

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING MINUTES**

**ORDINARY MEETING OF COUNCIL,  
HELD IN THE TOWN HALL,  
COTTESLOE CIVIC CENTRE,  
7.00 PM, MONDAY, 24 NOVEMBER, 2003**

---

## TABLE OF CONTENTS

---

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	1
2	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	1
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	1
4	PUBLIC QUESTION TIME.....	2
5	APPLICATIONS FOR LEAVE OF ABSENCE.....	6
6	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	6
7	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION.....	7
8	PUBLIC STATEMENT TIME.....	7
9	PETITIONS/DEPUTATIONS/PRESENTATIONS.....	11
	9.1 PUBLIC ACCESS.....	11
	9.2 UNDERGROUND WATER.....	11
10	REPORTS OF COMMITTEES AND OFFICERS.....	13
	10.1 CHIEF EXECUTIVE OFFICER.....	13
	10.1.1 ANNUAL ELECTORS MEETING - ACCEPTANCE OF ANNUAL REPORT.....	13
11	DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 17 NOVEMBER 2003.....	15
	11.1 PLANNING.....	15
	11.1.1 NO 200 (LOT 24) MARINE PARADE – TWO-STOREY RESIDENCE.....	15
	11.1.2 NO 18A (LOT 2) ERIC STREET - DEVELOPMENT APPLICATION – PROPOSED TWO STOREY SINGLE HOUSE.....	24
	11.1.3 NO 38 (LOT 2) GRANT STREET - DEVELOPMENT APPLICATION - TWO STOREY SINGLE HOUSE.....	31

---

11.1.4	NO 29 (LOT 2) CONGDON STREET - DEVELOPMENT APPLICATION - ADDITIONS/ALTERATIONS TO EXISTING SINGLE HOUSE	39
11.1.5	NO 7 AND 7A (LOT 26, PT LOT 27) PEARSE STREET - PROPOSED TWO, TWO STOREY SINGLE HOUSES WITH BASEMENT CAR PARKING	45
11.1.6	NO 9 (LOTS 1-4) ROSENDO STREET - GARAGE, WORKSHOP AND STORAGE ATTIC	51
11.1.7	NO 33 (LOT 84) GRIVER STREET – DEPARTURE FORM APPROVED PLANS FOR DETACHED GARAGE, WORKSHOP AND STORAGE LOFT	56
11.1.8	NO 35 (LOT 85) GRIVER STREET - ADDITIONS & NEW DETACHED 2 STOREY STUDIO, GARAGE & STORE	62
11.1.9	NO 7 (LOT 15) HENRY STREET - NEW TWO STOREY SINGLE HOUSE	66
<b>11.2</b>	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING .....</b>	<b>71</b>
11.2.1	NO. 29 (LOT 18) NAPOLEON STREET	71
11.2.2	NO. 3 TOWN PLANNING SCHEME WORKSHOP – SCHEME MAP	71
<b>12</b>	<b>WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 18 NOVEMBER 2003.....</b>	<b>72</b>
<b>12.1</b>	<b>ADMINISTRATION .....</b>	<b>72</b>
12.1.1	COTTESLOE RUGBY UNION CLUB - LEASE	72
12.1.2	COUNCIL MEETING START TIME & MEETING DATES FOR 2004	75
12.1.3	FREEMAN OF THE MUNICIPALITY - MAURICE MCNAMARA	77
12.1.4	MEALS ON WHEELS - ANNUAL CONTRIBUTION	79
12.1.5	SEA VIEW GOLF CLUB - DRAFT LEASE	81
<b>12.2</b>	<b>ENGINEERING .....</b>	<b>88</b>

12.2.1	2004/05 LOCAL ROAD PROGRAM	88
12.2.2	ABORICULTURAL REPORT- MCNAMARA WAY	92
12.2.3	REQUEST FOR RELOCATION OF BUS STOP	94
12.2.4	ROAD REHABILITATION PROGRAM 2003/4	97
<b>12.3</b>	<b>FINANCE.....</b>	<b>100</b>
12.3.1	STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 OCTOBER, 2003	100
12.3.2	SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 OCTOBER, 2003	102
12.3.3	ACCOUNTS FOR THE PERIOD ENDING 31 OCTOBER, 2003	104
12.3.4	PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD ENDING 31 OCTOBER, 2003	106
<b>12.4</b>	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING.....</b>	<b>108</b>
12.4.1	PROPOSED SEADRAGON FESTIVAL -14TH MARCH 2004	108
12.4.2	RESUMPTION OF BUS SERVICES TO SOUTH COTTESLOE	112
12.4.3	NEW YEARS EVE EVENT - COTTESLOE CIVIC CENTRE	115
<b>13</b>	<b>ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....</b>	<b>117</b>
13.1	REFERENDUM ON BEACHFRONT DEVELOPMENT- NOTICE OF MOTION - 13/2003	117
<b>14</b>	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING.....</b>	<b>123</b>
<b>15</b>	<b>MEETING CLOSURE.....</b>	<b>123</b>

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

The Mayor announced the meeting opened at 7.03 pm.

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

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

**Officers in Attendance**

Mr S Tindale	Chief Executive Officer
Mr S Sullivan	Manager Development Services
Mr A Lamb	Manager Corporate Services
Mrs J Peers	Executive Assistant

**Apologies**

Cr A Sheppard  
Mr M Doig

**Leave of Absence (previously approved)**

Nil.

**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE****Mr M Huston – Ocean Beach Hotel**

At the last meeting of Council Mr Huston asked Council when was the Ocean Beach Hotel's application to increase patron numbers formally made? Was it in accordance with the Health Regulations pursuant to Form 4?

Mr Huston also asked why the Ocean Beach Hotel is not being prosecuted for not displaying their certificate of approval? He also asked what are the numbers and measured areas approved in the current certificate?

The Mayor advised Mr Huston that the questions would be taken on notice and a written response provided.

Mr Huston was subsequently provided with the following response.

The Ocean Beach Hotel made a formal request to Council on 24 July, 2003 requesting Council's support for an application to increase the number of patrons on the ground floor of the hotel in accordance with the amended Public Building Regulations.

A Form 4 is a Certificate of Approval for accommodation numbers and is not relevant to such a request. Should the Director of Liquor Licensing review Condition 9 of the hotel's Liquor License and allow the increase in patrons, Council will complete a Form 3.

Where a non-compliance with a statutory requirement is noted, it is standard practice that a premises would be given the opportunity to comply immediately or within a specified period of time.

An inspection of the Ocean Beach Hotel dated 22 May, 2003 revealed that the hotel was displaying the required Certificate of Approval. Under the previous Public Building Regulations only the upstairs function area was designated as a public building.

The amended legislation now captures bars in licensed premises in the definition of a public building. Council has withheld the Certificates of Approval for these areas pending the outcome of the hotel's application to the Director of Liquor Licensing.

Numbers of patrons will be available after that time. However, it should be noted that if Condition 9 is not reviewed the public building numbers are the maximum permitted numbers only in specified areas, they are not the permissible number of patrons in the ground floor of the hotel.

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

##### Mr M Huston, PO Box 400 – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Huston asked how was a provision included in the lease to prevent the public from walking across reserved parkland?

The Mayor replied that at the October 2003 Council meeting the Chief Executive Officer was asked to draw up a draft lease.

The Chief Executive Officer responded that the draft lease agreement provides for a limited right of public access. A restriction was required to stop undue interference to golfers.

Mr Huston asked that in relation to the possible development of the Cottesloe Beach Hotel, Ocean Beach Hotel and the foreshore area why is a developer able to get Council to amend the Town Planning Scheme whereas a ratepayer is unable to develop their house outside of the Town Planning Scheme restrictions?

The Mayor replied that in his election material he did make reference to the development of icon sites. Workshops had been held and Multiplex's proposal had yet to be received. The Council is not trying to appease developers.

Mr Huston asked that as the Town Planning Scheme currently stands, is a development exceeding height restrictions not a matter that can be appealed to the Minister?

The Mayor replied that it would look that way. A development application that got around the town planning scheme restrictions would mean that a developer has found a loophole in the scheme. The Council is currently preparing for such a scenario.

Mr B Michelly, 18 Rosendo Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Michelly asked for an explanation of the merit of having the lease signed prior to the management plan being completed?

Cr Morgan said that the management plan provides greater management control over the affairs of the Golf Club as it is debated every three years with public consultation being undertaken in the first year. If the management plan is not agreed to by the Sea View Golf Club then the Council has the ability to impose a management plan on the Golf Club.

Mr Michelly asked what is the point of signing the lease prior to agreement on a management plan?

The Chief Executive Officer advised that there is nothing stopping the management plan being agreed prior to the lease being signed if that was what was wanted.

Ms Ann Harding, 7 Boneham Street - – Item 12.1.5 – Sea View Golf Club Draft Lease

Ms Harding asked why does the Sea View Golf Club prohibit people from walking on an "A" class reserve?

The Mayor responded that he does not understand why.

Cr Morgan advised that the Chief Executive Officer and lawyers acting on Council's behalf have inserted this clause.

Ms Harding asked if there was a conflict of interest with a number of Councillors being members of the Sea View Golf Club?

The Mayor responded that the Councillors were acting within the requirements of the Local Government Act.

Mr D Palandri, 4c Salvado Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Palandri noted that the Rugby Club lease renewal is proposed for 10 years, why is the Sea View Golf Club lease renewal being proposed for an additional 21 years?

The Mayor advised that the difference has been attributed to a requirement to recover the costs of capital expenditure over a longer lease term.

Mr Palandri asked what is the capital expenditure proposed by the Sea View Golf Club?

The Mayor replied that he was unsure, however there are a number of staff of the Golf Club and they could be looking at the possibility of long term employment.

Mr S Phillips, 78 Eric Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Phillips stated that the Chief Executive Officer has advised that rates and not rent be charged to avoid suggestion that Councillors are involved in setting the amount. This seems to be a clever way of removing any suggestion of a financial conflict of interest by Councillors because they would not be involved in setting the amount. Mr Phillips suggested the rent be assessed annually at 2% of gross Golf Club income. On the last figures of gross income in the 2000 Club accounts that would equate to a rental of about \$16,000 per annum. This will not create any conflicts of interest for Golf Club Councillors. Why should this not be done?

The Mayor replied that the figure will be commensurate to the amount the Golf Club can pay or contribute to the community. This is a matter for the Council to consider.

Ms M Chant, 15 Rosser Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Ms Chant asked why the lease is being negotiated so early and why is the period for public consultation over the summer holiday period?

The Mayor replied that a public submission period is normally six weeks, in this case it has been extended to nine weeks to provide more time for submissions. Council should have a final draft of the lease by the end of March 2004.

Mr P Chant, 15 Rosser Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Chant asked what is the salt content of the water being reticulated on the Golf Course?

Mr Robinson replied that it is 900 parts per million.

Mr Chant asked is this any different from other areas in Cottesloe?

The Mayor advised that this question would be taken on notice.

Mr Chant asked what is the quantity of water that the Golf Club is allowed to use and who sets that quantity?



Mr Robinson replied that the quantity is 107,000 kilolitres and the Water & Rivers Commission licenses the bores.

Mr Chant asked whether records are submitted to Council of that usage?

The Mayor advised that the Golf Club provides information to Council on a regular basis.

Mr Chant asked how did the tree die?

The Chief Executive Officer replied that a consultant had advised that it was due to a lack of water, however other factors could be at play. The tree is to be monitored for six months in line with the consultant's advice.

Mr I Woodhill, 23A Grant Street – Proposed traffic lights at intersection of Grant Street & Curtin Avenue

Mr Woodhill asked whether residents will be notified of the numbers in favour and opposed to the installation of traffic lights at the Grant Street/Curtin Avenue intersection, and when the results can be expected?

The Mayor replied that the matter was with Main Roads. He expected that they would write to Council and advise whether the proposed traffic light installation will be going ahead or not.

Mr R Parker, 11 Beach Street - Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Parker asked what is the urgency in signing the lease and why are ratepayers being denied sufficient time to have their say?

The Mayor replied that the time provided was sufficient to ensure that good and fair lease was prepared.

Mr P Paterson, 18A Barsden Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Paterson said that, in his experience, saltwater intrusion into groundwater happens quickly and the matter needs to be taken seriously. Mr Paterson asked what is the urgency in signing the lease before groundwater reviews have been undertaken by the Water & Rivers Commission?

The Mayor replied that he hoped that a management plan would be in place prior to the lease being signed.

Mr T Atkinson, 253 Marmion Street – Height limits in Cottesloe

Mr Atkinson asked why the Design Advisory Panel has accepted 20.5 metres as an acceptable height for development on the beachfront?

The Mayor replied that such a height might be achievable in limited areas. Further consultation was required before changes were made to the town planning scheme.

Mr Atkinson asked what is the definition of the size? For example if blocks were amalgamated, could development could get to that height?

The Mayor replied that a fairly large and deep block would be required.

Mr Atkinson asked whether Council was considering the social impacts and issues relating to the removal of the hotels?

The Mayor replied that people are already bringing their own alcohol into Cottelsoe. The Council has not investigated the social impacts of removing hotels.

Mr Atkinson asked whether Council has sought legal advice in relation to the possibility of a development application being rejected by Council?

The Mayor replied that lawyers have been kept abreast of developments as they occur. Further legal advice will be sought if required.

Mr D Bibby, 5 Rosser Street - Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Bibby asked whether the proposed bores will be adequate?

Mr Bibby also understands that Waterdirect have not yet been contracted by Sea View Golf Club, when will they contract this firm?

Why doesn't Council take the matter, carry out the work and assessments and bill the Golf Club with the costs?

The Mayor agreed to take the first two questions on notice.

In regards to the third question Council has assumed that the Sea View Golf Club is acting with good intentions and Council intervention is not therefore required.

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

Nil.

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

Moved Cr Cunningham, seconded Cr Strzina

**The Minutes of the Ordinary Meeting of Council held on Monday, 27 October, 2003 be confirmed.**

Carried 9/0

**7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Mayor advised that nominations for Citizen and Young Citizen of the Year are being sought. The public were asked to provide nominations.

**8 PUBLIC STATEMENT TIME**Mr J Donaldson, 54 Pearse Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Donaldson raised concerns about Councillor conflicts of interest in relation to the Sea View Golf Club. He has had experience in the City of Cockburn where actions or decisions of Council were seen to affect impartiality and the public perceptions of conflict of interest. Mr Donaldson encouraged Councillors to refrain from decision making and voting on the matter of the lease tonight. He suggested that the matter be put aside until the public submission period closed. The matter should be considered in the absence of Councillors with a conflict of interest.

Mr R Paterson, 4 Barsden Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Paterson stated that the decision making process should be in good faith and fair. The manner in which the decision is handled will show the level of cohesion within the community.

Mr B Huming, 12/240 Mill Point Road, South Perth – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Huming stated that 21 years is the foundation for most golf club leases. The Sea View Golf Club began in 1907, however before that time the reserve was vested as an “A” class reserve as crown land. Therefore it belongs to all Australians and not just Cottesloe residents.

Mr Huming also stated that salinity readings of all coastal areas (within 1000 metres) are high. Mr Huming has undertaken walking surveys of Cottesloe and noted the watering undertaken by the community.

Mr Huming stated that he has spoken to the Department of Planning and Infrastructure in relation to walking on the reserve. He also stated that any money taken in rent from the Sea View Golf Club should be used to enhance the reserve.

Mr Huming has spoken to Mr Ball in relation to the health of the tree.

Cr Furlong left the meeting at 7.59pm and returned at 8.00pm.

Mr B De Pledge, 3 Camm Road, Attadale – Item 11.1.3 – No. 38 (lot 2) Grant Street

Mr De Pledge spoke on the importance of achieving the requested setback from the rear boundary and that to move it back any further would cause a problem with the sewer. There is also a safety issue when entering Grant

Street in reverse gear. It is preferred to enter in forward gear. Mr De Pledge asked the Council to support the recommendation.

Mr G Boland, 70 Napier Street – Item 12.1.5 – Sea View Golf Club Draft Lease  
Mr Boland stated that the motion being put forward gives preliminary approval to the lease. Issues arise if approval is given and Council can't deliver. Mr Boland believed that the Council was acting contrary to the provisions of the Local Government Act. Mr Boland also stated his concerns over Councillor conflicts of interest. There should be no involvement from those Councillors and they should also leave the chambers.

Mr C Dermer, 26 Fortescue Street, East Fremantle – Item 11.1.3 – No. 38 (lot 2) Grant Street)

Mr Dermer spoke in relation to the dangers of reversing out into Grant Street. The setback requested is in line with other residences and it cannot go back any further due to the sewerage.

Mrs F Chambers, 19 Brighton Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mrs Chambers highlighted the importance of sustainability, as mentioned in the State Coastal Planning Policy. She noted the inappropriateness of the new lease conditions. Wider consultation should be undertaken and further exploration of alternatives for the use of the "A" class reserve should be considered.

Mr J Hammond, 36 Railway Street – Height limitations on Cottesloe beachfront

Mr Hammond said that the Mayor has stated that building heights up to 20.5 metres are acceptable however no public consultation has been undertaken in relation to the acceptance of this increase. He also noted the lack of a suitable response from some Councillors in relation to correspondence from the Keep Cott Low Committee.

Mr C Wiggins, 50 John Street - Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Wiggins stated that there are some very serious issues which if not handled appropriately will put the Council in a very bad light and create conflict within the Cottesloe community.

- The secrecy of negotiations between the Golf Club and the Chief Executive Officer are totally unjustified.
- The restrictions on public access are in bad faith.
- The terms have substantial inadequacies, the lawyers have not been properly briefed on community issues.
- The Councillors have not been given sufficient time to consider the proposed terms.
- The comparison of the golf course with the rugby ground is unjustified.
- The speed which the Council is trying to push the transaction through and presenting it to rate payers and Councillors at the festive season is very poor governance.
- The claim by the golf club Councillors that they do not have a conflict and can vote on this issue is clearly unsustainable.

Mr Wiggins suggested that the consequences of proceeding to vote on approving the draft lease will create substantial conflict within the community and cause alienation. It may trigger formal complaints to the Minister and Ombudsman.

Mr Wiggins suggested that a solution would be that the matter be deferred and that a committee be established to work out the terms generally acceptable to both the club and the community, then submit this to the community for further comment.

Discussion was held in relation to the Council's Code of Conduct. Mr Wiggins requested a copy.

Mrs V Frearson-Lane, 65 John Street – Item 13.1 Referendum Beachfront Development & Item 12.1.5 Sea View Golf Club Draft Lease

Mrs Frearson-Lane stated that the community requires the opportunity to debate the beachfront development issue. The SOS Committee urges the Council to be proactive in formal consultations and to build rapport with the community.

As a resident, Mrs Frearson-Lane is concerned about clause 13.1(b)(1) in the Sea View Golf Club Management Plan, relating to a boundary fence, walls and Council having the discretion whether or not to send out the management plan for community consultation.

Mr Ben Dundas, 54 Grant Street – Item 11.1.1 – No. 200 (Lot 24) Marine Parade

Mr Dundas stated that he has made every effort to maintain regular dialogue and cooperate with the Council and neighbours at all times. He understands and agrees to the proposed plans to be submitted. The gate and piers will be of a size and height as stated in the town planning scheme. Mr G Kailis has written to Council in agreement to the proposed design. Mr Dundas requested that Council give the proposal due consideration.

Mr R Punch, 7/22 John Street – Town Planning Scheme height restrictions in Cottesloe

Mr Punch stated his concern that Council had not defined its position on town planning scheme heights. He would also like the community to be advised formally of the members of the Design Advisory Panel. Mr Punch understands that no plans have been received as yet, however it would be appropriate for Council to be aware of the developer's timetable.

