

TOWN OF COTTESLOE



FULL COUNCIL MEETING

MINUTES

**ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 24 SEPTEMBER, 2007**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.05 pm.

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

Mayor Kevin Morgan
Cr Patricia Carmichael
Cr Daniel Cunningham
Cr Jo Dawkins
Cr Arthur Furlong
Cr Peter Jeanes
Cr Bryan Miller
Cr Victor Strzina
Cr John Utting
Cr Jack Walsh
Cr Ian Woodhill

Officers in Attendance

Mr Stephen Tindale	Chief Executive Officer
Mr Graham Patrick	Manager Corporate Services/Deputy CEO
Mr Andrew Jackson	Manager Planning & Development Services
Mr Geoff Trigg	Manager Engineering Services
Miss Kathryn Bradshaw	Executive Assistant

Apologies

Nil

Leave of Absence (previously approved)**3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

4 PUBLIC QUESTION TIME

Mrs Sara Curtin – 159 Broome Street – 30 Marine Parade Development Application

A request for deferment of the development application for 30 Marine Parade was made.

Mayor Morgan advised that Councillors were aware of the request and that it was open to Mrs Curtin to make a public statement.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Miller, seconded Cr Strzina

The Minutes of the Ordinary Meeting of Council held on Monday, 27 August, 2007 be confirmed.

Carried 11/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor acknowledged the passing of Mrs Patricia Adamson who was a well-known and selfless character of the Town who always took a great interest in the community. Mrs Adamson was a regular attendee of Council meetings.

The Mayor expressed his appreciation to the elected members for their efforts over the past two years and in particular, the development of draft Town Planning Scheme 3.

Congratulations were also expressed to Councillors Victor Strzina and Dan Cunningham for being re-elected unopposed.

The Mayor acknowledged the significance of this week being the Centenary of the Town of Cottesloe as a municipality which was declared on 27 September 1907. To celebrate the Centenary a number of festivities are being held over the next few months.

8 PUBLIC STATEMENT TIME

Mrs Sara Curtin, 159 Broome Street – Item 11.1.1 No 30 (Lot 43) Marine Parade – Two-Storey Residence and Studio/Garage Building

As the owners of the property behind 30 Marine Parade, Mrs Curtin requested on behalf of herself and her husband the deferment of the development application as notification of the development was only received last week. Mrs Curtin acknowledged that late notice was received due to the number of times they have moved house lately.

Currently Mr Curtin is working in Adelaide and so they have not been able to fully express their concerns or obtain professional advice which would allow them to assess the impact of the proposed development on their property.

Their main concerns related to the setbacks, visual bulk of the building and the lack of detail on the type of roofing proposed for the building.

Mr Sam Ciminata, 28A Marine Parade – Item 11.1.1 No 30 (Lot 43) Marine Parade – Two Storey Residence and Studio/Garage Building

As a neighbour to the development, a number of objections have been raised and presented in a detailed submission to the planning department.

Mr Ciminata expressed concerns that the 6m setback requirement has not been complied with and the comments in the report stating the site has various physical constraints that adversely affect building design and the statement that the design will have minimal impact on his property were incorrect. Mr Ciminata said that the block is the same size and dimensions as his and neighbouring blocks. While the narrowness of the lot is a concern, the right of way at the rear of the block makes design solutions easier.

The planning department's note that the setback to his own home is 5.8m is incorrect it is 6m. Despite any averaging in the proposal, the actual setback requirement of 6m has not been complied with. Reference to the residence to the north having a lesser setback is correct but it must be noted that it was built prior to the 2002 resolution concerning setbacks. The owner was also the owner of the surrounding properties and naturally would not voice an objection to his own development proposal.

A second point of concern was the assertion that the development would have minimal impact on Mr Ciminata's views. Since Marine Parade is not parallel and slants outwards, compliance with the 6m setback already puts the proposed building 1m in front of his line-of-site. The setback that is actually being considered would put the building 2.3m forward of his property's line-of-site. The building is a bulky, solid, massive structure and cannot be considered as having a minimal impact on the views from his property.

In summary, there is no valid reason for approving the requested setback. The surrounding properties have already been made to comply with the requirement and the encroachment will be against the 2002 Council resolution which should be enforced.

Mr Laurie Scanlan, 20 Warnham Road – Item 11.1.1 No 30 (Lot 43) Marine Parade – Two Storey Residence and Studio/Garage Building

The building has been designed to be a neighbour-friendly building which is why the bulk of the building has been made lower and narrower and set back further while attempting to create a courtyard at the rear of the building. It is a light and open design and sits against the house to the north.

