanisms will apply to the area once the improvement plan ceases to exist.*
- *The WAPC will be responsible for the preparation and administration of improvement schemes. These schemes will be prepared in accordance with the requirements in Part 5 of the Planning and Development Act 2005 in the same way as local planning schemes, and will be advertised for public comment before coming into effect.*

If an improvement scheme is put in place, how does that affect the role of local governments?

- *As the provisions of an improvement scheme will prevail over the provisions of any local or region planning scheme, the local government will no longer be responsible for controlling development in the improvement scheme area. This will be the role of the WAPC. However, local governments will be consulted in regard to the development of the scheme and proposed developments.*
- *Furthermore, the WAPC may choose to delegate the power to determine development applications in an improvement scheme area to another responsible authority such as a local government, a development assessment panel, or a redevelopment authority.*

Officer Comment

The *Planning and Development Act 2005* already allows for improvement plans to be made by the Minister, acting on the advice of the WAPC. The new provisions about improvement schemes give the WAPC powers for implementing improvement plans. This could be applied to affect local governments in the region in a number of ways, as the improvement scheme provisions empower the WAPC to specify an area to be included as such for re-planning and development, removed from the care and control of the local government.

Improvement plans are a traditional planning tool that have worked fairly well at a regional level, such as where redundant Government land is involved and infrastructure coordination is required. However, the acquisition of private property, such as market gardens for redevelopment, has been contentious.

The loss of planning and development control powers to local governments is a major concern, as local schemes, policies and so on provide a desirable fine-grain of detail in managing land use, built form and amenity, and because councils are close to their communities whereby the processes involved allow for meaningful consultation and representation.

It appears doubtful that the consultation loop with local government would be efficacious, yet the WAPC may well be quite dependent on councils for local knowledge, expertise, participation and administration.

WESROC has identified serious concerns about the apparently unrestricted nature of the improvement scheme provisions and considered that WALGA should oppose their introduction in the present form and insist on amendments to clarify and limit the powers – it is understood that WALGA has been in discussion with the Minister and the DoP Director General plus senior officers in this matter. (Note: In September 2009 Council resolved to *“encourage WALGA to strongly oppose the introduction of Development Assessment Panels in Western Australia”*).

While assurances have been given that the improvement scheme provisions are intended for a relatively narrow focus on specific issues that warrant involvement by the State-level planning authorities (and presumably development agencies), there remains cause for concern. Examples offered are for contaminated land, redevelopment of the Perth foreshore, or projects of State significance cross two or more local government boundaries.

However, the legislation is not drafted in a manner that such limited application is in any way indicated. This gives rise for concern that the powers could be used to implement State policies such as intensified development around railway stations or along major roads such as Stirling Highway. There is also the potential for areas where the State and local governments may differ over planning issues – such as height limits at the Cottesloe beachfront - to be designated as improvement scheme areas.

VOTING

Simply majority.

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OFFICER RECOMMENDATION

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Moved Mayor Morgan, seconded Cr Birnbrauer

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THAT Council;

1. notes the information provided in the officer report
2. supports WESROC in its endeavours to seek suitably qualified advice to prepare amendments to the Approval and Related Reforms (No. 4) (Planning) Bill 2009, in order to ensure local community control in:
 - 2.1. the preparation of planning schemes for local areas, and
 - 2.2. the assessment of development applications in local areas i.e. Development Assessment Panels to be appointed by local Councils.

Committee Discussion:

Committee discussed the report and issues associated with the implications of the current Planning Bill and its progress through the parliamentary process. The Mayor

circulated a number of proposed amendments to the officer recommendation and, after discussion, Committee supported their inclusion into the final recommendation.

AMENDMENT**Moved Mayor Morgan, seconded Cr Walsh**

That the following points be added to the officer recommendation and numbered 3 to 7:

3. Hold a public meeting at the Cottesloe Civic Centre on a suitable convenient Sunday morning, on Planning Reform Bill;
4. Invite suitable speakers, including invitations to the Premier and Minister for Planning, and their counterparts from the ALP, Nationals and Greens together with Janet Woollard and Adele Carles and any other non-aligned members of Parliament;
5. Authorise the Mayor to chair and conduct the meeting, in consultation with the Deputy Mayor and the CEO where possible;
6. By suitable means invite residents of Cottesloe and other western suburb councils, together with Mayors and Presidents of other WA councils, to attend the meeting, and ask that sufficient time beforehand they register their interest in attending;
7. Directs its WALGA delegates to advocate within WALGA processes for improvements to the Bill to ensure local community control in line with recommendation 2 above.

Carried 4/0

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**Moved Mayor Morgan, seconded Cr Strzina**

THAT Council;

1. notes the information provided in the officer report.
 2. supports WESROC in its endeavours to seek suitably qualified advice to prepare amendments to the Approval and Related Reforms (No. 4) (Planning) Bill 2009, in order to ensure local community control in:
 - 2.1. the preparation of planning schemes for local areas, and
 - 2.2. the assessment of development applications in local areas i.e. Development Assessment Panels to be appointed by local Councils.
 3. Hold a public meeting at the Cottesloe Civic Centre on a suitable convenient Sunday morning, on Planning Reform Bill;
 4. Invite suitable speakers, including invitations to the Premier and Minister for Planning, and their counterparts from the ALP, Nationals and Greens
-

together with Janet Woollard and Adele Carles and any other non-aligned members of Parliament;

5. Authorise the Mayor to chair and conduct the meeting, in consultation with the Deputy Mayor and the CEO where possible;
6. By suitable means, invite residents of Cottesloe and other western suburb councils, together with Mayors and Presidents of other WA councils, to attend the meeting, and ask that sufficient time beforehand they register their interest in attending;
7. Directs its WALGA delegates to advocate within WALGA processes for improvements to the Bill to ensure local community control in line with recommendation 2 above.

Carried 10/0

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12 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**Moved Cr Rowell, seconded Cr Cunningham**

"That work on the Mann Street/Grant Street intersection be halted until a rescission motion can be prepared"

Moved Cr Cunningham, seconded Cr Dawkins

"That the above be considered as new business of an urgent nature introduced by Councillors by decision of meeting"

Carried 8/2

Unchanged

Comment/Discussion:

Cr Rowell spoke to his proposed motion advising Council that both he and Cr Cunningham had been liaising with local residents about the proposed works at the Mann Street/Grant Street intersection and were concerned about the lack of consultation and proposed solution. The Manager Engineering Services advised that the design had been approved by Council in August 2008 and a successful grant application under the State "black spot" funding had been approved for the current design solution, as approved by Main Roads. The cost of works were estimated at \$75,000 of which \$50,000 would be funded by the State Government. The primary reason for the approval was based upon safety concerns and the number of accidents (five in five years) at that intersection. Manager Engineering Services advised that it was possible to request an extension of the grant by six months however Main Roads approval could not be guaranteed. Council members discussed the matter at length including a number of associated issues raised by the local residents such as speeding, *rat-running* and general access/use of the intersection and the impact of the proposed changes, as well as possible alternative solutions.

The Mayor then put the proposed motion to the vote

Carried 6/5

Unchanged

The Mayor exercised his casting vote for the proposed motion (status quo)

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 8:05 PM

CONFIRMED: MAYOR DATE: / /