Mr R Whitby, 155 Curtin Avenue – Item 12.1.5 – Sea View Golf Club Draft Lease

Cr Furlong left the meeting at 8.35pm.

Mr Whitby stated that the public perceives the Council as being a "lease committee", with eight Councillors being either current or former members of the Golf Club. The motion to be put to tonight's meeting is not a minor matter.

---

Cr Furlong returned at 8.37pm.

Mr Whitby noted the key issues of the lease as being:

- Public access;
- 2/3 of the members are non-Cottesloe residents, therefore does the club have Cottesloe resident's issues at heart;
- groundwater;
- Norfolk pines dying;
- exceptionally long lease period;
- signed before full agreement on environmental issues;
- do the residents want the Golf Club.

Mr Whitby stated that the community should get the maximum benefit from the club and grounds.

It was requested that the item be brought forward in the agenda so that the public could see the decision making process undertaken.

Mr S Birmingham, 25 Kildare Road, Floreat – Proposed redevelopment of Cottesloe Beach Hotel and height restrictions in Cottesloe

Mr Birmingham stated that anti-social behaviour issues will not be solved by the proposed development of the Cottesloe Beach Hotel. This is a serious issue for the young and they have not been consulted. He urged the Council to stay consistent with the mission statement "To preserve and improve the unique village character of Cottesloe by using sustainable strategies in consultation with the community".

Mr D Bibby, 5 Rosser Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Bibby stated that a detailed application was made by the Golf Club in July 2002 indicating that the same conditions relating to public access would apply to the new lease. In July 2003 Cr Sheppard lodged a petition in relation to pedestrian access not being affected. This agreement has not been kept.

A number of comments in relation to the lease have been provided to Council for consideration as a public submission.

Mr Bibby expressed his dismay at the draft lease and agreement.

Mr P Robinson, 254 Marmion Street – Item 12.1.5 – Sea View Golf Club Draft Lease

Mr Robinson thanked the community for their continued interest in the Sea View Golf Club.

Mr Robinson outlined a number of misconceptions:

- golfers and walkers have enjoyed the amenities for 94 years;
- aware of dangers to walkers;
- players are to be aware of walkers;
- the club is to be aware of their duty of care, currently under discussion.

As previously stated it has never been the intention of the Golf Club to restrict the public access at any time of the day or night. This clause in the lease needs to be addressed.

The inclusion of a management plan into the lease is innovative in WA. Work has commenced on the plan. A requirement of the management plan prior to the end of the current lease would essentially mean a change to the current lease.

Mr Robinson hopes that the Golf Club, Councillors and community can work together on this matter.

## 9 PETITIONS/DEPUTATIONS/PRESENTATIONS

### 9.1 PUBLIC ACCESS

Moved Cr Utting, seconded Cr Cunningham

**That the following petition bearing 285 signatures be submitted to Council as a public submission concerning the Sea View Golf Club's draft lease agreement.**

Carried 10/0

We the undersigned electors of the Town of Cottesloe are concerned that the draft lease of the A Class Reserves (1664 & 6613) may attempt to restrict public access to the Reserves contrary to the provisions of the original Gazettal in 1890 & 1899, the vesting of the Reserves to the Municipality of Cottesloe in 1935 and the existing lease to Sea View Golf Club, all of which provided for unrestricted public access at all times.

We therefore petition Council not to accept any limitation whatsoever of public access to the Reserves in the proposed lease between the Town of Cottesloe and Sea View Golf Club (Inc).

### 9.2 UNDERGROUND WATER

Moved Cr Miller, seconded Cr Robertson

**That the following petition bearing 299 signatures be submitted to Works & Corporate Services Committee.**

Carried 10/0

We the undersigned electors in the Town of Cottesloe are concerned that the amount of water currently being drawn from the aquifer beneath the Town for the irrigation of the Sea View Golf Course will result in the pollution of this limited water resource by sea water jeopardising the supply underground water not only for the golf course turf but also for the verges, public and private gardens, Norfolk Island pines and playing fields within the Town.

We therefore petition Council to determine with the utmost urgency the allowable quantity of safe water draw from the aquifer by each of the individual large water usage organisations, including the Council, and to develop a water management plan to protect the current and future needs of the electors.

The agenda items were dealt with in the following order:

- 12.1.5, 13.1, 10.1, 11.1, 11.2, 12.1.1-12.1.4, 12.2, 12.3, 12.5.

Cr Utting left the meeting at 10.00pm and was absent for the consideration of all items with the exception of items 12.1.5 and 13.1.



**10 REPORTS OF COMMITTEES AND OFFICERS****10.1 CHIEF EXECUTIVE OFFICER****10.1.1 ANNUAL ELECTORS MEETING - ACCEPTANCE OF ANNUAL REPORT**

**File No:** C7.1  
**Author:** Mr S Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 19 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

A recommendation is made to accept the annual report for the 2002/03 financial year and to call the annual electors meeting for Wednesday 10th December 2003.

**BACKGROUND**

Council is required to hold a general meeting of electors once in each financial year and this meeting is to be held not more than 56 days after Council accepts the annual report.

The Annual Report is to be accepted by the Council no later than 31 December following the close of the financial year to which it relates, unless the Auditors' Report is not available at that time, in which case the annual report is to be accepted by Council no later than two months following receipt of the auditors' report (Section 5.54)

**CONSULTATION**

N/A.

**STAFF COMMENT**

The Annual Report is made up of a number of documents that include reports from the Mayor and CEO, reports on principal activities, auditors' report, financial report and other reports and information as may be prescribed (Section 5.53).

The auditors' report (unqualified) is to hand and is presented along with the Annual Financial Statements.

Council held the last Annual General Meeting of Electors in December 2002.

Assuming that Council accepts the Annual Report at its November meeting, the earliest suitable date to hold the electors meeting will be Wednesday, 10<sup>th</sup> December, 2003. It is suggested that this date be selected.

The recommendation is made on the basis that the completed Annual Report will be with Councillors prior to the November Council meeting.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**VOTING**

Simple Majority

**10.1.1 OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Morgan, seconded Mayor Rowell

**That Council:**

- (1) Accept the Annual Report for the 2002/03 Financial Year as amended at the November 2003 Council meeting; and**
- (2) Call the Annual Meeting of Electors, to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 10th December, 2003 commencing at 7.00pm.**

Carried 9/0

## 11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 17 NOVEMBER 2003

### 11.1 PLANNING

#### 11.1.1 NO 200 (LOT 24) MARINE PARADE – TWO-STOREY RESIDENCE

<b>File No:</b>	<b>200 Marine Parade</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Attachments:</b>	<b>Location Plan Plans Submissions (3) Correspondence from applicant (2)</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>20 October, 2003</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>E &amp; M Carrick</b>
<b>Applicant:</b>	<b>Grounds Kent Architects</b>
<b>Date of Application:</b>	<b>20 October, 2003</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>344m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

### SUMMARY

Council is in receipt of an application for a two storey residence on 200 Marine Parade.

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

### STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No 2  
Residential Design Codes

### POLICY IMPLICATIONS

Building Heights Policy No 005

### HERITAGE LISTING

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

National Trust

N/A

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

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

**Town Planning Scheme Policy/Policies**

Policy	Required	Provided
005 – Building Heights	14.50	14.88

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
3 – Boundary Setbacks	Not higher than 3.0m; Up to 9.0m in length	South Lower Wall – 12m long	Clause 3.3.2 – P2
3 – Boundary Setbacks	1.5m	1.0 – 1.65 to South Upper Wall	Clause 3.3.1 – P1

**STRATEGIC IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

Building  
Engineering  
Health

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:  
Letter to Adjoining Property Owners

**Submissions**

There were 2 letters sent out. There was 1 submission received, which was an objection. A letter was received from the owner of 202 Marine Parade. Although the owners of 202 Marine Parade were not required to be informed the submission was noted and addressed in the report. Details of the submissions received are set out below:

**198 Marine Parade**

- The shadow cast over western side of the block is considered acceptable
- We leave determination as to the appropriateness of the overshadowing of the eastern side of our block to Council;
- We do not object to the wall on the common boundary to the west of the property subject to it being retained at its present level and profile;
- A condition should be placed on the building licence to ensure that demolition of party/boundary walls is carried out to minimise the duration of exposure to our property;
- South lower window should be obscure glazed to ensure our privacy;
- The existing south boundary wall should be kept and not be disturbed during construction

**202 Marine Parade**

- Possible loss of views caused by the solid fence in the front setback

**BACKGROUND**

The original application for a two storey residence was made on 1<sup>st</sup> August 2003. The assessment was undertaken by the Planning Officer in accordance with the Residential Design Codes and the Town Planning Scheme No.2.

The applicant was advised of the non-compliance with the following:

- Statutory wall height restriction of 6m under the TPS 2,
- Local Planning Policy 005 – “Building Heights”;
- Acceptable development standards and performance criteria of the Design Element 9 of the RDC – “Design for Climate”.
- Acceptable development standards and performance criteria of the Clause 3.3.2 – “Buildings on Boundaries”

The applicant subsequently advised the Council in writing that they would like to defer consideration of their application which would allow more time to liaise with the adjoining property owner to the south and Council’s Planning Department in order to address the non-compliance issues.

**STAFF COMMENT**

The revised plans were submitted on 7<sup>th</sup> October 2003. The new plans were amended to comply with the wall height requirement of 6m in accordance with the TPS 2.

There is a minor non-compliance with the Local Planning Policy 005 – “Building Heights. The height of the building towards the east boundary doesn’t comply with the height of 6m under the LPP 005 by 0.4m. The applicant stated that

*"We request Council to permit the minor intrusion above the 6.0m wall height, being approximately 0.4m to the eastern end of the development as shown on drawing SK21. We remind Council that we have founded the basement car park as low as is practical whilst maintaining a maximum 1:5 gradient from the street level. The building has also been stepped down the site to further reduce the height to the adjoining property to the eastern boundary. We have endeavoured to meet the wall height requirement where possible but cannot reduce the eastern portion any further"*

The proposed south lower wall with a nil setback to southern boundary does not comply with the acceptable development standards under the Clause 3.3.2 – "Buildings on Boundaries". The setback of 1m to the portion of South Upper Wall does not comply with the acceptable development standard (1.5m required under Table 2 of the RDC).

The adjoining property owner to the south (198 Marine Parade) stated in the submission dated 13<sup>th</sup> October 2003 that they have no objection to the reduced setbacks to the common boundary between 200 Marine parade and 198 Marine Parade.

### **Overshadowing**

Overshadowing of the adjoining property at 198 Marine Parade is the main issue associated with the proposal. The revised plans show that 44% of the adjoining property will be in shadow at midday on 21 June. The extent of overshadowing does not comply with the acceptable development standards of the Design Element 9 – "Design for Climate", which states the following:

*"Notwithstanding the boundary setbacks in Element 3, development in Climatic Zones 4, 5 and 6 of the State shall be so designed that its shadow cast at midday, 21 June onto any other adjoining property does not exceed the following limits:*

- *On adjoining properties coded R25 and lower – 25% of the site area*

*Note: In this context "site area" refers to the surface of the adjoining lot without regard for any building on it but taking into account its natural ground levels".*

The proposal should be assessed under the following performance criteria:

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

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

The proposal does not comply with the performance criteria quoted above as the major openings to habitable rooms and the rear yard will be affected by overshadowing.

The owner of 198 Marine Parade stated the following in the letter dated 13<sup>th</sup> October 2003:

*"We understand the inherent difficulties of our particular location regarding levels and the orientation of our block, and believe that the revised design is an improvement over the last submission.*

---

*While the mid-winter sun is still very dominant over our back yard, there are other areas of our block where the shadow has an acceptable impact on us; ie, when the shadow of the existing walls in the western half of our block is compared to the proposed shadow, the increase in shadow is of minimal significance to us. Accordingly, we are happy to accept the proposal for the western half of the block.*

*We believe it is reasonable to leave the determination as to the appropriateness of the overshadowing to the eastern half of the block to the Council"*

It is stated in the applicant's response to the submission by the owners of 198 Marine Parade dated 20<sup>th</sup> October 2003 that there were extensive discussions held with objectors and their architect prior to lodging the revised plans.

The owners of 198 Marine Parade acknowledged that the increase in overshadowing of the western part of their property is minimal in comparison with the overshadowing from the existing house and is acceptable to them.

The following modifications were made, which reduced the extent of overshadowing of the rear yard of 198 Marine Parade:

- The ridge height of the eastern portion of the building was considerably reduced (by 1.6m);
- The setback from the lower ground wall to southern boundary was increased from Nil to 1.5m;
- The length of the lower southern wall in the eastern portion of the proposed residence was reduced, which increased the width of the light court.

The wall height of the proposed residence was brought into compliance with the 6m wall height requirement under the TPS 2. There is a minor non-compliance with the wall height of the eastern portion of the building under the local Planning Policy 005 – "Building Heights" requirements, due to difficulty maintaining acceptable driveway gradient. This is discussed later in the report.

The following issues make it difficult for the applicant to achieve compliance with the Overshadowing requirement under the RDC;

- Narrow frontage of 200 Marine Parade;
- Irregular shape and position of residence on adjoining 198 Marine Parade;
- Orientation of 198 Marine Parade;
- Lot size
- Topography
- Size of the proposed building

A site inspection was carried out on the property subject of overshadowing (198 Marine Parade) on 11<sup>th</sup> November 2003 (Please refer attached photographs). The rear back yard of 198 Marine Parade is a paved area with a narrow garden bed along the southern boundary and two olive trees near the rear wall of the house and one tree in the north-eastern corner of the rear yard. It doesn't appear that the rear yard area is being used by the owners as the main outdoor living area.

The proposal on 200 Marine Parade has a minor non-compliance with the Local Planning Policy 005 – "Building Height for the wall height of the eastern portion of the

building, which would contribute to additional overshadowing of the rear yard. If the wall height was brought into compliance with the Policy it would only marginally reduce the overshadowing mainly to the area of the garden bed.

The applicant stated that it would not be possible to achieve compliance with the Local Planning Policy 005 and maintain the acceptable driveway gradient without total change of the house design.

It is recommended that the variation to the wall height in the eastern portion of the building be supported.

**Boundary Setbacks**

The proposal is now in compliance with the acceptable development standards for all setbacks except for the following;

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
South Lower	Entry, Kitchen, Dining	3.5	12.2	No	1.5	Nil
South Upper	WIR, Ens1	6.0	11.2	No	1.5	1 – 1.65

The performance criteria under the Clause 3.3.1 – “Buildings Setback from the Boundary” are as follows;

- Buildings set back from boundaries other than street boundaries so as to:*
  - Provide adequate direct sun and ventilation to the building;
  - Ensure adequate direct sun and ventilation being available to adjoining properties;
  - Provide adequate direct sun to the building and appurtenant open spaces;
  - Assist with protection of access to direct sun for adjoining properties;
  - Assist in ameliorating the impacts of building bulk on adjoining properties; and
  - Assist in protecting privacy between adjoining properties.

Although the western portion of the adjoining property is affected by overshadowing the owners of the affected property stated that the overshadowing is acceptable and they are “happy to accept the proposal for the western half of the block”.

The adjoining property owners to the south (198 Marine Parade) stated that they have no objection to the reduced setbacks to the southern boundary, subject to the lower Ensuite 1 window being installed with obscure glazing. The applicant – Ground Kent Architects stated in the letter dated 20th October that they will comply with this request.

Proposed boundary wall (lower south wall to Entry, Kitchen, Dining) does not comply with the acceptable development standard for R20 density as it is more than 9m in length.

Proposed building on boundary will be assessed under the performance criteria P2 of the Design Element 3, Clause 3.3.2 – “Buildings on Boundary”, which states the following:



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

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

The subject lot has a narrow frontage and it can be argued that having a nil setback to a side boundary is making effective use of space and will enhance privacy.

Although the overshadowing of the adjoining property will be increased, the adjoining property owners had no objection to the reduced setbacks to the southern boundary. The owners of 198 Marine Parade stated that they have no objection to the boundary wall subject to *“the parapet wall west of gridline D being retained at its present level and profile.”*

The applicant stated the following in response to the request by the adjoining property owners;

*“We understand and agree to the request... to retain the existing profile to the boundary parapet wall to the section of building west of Gridline D. We trust that this joint consensus enables Council to approve the nil setback for the portion of our building as shown on the drawings”.*

### **Fencing within Front Setback**

The applicant is proposing to have a 3m solid 1.2m high pool fence within the 6m front setback, which is not in compliance with Council’s Fencing Local Law.

The following is stated in Part 3 of the Town of Cottesloe fencing Local Law:

*“Side boundary or secondary street boundary fences which fall within the front setback areas, must comply with the requirements of front setback fencing i.e. no greater than 900mm unless of an open aspect design”*

Council received an objection from the neighbouring property owners on the northern side of the Vera View Parade expressing concern about a *“possible loss of view caused by the solid boundary wall (adjoining Vera View Parade) that encroaches into the front setback”*.

It is recommended that the applicant be required to submit amended plans showing that all fencing within the front setback area complies with Council’s Fencing Local Law Requirements.

### **Driveway Gradient**

The applicant is proposing to cut into the verge along the southern side of Vera View Parade in order to construct a crossover. The applicant stated that it would be required to have the start of the driveway at the kerb line in order to achieve an acceptable driveway gradient.

The verge along the southern side of Vera View Parade is considerably higher than the street level. There is no footpath between the boundary of 200 Marine Parade and the verge. Cutting into the verge would not affect pedestrian access along Vera View Parade. There is a designated footpath on the other side of the street.

The application was referred to Council's engineering department for comment. No objections were expressed by the engineering department to the proposed modifications to the verge, subject to a condition being placed on the planning approval stating that if a relocation of any underground services is required, the cost is to be born by the applicant.

The applicant did not submit a detailed plan showing driveway gradient. It is recommended that a condition be placed requiring the applicant to demonstrate that bottoming out of vehicles would not occur.

### **CONCLUSION**

It is recommended that the application be conditionally approved. Due to the narrow frontage of the property, irregular shape and orientation of the adjoining property it is difficult to comply with the 25% overshadowing requirement for R20 density coding under the RDC. The applicant made considerable changes to the wall heights and the design of the proposed residence in order to reduce the negative effect of overshadowing of the adjoining property.

### **VOTING**

Simple Majority

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

Moved Cr Furlong, seconded Cr Miller

#### **That Council:**

- (1) GRANT its Approval to Commence Development for the two storey residence at No 200 (Lot 24) Marine Parade, Cottesloe in accordance with the plans submitted on 20 October, 2003, subject to the following conditions:**
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**

- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
  - (g) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.
  - (h) Any costs associated with the relocation of underground services that might be required due to the modifications to the Council’s verge are to be borne by the applicant.
  - (i) Revised plans being submitted for approval by the Manager, Development Services, showing:
    - (i) the front boundary fence to the site being modified to provide an “Open Aspect Fence”; and
    - (ii) the details of the driveway gradient demonstrating that bottoming out will not occur in accordance with the Australian Standards.
- (2) Advise the submitters of this decision.

Carried 8/1

---

**11.1.2 NO 18A (LOT 2) ERIC STREET - DEVELOPMENT APPLICATION – PROPOSED TWO STOREY SINGLE HOUSE**

**File No:** 18 A Eric  
**Author:** Ms Lilia Palermo  
**Attachments:** Location plan  
 Submissions (3)  
 Correspondence from applicant (2)  
 (Plans to be forward via memo on 14/11/03)  
**Author Disclosure of Interest:** Nil  
**Report Date:** 15 October, 2003  
**Senior Officer:** Mr Stephen Sullivan  
  
**Property Owner:** Bayswan Enterprises Pty  
  
**Applicant:** Hodge & Collard Pty Ltd  
**Date of Application:** 15 October, 2003  
  
**Zoning:** Residential  
**Use:** P - A use that is permitted under this Scheme  
**Density:** R30  
**Lot Area:** 368m<sup>2</sup>  
**M.R.S. Reservation:** N/A

---

**SUMMARY**

Council is in receipt of an application for a two storey residence on 18A Eric Street.