Small narrow blocks inherently create some overshadowing problems which is why the balcony has been extended beyond the 6m setback requirement. An attempt has been made to make it useable for the owners while keeping the balcony transparent so as not to block the neighbour's views by using stainless steel wiring. Overall, the balcony has been extended by 4.5 square metres but a line-of-sight viewing from the neighbour's property shows that there has not been any reduction to views.

The garage at the rear has been kept low in an attempt to reduce any impact on the neighbours there where a large structure would have had a large impact.

Mr Robert Allan, 1 Leura Street, Nedlands – Item 11.1.2 No 3 (Lot 87) Gordon Street – Two-Storey Residence, Pool and Front Fence

The property, which has a church on it, is subdivided into three lots with the aim of retaining the church building and using it as a residence. The development is have 3 Gordon Street as a residence with a zero boundary wall on the south which will maintain a development opportunity on the rear of the church site, to make a bedroom wing separate to the church building.

The new buildings are being designed as discreet elements which are separate from the church building and allows it to keep its identity, hence the use of some boundary walls for space efficiency, but solar access will still be achieved as shown in the concept plans provided.

Mrs Katherine Kalaf, President of Procott Incorporated, Shop 1, 30 Jarrad Street – Item 12.1.5 Parking Study – Town Centre & Beachfront

Expressed concern about the parking issue and how it affects the 106 members of Procott Incorporated and the lack of involvement with Procott and the outcomes of the report.

Procott seeks to work in partnership with the Council and is creating a dynamic shopping precinct for Cottesloe whereby parking is an important aspect of the overall concept. Members are largely in agreement that all types of parking need to be provided for and there is a concern over the long-term parking requirement for employees and clients who require all-day parking.

A request was made for a meaningful consultation process with Council and Procott. Council is encouraged to hold off with the Meter-Eyes roll out and any other decisions until a fuller study is undertaken with particular reference to the town centre.

Elise Svanberg, 71 John Street – Item 11.1.9 Draft Town Planning Scheme No 3 – Consent to Advertisie Subject to Requirements and Modifications – Council Response

Miss Svanberg expressed concern that even after clear community support for the 3 storey height limit across the beachfront, it was evident that 5 storeys may be advertised.

Miss Svanberg has met with the Minister. It was explained that while Council was not able to prevent the advertising of the 5 storey height limit, public comment and a united Council could be enough to keep the limit to 3 storeys.

To the five councillors who may support more than 3 storeys, you have made your thoughts clear at a recent poll and it is time to support what the people want. The current height limit maintains the current feel for the town and its character. The community here wants to maintain the current height limit and Council should support this sentiment.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

10 REPORTS OF COMMITTEES AND OFFICERS**10.1 OFFICER REPORTS****10.1.1 SURF LIFE SAVING WESRTERN AUSTRALIA – AMENDMENT TO CONTRACT**

Moved Cr Miller, seconded Mayor Morgan

File No:	SUB/115
Attachment(s):	Contract Documentation
Author:	Mr Stephen Tindale
Author Disclosure of Interest:	Nil
Report Date:	20 September, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the Mayor and CEO to sign and seal an amended contract with Surf Life Saving Western Australia in the amount of \$95,777.73 for increased lifeguard services.

BACKGROUND

The Town of Cottesloe has a contract with Surf Life Saving Western Australia (SLSWA) for the provision of lifeguard services at Cottesloe Beach on those days that the Cottesloe Surf Life Saving Club is unable to provide a volunteer lifeguard service during the beach-going season.

SLSWA has recently provided an amendment to the contract (see Attachment) which envisages an increase in the pay rate for the lifeguards and increases the number of lifeguards on duty from one to two people during peak times.

The amendment means that the cost to the Town of Cottesloe for the provision of lifeguard services will rise from a budgeted amount of \$90,000 to \$95,778.

CONSULTATION

Consultation is underway with SLSWA to see what cost reductions can be effected, if any given the Town of Cottesloe's budgetary limit.

STAFF COMMENT

During budget deliberations, Council was informed of the desirability of increasing the number of the paid lifeguards on duty in the wake of an incident last summer that saw a number of bathers caught in a rip and needing to be rescued.

If it were not for a happy coincidence of circumstances, a single lifeguard would not have been able to cope with the numbers that were swept out to sea.

The proposed doubling up of the contracted lifeguards will lessen (but not eliminate) the risk of accidental death by drowning during the beach-going season.

Given the proposed changes to the contract and given that not all elected members may be fully across the proposed increase in levels of service, a formal Council decision is requested which authorises the Mayor and CEO to sign and seal the amended contract.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The amendment to the contract means that the cost to the Town of Cottesloe for the provision of lifeguard services will rise from a budgeted amount of \$90,000 to \$95,778.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council authorise the Mayor and CEO to sign and seal the amended contract with Surf Life Saving Western Australia in the amount of \$95,777.73 for increased lifeguard services during the 2007/08 season.

AMENDMENT

Moved Cr Utting, seconded Cr Strzina

That the following be inserted as a new item:

- 2) Approach the State Government to contribute 50% of the lifeguard services funding.**

Carried 7/4

10.1.1 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Morgan

That Council:

- 1) Authorise the Mayor and CEO to sign and seal the amended contract with Surf Life Saving Western Australia in the amount of \$95,777.73 for increased lifeguard services during the 2007/08 season.**
- 2) Approach the State Government to contribute 50% of the lifeguard services funding.**

Carried 11/0

The agenda items were dealt with in the following order: Item 11.1.1, 11.1.2, 11.1.3, 11.1.6, 11.1.8, 11.1.9, 12.1.5 and then the balance in numerical order enbloc.

11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 17 SEPTEMBER 2007

11.1 PLANNING

11.1.1 NO. 30 (LOT 43) MARINE PARADE – TWO-STOREY RESIDENCE AND STUDIO/ GARAGE BUILDING

File No: 1257
Author: Mr Lance Collison
Attachments: Location plan
Correspondence from applicant
Submission from neighbour
Photos
Plans
Author Disclosure of Interest: Nil
Report Date: 11 September 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Dr Barbara Hewson-Bower

Applicant: Lawrence Scanlan & Associates
Date of Application: 11 September 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 397m²
M.R.S. Reservation: N/A

SUMMARY

A two storey residence and a separate studio and garage building is proposed.

The modern design is characteristic of new dwellings proposed in south Cottesloe and is also in keeping the built form of the adjacent dwellings and nearby flats. It treats a constrained site to make good use of space, manages amenity considerations reasonably well and presents appropriately as part of the emerging streetscape.

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

PROPOSAL

On the ground floor a deck, sun room, two bedrooms, WIR, ensuite and WC are proposed. A central courtyard and terrace is proposed whilst a studio and laundry are proposed in a separate rear building.

On the first floor, a balcony, living, dining, kitchen, pantry, bedroom, WIR and ensuite are proposed. A garage is proposed in a separate rear building above the studio and laundry. It should be noted the first floor garage is level with the R.O.W at the rear.

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 Council Resolution

Resolution	Required	Provided
TP128a – October 2002	Generally insist on a 6m setback which does not include averaging	4.7 to 7.2m front setback

Town of Cottesloe Local Law

Local Law	Required	Provided
Fencing Local Law	Fence may be solid to 900mm and must be open aspect above 900mm	A new limestone wall which is within the front setback area is solid up to 1500mm height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 3 – Boundary Setbacks	Ground North Wall 1.5m setback	0-1.5m setback	3.3.1 – P1
Element 3 – Boundary Setbacks	Ground South Wall 1m setback	0m setback	3.3.2 – P2
Element 3 – Boundary Setbacks	Upper North Wall 2.4m setback	1.5m setback	3.3.1 – P1
Element 3 – Boundary Setbacks	Upper South Wall 2.2m setback	1.5m setback	3.3.1 – P1
Element 3 – Boundary Setbacks	Upper South Wall 1m setback	0m setback	3.3.2 – P2

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 8 - Privacy	7.5m cone of vision setback – deck	1.5m setback	3.8.1 – P1
Element 8 - Privacy	7.5m cone of vision setback - balcony	3.3m setback	3.8.1 – P1
Element 9 – Design for Climate	35% maximum overshadowing	49.9% overshadowing	3.9.1 - P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building

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 a Letter to Adjoining Property Owners

Submissions

There were 2 letters sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

Sam Ciminata – 28A Marine Parade, Cottesloe

- *Requests the 6m front setback be enforced, Council required this setback when building his own house*
- *The proposed 4.6m setback will impact his views and streetscape*
- *The 1.5m southern upper floor setback will reduce sun, ventilation and privacy between the two properties*
- *The overshadowing will significantly reduce the amount of direct sun onto his property and cast considerable shadow on most of his living and alfresco areas, eroding the long term sustainability of his building*
- *The location of the garage will cast a shadow over his only clothes drying area*
- *There is no privacy screening from the elevated ground floor deck or upper floor balcony which will allow overlooking into his main bedroom, outdoor living and terrace areas.*

In addition the northern adjoining neighbour has signed plans in support of the proposal.

BACKGROUND

A well established single storey cottage can be found on the property. In March 2005, a two storey residence of a similar scheme to this proposal was approved under delegated authority. This was not built.

STAFF COMMENT

Building Height

The natural ground level at the centre of the site is determined to be RL 13.3. The proposed building height is 6.1m or an RL of 19.4. The house has a flat roof design and the proposal easily complies with the maximum 7m height limit as prescribed in the RDC.