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

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No 2  
 Residential Design Codes

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
5.1.1 – Building Height	Wall Height – 18.72RL	18.96RL

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
<b>Design Element 3 Boundary Setbacks</b>			
West Lower	1.5	1.0 – 1.5	Clause 3.3.1 – P1
East Lower	1.5	1.2 – 2.7	
North Lower	2.4	1.0 – 1.6 – 7.2	
West Upper	3.9	1.5 – 3.0	
East Upper	1.5	1.2 – 2.7	
North Upper	3.6	1.6 – 3.0	

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

Building  
Engineering  
Health

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:  
Letter to Adjoining Property Owners

**Submissions**

There were 8 letters sent out. There were 3 submissions received, of which 2 were objections. Details of the submissions received are set out below:

**6 Hamersley**

- Proposed overlooking from the upper floor of 18A Eric of the courtyard and pool area of 6 Hamersley will affect our privacy.

**18 Eric Street (front strata)**

- Proposed building on the common boundary between the two strata lots is in breach of Clause 3.3.2 of the R-Codes;
- Proposed building on boundary will increase overshadowing of our backyard;
- Close proximity of the proposed residence to the common boundary will affect the privacy of the rear upper floor balcony and the backyard area;
- The proposed 1.65m screen does not eliminate overlooking from the balcony into our outdoor living areas;
- The proposed balcony needs to be relocated or setback from boundary, or more sufficient screening provided.

**BACKGROUND**

There were several development applications on 18 Eric Street previously made by the same owners. Council previously issued an approval for a two storey residence on the rear lot 18 A Eric and upgrade of the existing residence on the lot having frontage to Eric Street on 27 March 2002. The approved development was not proceeded with by the applicant and the approval subsequently lapsed.

Another approval for two two-storey grouped dwellings on 18 Eric Street was granted by Council on 2 December 2002. The applicant did not proceed with the development of the approved two storey group dwellings.

The current application is for a two - storey residence on the rear lot at 18A Eric Street.

**STAFF COMMENT**

The subject property 18A Eric Street is zoned Residential R30 under the Town of Cottesloe Town planning Scheme No 2. The application was submitted on 28 July 2003 and the requested additional information was submitted on 28 August 2003.

Assessment of the initial information identified the following issues:

- The proposed two storey residence does not comply with the wall height restriction of 6.0 metres under the TPS 2;
- Non compliance with the acceptable development standards under Element 3 – “Boundary Setbacks” for a number of side and rear boundary setbacks; and
- Non-compliance of the proposed nil setback to South Lower and South Upper Walls with the acceptable development standards Clause 3.3.2 – “Buildings on Boundary”.

Advertising of the proposal was carried out by the applicant from 9<sup>th</sup> September 2003 to 23<sup>rd</sup> September 2003. There were two objections received during the advertising period. The applicant was given an opportunity to respond to the objections in accordance with the RDC. The applicant submitted amended plans on 17<sup>th</sup> October 2003 in order to satisfy the objection from the owner of the front strata property 18A Eric Street:

The following changes were made:

- Second storey Patio above garage was removed;
- Major opening to the kitchen (south and east facing bay window) was deleted
- The height of the proposed boundary wall to the garage was changed to comply with the acceptable development standards of the RDC

### **Wall Height**

Clause 5.1.1(c) – Measurement of Building Heights states the following:

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

*Single Storey      -Roof Height: 6.0 metres*

*Two Storey          Wall Height: 6.0 metres  
Roof height: 8.5*

*Subsequent Storeys   Wall height: 6.0 metres plus; 3.0 metres per storey  
Roof height: 8.5 metres plus; 3.0 metres per storey*

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

The Natural Ground Level (NGL) at the centre of the site was determined by the administration to be 12.72 RL. The required wall height under the TPS 2 Clause 5.1.1 (c) is 18.72 RL or lesser. The applicant is proposing to have a wall height of 18.96 RL, which is exceeding the statutory height limit by 240mm.

It is recommended that a condition be placed on the approval requiring the applicant to submit amended plans of the proposed residence showing the wall height being brought into compliance with the TPS 2 height limit of 6.0m for walls.

### **Boundary Setbacks**

The following setbacks do not comply with the acceptable development standards under the Element 3 of the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
West Lower	Whole	3.5	17.3	No	1.5	1.0 – 1.5
East Lower	Study, bath, Laundry, Bed 3	3.5	11.5	No	1.5	1.2 – 2.7
North Lower	Whole	3.7	12.0	Yes	2.4	1.0 – 1.6 – 7.2
West Upper	Balcony, Lounge, Kitchen	6.0	14.5	Yes	3.9	1.5 – 3.0
East Upper	Dining, Ensuite, WIR	6.0	11.5	No	1.5	1.2 – 2.7
North Upper	Whole	6.3	12.0	Yes	3.6	1.6 – 3.0

Proposed variations to the required boundary setbacks will be assessed under the performance criteria of the Design Element 3 Clause 3.3.1 (P1), which states the following:

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

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

The only reduced setback that will marginally contribute to overshadowing of the adjoining properties (front strata 18 Eric Street) is the setback to western upper wall. Overshadowing of the front strata lot is 19%, which is in compliance with the acceptable development standard of Design Element 9 – “Design for Climate”.

The cone of vision diagram provided by the applicant shows that a small portion of the property to the west 6 Hamersley Street will be subject of overlooking. Council received an objection from the owner of 6 Hamersley Street stating that the privacy of the property will be negatively affected due to potential overlooking of the pool area.

A site inspection of 6 Hamersley Street was carried out by the planning officer. During the site inspection, it was noted that the area shown as being the subject of overlooking is in fact screened by the existing vegetation.

It is considered that the proposed reduced setbacks comply with the performance criteria for the following reasons:

- Reduction of setbacks does not cause overshadowing of the adjoining properties over the acceptable development requirement for R30 density;
- Overlooking of the adjoining property to the west is very minor. The area subject to overlooking is screened by the existing patio and vegetation;
- There is no negative effect on the adjoining properties due to building bulk.

### **Building on Boundary**

The proposed two storey residence has a nil setback from a portion of the southern lower wall to the southern boundary, which is a common boundary between the two strata lots.



The proposed boundary wall to the garage complies with the acceptable development standard of Clause 3.3.2 – “Buildings on Boundary”, which states:

*“In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for 2/3 of the length of the balance of the boundary behind the front setback, to one side boundary”.*

The height of the garage wall on the southern boundary is from 2.5 m to 3.5m, which is in compliance with the 3.0m average requirement under the acceptable development standard quoted above.

Considering the small size of the subject lot it could be argued that having a nil setback to the garage wall is making effective use of space. A nil setback to the garage will not affect privacy of the adjoining property.

The original plans were modified by the applicant in response to the objection from the owners of the front strata lot - 18 Eric Street.

The owners of the front strata residence objected to the initial proposal, which incorporates a two storey boundary wall on the common boundary between the two strata lots. The objectors stated that their amenity will be adversely affected due to loss of privacy of their upper floor balcony area, which is used as a primary outdoor living area and overshadowing of the rear yard.

The objector’s concerns were addressed by deleting the upper floor patio/balcony above the garage, amending the height of the boundary wall to the garage to comply with the acceptable development standards of the RDC and deleting the major openings to the upper floor kitchen.

The front strata property will be overshadowed by the proposed two storey residence. The proposed boundary wall to the garage on the common boundary between the two strata lots will not contribute to overshadowing of the adjoining property.

The overshadowing diagram submitted by the applicant shows that 19% of the adjoining property to the south will be in shadow at midday on 21<sup>st</sup> June, which is in compliance with the acceptable development standards of the Design Element 9 – “Design for Climate”.

The proposed boundary wall to the garage complies with the acceptable development standards of the Design Element 3 Clause 3.3.2 – “Buildings on Boundaries” and is recommended for approval.

## **CONCLUSION**

It is recommended that the application be conditionally approved. The applicant made significant changes to the plans in order to address the issues raised in the objection from the owner of the front strata lot.

The area of 6 Hamersley Street shown on the plans as being the subject of overlooking is screened by the existing dense vegetation and would not be an issue.

A condition is recommended to require the applicant to bring the wall heights of the proposed residence into compliance with the TPS 2 requirement of 6.0m based on the natural ground level of 12.72 RL.

**VOTING**

Simple Majority

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

Moved Cr Furlong, seconded Cr Miller

**That Council:**

- (1) **GRANT its Approval to Commence Development for the proposed two storey residence at 18A Eric Street, Cottesloe in accordance with the plans submitted on 17 October, 2003 and revised plans on 21 October 2003, subject to the following conditions:**
  - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
  - (c) **The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
  - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
  - (e) **The area shown on the plans as "Plant" only being used for plant and equipment and not for any other purpose:**
  - (f) **Revised plans being submitted for approval by the Manager, Development Services, showing the wall height of the proposed residence being modified to comply with the 6.0m limit under the Town of Cottesloe Town Planning Scheme 2 based on a natural ground level of 12.72 RL.**
- (2) **Advise the submitters of this decision.**

Carried 8/1

---

### 11.1.3 NO 38 (LOT 2) GRANT STREET - DEVELOPMENT APPLICATION - TWO STOREY SINGLE HOUSE

**File No:** 38 Grant Street  
**Author:** Ms Lilia Palermo  
**Attachments:** Location plan  
 Plans  
 Submission (1)  
 Correspondence from applicant  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 November, 2003  
**Senior Officer:** Mr S Sullivan  
  
**Property Owner:** C. E. Dermer  
  
**Applicant:** Imperial Homes  
**Date of Application:** 10 November, 2003  
  
**Zoning:** Residential  
**Use:** P - A use that is permitted under this Scheme  
**Density:** R20  
**Lot Area:** 617m<sup>2</sup>  
**M.R.S. Reservation:** N/A

---

#### SUMMARY

Council is in receipt of an application for a two-storey residence on 38 Grant Street. The proposal incorporates a garage in the front setback area.

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

#### STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No 2  
 Residential Design Codes

#### POLICY IMPLICATIONS

Garages and Carports in the Front Setback Area

Policy No 003

#### HERITAGE LISTING

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

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

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

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

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

Building  
Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:  
Letter to Adjoining Property Owners

**Submissions**

There were 3 letters sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

The adjoining property owners to the north objected to the following:

- Increasing the height of the retaining wall at the rear of 38 Grant Street by more than 750mm;
- Additional retaining in the North-east corner of 38 Grant Street;

- Retaining should be made uniform all along the southern boundary of 1 Lyons Street

## BACKGROUND

Council dealt with three applications for planning approval for a two-storey residence on 38 Grant Street. The applications were made previously in April 1995, February 1996 and March 1997 and July 1999. Planning approvals were granted in 1995, July 1996, April 1997 and August 1999 subject to conditions. The applicant did not go ahead with the approved development in accordance with the approvals granted in 1995, 1996, 1997 and the planning approvals subsequently lapsed.

Council granted a conditional approval for a two storey residence on the subject lot in August 1999. The applicant lodged an appeal with the minister in November 1999 appealing against the following;

- *The garage being setback 6m from the front boundary (proposed to be 4.5m)*
- *The ground levels being stepped and reduced to lower the proposed retaining wall and boundary fencing along the eastern and southern boundary;*
- *Council is of the opinion that the ground levels be dropped to at least RL8.0 and RL7.5 (proposed to be 8.65RL and 8.0RL)*

The appeal was considered by the Minister in March 2000 and it was upheld in part by deleting the subject conditions but inserting a new condition requiring that the finished levels of the courtyard at the rear be reduced by 0.3m to 8.35RL and 7.7RL.

## STAFF COMMENT

The applicant – Imperial Homes submitted a new application for a two storey residence on 38 Grant Street on 1<sup>st</sup> October 2003. The following concessions are sought by the applicant:

- Garage is setback 3.0m from the front boundary
- Proposed 7m long and 2.2m high wall to the Garage having a nil setback to the western boundary
- 1m setback to the portion of the lower wall from the eastern boundary
- Retaining of the rear of the lot more than 500mm

### Setback to the Garage

The applicant is proposing to have a setback of 3.0m to the garage, which is not in compliance with Council's October 2002 resolution and TPS Planning Policy 003 – "Garages and Carports in Front Setback Area". This Policy overrides the Design Element 2 – "Streetscape".

The proposed setback to the garage complies with the acceptable development standard of the Design Element 2 – "Streetscape", which states:

*A3.5 Garages set back 4.5 m from the primary street. This may be reduced where the garage adjoins a dwelling, provided the garage is at least 0.5m behind the dwelling alignment (excluding any porch, verandah or balcony) or setback 3m where vehicles are parked parallel to the street alignment.*

The applicant submitted a letter stating:

*"The access to the garage has been located to achieve parallel parking to the street alignment which is in accordance with RD Codes clause A3.5 on page 53. We feel this option of parking allows a more aesthetically pleasing street elevation due to the front elevation not being dominated by a garage door".*

However Council's Local Planning Policy 003 – "Garages and Carports in Front Setback Area" states the following:

*"It is Council's general policy to require carports and garages to be positioned behind the front setback line in accordance with the Table 1 of the Residential Design Codes, that being 6m from the street."*

The policy further states that Council may, in a particular case, allow lesser setbacks including a nil setback to the primary street in the case of a carport.

*"The materials of construction, design and appearance of a carport or garage erected within the front setback area shall be in character with the residence upon the site and be in harmony with the surrounding streetscape.*

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

The applicant is proposing parallel parking. The garage door is not facing the street, the proposed garage does not detract from the streetscape as it appears to be a part of the residence. Proposed garage would have a negative effect on the view lines of the adjoining property to the east as the proposed garage would be setback closer to the street than the existing residence on 40 Grant Street.

The proposed reduced setback to the garage might create a precedent for applicants in the locality seeking similar concessions. It is recommended that the proposed 3.0m front setback to the garage not be supported and the applicant be required to comply with the 6.0m setback requirement in accordance with Council's resolution of October 2002 and the Local Planning Policy 003.

### **Boundary Wall**

The applicant is proposing a boundary wall to the garage on the western boundary within the front setback area. The proposed boundary wall does not comply with the acceptable development standards of the RDC as it is not behind the front setback line.

The proposal does not comply with the Council's fencing Local Law, which requires to have open aspect fencing within the street setback. The following is stated in the Fencing Local Law:

*"Side boundary or secondary street boundary fences which fall within the front setback areas, must comply with the requirements of front setback fencing ie no greater than 900mm unless of an open aspect design".*

It is recommended that the location of a boundary wall within the front setback not be supported and the applicant be required to resubmit the plans showing the proposed boundary wall being located behind the street setback line.

#### **Ground Levels and Filling at the Rear of the Site**

Council previously granted several planning approvals for development on the subject lot. Planning approval granted in August 1999 contained the following condition requiring the levels at the rear of the site to be lowered:

*“Council is of the opinion that the ground levels be dropped to at least RL 8.0 and RL 7.5”*

The Council’s decision was appealed to the Minister. The appeal was upheld in part and a condition was inserted requiring the applicant to drop the levels at the rear of the site by 0.3m.

The current development application, which is now being assessed under the new RDC, is showing the levels at the rear being 7.43 and 7.33 (middle of site near the existing retaining wall), which is lower than the levels previously requested by Council and the Minister. However the proposal does not comply with the acceptable standards of the RDC.

The adjoining property owner at the rear of 38 Grant Street submitted an objection in regards to the proposal in which they state that they don’t object to adding two more limestone block courses on top of the existing wall subject to no more filling of the area at the rear of 38 Grant and especially in the North-East corner.

Council’s records do not contain any previous approvals for the construction of the retaining wall and filling of the area at the rear of the subject site. During the site inspection, it was noted that some areas at the rear were previously filled.

It is recommended that the proposed levels of 7.43RL and 7.33 RL be approved as they comply with the previous decision of Council and the Minister. No more fill at the rear of the site should be allowed.

It is also recommended to place a condition stating that the maximum height of the wall at the rear should be no greater than 8.9RL, which would provide privacy screening between the subject site and the adjoining property to the rear 1 Lyons Street.

The proposed retaining in the North-Eastern corner of the site does not comply with the acceptable development standards of the RDC as the retaining is greater than 500mm and would create issues of overlooking of the adjoining properties.

The following is stated in the RDC Element 6 – “Site Works”:

*“Retaining Walls higher than 0.5m only meet the Acceptable Development requirements where:*

*The retaining wall is set back in accordance with the requirements for a major opening with a wall height 2.4m in addition to the height of the retaining wall; or*

*The retained area is screened to prevent views of neighbouring property and is set back in accordance with the requirements for a wall height of 1.8m without major openings in addition to the height of the retaining wall”.*

Proposed development would not meet the setbacks recommended under the acceptable development standards quoted above.

Performance Criteria of the Clause 3.6.2 – Setback of Retaining Walls states;

*“Retaining walls designed or set back to minimise the impact on the adjoining property”.*

It is recommended that the proposed retaining wall not be supported and the applicant be requested to submit additional detailed information about the proposed retaining and comply with the acceptable development standards or address the performance criteria under the Clause 3.6.2 –“Setback of Retaining Walls”

## **CONCLUSION**

It is recommended that the application be conditionally approved, subject to the applicant submitting additional plans showing:

- front setback to the proposed garage being 6.0m;
- the proposed retaining in the North-Eastern Corner being either in compliance with the RDC acceptable development standards or relevant performance criteria

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Some concern was expressed in terms of the location of the garage being partly forward of the setback line however, the majority of Councillors were of the opinion that a reduced setback of 4.5m and a reversing area would address safety concerns.

## **OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the proposed two storey residence at 38 Grant Street, Cottesloe in accordance with the plans submitted on 10 November, 2003, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.



- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
  - (f) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
  - (h) The height of the retaining wall at the rear of the site not being higher than 8.9RL
  - (i) Revised plans being submitted for approval by the Manager, Development Services, showing:
    - (i) the front setback to the garage being 6.0m
    - (ii) the proposed retaining in the North-Eastern corner being in compliance with either the acceptable development standards of Design Element 3.6 – "Site Works" or performance criteria under the Clause 3.6.2 – "Setback of Retaining Walls"
- (2) Advise the submitters of this decision.

### 11.1.3 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Miller

#### That Council:

- (1) **GRANT its Approval to Commence Development for the proposed two storey residence at 38 Grant Street, Cottesloe in accordance with the plans submitted on 10 November, 2003, subject to the following conditions:**
- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction Sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**

**The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
  - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**

- (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
  - (f) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.
  - (h) The height of the retaining wall at the rear of the site not being higher than 8.9RL
  - (i) Revised plans being submitted for approval by the Manager, Development Services, showing:
    - (i) the front setback to the garage being 4.5m.
    - (ii) the portion of the boundary wall located forward of the 6m setback line being setback from the western boundary in accordance with Residential Design Codes.
    - (iii) the proposed retaining in the North-Eastern corner being in compliance with either the acceptable development standards of Design Element 3.6 – “Site Works” or performance criteria under the Clause 3.6.2 – “Setback of Retaining Walls”
- (2) Advise the submitters of this decision.