The natural ground levels slope upwards from Marine Parade to the R.O.W. The difference between these two levels is 3.2m, the equivalent of a storey.

Front Setback

The front balcony is proposing to be setback 4.7 to 6.2m from the front boundary. The RDC do allow a 4m setback for R30 coded dwellings, however, Council has adopted a resolution requiring a preferred 6m front setback for residential development for the district generally.

It is noted that the main wall (windows) face of the dwelling is actually setback a minimum of 7.2m, however, the upper level balcony and the roof all sit forward of this line up to a minimum 4.7m setback, hence the effect of the dwelling is to occupy an built envelope to the lesser (albeit strictly compliant) setback. However, the applicant has provided an average front setback of 6m to the balcony.

It also should be noted the houses in this section of Marine Parade are not parallel with the front setback. However, the overhanging upper floor balcony/roof structure presents as a solid element which is positioned closer to Marine Parade than adjacent buildings. Setting-back the upper storey would overcome that effect. Alternatively, were there no balcony roof (not desirable for climate protection) and were the side balustrades also glass, then a lighter-weight building allowing more of a view line would sit more comfortably at the lesser setback.

In assessing the impact of the proposed front setback, neighbouring properties along Marine Parade were examined. To the south, the front setback of the neighbour at 28A Marine Parade is setback a minimum of 5.8m with an average of approximately 6.5m and 28 Marine Parade is setback 6m. To the north, 32 Marine Parade is setback a minimum of 5.3m with an average setback in excess of 6m.

The proposal makes active use of the front yard for open space and the built-up design is quite common in this locality, as with the plinth to the existing dwelling and the front yard of the dwelling next door, for example. It can be seen that the proposal would sit in-between the tall and elongated dwellings on either side, so be largely concealed and present only its façade to the street. It has a similar built form to them

and the backdrop to the north and east includes more massive flat buildings and dwellings rising up the topography.

In summary, Council has in certain circumstances supported less than 6m front setbacks where the streetscape, built form and amenity considerations have been assessed as acceptable. In this circumstance a front setback variation is supported due to minimal change to view lines and the slanted front setback line which reduces the impact of this variation on the streetscape.

Boundary Setbacks

The following side boundary setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC. The above setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) & 3.3.2 (P2) of the RDC which are also below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground North Wall	WIR to deck	3m	12m	No	1.5m setback	0-1.5m setback
Ground South Wall	Studio/ laundry	1m	5.5m	No	1m setback	0m setback
Upper North Wall	All except garage	7m maximum	19m	No as per figure 2D of the RDC	2.4m setback	0 to 1.5m setback
Upper South Wall	All except garage	7m maximum	19m	No	2.4m setback	1.5m setback
Upper South Wall	Garage	3.5m	6m	No	1m setback	0m setback

3.3.1 – Buildings Set back from the Boundary

P1 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 the 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.*

P2 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 RDC do also allow as per Clause 3.3.2 A2ii *"In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of*

the boundary behind the front setback, to one side boundary” However in this circumstance two boundary walls are proposed, one on each of the northern and southern boundaries and one of these also exceeds the height limit.

The proposal is to have a nil to 1.5m setback to the ground north side boundary. This is usually required to be setback 1.5m from the boundary. The proposal makes for an effective use of space and provides adequate sun and ventilation to the building and appurtenant open spaces. The proposal does not affect the amenity of the neighbouring property and privacy is not a concern. It should be noted the northern neighbour did not object to the proposal.

This proposal is to have a nil setback to the side boundary for the ground south wall. This is usually required to be setback 1m from the boundary. The setback meets the Performance Criteria of the RDC. The proposal does not provide a privacy or bulk concern and also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. This is because much of this wall is below the natural ground level.

This proposal is to have a 0 to 1.5m setback to the side boundary for the upper north wall. This is usually required to be setback 2.4m from the boundary. The setback meets the Performance Criteria of the RDC. The proposal does not provide a privacy concern as the bedroom window is screened; it also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. It should be noted the northern neighbour did not object to the proposal.

The proposal is to have a 1.5m setback to the upper south west wall. This is usually required to be setback 2.4m from the boundary. The setback partially meets the Performance Criteria of the RDC. The proposal ensures that ventilation is adequate; however, the amount of direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties will be significantly reduced. The criterion regarding bulk is applicable, however, it is noted that adjoining properties have similar side setbacks with similar wall heights. The proposal also does not affect privacy. The setback is considered acceptable.

The proposal is to have a nil setback for the garage wall on the southern side. This is usually required to be setback 1m from the boundary. The setback largely meets the Performance Criteria of the RDC. The proposal does not provide a privacy concern and also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. This is because much of this wall is below the natural ground level.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC. The setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are shown below:

Room	Required	Provided
Deck	7.5m setback	1.5m setback (north and south)
Balcony	7.5m setback	3.3m setback (north and south)

P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

- *the positioning of windows to habitable rooms on the development site and the adjoining property;*
- *the provision of effective screening; and*
- *the lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.*

The proposal asks for a variation to the deck's cone of vision setback. The deck is considered to be a variation because it is raised in excess of 500mm from natural ground level. It is positioned to overlook the front gardens of the southern and northern neighbour. Protecting privacy of neighbouring front gardens is not seen critically in the performance criteria in the RDC and this is often approved. It should also be noted that solid boundary fencing which is partly up to a height of 1.8m is built to the side boundaries within the front setback area.

The proposal asks for a variation to the balcony's cone of vision setback. The balcony is positioned so as to overlook the front gardens of the southern and northern neighbour. Protecting privacy of neighbouring front gardens is not seen critically in the performance criteria in the RDC and this is often approved. It can be assumed that the main view the applicant is trying to achieve is to the ocean. When looking to the south from the balcony, a screen to 1.65m in height is proposed to partially restrict the view to the front garden of the southern neighbour.

Overshadowing

The overshadowing to the southern neighbour is 198sqm or 49.9%. This does not satisfy the Acceptable Development provisions of the RDC for design for climate (overshadowing) which allows a maximum of 35% to the adjoining property. The non-compliance shall be assessed against the Performance Criteria which are:

P1 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 overshadowing partially meets the Performance Criteria of the RDC. The design will shadow the balcony and several major openings to habitable rooms of the neighbour. However, a large portion of the southern neighbouring property will receive natural light due to the central garden area. The southern neighbour has also objected that his drying court will now not receive direct sun.

It should be noted that the previous scheme proposed 62% overshadowing to the southern neighbour. This scheme was approved under delegated authority in March 2005. The overshadowing could be supported due to the narrow lot with a dimension of 9.85m from the north to south boundary. It is also acknowledged that it is difficult building a two storey dwelling with these site constraints and the property is significantly overshadowed by the northern neighbour.

Fencing within the front setback

The existing limestone front fence is being modified to incorporate a letterbox and numbering. This is considered acceptable provided the fence is not being rebuilt. The fence is solid to 1.25m and would not strictly comply with the Fencing Local Law.

A new internal limestone wall up to 1.5m in height is proposed 3.050m away from and parallel to the southern boundary. The wall is approximately 3.5m long and begins 1.5m from the front boundary. It is argued there is no need for the wall to be this height and it is recommended this be reduced to a solid height of 900mm in accordance with the regulations of the Fencing Local Law.

Side Boundary Fencing

A new northern boundary fence and permeable screen is proposed. This fencing will provide privacy from the ramp which provides a link to the first floor from the right of way. The northern neighbour has approved of this plan.

Cut & Fill

Given the site topography, there is significant cut and fill proposed. Much of this fill will be located within the built envelope of the dwellings. The dwellings are proposed to be located above areas of fill to allow areas of level flooring.

There is also cutting proposed to allow for the construction of the underground studio toward the eastern boundary. It should be noted the central terrace and courtyard is proposed to be lower than natural ground level.

The proposed fill within the front setback area could be supported. The design of the residence allows the occupiers to walk from the internal sun room to the outdoor deck at the same floor level. This fill will be screened from Marine Parade by the existing limestone boundary wall.

However, Council could recommend the deck area be no higher than 500mm above natural ground level and this would meet the Acceptable Development Provisions of the RDC. It is recommended the proposed deck be at a maximum height of RL 12.8.

CONCLUSION

The proposed dwelling is considered of a similar style with other modern residences in the locality yet seeks a number of concessions to its design. Given the constraints of the site and setting, it is assessed that variations to the Residential Design Codes could be supported.

It is concluded that the design will achieve an acceptable outcome to the lot, neighbouring properties and the locality.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the front setback situation generally along Marine Parade and in this regard the Manager Development Services explained the design in some detail, including the liaison undertaken with the neighbours and planning consultant who were not in attendance. Mr Laurie Scalan the architect was able to elaborate on the design approach and how view lines were maintained. On this basis Committee was satisfied that the proposal could be supported in context.

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a two-storey dwelling and rear studio/garage building at No. 30 (Lot 43) Marine Parade, Cottesloe, in accordance with the plans received on 10 August 2007, 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 for a building licence.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Any new walls or fencing to the front setback area shall be of an open-aspect design in accordance with the Town of Cottesloe Fencing Local Law, including the proposed limestone wall adjacent to the deck stairs on the northern side, and this shall be shown in the building licence plans to the satisfaction of the Manager Development Services.
 - (f) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (g) The finish and colour of the boundary wall/s facing the neighbour/s being to the satisfaction of the Manager Development Services.