Carried 6/3

---

**11.1.4 NO 29 (LOT 2) CONGDON STREET - DEVELOPMENT APPLICATION -  
ADDITIONS/ALTERATIONS TO EXISTING SINGLE HOUSE**

**File No:** 29 Congdon Street  
**Author:** Ms Lilia Palermo  
**Attachments:** Location plan  
Plans  
Correspondence from applicant  
**Author Disclosure of Interest:** Nil  
**Report Date:** 31 October, 2003  
**Senior Officer:** Mr S Sullivan  
  
**Property Owner:** J & S Beilin  
  
**Applicant:** Addstyle Constructions  
**Date of Application:** 31 October, 2003  
  
**Zoning:** Residential  
**Use:** P - A use that is permitted under this Scheme  
**Density:** R20  
**Lot Area:** 612m<sup>2</sup>  
**M.R.S. Reservation:** N/A

---

**SUMMARY**

Council is in receipt of an application for second storey and ground floor additions to the existing residence on 29 Congdon Street.

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

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No 2  
Residential Design Codes

**POLICY IMPLICATIONS**

Building Heights Policy No 005

**HERITAGE LISTING**

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
Clause 5.1.1 – Building Heights	Wall Height – 46.10 Roof Ridge – 48.60	Wall Height – 47.45 Roof Ridge – 49.54

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Wall abuts an existing wall of similar or greater dimension	Nil setback from garage to Western boundary complies with acceptable development	N/A
No 3 – Boundary Setbacks	3.6m	1.8m setback to Alfresco area	Clause 3.3.1 – P1

**STRATEGIC IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**CONSULTATION**

## REFERRAL

**Internal**Building  
Engineering**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:  
Letter to Adjoining Property Owners

### Submissions

There were 3 letters sent out. No submissions were received.

### BACKGROUND

The application was submitted on the 19<sup>th</sup> August 2003. The applicant was advised that additional information was required. The applicant resubmitted the amended plans with some of the previously requested additional information on the 6<sup>th</sup> October 2003.

The applicant was advised on the 17<sup>th</sup> October 2003 that an Original Site Survey Plan was required to be submitted. Also, Council's Building Surveyor advised the applicant that the proposed staircase did not comply with the BCA requirements and needed to be amended. The requested Original Site Survey plan and additional plans with amended staircase in accordance with the BCA requirements were submitted by the applicant on the 21<sup>st</sup> October 2003.

### STAFF COMMENT

The subject property is located on the corner of Congdon Street and Melville Street. The applicant is proposing ground and upper floor extensions to the existing single storey residence.

#### Front Setback

The existing front setback on the property is 4.5m. The extensions are proposed on the ground and upper floor towards the rear of the existing residence. The existing front setback of 4.5m would not change as a result of this development application.

#### Boundary Setbacks

Proposed ground floor additions/alterations include a new alfresco area, family room, verandah and alterations to the kitchen. The proposed setback to the side boundary from the northern lower wall is 1.8m to the new alfresco area and 4.4m to new verandah.

The following setback variations to the northern boundary are required under the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
North Lower	Existing Verandah, Bed 2, Entry, Lounge, Dining and New Alfresco area	4.0	19.3	Yes existing New Alfresco - No	3.6	1.8m as per existing
North Lower	Verandah, Family	4.0	6.0	Yes	1.8	4.2

The proposed setback of 1.8m to the new alfresco area does not comply with the acceptable development standard under the RDC and will be assessed under the relevant performance criteria. Performance criteria Clause 3.3.1 P1 – Boundary Setback Requirements state the following:

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

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

The subject property has a corner location and overshadowing of adjoining properties is not an issue as the shadow from the building would be cast onto Melville Street.

There are major openings to habitable rooms on the northern lower wall, which are already existing.

The proposed reduced setbacks to the new Alfresco Area would not affect the privacy of the adjoining property to the North as the area would be screened up to the height of 1.8m from the alfresco floor level.

#### Buildings on Boundaries

A new garage is proposed to be constructed with a Nil setback to the western boundary.

Acceptable development standards of the Clause 3.3.2 – “Buildings on Boundary” states the following:

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

- i Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension;*
- ii In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary”*

The proposed garage wall on the western boundary complies with the acceptable standards quoted above, as the length of the proposed wall is 6m and the height is 2.4m. The proposed garage wall would also abut an existing neighbouring garage wall having a nil setback to the common boundary, which has a greater wall length than the proposed garage on 29 Congdon Street.

Council does not have an adopted Local Planning Policy on boundary walls. The proposed garage wall on the boundary would not create any overshadowing of the adjoining properties.

#### Building Heights

The proposed second storey additions exceed the 6m wall height and 8.5 roof height requirement under Clause 5.1.1 (c), which also states that variations may be permitted in the case of extensions to an existing building.

The increased wall and roof height would not affect the amenity of adjoining properties due to overshadowing or loss of views. The shadow from the proposed building would be cast onto Melville Street.

The proposed building height is consistent with the height of the buildings in the locality and would not affect the desired streetscape. The existing residence on 29 Congdon Street is included as a category 3 of the Draft Claremont Hill Heritage Area. The proposed extensions are in keeping with the character and style of the existing single storey residence.

### **CONCLUSION**

It is recommended that the proposed variations to the wall and roof height of the second storey extensions be approved as the increase in height would not affect the amenity of the adjoining properties or the desired streetscape.

Also, the proposed variation to the side setback of the north lower wall would not affect the adjoining property as the new alfresco area would be screened.

### **VOTING**

Simple Majority

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

Moved Cr Furlong, seconded Cr Miller

#### **That Council:**

**GRANT its Approval to Commence Development for the proposed ground and second storey alterations and additions at 29 Congdon Street, Cottesloe in accordance with the plans submitted on 31 October, 2003, subject to the following conditions:**

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
- (5) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.**
- (6) The existing redundant crossover in Melville Street being removed, the verge, kerb and all surfaces made good at the applicant's expense.**

- (7) The applicant complying with the Town of Cottesloe Policies and procedures for the Street Trees, February 2003, where development requires the removal, replacement, protection or pruning of street trees for development.

Carried 8/1



---

**11.1.5 NO 7 AND 7A (LOT 26, PT LOT 27) PEARSE STREET - PROPOSED TWO, TWO STOREY SINGLE HOUSES WITH BASEMENT CAR PARKING**

<b>File No:</b>	<b>7 &amp; 7A Pearse</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Attachments:</b>	<b>Location plan Plans Submissions (2) Correspondence from application (2)</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>11 November, 2003</b>
<b>Senior Officer:</b>	<b>Mr S Sullivan</b>
<b>Property Owner:</b>	<b>O. C. Glatz</b>
<b>Applicant:</b>	<b>Neil Robertson Architects</b>
<b>Date of Application:</b>	<b>11 November, 2003</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20, R30</b>
<b>Lot Area:</b>	<b>483m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

Council is in receipt of an application to construct two two-storey residences on two adjoining lots at No. 7 and 7A Pearse Street. The design of the two residences is a mirror image of each other with boundary walls adjoining on the common boundary between 7 and 7A.

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

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No 2  
Residential Design Codes

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

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

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

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

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

Building  
Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:  
Letter to Adjoining Property Owners

**Submissions**

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

**No. 9 Pearse Street**

- Potential loss of views due to the proposed front setback of 6.0m on 7 Pearse Street;
- Overshadowing of the western side of our property;

- The proposed development should be setback far enough back from the street to retain a portion of our view;
- Linear series of house-fronts is not an attractive streetscape

**No. 5 Pearse Street**

- Wall height level is over the permitted height level;
- Pitched roof adds to building height. Roof should be flat;
- Garage should be at the rear;

**BACKGROUND**

The two applications for development of two-storey residences on 7 and 7A Pearse were received on the 1<sup>st</sup> October 2003. The applicant was advised that the information submitted with the application was incomplete. The requested additional information in accordance with the Residential and Commercial Development checklist was submitted on 16<sup>th</sup> October 2003.

After the preliminary assessment was undertaken the applicant was advised that the wall heights of the proposed residences exceeded the statutory limit of 6.0m under Clause 5.1.1 of the Town Planning Scheme. Further, they were advised that refusal or deferral of application would be recommended in the report to the Development Services Committee unless revised plans were submitted.

The applicant submitted the revised plans complying with the heights requirements under the TPS 2 on 5<sup>th</sup> November 2003.

**STAFF COMMENT**

The proposed development on both lots complies with the acceptable development standards under the RDC and provisions of the Town of Cottesloe Town Planning Scheme 2.

**Boundary Walls**

The proposed boundary walls on both properties comply with the acceptable development standard of the Design Element 3 – “Buildings on Boundaries”, which states:

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

*Where the walls abuts an existing or simultaneously constructed wall of similar or greater dimension”*

The proposed boundary walls do not create any overshadowing of the adjoining properties. The lots are North/South orientated and the shadow at midday on 21<sup>st</sup> June would be within the subject site. Northern facing windows of the proposed residences are fronting the street and would provide an access to northern sun for habitable rooms of the proposed dwellings.

**Front Setback**

Council received an objection from an adjoining property owner to the east. The owners of No. 9 Pearse Street are mainly objecting to the proposed front setback on No. 7 and 7A Pearse.

The proposed setback for both two storey residences is 6.0m. The Residential Design Codes require a front setback of 4.0m in areas coded R30. The Residential Design Codes, which were implemented in October 2002 changed the front setback requirement for land coded R30 from 6.0m to 4.0m. At the October 2002 Council meeting Council made a resolution stating that

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

*(a) generally insist on:*

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

Council has consistently sought conformity with a 6.0m setback with no averaging and the majority of residences on Pearse Street have a 6.0m front setback or greater.

Whilst clause 5.1.2(a) of the Town Planning Scheme Text requires Council to have regard to the need to preserve or enhance views, it is considered unreasonable to require the applicant to have a larger setback in this location. It is recommended that the application be approved in accordance with the 6.0m front setback in accordance with the revised plans received on the 5<sup>th</sup> November 2003.

**CONCLUSION**

The proposal for two, two-storey single house with basement car parking areas on No. 7 and 7A Pearse Street complies with the provisions of TPS 2 and acceptable development standards under the RDC. The Administration recommends that the application be approved in accordance with the submitted revised plans dated 5<sup>th</sup> November 2003.

**VOTING**

Simple Majority

**DECLARATION OF IMPARTIALITY**

Cr Morgan left the meeting at 10.13pm.

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

Moved Cr Furlong, seconded Cr Miller

**That Council:**

- (1) GRANT its Approval to Commence Development for the two-storey single house and basement car parking area at No 7 and 7A (Lot 26, Pt Lot 27) Pearse Street, Cottesloe in accordance with the revised plans submitted on 11 November, 2003, subject to the following conditions:**

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
  - (f) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
  - (g) The existing redundant crossover in Pearse Street be removed, the verge, kerb and all surfaces made good at the applicants expense;
  - (h) The applicant complying with the Town of Cottesloe – Policies and procedures for the Street trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development".
  - (i) The existing lot being subdivided and a new certificate of title being issued for the proposed lots prior to the issue of a building licence.
- (2) GRANT its Approval to Commence Development for the Proposed Two Storey Residences and basement car parking area at No 7 and 7A (Lot 26, Pt Lot 27) Pearse Street, Cottesloe in accordance with the revised plans submitted on 11 November, 2003, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
-

- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
  - (f) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
  - (g) The existing redundant crossover in Pearse Street be removed, the verge, kerb and all surfaces made good at the applicants expense.
  - (h) The applicant complying with the Town of Cottesloe – Policies and procedures for the Street trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development".
  - (i) The existing lot being subdivided and a new certificate of title being issued for the proposed lots prior to the issue of a building licence.
- (3) Advise the submitters of this decision.

Carried 6/2

Cr Morgan re-joined the meeting at 10.14pm.

---

**11.1.6 NO 9 (LOTS 1-4) ROSENDO STREET - GARAGE, WORKSHOP AND STORAGE ATTIC**

<b>File No:</b>	<b>9 Rosendo Street</b>
<b>Author:</b>	<b>Mr D Heymans</b>
<b>Attachments:</b>	<b>Location map Plans Correspondence from HCWA Submissions (5) Correspondence from owner Correspondence from applicant</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>10 November, 2003</b>
<b>Senior Officer:</b>	<b>Mr S Sullivan</b>
<b>Property Owner:</b>	<b>Edward Smith</b>
<b>Applicant:</b>	<b>As above</b>
<b>Date of Application:</b>	<b>3 September 2003</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R30</b>
<b>Lot Area:</b>	<b>5001m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

The applicant is proposing to construct a new detached garage, workshop and storage loft for the existing residence at No. 9 Rosendo Street.

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

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No 2  
Residential Design Codes

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

State Register of Heritage Places	Interim
TPS No 2	Schedule 1
Town Planning Scheme Policy No 12	N/A
Draft Heritage Strategy Report	N/A
Municipal Inventory	Category 1
National Trust	Listed

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

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

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
10 – Incidental Development	Ridge Height of 4.2m	5.9m	Clause - 3.10.1
10 – Incidental Development	Wall Height of 2.4m	3.6m	Clause - 3.10.1
10 – Incidental Development	Floor Space of 60m <sup>2</sup>	80m <sup>2</sup>	Clause - 3.10.1

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**Building  
Engineering**External**

Heritage Council

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:  
Letter to Adjoining Property Owners



**Submissions**

There were 26 letters sent out. There were 4 submissions received, of which 2 were objections. Details of the submissions received are set out below:

10B Salvado Street

The owners had a number of objections, however after receiving a response from the applicant they withdrew their objections.

Unit 4/8 Salvado Street

The owners object to the location of the proposed workshop, which abuts their outdoor entertaining area. The owners believe that there will be considerable noise from this workshop. The applicant responded to their concerns, however the objector was not satisfied with the response given and the objection still stands.

Unit 4/11 Rosendo Street

The owners object to the following:

- The height of the building;
- The proposed storage loft may be used for other purposes;
- The development would block out views of the coast and ocean.

The Heritage Council of Western Australia

The Heritage Council of W.A. advised that they have no objections to the proposed development.

**BACKGROUND**

The applicant is currently undertaking substantial renovations to the existing building. As part of these renovations, the applicant is also wishing to construct a new garage, workshop and storage loft. The applicant owns 4 lots, two of which are vacant. The applicant wishes to amalgamate the rear part of lot 4, where the garage is proposed to be located, into lot 3, where the existing house is located.

**STAFF COMMENT****Building Height**

The proposed garage does not comply with the acceptable development standard for heights of outbuildings, which is 4.2m. Therefore the applicant is required to comply with the performance criteria for this clause.

The performance criteria for clause 3.10.1 states that:

*"Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties."*

The administration believes that the proposed garage will not affect the visual amenity of the streetscape or of adjoining neighbours as the garage is located at the rear of the lot and will not have any impact on the streetscape.

In addition, the ridge of the roof of the proposed garage will not impact on ocean views of adjoining property owners as it will only be approximately 700mm above the ground finished floor level of No. 11 Rosendo Street. Therefore the owners of 11 Rosendo Street will still retain their views whilst sitting down.

Therefore the administration recommends that the roof ridge height be approved as there will be no adverse impact on adjoining neighbours or the streetscape.

### **Wall Height**

The wall height of the proposed garage is at its highest (3.6m) on the western side, where there is little or no impact on adjoining property owners. The wall height on the eastern and southern sides is only 2.4m. On the southern side the proposed boundary wall of the workshop will be about 2.0m below the existing boundary wall and therefore any noise emitted from the workshop will be minimal and will not have any detrimental affects on adjoining neighbours.

Therefore the administration recommends that this wall be approved as there will be no adverse impact on adjoining neighbours or the streetscape.

### **Floor Area**

The total floor area of the proposed development (80m<sup>2</sup>) exceeds the acceptable standard (60m<sup>2</sup>) by about 20m<sup>2</sup>. Assessment of the application shows that there is no adverse impact on the streetscape or the visual amenity of residents or adjoining properties and therefore the administration recommends that this variation be approved.

### **Submissions**

As stated above, the roof height, wall height and floor area of the proposed development will not have any adverse impact on adjoining properties. In relation to the concern relating to the use of the storage loft Council will impose a condition stating that the storage loft shall not be used for habitable purposes. Council has consistently acted on owners who have not used buildings in accordance with approved plans.

### **CONCLUSION**

The proposed development be approved subject to the following conditions.

### **VOTING**

Simple Majority

Cr Jeanes left the room at 7.02pm and returned at 7.04pm.

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

Moved Cr Furlong, seconded Cr Miller

#### **That Council:**

- (1) GRANT its Approval to Commence Development for the Garage, workshop and storage attic at No 9 (Lots 1-4) Rosendo Street, Cottesloe in accordance with the plans submitted on 3 September 2003, subject to the following conditions:**

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
  - (e) The storage loft is not to be used for habitable purposes.
  - (f) That part of lot 4 being amalgamated into lot 3 prior to the issue of a building licence.
  - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, and be approved by the Manager, Engineering Services or the authorised officer.
- (2) Advise the submitters of this decision.

Carried 7/2

**11.1.7 NO 33 (LOT 84) GRIVER STREET – DEPARTURE FORM APPROVED PLANS FOR DETACHED GARAGE, WORKSHOP AND STORAGE LOFT**

<b>File No:</b>	<b>33 Griver Street</b>
<b>Author:</b>	<b>Mr D Heymans</b>
<b>Attachments:</b>	<b>Location plan Plans Correspondence from applicant dated 6/03/03 Correspondence from applicant dated 4/11/03 Photographs of built structure</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>11 November, 2003</b>
<b>Senior Officer:</b>	<b>Mr S Sullivan</b>
<b>Property Owner:</b>	<b>Mr &amp; Mrs Keely</b>
<b>Applicant:</b>	<b>Stirling Architects</b>
<b>Date of Application:</b>	<b>N/A</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>574m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

Council refused to grant its Planning Consent for a similar development at its February 2003 meeting.

A revised proposal was approved by the Manager of Development Services under delegated authority in March 2003.

The building has subsequently been built and nearing completion, however the building is not in accordance with the approved planning and building plans.

It is recommended that the owners be required to modify the existing structure to accord with the approved plans, failing which, the matter would be referred to Council with a view to commencing legal action.

**STAUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

N/A.

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

Costs may be incurred in terms of enforcing the Town Planning Scheme by taking legal action or the serving of a Notice for the unauthorised work.

**BACKGROUND**

An application for a detached garage, workshop and storage loft was refused by Council at its February 2003 meeting. Council refused the application as follows:

*That Council REFUSE its Approval to Commence Development for the two-storey outbuilding at No. 33 (Lot 8) Griver Street, in accordance with the application and plans submitted on 20 November 2002 as the proposed outbuilding is inconsistent with the relevant controls specified in the Residential Design Codes.*

These plans were refused as the roof and wall heights exceeded the acceptable development standards outlined in the codes. The proposed building had a roof height of 5.1m and a wall height of 3.9m, however the acceptable heights under the codes are 4.2m and 2.4m respectively. (Refer attached plans).

The applicant lodged a revised application on the 10 March 2003. The revised plans had a roof height of 4.2m and a wall height of 2.4m in accordance with acceptable standards outlined in the Codes, refer attached plans. The proposal still had a pull down ladder rather than a permanent stair and a garage door.

This revised application was subsequently approved under delegated authority by the Manager, Development Services and a building licence was later issued in accordance with the approved plans.

However a final inspection was carried out by Council's Planning Department and Building Department, which revealed that the building was not constructed in accordance with the approved plans.

**STAFF COMMENT****Areas of Non-compliance**

The site inspection revealed that the following departures from the approved plans occurred:

- The garage door has not been installed, instead a sliding door has been installed;
- The garage is being used as an office;
- The storage loft is being used as a playroom;
- The pull down stairs of the storage loft have not been constructed, instead a permanent ladder has been constructed;
- Additional loft windows and lower level windows have been installed;
- The size and dimensions of all windows have changed;
- The store room on the lower level has not been constructed;

- The roof ridge height is approximately 800mm over the approved height of 4.2m; and
- The wall height is approximately 600mm over the approved height of 2.4m.