- (h) The right-of-way adjacent to the development being paved and drained at the applicant's expense in accordance with Council's guidelines and specifications and being approved prior to the commencement of works.
 - (i) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing the front deck area having a maximum finished floor level of RL 12.8.
- (2) Advise submitters of the decision.

AMENDMENT

Moved Cr Furlong, seconded Cr Dawkins

That item (d) be amended to read: "The roof cladding shall be of a material, finish and colour which are of low-reflectivity so as to avoid undue glare, the details of which shall be provided as part of the building licence application, to the satisfaction of the Manager Development Services."

Carried 11/0

AMENDMENT

Moved Cr Furlong, seconded Cr Jeanes

That condition (i) be deleted from the recommendation.

Carried 11/0

11.1.1 COUNCIL RESOLUTION

That Council:

- (1) **GRANT its Approval to Commence Development of a two-storey dwelling and rear studio/garage building at No. 30 (Lot 43) Marine Parade, Cottesloe, in accordance with the plans received on 10 August 2007, 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 for a building licence.**
 - (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 cladding shall be of a material, finish and colour which are of low-reflectivity so as to avoid undue glare, the details of which shall be provided as part of the building licence application, to the satisfaction of the Manager Development Services.
 - (e) Any new walls or fencing to the front setback area shall be of an open-aspect design in accordance with the Town of Cottesloe Fencing Local Law, including the proposed limestone wall adjacent to the deck stairs on the northern side, and this shall be shown in the building licence plans to the satisfaction of the Manager Development Services.
 - (f) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (g) The finish and colour of the boundary wall/s facing the neighbour/s being to the satisfaction of the Manager Development Services.
 - (h) The right-of-way adjacent to the development being paved and drained at the applicant's expense in accordance with Council's guidelines and specifications and being approved prior to the commencement of works.
- (2) Advise submitters of the decision.

Carried 8/3

11.1.2 NO. 3 (LOT 87) GORDON STREET – TWO-STOREY RESIDENCE, POOL AND FRONT FENCE

File No:	1245
Author:	Mr Lance Collison
Attachments:	Location plan Correspondence from applicant (2) Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	5 September 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Siobhan Oma
Applicant:	Robert Allan Architect
Date of Application:	1 August 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R25
Lot Area:	400m²
M.R.S. Reservation:	N/A

SUMMARY

A two storey residence, front fence, gate and pool are proposed.

The proposal is a modernist design adjacent to the heritage church. This contrast is an acceptable design approach and the proposed dwelling fits in with the lines of the church hall in terms of built form and scale. It is also a sustainable design in relation to solar orientation, ventilation, use of space and materiality.

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

PROPOSAL

On the ground floor an open plan dining, living and kitchen area is proposed. A WC and store is also proposed internally. An outdoor entertainment area and a lap swimming pool is proposed at the rear. A garage, generally open aspect front fence and driveway gate is also proposed.

On the upper floor, three bedrooms, two bathrooms, laundry, sitting, dressing and a store room is proposed. A drying area is also proposed. A staircase links the two levels.

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

Council Resolution

Resolution	Required	Provided
TP128A October 2002	6m setback for residential development	4.5m setback to garage, Bedroom 1 and dressing

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 3 – Boundary Setbacks	1.5m setback – ground south wall	Nil setback	Clause 3.3.2 – P2
Element 3 – Boundary Setbacks	2.8m setback – upper south wall	Nil setback	Clause 3.3.2 – P2

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. Two neighbours signed the plans in support of the application and there was no submission received from the third neighbour.

BACKGROUND

3 Gordon Street was created as a result of a green tile subdivision as well as a Scheme Amendment. The site was previously used by Cottesloe Christian Church.

Amendment 40 TPS2 involved *Rezoning No. 14 (Lots 50 and 51) Edward Street, Cottesloe from Place of Public Assembly to Residential with a density coding of R20 and R25 in accordance with the Scheme Amendment Map.*

The lot which now has a street address of 3 Gordon Street was rezoned to R25. The hall of the Cottesloe Christian Church which lay on the site has now been demolished. Currently the land is vacant, while Lots 50 and 51 are still occupied by the church which is being converted to a residence.

An approval for retaining walls, fencing and minor fill was issued on 30 March 2007 under delegated authority for works on the two Edward Street lots and this lot facing Gordon Street. There is no building licence applied for regarding this application. This approval included a fence on the southern boundary of 3 Gordon Street of up to 1.65m high up to the front boundary.

STAFF COMMENT

Front Setback

The garage, bedroom 1 and dressing room are proposed 4.5m from the front boundary. Council requests a 6m front setback for residences as per the Council resolution TP128a whilst the Residential Design Codes require a 6m averaged setback for a dwelling in a R25 coded area.

The sitting room which also faces the front boundary is setback 10.5m from the front boundary. The averaged setback is 7.5m from the front boundary which is in compliance with the RDC provisions which allows averaging.

Whilst a front boundary setback variation to the Council Resolution is not always supported, there is merit in this proposal. The house has been designed to provide a staggered streetscape and much of the building bulk is adjacent to the church side. The church building on the corner of Edward and Gordon Street is setback 1.6m from Gordon Street; this house is proposed to be 4.5m setback from the front boundary whilst the existing residence at 1 Gordon Street is setback 7.5m from the front boundary.

The RDC also allow as per Clause 3.2.1 A1 ii *"in the case of areas coded R15 or higher, where: a Single House results from subdivision of an original corner lot and has its frontage to the original secondary street; the street setback may be reduced to*

2.5m, or 1.5m to a porch, verandah, balcony or the equivalent;" This proposal provides a much greater front setback.

It is also noted that the setback is taken to the main face or window/wall of the dwelling, being the vertical surface which defines its presence and mass. Yet there is a wrap-around awning structure which frames the bedroom window and projects further forward into the front setback area. This design treatment is part of the overall architectural aesthetic of the building and provides for shading, wind protection and privacy. It is an elegant feature and as a suspended element does not impact on the setback area as a solid built form would. This articulation of the building actually softens its bulk. Similar awnings have been approved to other dwellings in Cottesloe without considering them to be an issue, and the RDC do allow for such to occur.

No neighbours have objected to this proposal. It is recommended that the front setback variation to the Council Resolution be supported due to the setback which is greater than the RDC requirements.

Side Boundary Setbacks

The following side boundary setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC. The above setback variations are required to be assessed under the Performance Criteria of Clause 3.3.2 (P2) of the RDC which are shown below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground South Wall	All	Up to 4m	20m	No	1.7m	Nil
Upper South Wall	All	Up to 7.5m	21.5m	No	3m	Nil to 1.5m

P2 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 RDC do also allow as per Clause 3.3.2 A2ii *"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;"* However in this circumstance the boundary wall proposed exceeds the length and height allowed under this clause.

The proposal is to have a nil setback to the south side boundary on both floors. The two neighbouring southern lots are owned by the same persons as this lot.

The setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The church building is being restored and is orientated to face the street

and not the rear. The proposal does not affect privacy and the bitumen area and former church should not be adversely impacted by the reduction in sunlight.

Fencing within the front setback

An approval for retaining walls, fencing and minor fill was issued on 30 March 2007. This approval included a fence on the southern boundary of 3 Gordon Street of up to 1.65m high up to the front boundary.

The proposed elements include an open aspect fence which is solid to 500mm and open aspect to 1800mm above. This fence has a length of 6.5m. This section of fencing is compliant with the Fencing Local Law and is supported.

The non-complying fencing areas include the 2.2m wide solid front fence for the bin store, letterbox and meters which is against the front boundary and a side return of 1m. This fence is solid to 1.25m in height.

The second non-complying fence is the proposed to be solid and 1650mm high on the northern boundary within the front setback area as shown on the revised plans received on 17 August 2007. This will lie against an existing picket fence.

As the application does not comply with the Fencing Local Law, the standards may be varied if the following criteria are met. The Fencing Local Law states that Council may exercise discretion having regard to whether the fence affects:

- a) *the safe or convenient use of land;*
- b) *the safety or convenience of any person; and*
- c) *the impact of the fence on the streetscape.*

The proposed fencing may assist the safe use of land and persons because it will provide a barrier against unwanted visitors.

However, it is questionable whether the streetscape will be enhanced. In regards to the bin store fencing this could be recommended for approval. The solid section is 1250mm which is the same height as the proposed driveway gate. This is a lesser height than a standard boundary fence. Solid small sections of fencing to conceal bins or meter boxes are often requested and a variation to the Fencing Local Law could be given.

In regards to the fencing proposed on the northern boundary within the front setback, this is not supported. An existing picket fence is located on this boundary already. The proposed solid fence to 1650mm which will lie adjacent to this fence will increase the bulk in this location. If a new fence is required by the owner of 1 Gordon Street this is recommended to be open aspect in accordance with the Fencing Local Law.

While it can be appreciated that that architect is aiming to suit the design of the proposed dwelling, it is also desirable to pay respect to the character of the adjacent dwelling and to the streetscape, which is predominantly open-aspect in this section.