It appears that the overall height of the structure that has been built is similar to the height of the structure that was refused by Council at its February, 2003 meeting.

Council cannot grant retrospective planning approval for development that has already occurred. In addition, a retrospective building licence can also not be issued.

Furthermore, the use of the building as a habitable space does not comply with the Building Codes of Australia and there are a number of health and fire safety issues that may cause liability issues if the development is not in accordance with the approved plans.

### **Comments from the Owner**

The applicant has argued that the development was not completed and hence that no retrospective approval is required. The applicant has lodged amended plans showing all of the departures from the approved building plans, hoping that they can be approved and that the matter can be resolved.

Furthermore the applicant has argued that the departures from the approval are minor in nature.

Notwithstanding the final inspection revealed that the development had been finalised as the owner had moved personal affects and furniture into the building, including pool table, beds and other furniture.

The administration believes that the departures from the approval are major, in particular, the height variations, and modifications to the design relating and the change in use of the structure from a garage to habitable space.

### **Options Available to Council**

Council does not have retrospective powers to grant its Planning Consent or a Building License for a structure that has been built. Therefore, the options open to Council are as follows:

#### Town Planning Scheme

A breach of the Town Planning Scheme has occurred. The options open to council under the Town Planning Scheme are as follows:

- (i) Take no further action and Council exercises its right not to prosecute;
- (ii) Issue a notice under section 10(4) of the Town Planning and Development Act requiring the owner to modify the plans and comply with the approved plans. An appeal is available to the owner against the issue of the Notice to the Town Planning Appeal Tribunal. If the owner fails to comply with the notice, Council could modify the building and recover costs; or
- (iii) Council could prosecute the owner for non-compliance with the approved plans. This matter would then be determined in the local courts.

In relation to point (i), a complaint to the Minister for Planning under Section (18)(2) of the Town Planning and development Act could result in a direction from the Minister to enforce its Town Planning Scheme and require the development to be modified to comply with the approved plans.

#### Local Government Act

There are three options open to Council, of which there are two options under the Local Government Act, and these are:

(i) Issue Of Notice Requiring Compliance With Approved Building Licence Plans

Under the Local Government (Miscellaneous Provisions) Act 1960, Division 9 - Notice of Required Alteration, Section 401. states:

(1) *A local government may, during or after the erection of a building in its district, give to the builder or owner of the building, written notice of anything, in the construction of the building –*

(a) ...

(b) *which is not in compliance with, or is a departure from, the plans and specifications for the building, of which plans and specifications the approval of the local government has been obtained as required by this Act, or which is a contravention of this Act;*

*and requiring him to pull down or so alter the building as to remove the cause of the objection and on being served with the notice the builder or owner shall comply with the requisition, unless where he has a right of appeal against the requisition, he exercises the right with due diligence, and the referees mentioned in Division 19 of this Part or the Minister, as the case may be, quash the requisition on appeal.*

In effect it states that Council may issue the owner, with a notice for non-compliance with the approved plans and require that the garage/store is removed or altered in accordance with the resolution of the Council. The Owner has a right of appeal against the notice to the Minister for Local Government.

(ii) Prosecute under the Local Government Act for Departure from the Approved Building Licence Plans without Local Government Approval

Under the Local Government (Miscellaneous Provisions) Act 1960, Division 2 – Submission of Plans, Section 374(5) allows Council to prosecute a person that has carried out works not in conformity with the approved Building Licence plans. This carries a penalty of \$5,000.

Once a conviction has been achieved, council can then issue a notice under Section 411 of the Local Government (Miscellaneous Provisions) Act 1960. This provision allows council to serve a Notice on the owner to bring the building into conformity with the approved plans. An appeal against the notice to the Minister for Local Government is available to the owner. If this appeal fails and the owner fails to comply with the notice, Council then issues a complaint to a court of petty sessions.

The Court can then authorise the Local Authority to do whatever is necessary to bring the building into conformity and recover costs.

(iii) Take No further Action

Council could take no further action in relation to the matter of non-compliance with the approved Building Licence plans.

### **CONCLUSION**

Given the unauthorised work that has occurred in contravention of the Town Planning Scheme, Council is required to make a determination in relation to the unauthorised work. In this regard Council may choose one of the following options:

Take action - against the owner & builder; or  
Require the building to be modified in accordance with the approved plans; or  
Accept the development as it has been constructed.

The unauthorised changes to the planning plans are considered to be major variations and therefore, it is considered that the existing structure should be modified to accord with the approved plans. It is considered that Council should:

- (1) advise the owner of No. 33 Griver Street that:
  - (a) they have departed from the approved planning consent plans without approval;
  - (b) they are required to modify the existing structure to accord with the approved planning plans within three months of written notification; and
  - (c) should they not comply with this direction in part (1)(b), the matter will be referred to Council with a view to instituting legal action against them.
- (2) request the Administration to seek legal advice on this matter.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

The committee expressed real concern at the unauthorised departures from the approved plans. The Committee resolved to delete condition (2) as condition (1)(c) gives Council officer's the authority to seek legal advice if the unauthorised changes have not modified to comply with the current planning approval within 3 months of the November 2003 Council meeting.

### **OFFICER RECOMMENDATION**

That Council:

- (1) Advise the owner of No. 33 Griver Street that:
  - (a) They have departed from the approved planning consent plans without approval;



- (b) They are required to modify the existing structure to accord with the approved planning plans within three months of written notification; and
- (c) Should they not comply with this direction in part (1)(b), the matter will be referred to Council with a view to instituting legal action against them.

(2) Request the Administration to seek legal advice on this matter.

#### **11.1.7 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Miller

**That Council Advise the owner of No. 33 Griver Street that:**

- (1) They have departed from the approved planning consent plans without approval;**
- (2) They are required to modify the existing structure to accord with the approved planning plans within three months of written notification; and**
- (3) Should they not comply with this direction in part (2), the matter will be referred to Council with a view to instituting legal action against them.**

Carried 8/1

---

**11.1.8 NO 35 (LOT 85) GRIVER STREET - ADDITIONS & NEW DETACHED 2 STOREY STUDIO, GARAGE & STORE**

<b>File No:</b>	<b>35 Griver Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Attachments:</b>	<b>Location plan Plans – existing &amp; proposed Correspondence from applicant</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>8 October, 2003</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Mr &amp; Mrs Viljoen</b>
<b>Applicant:</b>	<b>Stirling Architects</b>
<b>Date of Application:</b>	<b>24 September, 2003</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>574m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

The purpose of this report is to seek Council's approval to the construction of additions to the existing house, together with a two-storey outbuilding which is to house a garage, studio and a storage loft.

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

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No 2  
Residential Design Codes

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

State Register of Heritage Places	N/A
TPS No 2	N/A
Town Planning Scheme Policy No 12	N/A
Draft Heritage Strategy Report	N/A
Municipal Inventory	Category 3
National Trust	N/A

**APPLICATION ASSESSMENT**

AREAS OF NON-COMPLIANCE

---

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

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

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
3	Boundary wall height of 2.7m average	3.0m	3.3.2 – P2
10	Outbuilding ridge height of 4.2m	5.1m	3.10.1 – P1
10	Outbuilding wall height 2.4m	3.4m	3.10.1 – P1

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

REFERRAL

**Internal**

N/A.

**External**

N/A.

**ADVERTISING OF PROPOSAL**

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

The advertising consisted of:  
Letter to Adjoining Property Owners

**Submissions**

There were 3 letters sent out. No submissions were received.

**BACKGROUND**

The subject site is on the corner of Griver and Knowles Street and abuts a Council owned right-of-way to the rear. There is an existing single house on the site.

**STAFF COMMENT**

This report only deals with the 2 storey outbuilding as all other buildings comply with the acceptable development standards of the Codes.

**Outbuilding Height Limit**

The proposed development exceeds the overall height limit and wall height limit specified in the Codes by 0.9m and 0.6m respectively. The development has the appearance of a two-storey structure even though the storage loft has an internal height of just 1.7m.

Therefore the development must address the performance criteria for this clause, which states;

*“Outbuildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties.”*

The administration believes that the proposed development does not have any adverse impact on the streetscape, however it may have an adverse impact on the visual amenity of neighbouring properties.

The codes allow for a ridge height of 4.2m and a wall height of 2.4m. The recently approved 2 storey outbuilding at No. 33 Griver Street was made to comply with these height limits and the administration believes that this proposal should also comply with these height limits in order to reduce the impact on the visual amenity of adjoining properties. This is in spite of the structure at No. 33 Griver Street not being built in accordance with the approved plans.

In addition the proposed finished floor level of the outbuilding is proposed to be RL 9.615, however the right of way level is only RL 9.12 and therefore the gradient into the garage would not comply with the Australian Standard of a 1:5 gradient.

Therefore the administration recommends that the outbuilding be approved subject to the roof and wall heights being reduced and the finished ground floor being reduced.

**Boundary wall Height**

The applicant is wishing to build the outbuilding on the southern boundary abutting No. 33 Griver Street. The acceptable development standards of the codes allow for a boundary wall in areas coded R 20 of up to 9.0m in length and with an average height of 2.7m, however the proposed wall has an average height of 3.0m.

Notwithstanding, in order for this building to comply with the acceptable development standards of the codes the wall height of an outbuilding needs to be reduced to 2.4m and therefore as this condition is being imposed the boundary wall will also have to be 2.4m in height and as a result no additional conditions are required.

**CONCLUSION**

The proposed development be approved subject to the following conditions.

**VOTING**

Simple Majority

---

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

Moved Cr Furlong, seconded Cr Miller

**That Council GRANT its Approval to Commence Development for the Additions & New Detached 2 Storey Studio & Store at No 35 (Lot 85) Griver Street, Cottesloe in accordance with the plans submitted on 13 November, 2003, subject to the following conditions:**

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (5) The storage loft is not to be used for habitable purposes.**
- (6) Revised plans being submitted to the satisfaction of the Manager Development Services showing:**
  - (i) The ridge height being reduced to RL 13.4m;**
  - (ii) The wall height being reduced to RL 11.6m;**
  - (iii) The Finished Floor level being reduced to RL 9.2m.**

Carried 9/0

**11.1.9 NO 7 (LOT 15) HENRY STREET - NEW TWO STOREY SINGLE HOUSE**

<b>File No:</b>	<b>7 Henry Street</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Attachments:</b>	<b>Location plan Plans Submission (1) Correspondence from applicant (2)</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>4 November, 2003</b>
<b>Senior Officer:</b>	<b>Mr S Sullivan</b>
<b>Property Owner:</b>	<b>G &amp; E Shepherd</b>
<b>Applicant:</b>	<b>Webb &amp; Brown Neaves</b>
<b>Date of Application:</b>	<b>4 November, 2003</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>607m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

Council is in receipt of an application for construction of a two storey residence on 7 Henry Street.

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

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No 2  
Residential Design Codes

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

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

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3.9 – Design for Climate	Overshadowing of adjoining 25%	34%	Clause 3.9.1 – P1

**STRATEGIC IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

Building  
Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:  
Letter to Adjoining Property Owners

**Submissions**

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

The following concerns were expressed from the neighbouring property owners of 5 Henry Street:

- Proposed two storey residence on 7 Henry will affect the amenity of our property due to overshadowing of the:
  1. Living room;
  2. Entrance Hall Window;
  3. Bedroom window;
- The overshadowing should comply with 25% requirement
- The windows on the southern side of the proposed house will overlook our living areas and back court yard;

## BACKGROUND

Council previously approved an application for a two storey residence on 7 Henry Street in 2002. The owners didn't go ahead with the approved development. The owners engaged Webb and Brown-Neaves to put in a new application on their behalf for a two storey residence of a different design.

The main issue with the new application by Webb and Brown-Neaves is the non-compliance with the acceptable development standards and performance criteria of the Design Element 9 – Design for Climate, as the proposed development on the subject property would result in 34% overshadowing of the adjoining property to the south.

The application for a two storey residence previously approved by Council in 2002 complied with the 25% overshadowing requirement.

## STAFF COMMENT

### Overshadowing

The applicant submitted an overshadowing diagram showing that the proposed development would result in 34% overshadowing of the adjoining property to the south 5 Henry Street.

Acceptable development standards under the Design Element 9 – Design for Climate state for following:

*“Notwithstanding the boundary setbacks in Element 3, development in Climatic Zones 4, 5 and 6 of the State shall be so designed that its shadow cast at midday, 21 June onto any other adjoining property does not exceed the following limits:*

- *On adjoining properties coded R25 and lower – 25% of the site area*

*Note: In this context “site area” refers to the surface of the adjoining lot without regard for any building on it but taking into account its natural ground levels”.*

The proposed development does not comply with the 25% acceptable overshadowing limit in accordance with the criteria quoted above. The proposal will be assessed under the performance criteria of the Element 9 – “Design for Climate”, which are as follows:

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

- *Outdoor living areas;*
- *Major openings to habitable room;*
- *Solar heating devices; or*



- *Balconies or verandahs*".

The proposed two storey residence will overshadow the north facing windows to the living room, entrance hall and bedroom of 5 Henry Street. In accordance with the definition in the RDC, the living room and bedroom are considered habitable rooms. The development proposal on 7 Henry Street does not comply with the performance criteria quoted above as the major openings to habitable rooms will be affected by overshadowing.

The applicant submitted a letter in response to the objection received by Council from the adjoining property owners in which the applicant is referring to the overshadowing situation prior to demolition of the old single storey house on 7 Henry Street. The applicant is stating that the rooms subjects of overshadowing by this proposal were affected previously by the single storey residence and vegetation, which has now been removed. However the applicant did not provide any plans demonstrating that this actually occurred.

The main objective of the provisions under the Design Element 9 – “Design for Climate” is *“to optimise comfortable living and facilitate ecologically sustainable development”*.

The following is also stated in the explanatory text for Design Element 9 – “Design for Climate” of the RDC:

*“In terms of residential development, the three main aims of climate-sensitive design are to reduce energy consumption, optimise on site solar access, and protect solar access for neighbouring properties”*

The fact that the old single storey residence and vegetation overshadowed habitable rooms of 5 Henry cannot be considered a valid justification for the new development not to comply with the performance criteria of the RDC.

The subject property 7 Henry Street has a reasonably wide frontage (14.08m). The RDC require a minimum frontage of 10.0m. The design of the proposed two storey residence can be modified to comply with the performance criteria of the RDC.

### **Overlooking**

Council received an objection from the adjoining property owners, which expressed concerns about possible overlooking from the lower and upper floor windows of the proposed two storey residence on 7 Henry Street.

The window shown on the southern elevation would not be considered a major opening and as such, would not pose any overlooking issues for the adjoining property.

The following windows are located on the southern elevation:

- Kitchen - highlight window with the sill level of 1.65m;
- Passage/staircase – opaque glazing
- Bathroom - opaque glazing up to 1.65m height from floor level
- WIR – small highlight window less than 1m<sup>2</sup>;
- Bedroom 1 – two small (less than 1m<sup>2</sup>) highlight windows.

**CONCLUSION**

The proposal does not comply with the acceptable development standards of the RDC Design Element 9 – “Design for Climate” and the performance criteria. The proposed two storey residence will adversely affect the adjoining property to the south due to overshadowing of the major openings to habitable rooms.

It is recommended that the application be deferred to give the applicant an opportunity to submit revised plans in accordance with the performance criteria of the Design Element 9 of the RDC.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

The Mayor expressed concern that there may be a delay in the processing of the application. The recommendation was then modified to make reference to the December meeting of Council and the applicant was requested to lodge the plans by Wednesday 3 December, 2003.

**OFFICER RECOMMENDATION**

That Council:

- (1) Defers consideration of the application for Approval to Commence Development submitted by Webb and Brown-Neaves for a two storey residence at 7 Henry Street, Cottesloe.
- (2) Request the applicant to submit revised plans incorporating modifications to the design so as to comply with the performance criteria of Design Element 9 – “Design for Climate” so as not to overshadow windows to habitable rooms of the adjoining property to the south at 5 Henry Street.
- (3) The submitters be advised of Councils decision.

**11.1.9 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Miller

**That Council:**

- (1) Defer consideration of the application for Planning Consent for a two storey single house, submitted by Webb and Brown-Neaves for No. 7 Henry Street, to the December 2003 meeting of Council.**
- (2) Request the applicant to submit revised plans incorporating modifications to the design so as to comply with the performance criteria of Design Element 9 – “Design for Climate” so as not to overshadow windows to habitable rooms of the adjoining property to the south at 5 Henry Street.**
- (3) The submitters be advised of Councils decision.**

Carried 9/0

**11.2 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING****11.2.1 NO. 29 (LOT 18) NAPOLEON STREET**

Mayor Rowell tabled a sketch of a proposed Town Square for Clapham Lane. The owner of No. 29 Napoleon Street expressed support for this proposal to go ahead.

Mr Marshall advised the Committee that he needed Council support for approval in principal for a change of use for the upstairs of No. 29 Napoleon Street from residential to offices, depending on whether the Clapham Lane Town Square concept was implemented.

**11.2.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Miller

**That Manager, Development Services write to the owner/developer of No. 29 (Lot 18) Napoleon Street advising that Council is prepared to consider a change of use to offices if the Clapham Lane Town Square concept was to be carried out.**

Carried 9/0

**11.2.2 NO. 3 TOWN PLANNING SCHEME WORKSHOP – SCHEME MAP**

Mayor Rowell would like to arrange a workshop on the proposed No. 3 Scheme Map in the later part of January 2004.

Cr Miller advised that he is away for the first two weeks of every month.

**11.2.2 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Miller

**That Council consider meeting in the later part of January to discuss the issue of the Scheme Map.**

Carried 9/0

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 18 NOVEMBER 2003****12.1 ADMINISTRATION****12.1.1 COTTESLOE RUGBY UNION CLUB - LEASE**

**File No:** E10.8  
**Author:** Mr A Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

The purpose of this report is to commence the process towards renewing the Cottesloe Rugby Union Club's (CRUC) lease of a portion of Lot 113 Cottesloe

**STATUTORY ENVIRONMENT**

Section 3.58 of the Local Government Act states that a Local Government can only dispose of property to:

- the highest bidder at public auction, or
- the most acceptable tender at public tender.

This Section provides for exceptions and for regulations to be made for exceptions. Regulation 30(2)(b)(i) of the Local Government (Functions and General) Regulations provides that disposition to a sporting body, whether incorporated or not, is an exempt disposition and excluded from the application of Section 3.58 of the Act.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The current lease of a portion of Cottesloe Lot 113, between the CRUC and Council, expires 31 December, 2003.

Council purchased Cottesloe Suburban Lot 113 in August 1955 and leased a portion of it to the Cottesloe Rugby League Club and CRUC as joint tenants till the seventies when the League Club relocated and CRUC became the sole tenant.

Lot 113 is at the intersection of Broome and Pearse Streets and is approximately 4042.81 m<sup>2</sup> in size. The leased portion of the Lot is approximately 1188 m<sup>2</sup>. It extends 29.7 metres west from the Broome Street property line to the fence on top of

---

the retaining wall, and 40 metres north from the Pearse Street property line. The area contains a brick and fibro building that used to be a dwelling but has been modified over the years to better suit its current usage.

The current Deed Of Lease was made on 31 May, 1994 for a ten year term from 1 January, 1994 to 31 December, 2003. The initial annual rental of \$1500 was increased to \$2000 from the second year and has increased to the current level of \$2553.58 (net of GST) through annual adjustments for CPI.

### **CONSULTATION**

The Manager of Corporate Services and Manager of Engineering Services met with the CRUC President, Mr Tony Howarth, to discuss proposed amendments to the current lease.

### **STAFF COMMENT**

The CRUC provides an important sporting opportunity for the district and, it is suggested, has been a good tenant for the past almost fifty years.

Following discussions with the Club President it is proposed that the following changes be made to the current lease:

- 1.0 (b) Commencement - 1 January, 2004;
- 1.0 (e) Rent - \$2607.20 (current rental of \$2553.58 plus CPI increase for September, 2002 to September, 2003 for Perth – 2.1%);
- 1.0 (g) Rent review dates – 1 January in each of the years 2007 and 2010;
- 1.0 (i) Term – 10 years terminating 31 December, 2013;
- 3.0 (b) to include the FESA levy (the current lease provides for the Club to reimburse Council for insurance premiums paid in respect of the building. Now that there is no FESA component in insurance premiums and as a charge is levied through Council in its place it is reasonable that the levy be paid by the Club – levy for 2003/04 \$290.40);
- 3.0 (j) increase public liability insurance cover required to \$10m in line with current recommendations from Council's insurers;
- 3.0 (n) and 3.0 (o) change the interest rate to 2% above the rate set by the Reserve Bank of Australia;
- 3.0 (r) the Club seeks approval to hold private functions for Club members at the leased premises and in discussion it was suggested that the current clause remain and that the Club devise a policy for such uses to be put to Council at a later date;
- 3.0 (v) the Club's liquor licence sets out differing hours to that contained in this clause and so it is suggested that it be amended to allow trading times of Tuesday to Thursday 6.30pm to 10pm, Saturday 2pm to 11.30pm and Sunday 3pm to 9pm; and
- 5.0 (f) this clause is no longer required, it related to improvements done by the Club and provided it with some reimbursement of costs incurred in the event the building was totally destroyed and Council chose not to rebuild.

It is probable that more changes will be required when the lease is passed to Council's legal adviser. The option of a Deed of Variation, as opposed to a completely new lease, will be explored with the legal adviser to reduce costs.

It is recommended that Council agree to the principal of renewing the lease and that Administration commence the process of having the appropriate document drawn up. Also that the document be passed to the CRUC for its agreement before coming back to Council for signing approval.

**VOTING**

Simple majority

**COMMITTEE COMMENT**

The Manager of Corporate Services was requested to ensure that regular building inspections are carried out.

The Manager of Corporate Services was requested to include the provision of annual financial statements a requirement of the lease.

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

Moved Cr Miller, seconded Cr Cunningham

**That Council require Administration to commence the process of drawing up an appropriate document to renew the Cottesloe Rugby Union Club's lease of a portion of Lot 113 Cottesloe for a period of ten years.**

Carried 9/0

**12.1.2 COUNCIL MEETING START TIME & MEETING DATES FOR 2004**

**File No:** X 4. 3  
**Author:** Mr S Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

A resolution setting the ordinary Council meeting dates for 2004 is required.

**STATUTORY ENVIRONMENT**

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

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

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Council has established a practice of not calling an ordinary Council meeting in January and the December meeting is normally advanced to avoid meeting close to Christmas Eve.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Nil.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

**That Council:**

- (1) Observe a recess in January 2004, with no ordinary meeting of Council being held;**
- (2) Advertise the ordinary Council meeting dates for 2004 as the fourth Monday in the month commencing at 7.00 pm with the exception of December when the meeting is to be advanced to 13<sup>th</sup> December;**
- (3) Advertise the Development Services Committee meeting dates for 2004 as the third Monday in the month commencing at 6.00 pm with the exception of December when the meeting is to be advanced to 6<sup>th</sup> December; and**
- (4) Advertise the Works & Corporate Services Committee meeting dates for 2004 as being held on the day after the Development Services Committee meeting commencing at 7.00 pm.**

Carried 9/0



**12.1.3 FREEMAN OF THE MUNICIPALITY - MAURICE MCNAMARA**

**File No:** X1.4  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 17 October, 2003  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

Two recommendations are made.

1. That the title *Honorary Freeman of the Municipality* be conferred upon Maurice Hobart McNamara in recognition of outstanding service rendered by him to the Town of Cottesloe.
2. That a function be held to commemorate the conferral of *Honorary Freeman of the Municipality* upon Maurice Hobart McNamara

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Dependent upon the type of the function held for the award ceremony.

**BACKGROUND**

At the August, 2003 meeting of the Council it was resolved that Council appoint a Freeman of the Town of Cottesloe Committee comprising the Mayor, Deputy Mayor, Presiding Officers of the Development Services Committee and Works & Corporate Services Committee.

The committee was formed to confirm Maurice McNamara's eligibility for the award of *Honorary Freeman of the Municipality* and to decide the format for the award ceremony.

The committee met at 6.00pm on Tuesday 21<sup>st</sup> October, 2003.

Eligibility

Maurice Hobart McNamara served as a Councillor of the Town of Cottesloe for a period of over 38 years (November 1958 to May 1997).

Award Ceremony

It would be appropriate for the following people to be invited to the ceremony:

- Minister for Local Government and Regional Development;
- Current Councillors and partners;
- Former Mayors and Councillors who served with Maurice McNamara; and
- CEO & Directors.

The date, time, venue and format for the award ceremony needs to be confirmed.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Nil.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

**That Council:**

- (1) Confer the title of *Honorary Freeman of the Municipality* upon Maurice Hobart McNamara in recognition of outstanding service rendered by him to the Town of Cottesloe; and
- (2) Conduct an award ceremony to commemorate the conferral of the title of *Honorary Freeman of the Municipality* upon Maurice Hobart McNamara at the Sundowner to be held in the Civic Centre grounds on 5<sup>th</sup> December 2003.

Carried 9/0

**12.1.4 MEALS ON WHEELS - ANNUAL CONTRIBUTION**

**File No:** C7.7  
**Author:** Mr A Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

A recommendation is made to contribute to Rosewood Care Group (Inc) for the Meals on Wheels service.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

An amount of \$3850 was provided for in the relevant area of the current budget. Of this amount \$2100 was notionally earmarked for the Meals on Wheels contribution, \$250 for Shenton College Chaplaincy Service and \$1500 for unspecified purposes. The contribution to Shenton College was \$600 and last month Council agreed to donate \$500 to the Westcoast Community Centre. The unallocated balance is now \$2750. A contribution of \$2750 (\$2500 plus \$250 GST) was made toward the Meals on Wheels service in 2002/03.

**BACKGROUND**

The Rosewood Care Group (Inc) (a registered charity) is requesting the annual contribution toward its Meals on Wheels service provided from its Claremont Branch. In the letter of request the organisation noted that the Claremont Branch provided 30 Cottesloe residents with 6500 meals in 2002/03. Recipients were charged \$4.40 for each meal Rosewood received a Home and Community Care subsidy of \$1.20 per meal. Council's annual contribution of \$2500 (net of GST) equates to just over \$0.38 per meal (making the total income from which to provide and distribute meals less than \$6.00 per meal) and Rosewood advise that they just about break even with this level of funding. The group does receive some donations however these have been declining each year.

**CONSULTATION**

Rosewood's Meals on Wheels Coordinator was contacted for additional background information.

**STAFF COMMENT**

The meals on wheels program provides eligible residents of Cottesloe with a vital service and Council's annual contribution is necessary to ensure the viability of the service and to keep costs to recipients down.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

**That Council contribute \$2750 (including GST) toward the Rosewood Care Group's Meals on Wheels service for 2003/04.**

Carried 9/0

**12.1.5 SEA VIEW GOLF CLUB - DRAFT LEASE**

**File No:** E10.10  
**Author:** Mr S Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 November, 2003  
**Senior Officer:** Mr S Tindale

---

**STATUTORY ENVIRONMENT**

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

**3.58. Disposing of property**

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

Regulation 30 of the Local Government (Functions and General) Regulations 1996 says;

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

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
  - (2) A disposition of land is an exempt disposition if —
    - (a) the land is disposed of to an owner of adjoining land (in this paragraph called “the transferee”) and —
      - (i) its market value is less than \$5 000; and
      - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
-

- (b) the land is disposed of to a body, whether incorporated or not —
  - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
  - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;...

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

The vesting order for the reserves provides,;

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

#### **POLICY IMPLICATIONS**

Nil.

#### **STRATEGIC IMPLICATIONS**

Nil.

#### **FINANCIAL IMPLICATIONS**

Nil.

#### **BACKGROUND**

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

In June 2002 Council passed the following resolutions:

That Council:

- (1) Commit in principle to a new long-term lease agreement with the Sea View Golf Club.
- (2) Reach agreement with the Sea View Golf Club that as the lessee, they must meet all legal costs associated with the preparation of a new lease agreement.
- (3) Delegate authority to the CEO to negotiate a lease agreement with the Sea View Golf Club that addresses the substantive issues.

- (4) Present the proposed lease agreement to Council for its preliminary approval and/or amendment.
- (5) Advise the amendments, if any, to the Sea View Golf Club.
- (6) Implement a community consultation process that is similar to that used for town planning scheme amendments.
- (7) Incorporate and advise the Sea View Golf Club of any amendments arising from the community consultation process.
- (8) Adopt the final lease agreement.
- (9) Present the final lease agreement to the Sea View Golf Club for execution.

Stage 4 has now been reached and the attached lease agreement is now presented to Council for approval and/or amendment. A copy is enclosed with this agenda.

The draft is substantially complete but lacks Department of Land Information “covers” and a plan of the area to be leased to the Golf Club.

The “covers” are a technical requirement and do not affect the lease agreement in any material way.

A surveyor has been approached to prepare the necessary plan of the leased area so that it appropriately excludes reserve land currently used for other purposes (Harvey Field, Cottesloe Oval, Sea View Kindergarten etc.).

The plan of the leased area will also exclude the surrounding road reserves. Legal advice indicates that it is not within the power of Council to lease the road reserves to the golf club. This includes Jarrad Street.

### **CONSULTATION**

The CEO has met with representatives of the Golf Club and the Jarrad Street “A” Class Reserves Review Group during the intervening months.

The draft lease agreement has also been referred to our insurers for comment and adjustments have been made to the agreement based on their advice.

### **STAFF COMMENT**

The Jarrad Street “A” Class Reserves Review Group made a submission on what should be included in the lease agreement (see enclosed). By and large the requests of the group have been incorporated into the lease agreement – although perhaps not to the level of detail that the group sees as desirable.

The lease agreement has been deliberately worded so that future Councils of the Town of Cottesloe and the Sea View Golf Club will have the capacity to address new (and no doubt changing) management issues as they inevitably arise over the life of the lease agreement.

Of necessity, this general enabling power comes at the expense of the detail sought by the Jarrad Street "A" Class Reserves Review Group.

Particular clauses of lease agreement that require some further explanation follow.

**Clause 2: Grant of Lease**

The length of term of the lease is 21 years. While this has been described as being obscenely long, 21 years tends to be the norm rather than the exception in my experience with many sporting organisations over the past two decades.

In the absence of any realistic and clearly articulated alternative use for the existing golf course, 21 years seems reasonable.

The proposed term provides the Golf Club with some comfort in undertaking potentially significant capital expenditure if they so choose or may be essential in terms of complying with management plans for the golf course.

**Clause 5: No Rent**

This clause might be seen as providing the Golf Club with a windfall gain however as compensation clause 6 now requires the Golf Club to pay Council rates in full.

Currently the Golf Club pays no rates.

Based on current rating levels, the new lease agreement envisages the club paying rates of \$8432.per annum instead of the current rent of \$4701.

The new arrangement is seen as advantageous in that:

- (1) it increases the economic return to Council and the community;
- (2) it "normalises" the golf club as a ratepayer;
- (3) it puts some logic behind natural increases from year to year; and
- (4) it eliminates the lack of rhyme or reason behind current rental figures.

There maybe an argument for revising the relevant clause in the lease so that it specifically prevents the Council from providing rate relief to the Golf Club using powers granted to Council under the Local Government Act.

This will lessen any air of uncertainty about future Councils succumbing to pressure from the Golf Club to reduce the rate return to the community from the Golf Club.

**Clause 13: Management Plan**

This is a new clause and is perhaps unprecedented in Western Australian insofar as the lease and management of Council reserves is concerned.

Essentially, it gives Council an ongoing power to "call the tune" in terms of how the reserves are managed by the Sea View Golf Club.

While several topical areas are specifically identified (e.g. groundwater use) for inclusion in the management plan, the clause allows Council to introduce new issues from time to time.



There is an emergent view that the management plan should be in place before the lease is signed. Further, that the lease should only run for three years at a time with options to extend the lease only being offered on the condition of fulfilling the obligations imposed by past management plans.

While an argument can be advanced for a management plan being prepared in advance of signing of the lease agreement, rolling three-year leases are seen as less than conducive to the long-term management and development of the golf course. Short-term leases may foster a myopic or blinkered view at the cost of better long-term strategies.

From a political point of view, revisiting the lease agreement every three years may only foster ongoing community debate, uncertainty and divisiveness - which might suit some but certainly not all.

**Clause 15: Entry by the public**

This clause is likely to generate some debate as it effectively discourages public use of the golf course while golf is being played – unless one is playing golf.

Legal advice indicates that “It is not clear to what extent the public is entitled to entry onto the golf course land.” This is not an easy matter for Council to resolve. While there are any number of public reserves that confer a general right of public access, the reality is that rules, regulations and customary practice tend to control the times, type and nature of public access. Furthermore, times change and what may have seemed appropriate and immutable 100 years ago may not be appropriate now.

In terms of rules and regulations governing rights of public access, several sporting venues and national parks spring to mind. In terms of customary practice determining the use of land, few would exercise their right to walk their dog on Harvey Field during a game of rugby.

Furthermore, clause 3 confers a right of “quiet enjoyment” on the Golf Club as is typically found in most lease agreements. Unfettered public access would seem to run contrary to the intent of clause 3.

On balance, clause 15 in its current form is seen as being a prudent clause in that:

- (1) it supports the lessee’s natural expectation of quiet enjoyment and;
- (2) ensures the safety of people entering the golf course notwithstanding that golf etiquette places an obligation on golfers to be always mindful of the presence of others on the golf course.

No doubt there will be some strong views on the matter. The question will probably reduce to what constitutes an appropriate compromise in terms of managing different users of the reserves.

In terms of process it is recommended that Council give its preliminary approval to the draft lease agreement and seek public submissions immediately with a view to considering those submissions at the February round of meetings.

A closing date for submissions of 30<sup>th</sup> January 2004 is therefore advocated. This extends the previously agreed submission period of 6 weeks to one of just over 9 weeks and is considered reasonable given that we are entering the holiday season.

Alternatively, Council may like to suggest its own amendments to the lease agreement at this point in time and seek further legal advice on the effective implementation of the proposed amendments. The redrafted lease agreement could then be represented to the February round of meetings (the December meeting is considered to be too close to be practical).

The minimum 6 week public submission period would then mean that it would April (rather than February) before Council could give further consideration to the lease agreement.

**VOTING**

Simple Majority

**DISCLOSURE OF PROXIMITY INTEREST**

Cr Morgan disclosed a proximity interest insofar as he owned land adjacent to the golf course and left the meeting at 9.03pm.

Moved Cr Walsh, seconded Cr Strzina

That the disclosure of interest be deemed insignificant and that Cr Morgan be allowed to participate fully in the consider of the item.

Carried 9/0

Cr Morgan returned to the meeting at 9.05pm.

**DECLARATIONS OF IMPARTIALITY**

Councillors Strzina, Morgan and Robertson made declarations of impartiality with respect to being members of the Sea View Golf Club.

Mayor Rowell made a declaration of impartiality with respect to being a former committee member of the Jarrad Street "A" Class Reserves Review Group.

Cr Jeanes left the meeting at 9.06pm and returned at 9.07pm.

**COMMITTEE COMMENT**

The Committee felt that greater time should be set aside for the consideration of submissions.

**OFFICER RECOMMENDATION**

That Council give its preliminary approval to the draft lease agreement and seek public submissions on the agreement closing on Friday 30<sup>th</sup> January 2004 for consideration at the February round of meetings.

**COMMITTEE RECOMMENDATION**

That Council give its preliminary approval to the draft lease agreement and seek public submissions on the agreement closing on Friday 30<sup>th</sup> January 2004 for consideration at the March round of meetings.

---

**AMENDMENT**

Moved Cr Cunningham, seconded Mayor Rowell

That Council:

- (1) Receive the draft lease agreement, subject to further legal advice.
- (2) Seek public submissions on the agreement closing on Friday 30<sup>th</sup> January, 2004 for consideration at the March round of meetings.
- (3) Instruct the Chief Executive Officer to formulate public access provisions of similar effect to the existing lease, subject to being capable of preventing behaviour likely to unduly interfere with the lessees use of the property.
- (3) Obtain a management plan before the lease is signed.

Carried 6/4

The amended motion was put.

**COUNCIL RESOLUTION**

Moved Cr Cunningham, seconded Mayor Rowell

That Council:

- (1) Receive the draft lease agreement, subject to further legal advice.**
- (2) Seek public submissions on the agreement closing on Friday 30<sup>th</sup> January, 2004 for consideration at the March round of meetings.**
- (3) Instruct the Chief Executive Officer to formulate public access provisions of similar effect to the existing lease, subject to being capable of preventing behaviour likely to unduly interfere with the lessees use of the property.**
- (3) Obtain a management plan before the lease is signed.**

Carried 9/1

## 12.2 ENGINEERING

### 12.2.1 2004/05 LOCAL ROAD PROGRAM

**File No:** X 8.14  
**Author:** Mr M Doig  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 November 2003  
**Senior Officer:** Mr S Tindale

---

#### SUMMARY

Main Roads WA has advised details of projects to be recommended as Black Spot Projects and Metropolitan Regional Road Rehabilitation Projects for next financial year. While the funding arrangements are still subject to endorsement, Councils are being urged to ensure design and preconstruction activities are not delayed so that the works may be completed in the 2004/2005 financial year.

#### STATUTORY ENVIRONMENT

Local Government Act.  
Cottesloe Traffic Management Plan.

#### POLICY IMPLICATIONS

All the proposed works are consistent with the objective of the adopted traffic plan

#### STRATEGIC IMPLICATIONS

Nil.

#### FINANCIAL IMPLICATIONS

Survey and design detail is likely to be in the order of \$15,000 in 2003/4, 66% of which can be recouped in 2004/5. If final approval is given for all projects, Council will need to budget \$235,000 (33.3%) in 2004/5.

#### BACKGROUND

Metropolitan Regional Road Rehabilitation Projects are submitted as part of a five-year rolling program. District priorities are assessed annually and compete with all other projects lodged. The following projects have now been recommended for approval for the 2004/5 year:

- Broome Street (Napier to Grant), Estimated cost \$130,000, grant \$86,667
- Curtin Avenue (Eric to Grant), Estimated cost \$86,500, grant \$57,667

Council's contribution to the MRRG projects will be \$72,167.

MRRG applications not approved were Curtin Avenue between the Mosman Park Boundary to Victoria Street and Railway Street between Grant Street and Parry Street, which is disappointing.

Black Spot Projects are considered annually and are primarily based on accident statistics. This year two of our applications based on the potential for accidents have been considered for the first time and projects at the following locations have now been recommended by the Metropolitan Regional Road Group:

- Grant Street at Marmion Street Estimated cost\$110,000, grant \$73,333
- Grant Street at Broome Street Estimated cost\$110,000, grant \$73,333
- Curtin Avenue at Eric Street Estimated cost\$30,000, grant \$20,000
- Curtin Avenue at Grant Street Estimated cost\$190,000, grant \$126,667
- Curtin Avenue at Forrest Street Estimated cost \$47,806, grant \$31,871

Council’s contribution to the Black Spot projects will be \$162,602.

**CONSULTATION.**

The MRRG projects are routine paving and drainage projects that usually require very little consultation.

Residents in proximity to the concepts detailed in the Black Spot applications will need to be advised of the detailed proposals when the concepts have been further developed.

**STAFF COMMENT**

David Porter Engineers prepared the following applications following detailed studies of the accident details:

**Grant Street at Marmion Street.**

The present intersection is controlled by dual stop signs. However the very wide carriageway separation still creates uncertainty with motorists and has resulted in 15 right angle crashes in the past five years. The proposal is to build a roundabout based on a concept first considered in 1984. It will be necessary to survey the site and prepare a more detailed concept so that the current design issues may be identified and resolved. The residents of properties in the vicinity will then need to be informed prior to Council resolving to follow a course of action

**Grant Street at Broome Street**

This intersection is controlled by give way signs. However the very wide carriageway separation also creates uncertainty with motorists and has resulted in 11 right angle crashes in the past five years. The proposal is to build a roundabout based on the same concept as proposed for Marmion Street. As with the Marmion Street project it will be necessary to survey the site and prepared a more detailed concept so that the design issues may be identified and hopefully resolved. The residents of properties in the vicinity will then need to be informed.

**Curtin Avenue at Eric Street.**

The concern is the high number of vehicles travelling along Curtin Avenue in conjunction with vehicles making uncontrolled right turns. The proposal is for MRWA to change the traffic light configuration to provide a right turn phase. While it is not anticipated that road works will be required Council will need to invite comment from residents when the details of any proposed changes to the traffic lights are known.

**Curtin Avenue at Grant Street**

The 2003/4 application for funding to allow construction of median islands has been resubmitted as a fall back position in anticipation of either MRWA not progressing the proposal to install traffic lights or perhaps Council not supporting such a proposal if it is recommended following the consultation process. Council's contribution would be expected to be similar in either case.

The 2004/5 application is for island treatments, without traffic or pedestrian lights. The road pavement would be repaired and the refuge islands would simply be widened to provide more protection for pedestrians and a protected right turn lane created together with improved pedestrian access to the station. The site survey and design detail has already been completed. No further action is required until a decision has been made on the traffic light proposal.

**Curtin Avenue at Forrest Street**

The proposal is to widen the pedestrian refuge islands to 2.5 metres to provide slightly more protection. The driveway serving the westside of the station has already been closed with the support of Railways. Main Roads WA have also been requested to conduct a 12-hour video survey during November 2003, which is expected to highlight the variety of risks encountered by pedestrians at the moment. Further design effort should be delayed until after the video results are to hand as it is possible that it may reveal some unexpected results.

**VOTING**

Simple Majority

**DECLARATION OF INTEREST**

Cr Jeanes declared a financial interest in as much as his residence fronted one of the roads to be upgraded and left the meeting at 10.16pm prior to consideration of the matter.

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

**That Council endorse the 2004/5 Black Spot funding applications and that:**

- (1) Consulting engineers be engaged to progress the design concepts for the construction of roundabouts at the intersection of Grant Street and Marmion Street and the intersection of Grant Street and Broome Street; and**
- (2) Consulting engineers be engaged to prepare more detailed design drawings for the modification of the pedestrian islands in Curtin Avenue at Forrest Street when the results of the MRWA video survey are received.**

Carried 8/0

Cr Jeanes returned to the meeting at 10.18pm.

**12.2.2 ARBORICULTURAL REPORT- MCNAMARA WAY**

**File No:** E17.10. 61 & E 17.5  
**Author:** Mr M Doig  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

An arboricultural consultant, Charles Aldous-Ball, has inspected the trees in McNamara Way and has recommended the removal of one Morton Bay Fig tree because of the high level of risk that now represents to property or persons. Removal of the tree is therefore recommended in accordance with Council policy.

**STATUTORY ENVIRONMENT**

Local Government Act.  
Common Law.

**POLICY IMPLICATIONS**

A Council decision is required as the tree exceeds 7 metres.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Removal would cost approximately \$1500.

**BACKGROUND**

The tree in question is located on land that was formerly part of the Commonwealth Chemical laboratories but following a subdivision of land in 1996 is now part of the road reserve. In May, 1998 Council resolved to remove and replace the tree because of its poor condition and little prospect of recovery. Council rescinded the decision in August, 1998 after a petition was received urging that an attempt be made to save the tree.

**CONSULTATION**

A copy of the report will be distributed to the owners of nearby property prior to any action.

**STAFF COMMENT**

The tree now represents an unacceptable risk and should be removed.

**VOTING**

Simple Majority



**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

**That Council receive the arboricultural report and advise the owners of nearby properties that the southernmost Morton Bay Fig Tree in McNamara Way is to be removed in the interest of public safety.**

Carried 9/0

**12.2.3 REQUEST FOR RELOCATION OF BUS STOP**

**File No:** E 3.1  
**Author:** Mr M Doig  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

To consider the request of a property owner to relocate the bus stop on the east side of Marine Parade near Vera View Parade to an alternative position.

**STATUTORY ENVIRONMENT**

Local Government Act.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

In September the owner of vacant land at 208 Marine Parade wrote to Council and requested that the bus stop be relocated. The reasons suggested include:

- The bus stop is located in the middle of the block;
- The bus stop would need to be relocated when development occurs and a crossover is built;
- Flanking properties also affected;
- Would not be detrimental if moved 50 metres; and
- Property is to be sold and the bus stop would have a detrimental affect on value.

After receiving the request Council staff wrote to the Public Transport Authority to seek an opinion on the options both north and south of the existing bus stop and to arrange a site meeting.

Council has now received a written response from the Public Transport Authority seeking Council's approval to remove the parking bays from the proposed location.

A further letter signed by the owners of the adjoining properties has been received.

**CONSULTATION**

Nil.

**STAFF COMMENT**

A bus stop spanning vehicle crossovers and property boundaries is not unique. With reduced block sizes and increased bus sizes it is in fact quite common.

The relocation of bus stops can cause considerable upset to affected residents and patrons and cannot be taken lightly. In 2001 the relocation of the bus stop in the northbound lane, following the construction of the blister island, took over a year to resolve, mainly because of the proposed reconstruction of a shelter intruded on the panorama.

On that occasion the Department of Transport advised that the bus stop should be relocated to a position on the approach side of the blister island as a small car entering the device could otherwise be obscured from the bus driver's vision, as the bus pulls away from the kerb. The Department also believes that drivers exiting the slow point may be less likely to give way to a bus pulling away from the stop. As a result, Council decided to accept the design detail for the blister island at Vera View Parade, subject to the relocation of the bus stop to a position south of the device. The current suggestion from the Public Transport Authority seems to ignore that opinion.

Relocation of the bus stop would result in the loss of five parking bays in an area where parking is at a premium. The further loss of parking in this area needs to be carefully considered as beach parking is at a premium. The obvious option would be to relocate five parking bays to the current bus stop location although this may be even less desirable than the bus bay, which is only used occasionally. Relocating the five bays would also be at odds with the fact that parking is currently prohibited on the east side of Marine Parade between North Street and Vera View Parade.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Cr Morgan asked whether full consultation had taken place with other nearby ratepayers?

Cr Miller stated that parking can be relocated on the east side of Marine Parade.

**OFFICER RECOMMENDATION**

That Council advise Mr A August and the Public Transport Authority that Council is not prepared to relocate the existing bus stop as it would result in the further loss of parking bays in an area where parking is at premium.

**COMMITTEE RECOMMENDATION**

That Council:

- (1) Not support the movement of the bus bay unless equivalent parking bays can be located on east side of Marine Parade; and
- (2) Undertake consultation with surrounding residents in relation to the bus bay relocation and the possibility of increased parking on the east side of Marine Parade.

**12.2.3 COUNCIL RESOLUTION**

Moved Cr Jeanes, seconded Cr Walsh

**That Council advise Mr A August and the Public Transport Authority that Council is not prepared to relocate the existing bus stop.**

Carried 8/1

**12.2.4 ROAD REHABILITATION PROGRAM 2003/4**

**File No:** E 17.10.42, E17.10.85 & E17.10 79  
**Author:** Mr M Doig  
**Author Disclosure of Interest:** Nil  
**Report Date:** 13 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

To authorise Staff to engage the Town of Mosman Park to prepare the final pavement and drainage design for the capital works and to undertake the necessary road works on a fee for service basis.

**STATUTORY ENVIRONMENT**

Local Government Act.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Matching funds are provided in the current budget and long-term programs are listed in the Principal Activity Plan.

**BACKGROUND**

In addition "Road to Recovery Program" funding has been authorised for the full cost of resurfacing, kerbing and drainage of the Curtin service road between Pearse Street and Jarrad Street.

Council has also budgeted for the resurfacing of local roads. It is planned to resurface and kerb John Street between Broome and Marmion Street in the first instance and then select another small section of road when the balance of funds is known.

**CONSULTATION**

Nil.

**STAFF COMMENT**

In recent years the Town of Mosman Park, in conjunction with an independent pavement specialist, has undertaken the necessary pavement testing and preliminary design detail to support the original funding application and have been engaged to undertake the works.

The Local Government (Functional and General) Regulations requires that works in excess of \$50,000 be tendered unless carried out by another Local Government authority. In addition the Western Suburbs Councils have already participated in combined annual tenders for the supply of asphalt and drainage components.

---

The proposal is for the Town of Mosman Park to again carry out the works for Council at cost, plus a fee for services. There are substantial savings to Cottesloe in documentation, supervision and contractor costs. This is again an opportunity to advance regional co-operation.

While most of the works authorised for 2003/04 are comparatively straightforward there is an opportunity to improve driving conditions and hopefully driver behaviour in Railway Street. Council's consulting engineers have been engaged to survey the site and prepare a design concept that can be achieved within the funding guidelines. At the present time Railway Street between Congdon Street and Greenham Street is neither kerbed nor drained. Observation of driving patterns has revealed that some southbound drivers allow vehicles to drift wide on the two bends and some northbound drivers tend to cut the corner. It is likely that the design concept will include a raised median island south of Mann Street of between 1.5 and 2 metres with painted section at the intersections and the three vehicle entries. Funding in 2003/4 is currently restricted to the section south of Grant Street and it was hoped that the section north of Grant would be funded in 2004/5. Unfortunately this has not occurred so it will be necessary to work out a transition between old and new works. The concept will be presented to the December meeting of Council and if approved will be copied to residents.

The works would commence in early February 2004 and be completed within eight weeks.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Adequate communication between the contracting parties is to be ensured. The Chief Executive Officer is to specify performance criteria.

**OFFICER RECOMMENDATION**

That Council engage the Town of Mosman Park on a cost plus fee for service basis, as provided for in the Local Government (Functional and General Regulations), to undertake the rehabilitation of the road pavement kerbing and drainage in the following streets:

- Grant Street (south lane Broome to Marine);
- Salvado Street (Broome to Curtin);
- Railway Street (Eric to Grant);
- Curtin Avenue service road between Pearse Street and Jarrad Street; and
- John Street between Broome and Marmion Street.

**12.2.4 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Cunningham

**That Council**

- (1) **Engage the Town of Mosman Park on a cost plus fee for service basis, as provided for in the Local Government (Functional and General Regulations), to undertake the rehabilitation of the road pavement kerbing and drainage in the following streets:**
  - **Grant Street (south lane Broome to Marine);**
  - **Salvado Street (Broome to Curtin);**
  - **Railway Street (Eric to Grant);**
  - **Curtin Avenue service road between Pearse Street and Jarrad Street;**  
**and**
  - **John Street between Broome and Marmion Street.**
  
- (2) **Request the Town of Mosman Park to ensure a higher level of engineering supervision to ensure that potential cost over-runs and delays are minimised.**

Carried 9/0

## 12.3 FINANCE

### 12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 OCTOBER, 2003

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

---

#### SUMMARY

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

#### STATUTORY ENVIRONMENT

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

#### POLICY IMPLICATIONS

Nil.

#### STRATEGIC IMPLICATIONS

Nil.

#### FINANCIAL IMPLICATIONS

Nil.

#### BACKGROUND

The Financial Statements are presented monthly.

#### CONSULTATION

Nil.

#### STAFF COMMENT

Looking at the Operating Statement on page 3 of the Financial Report, most variances between year to date actuals and predictions appear to relate to timing differences. Noted exceptions are as set out in the following.

As reported previously, income in the area of Administration is substantially higher than predicted due to grants associated with sustainability projects that have been conducted. Expenditure in this area is starting to show higher than originally expected levels as the grant funding is expended (Administration expenditure up \$17,834 on year to date predictions and \$12,913 relates to sustainability projects).

The \$14,971 variance in year to date income in the area of Health primarily relates to the receipt of funds from the Fines Enforcement Registry relating to court ordered costs associated with an order to clean up a block in Macarthur Street (\$14,305).



Income in the area of Recreation and Culture is up on expectations, and expenditure in that area will be up in the coming months, due to more income and expenditure than expected relating to the Coast Care project. When the budget was drafted it was understood that funding would total to \$47,000 (\$39,000 from the Swan Catchment Council and \$8,000 in a combination of reimbursements from other Councils and donations) and that total expenditure on employee related and office costs would be \$51,145. The revised budget for this project is income of \$72,532 and expenditure of a similar amount. Income in the area of Economic Services is \$17,312 more than expected at this time due to a higher than expected level of income from building fees. Town Planning Charge income is also higher than expected (in the area of Community Amenities and is \$25,746 more than expected).

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Cr Strzina left the meeting at 7.55pm.

The Manager of Corporate Services was requested to provide to the Mayor a breakdown of the town planning expenditure.

The Manager of Development Services is also to be requested to include this as a standard item in his monthly report.

Cr Strzina joined the meeting at 8.00pm.

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

Moved Cr Miller, seconded Cr Cunningham

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

Carried 9/0

**12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 OCTOBER, 2003**

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

---

**SUMMARY**

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

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

**CONSULTATION**

Nil.

**STAFF COMMENT**

As will be noted from the Schedule of Investments on page 35 of the October Financial Statements, \$2,857,684.04 was invested as at 31 October, 2003. Of this \$519,270.14 was reserved and so constituted restricted funds. Of the total funds invested, 73.51% was placed with the National Bank, 19.16% with Home Building Society, and 7.33% with Bankwest.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

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

Carried 9/0

**12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 OCTOBER, 2003**

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

---

**SUMMARY**

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The List of Accounts is presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Significant payments included in the List of Accounts commencing on page 27 of the Financial Statements are as follows:

- \$10,626 to Lighting Supplies for light globes as part of the grant funded sustainability project;
- \$27,500 to Town of Claremont for contribution toward aquatic centre works (note includes GST);
- \$14,248.63 to the WA Electoral Commission being the final payment for the May 2003 elections (the total charge was \$24,406.03);
- \$15,387.91 and \$10,361.86 to WA Local Government Super Plan for employee superannuation deductions and contributions;
- \$11,688.07 to Algar Burns Computing for software licences for laptop computers;
- \$11,960.38 to RentWorks Limited for IT equipment lease;
- \$13,158.42 and \$13,086.82 to Western Metropolitan Regional Council for transfer station fees;
- \$15,897.34 to ATO for tax liability;

- \$10,945 to Claremont Asphalt for various works;
- \$298,898.46 to Fire and Emergency Service for levies collected to the end of September;
- \$34,957.30 to Wasteless for refuse collection services;
- \$13,663.77 to Marley Family Trust (trading as K & F Concrete) for various concrete works; and
- \$45,176.75 and \$46,049.78 for payroll for the month.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

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

Carried 9/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD  
ENDING 31 OCTOBER, 2003**

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

---

**SUMMARY**

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Property and Sundry Debtors Reports are presented monthly.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The Sundry Debtors Report on pages 33 and 34 of the October 2003 Financial Statements shows a balance of \$111,484.76 as at 31 October, 2003. Of this \$92,782.02 related to October.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

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

Moved Cr Miller, seconded Cr Cunningham

**That Council:**

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

Carried 9/0

**12.4 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING****12.4.1 PROPOSED SEADRAGON FESTIVAL -14TH MARCH 2004**

**File No:** X7.1  
**Author:** Mr S Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 18 November 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

A recommendation is made to support a proposed Seadragon Festival to be held on Sunday 14<sup>th</sup> March 2004.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The last Seadragon Festival was held on 17<sup>th</sup> March 2002 and cost \$9,700.

Of that amount, \$7,400 was directly attributable to entertainment and staging costs. These costs were covered, in part, by sponsorship of \$5,280 from Healthways and the Lotteries Commission.

Given the above, a lower-key festival could be achieved for a direct cash cost to Council of somewhere between \$2,500 and \$5,000.

The Care for Cottesloe Committee has indicated that it will find the necessary funds from within the current budget set aside for sustainable development initiatives subject to Council approval.

**BACKGROUND**

The Care for Cottesloe Committee has made the following submission:

**INTRODUCTION**

The Cottesloe marine environment is our greatest natural asset. It would appear that the wider population of WA also deem this as important. Recently, it was listed as a leading icon for the State in a government-based survey. The Care for Cottesloe Committee believes it is important to do all that we can to protect, preserve and enhance the area for future generations.

---



This proposal outlines a strategy to assist in achieving this end – recognising that the Seadragon Festival has been an effective means of keeping the significance of the area to the fore of the community consciousness.

### **RELEVANCE**

The Care for Cottesloe Committee considers the opportunity to resurrect the Seadragon Festival as supporting the Strategic Plan of the Council and the Terms of Reference of the Committee.

The Council's Strategic Plan states:

*to preserve and improve the unique village and coastal character of Cottesloe by using sustainable strategies in consultation with the community.*

A goal of the Care for Cottesloe Committee is:

*to assist in the development and implementation of initiatives relating to sustainable development*

The Seadragon Festival supports the Town's social, cultural and environmental goals through informing and educating the community in a fun activity.

### **BACKGROUND**

Previous Seadragon Festival events have proven highly successful in communicating the messages of our beautiful and fragile marine and coastal environments. The Town of Cottesloe Services Survey 2002 in which respondents rated the Festival as "highly valued" evidences its community profile.

The Festival was inaugurated by the Cottesloe Marine Protection Group in 1998 and continued through till 2002 after which time the Festival lapsed.

Council agreed in its 17 December 2001 meeting (Item C115) that the Seadragon festival be a Council event and that it ensures adequate public liability insurance.

The Care for Cottesloe Committee has resolved to prepare a submission to council for the re-establishment of the Seadragon Festival at its meeting of 25<sup>th</sup> September 2003.

### **PROPOSAL**

The Care for Cottesloe Committee proposes that the Seadragon Festival be brought onto the Town's calendar as a permanent activity, anchored to the "Sea Week" activities in mid March each year. The scale of the 2004 Festival would be modest due to the short time frame for organisation.

### **OPTIONS CONSIDERED**

The Care for Cottesloe Committee considers there are several options that need consideration by the Council once it has agreed to support the Festival's re-establishment.

### **TIMING**

The Festival could be held in Spring, Summer or Autumn. The Care for Cottesloe Committee considers Autumn to be the clear preference:

- most predictably clement weather with lighter winds;
- link to Sea Week in mid March;
- attracts large crowds;
- in 2004 a Beach volleyball competition would add to the festive atmosphere and numbers at the beach;

- although Spring 2004 would allow more time to organise this delay would compromise organising for the preferred time Autumn date in future.

**BUDGET**

Hopefully in future years the Festival will grow into a recognised regional event with the benefit of a significant budget through sponsorship and possibly further Council allocations if appropriate.

However for 2004 the Care for Cottesloe Committee suggests a low-budget re-activation of the aspects of previous Festivals that emphasised the marine and coastal care considerations. That is, without expensive music productions.

**RECOMMENDATIONS**

The Care for Cottesloe Committee recommends that Council

1. Re-establishes the Seadragon Festival.
2. Holds the 2004 Festival in March to coincide with the conclusion of "Sea Week" (Sunday 14 March in 2004).
3. Holds the 2004 Festival within the constraints of the Care for Cottesloe Committee budget.
4. Re-activate the Seadragon Committee under the co-ordination of the Community Development Officer. Membership of the committee should follow the model previously used by Council being that of representatives from local environmental and community groups. The Care for Cottesloe Committee is prepared to take a lead role in and/or be represented in this specifically appointed committee.

**CONSULTATION**

Nil.

**STAFF COMMENT**

The planned Seadragon Festival has the support of Council staff.

**VOTING**

Simple Majority

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

Moved Cr Miller, seconded Cr Cunningham

**That Council:**

- (1) Re-establishes the Seadragon Festival;**
- (2) Holds the 2004 Festival in March to coincide with the conclusion of “Sea Week” (Sunday 14 March in 2004);**
- (3) Holds the 2004 Festival within the constraints of the Care for Cottesloe Committee budget; and**
- (4) Re-activate the Seadragon Committee under the co-ordination of the Community Development Officer. Membership of the committee should follow the model previously used by Council being that of representatives from local environmental and community groups. The Care for Cottesloe Committee is prepared to take a lead role in and/or be represented in this specifically appointed committee.**

Carried 9/0

**12.4.2 RESUMPTION OF BUS SERVICES TO SOUTH COTTESLOE**

**File No:** E 3. 1  
**Author:** Mr S Tindale  
**Author Disclosure of Interest:** Nil.  
**Report Date:** 19 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

A recommendation is made to write to Transperth, local members of Parliament and the Minister to request the resumption of the number 72 bus service.

**BACKGROUND**

Councillor Strzina has provided the following information:

The number 72 bus route ran south along Curtin Avenue to Salvado, west along Salvado to Broome then north along Broome. Prior to this service the route ran even further south past Wearne but this service was cut some years ago.

The new number 102 bus route eliminates service to south Cottesloe completely by travelling directly from Cottesloe railway station west along Jarrad to Broome then north along Broome.

Transperth have justified these changes by stating that with a fixed number of kilometres to work within their contract they must cut allegedly less-used routes such as the number 72 to provide services to newly established suburbs such as Canning Vale and Ellenbrook. However our elderly people generally do not live in these new suburbs – they live in the older, established suburbs such as Cottesloe and rely on bus services a great deal.

Removing this service completely is at odds with our policy of encouraging public transport use and I have had numerous calls from concerned ratepayers regarding the cessation of these services. This included both elderly residents who rely on these buses to do their shopping and younger families with school children.

For the numerous elderly residents in the area this service provided not only a much-cherished form of independence but also an important requirement for their daily life. Elderly people are encouraged to 'live at home' rather than move into aged care facilities. It promotes a better quality of life – not to mention saving the government significant expense. However we cannot expect these people to retain this independence without the availability of public transport.

I spoke with one resident who was at the Grove earlier this month where Transperth had a display of the changed routes. It was presented as a fait accompli. She told me of 94 year old Miss Barclay of Rosendo Street whose lifestyle and independence had been severely impacted by these cuts. Her bank is in Claremont and she shops there regularly and now has no convenient or economic way of getting to her destinations.

I was told of another elderly lady who was at the Grove the same day. She relies on this bus service and was in tears thinking about how she would cope. Mrs Longley, another Salvado Street resident was stranded in Cottesloe's main shopping precinct last week when she could not find a taxi to take her home. She would usually have used the bus. These are just a few of the elderly residents who will suffer from these bus route changes.

At the other end of the scale there are younger families with children whom we are encouraging to use public transport. This reduces the traffic problems associated with delivering children to and from school and offers a safer alternative to train travel. Many south Cottesloe residents will now have no alternative but to drive their children around – adding to road congestion, increasing the likelihood of accidents and teaching the children to depend on others rather than learn important self-reliance.

The bus service to Salvado Street also reduces the load on Cottesloe main beach by allowing visitors easier access to the southern beaches.

As elderly residents and students have concession fares I suspect revenue generation rather than actual passenger numbers probably had a major impact on the decision to cut this service.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**VOTING**

Simple Majority

**12.4.2 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Cunningham

**That Council:**

- (1) Considering the sensible policy of encouraging the use of public transport and the importance of these bus services to south Cottesloe residents and visitors alike that Council write to Transperth, local members of Parliament and the Minister to request the resumption of the number 72 bus service; and**
- (2) That in the event that full service is not possible then a reduced service sufficient to cover the morning and afternoon peak periods of school travel plus reduced frequency during the day for elderly residents.**

Carried 9/0

**12.4.3 NEW YEARS EVE EVENT, COTTESLOE CIVIC CENTRE**

**File No:** X 2. 1  
**Author:** Mr S Tindale  
**Author Disclosure of Interest:** Nil.  
**Report Date:** 19 November, 2003  
**Senior Officer:** Mr S Tindale

---

**SUMMARY**

A recommendation is made to consider the New Year's Eve event proposed by Creative Events Management.

**BACKGROUND**

Creative Events Management has made a submission to conduct and present a commercial event at the Cottesloe Civic Centre on New Year's Eve December 31<sup>st</sup> 2003, as follows:

Creative Events Management will undertake this presentation and will be subject to all of the conditions and requirements of the town of Cottesloe, including but not limited to matters of environment, sound, cleaning, security, advertising and promotion, staffing and responsible coordination of the event. There will be no risk or contribution expected from the Town of Cottesloe and Creative Events Management will meet all costs and financial risks involved.

It is the intention to present a comprehensive adult (18 years plus) entertainment which will include renowned international music artists with high profile local musicians including members of the West Australian Symphony Orchestra. The general feel of the night will consist of a contemporary latino atmosphere, with the proposed program of events being as follows:

8.30pm – Café del Mar  
9.30pm – Fashion Parade by local designer Jane Coulthard  
10.00pm – Tango 22 with tango dancers  
11.45pm – 12.05am – Sambanistas  
12.0-5am – 1.15am – Café del Mar

The successful framework, recently utilised in the presentation of Jose Carreras on 16<sup>th</sup> November 2003 will be used to address Council's upper-most concerns.

**Noise**

Sound levels will be contained and maintained within health guidelines per the directive of the Town of Cottesloe Health and Environment Department.

**Security**

The services of a professional security company will be engaged to secure the venue and ensure the highest level of public behaviour. Liaison with the management of Cottesloe Beach Hotel and Ocean Beach Hotel will be undertaken to properly secure the area for both patrons of the respective events as well as residents of the area. Creative Events Management will ensure a canvas by personal representation to all of the residents of the immediate area with an invitation to complimentary attend the function or alternatively make arrangements for them to be entertained elsewhere for the greater part of the presentation.

Communications have already commenced with the Cottesloe Police Station in relation to security arrangements.

**Parking**

Liaison will be undertaken with the Town of Cottesloe Rangers to ensure smooth operation of parking in the area.

**Cleaning**

A proper and complete clean up of the venue and if required, surrounding area of immediate streets, to the satisfaction of the Town of Cottesloe.

**Proceeds to Charity**

Part proceeds will go to Mission Australia and Young Variety.

**CONSULTATION**

Nil.

**STAFF COMMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**VOTING**

Simple Majority

**12.4.3 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION**

Moved Cr Miller, seconded Cr Cunningham

**That Council:**

- (1) Support the New Year's Eve event proposed from Creative Events Management; and**
- (2) Delegate authority to the Chief Executive Officer to negotiate arrangements.**

Carried 6/3

The vote was recorded as follows:

For: Cr Jeanes Cr Utting  
Cr Morgan Cr Walsh  
Cr Robertson  
Cr Strzina

Against: Cr Miller  
Cr Cunningham  
Cr Furlong



**13 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****13.1 REFERENDUM ON BEACHFRONT DEVELOPMENT- NOTICE OF MOTION - 13/2003**

**File No:** X 4.10  
**NOM Date:** 19 November, 2003  
**Author:** Mr S Tindale  
**Councillor:** Cr Walsh

---

**SUMMARY**

Cr Walsh has put forward a notice of motion seeking a referendum on proposed building heights for the beachfront precinct.

Rather than proceed with a referendum, a staff recommendation is made to convene a formal meeting of the Design Advisory Panel to “sign off” on the outcomes of the beachfront development workshops.

Further, that any proposals of the Design Advisory Panel on beachfront development be referred through to Council for further consideration.

Finally, that the Manager of Development Services prepare a report for Council on the options available to it in terms of public consultation on any beachfront development proposals impacting on the town planning scheme.

**STATUTORY ENVIRONMENT**

Town Planning and Development Act 1928  
Town Planning Scheme No.2  
Local Government Act 1995

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Council has a strategic objective to “Define, enhance and preserve the following precincts: Marine Parade (commercial and residential); Napoleon St and Town centre; Heritage; Recreational and Residential.”

**FINANCIAL IMPLICATIONS**

A postal referendum conducted by the WA Electoral Commission is expected to cost in the vicinity of \$16,000.

An “in-person” referendum is likely to cost in the vicinity of \$5,000.

**BACKGROUND**

In support of the proposed referendum, Cr Walsh has provided the following information:

A number of workshops have been held where the Councillors and the Design Advisory Panel have considered what buildings/works should be allowed in the Cottesloe Beachfront area as outlined in the recommendation.

From these meetings Council seems about to suggest a Foreshore Zone be established allowing buildings to 5 plus storeys with a height limit of 20.5 metres.

What is being considered is a fundamental change to the Town of Cottesloe. Before we make this change we must ask the people of Cottesloe what they want for their Town. Once a change is made we cannot go back and eventually the Cottesloe beachfront will be a wall of 5 plus storey buildings 20.5 metres high.

At present the beach is approached over the crest of a hill and from this crest there is a magnificent, uncluttered view of the ocean. This view is powerful and serene in its simplicity. With the proposed changes to the Town Planning Scheme this view will change to glimpses of the ocean between concrete walls.

There is a strong feeling in the Cottesloe community that this process of looking at the Foreshore Zone is being driven by Multiplex. This will not be helped by the fact that the building height put forward by Multiplex architects as suitable for this zone was 20.5 metres. Public consultation conducted by the Town of Cottesloe should have begun weeks ago on a matter of this importance, particularly in light of the comments on the Central Foreshore collated from the last Public Workshops in 1996-1997. I quote "the existing scale, density and character of Cottesloe should be preserved" and "there should be no increase in commercial properties within the precinct".

SOS have held a public meeting attended by 200 people which included 147 Cottesloe residents, who voted unanimously to keep the building along the beachfront to a height of 12 metres as per the current Town Planning Scheme. This view is also held by the recently formed Keep Cott Low group which I'm told has approximately 200 members at this time.

At the Multiplex-Council meeting of November 17, Multiplex advised us that they were about to start community consultation. Are we about to use the results from Multiplex's community consultation while we adopt a building height for this zone that has been proposed by a Multiplex architect? I urge you to support this motion to get the views of the Cottesloe Community on this proposed major change to their Town. A referendum will let us know what the people of Cottesloe want. They must decide what height they want along the foreshore and we must abide by their decision.

**CONSULTATION**

Nil

**STAFF COMMENT**

At the outset, Councillors should be aware that any individual ownership of property within the beachfront precinct as described by Cr Walsh is sufficient to trigger the financial interest provisions of the Local Government Act if town planning scheme amendments are contemplated.

Having said that, the referendum proposal has a number of difficulties associated with it.

Ordinarily a referendum seeks a “yes” or “no” response where the Council requires guidance on an issue that is perceived as being finely balanced within the community. In other words the issue should stand on its own, should not involve a complex question and is a useful method of consultation where there is a perceived divide in community opinion.

Once a government has committed to a referendum, the results are usually binding.

Like any method of public consultation, there are pluses and minuses for referenda.

It is no secret that referendum results tend to favour the status quo and evidence of this can be found in any number of Commonwealth Government referendum results where a “no” result has prevailed. Where a conservative government favours no change, a “no” referendum result can be a useful tool in silencing ongoing criticism on the basis that “the people have spoken”.

Another positive is that a referendum will usually generate a high level of community discussion. All voters have equal influence and the results generally cannot be ignored.

On the negative side, the issues surrounding a referendum proposal can be hijacked by a resource-rich or minority view – particularly where polling is not compulsory and there is no widespread commitment or enthusiasm to turning out on polling day. On that basis a “postal” referendum rather than an “in-person” referendum has much to recommend it.

Referenda are an expensive way of obtaining community input and indeed wasteful if a clear-cut result can be obtained through other less expensive forms of community consultation.

Unless the referendum question is worded particularly carefully, accusations of bias in the wording of the referendum question can colour the way in which the results are interpreted. Despite best attempts to put a “neutral” question to the public, accusations of bias in the wording and attacks on the arguments for and against can surface during the polling period which can, in turn, lead to perceptions of “skewed” results.

If the results are seen as “skewed” then there is likely to be less commitment to the results of the poll.

There are also difficulties in equitably reducing to writing the “for” and “against” arguments that would ordinarily accompany a referendum paper.

The “yes” argument tends to be quite wordy largely because change in itself requires explanation while the “no” argument tends to rest simply on defending that which has worked well to date – which is a far easier concept to promote.

The difficulty with Cr Walsh's referendum proposal is that it promotes an element of choice rather than reducing things to a "yes" or "no" basis.

Assuming that 38% of people support option 1, what happens if each of the other options obtains 22% support?

Could it then be argued that since options 4 and 5 commanded 44% of the vote, then collectively the five storey option is preferred over all else despite option 1 having the strongest sectional support?

Implicit within the referendum proposal as presented is an assumption that the 12, 15, 18 and 20.5 m high limits with associated 3, 4 and 5 storey height limits constitute a natural choice of options.

However most Councillors would be aware that the workshop outcomes have setback parameters attached to them. This precludes option 5 from being obtained except on a few larger blocks (or potentially amalgamated blocks). Option 5 doesn't say as much and only serves to underline the difficulties in wording a referendum proposal appropriately.

While referenda have their limits, it is the author's view that it is far too early in the process to be seeking a referendum result.

Nevertheless Cr Walsh's referendum proposal has brought the issue of beachfront development to the table sooner rather than later.

In terms of what form community consultation should take place, Council has a choice before it.

Option 1 is to follow Cr Walsh's recommendations.

This presupposes that Council has already made up its mind on the matter and that a public referendum is required in order to change or frustrate Council's perceived position.

This option is not supported because the form of public consultation is very limited and does not encourage the development of better outcomes as a result of meaningful community input.

Option 2 is to treat any proposed amendments to the town planning scheme as if they were "normal" amendments.

Under this scenario Council would seek the WA Planning Commission's permission to advertise any proposed amendments and call for public submissions over a six-week period. Council is then obliged to consider those submissions and make a recommendation through to the WA Planning Commission which supports the amendment, modifies the amendment or rejects the amendment.

In the event that the Commission forms the view that a modified town planning scheme amendment requires further community consultation, Council may be required to conduct a new round of public consultation.

---

However redevelopment of the beachfront and changes in broad town planning controls are hardly “normal”.

In the interests of keeping things transparent and accountable, it is recommended that Council focus on the issue of appropriate public consultation rather than promoting any particular line by way of an immediate scheme amendment.

Option 3 is to enter into a community consultation process before any further consideration is given to a potential town planning scheme amendment.

Option 3 is seen as the most appropriate given the weightiness of the issue, a need to understand why the Design Advisory Panel has drawn the conclusions that it has and an acknowledgement that early and meaningful community consultation can generate a better result.

However before Council commits to any consultation process with the community, the Design Advisory Panel needs to sign off on the work that it has done to date.

#### **VOTING**

Simple majority if the Staff recommendation is adopted.

Absolute majority if the Councillor recommendation is adopted (unbudgeted expenditure).

#### **DISCLOSURE OF PROXIMITY INTEREST**

Cr Furlong made a disclosure of proximity interest insofar as he owned property adjacent to Marine Parade and left the meeting at 9.37pm.

Cr Strzina left the meeting at 9.38pm and returned at 9.40pm.

#### **COUNCILLOR RECOMMENDATION**

(1) That given the importance of its beachfront area, Council immediately conducts a referendum on the building heights that residents want for the beachfront precinct. The beachfront precinct is the area bounded by Grant Street, Marine Parade, Forrest Street and a line through Hamersley/Gadsdon Street parallel to Marine Parade; and

(2) That the questions to answer are to be plain and unambiguous as follows:

Please mark which one of the heights listed below you want for the beachfront precinct:

1. I support the current height limit that is 2 storeys, with an allowance of 3 storey in exceptional circumstances, with a maximum ridge height of 12 metres – as set out in the Town Planning Scheme.
2. I support 4 storeys for this zone with a maximum ridge height of 15 metres.

3. I support 5 storeys for this zone with a maximum ridge height of 18 metres.
4. I support 5 storeys for this zone with a maximum ridge height of 20.5 metres (ie buildings to the height of the building commonly known as the “chocolate box” next to the OBH).

### AMENDMENT

Moved Cr Walsh, seconded Cr Miller

- (1) That given the importance of its beachfront area, Council immediately conducts a referendum on the building heights that residents want for the beachfront precinct. The beachfront precinct is the area bounded by Grant Street, Marine Parade, Forrest Street and a line through Hamersley/Gadsdon Street parallel to Marine Parade; and
- (2) That the questions to answer are to be plain and unambiguous as follows:  
Please mark which one of the heights listed below you want for the beachfront precinct:
  1. I support the current height limit that is 2 storeys, with an allowance of 3 storey in exceptional circumstances, with a maximum ridge height of 12 metres – as set out in the Town Planning Scheme.
  2. I support 5 storeys for this zone with a maximum ridge height of 20.5 metres (ie buildings to the height of the building commonly known as the “chocolate box” next to the OBH).

Lost 3/5

The votes were recorded as follows:

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

### STAFF RECOMMENDATION

- (1) That a formal meeting of the Design Advisory Panel be convened to “sign off” on the outcomes of the beachfront development workshops.
- (2) That any proposals of the Design Advisory Panel on beachfront development be referred through to Council for further consideration.
- (3) That the Manager of Development Services prepare a report for Council on the options available to it in terms of public consultation on any beachfront development proposals impacting on the town planning scheme.

### AMENDMENT

Moved Cr Cunningham, seconded Mayor Rowell

---

- (1) That a formal meeting of the Design Advisory Panel be convened to “sign off” on the outcomes of the beachfront development workshops.
- (2) That any proposals of the Design Advisory Panel on beachfront development be referred through to Council for further consideration.
- (3) That discussion on the remainder of the aspects of Town Planning Scheme No. 3 be carried out in an expedited process and all matters be put to community consultation as soon as practicable.

Carried 5/4

The substantive motion was put.

**13.1 COUNCIL RESOLUTION**

Moved Cr Cunningham, seconded Mayor Rowell

- (1) That a formal meeting of the Design Advisory Panel be convened to “sign off” on the outcomes of the beachfront development workshops.**
- (2) That any proposals of the Design Advisory Panel on beachfront development be referred through to Council for further consideration.**
- (3) That discussion on the remainder of the aspects of Town Planning Scheme No. 3 be carried out in an expedited process and all matters be put to community consultation as soon as practicable.**

Carried 8/1

Cr Furlong returned to the meeting at 10.00pm.

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

Nil.

**15 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 10.22 pm.

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