Driveway Gate

The automatic driveway gate is proposed to be open aspect and is in compliance with the Fencing Local Law.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC. The setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are also below:

Room	Required	Provided
Sitting Room	6m setback	4.5m to the north

Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

- *the positioning of windows to habitable rooms on the development site and the adjoining property;*
- *the provision of effective screening; and*
- *the lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.*

The proposal asks for a variation to the sitting room's cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. It is assessed that any overlooking would occur on an acute angle as the windows face either west or east where the potential overlooking is to the north. There is an operable vertical sunscreen on the western edge and the view from the eastern window is to an open aspect front yard. This is considered acceptable. It is noted the northern neighbour did not object to this overlooking.

Building Height

The centre of the site was determined at RL10.15 which is based upon the contours provided by the applicant in a site survey. The lot slopes downwards towards the rear. The maximum building height is RL 17.0 or 6.85m. The residence has been designed with a concealed roof and because the Town Planning Scheme has no regulations regarding these types of houses the RDC is referred to.

The RDC allow a maximum height for houses with concealed roofs of 7m. This house meets this requirement.

Fill & Northern boundary fence (behind the front setback)

The area to the east of the pool is proposing fill up to 800mm, which is 300mm more than recommended in the RDC. The northern neighbour has consented to this additional fill, new boundary fence and retaining wall between the two properties. This fill will not disrupt the streetscape and has no obvious amenity impacts. This aspect of the proposal is supported. It represents a practical design solution to the use of the site and the interface with the neighbouring property.

Other elements

The proposal meets overshadowing and open space requirements.

CONCLUSION

The front setback variation could be supported due to the alignment of the surrounding buildings. The proposal is setback in between the two neighbouring

properties and the front fence is generally open aspect so bulk is not a significant concern.

The proposal meets height requirements and the side boundary fencing non-compliance can be addressed with a condition. There have been no objections to the design and the house is designed toward the southern boundary of which the owner owns both neighbouring lots. The application is recommended for approval subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee appreciated the proposed design but raised concern that the parapet wall on the southern boundary would block northern light to the adjoining lot on Edward Street when it is developed in the future, as well as present as an element to that lot, thereby potentially affecting its amenity.

The Manager Development Services noted that the architect or owner were not present to respond and undertook to liaise with them for further advice to the September Council meeting for determination of the application.

OFFICER RECOMMENDATION

GRANT its Approval to Commence Development of a two-storey dwelling, front fence, gate and swimming pool at No. 3 (Lot 87) Gordon Street, Cottesloe, in accordance with the plans submitted on 1 August 2007 and the revised fence elevation plan and site plan submitted 17 August 2007, 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 finish and colour of the boundary wall/s facing the neighbour/s being to the satisfaction of the Manager Development Services.
- (f) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or

treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (g) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (h) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
- (i) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (j) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (k) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (l) Revised plans shall be submitted to the satisfaction of the Manager Development Services at building licence stage showing the northern boundary fencing within the front setback being "open-aspect" in accordance with Council's Fencing Local Law.

COMMITTEE RECOMMENDATION

That the Manager Development Services liaises with the architect and/or owner regarding the aspects raised at Committee and provides further advice to the September Council meeting for determination of the application.

11.1.2 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Dawkins

GRANT its Approval to Commence Development of a two-storey dwelling, front fence, gate and swimming pool at No. 3 (Lot 87) Gordon Street, Cottesloe, in accordance with the plans submitted on 1 August 2007 and the revised fence elevation plan and site plan submitted 17 August 2007, 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 finish and colour of the boundary wall/s facing the neighbour/s being to the satisfaction of the Manager Development Services.
- (f) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (g) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (h) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
- (i) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (j) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (k) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (l) Revised plans shall be submitted to the satisfaction of the Manager Development Services at building licence stage showing the northern boundary fencing within the front setback being "open-aspect" in accordance with Council's Fencing Local Law.

Carried 10/1

11.1.3 NO. 2 (LOT 5) CHAMBERLAIN STREET – CELLAR, GROUND AND FIRST FLOOR ADDITIONS AND NEW BALUSTRADE ELEMENT TO THE FRONT AND NORTHERN ELEVATION OF DWELLING

File No: 1228
Author: Mr Lance Collison
Attachments: Location plan
Correspondence from applicant
Photos
Plans
Author Disclosure of Interest: Nil
Report Date: 12 September 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Ms D Sinitsyna

Applicant: Lawrence Scanlan & Associates
Date of Application: 17 July 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 638m²
M.R.S. Reservation: N/A

SUMMARY

Alterations within the basement, ground and first floors are proposed. New balustrading to the front and northern side elevation of the residence is proposed.

The dwelling is well setback and dominated by other large two-storey dwellings either side which are closer to the street. Because the land rises and the dwelling is stepped-back its height is ameliorated in terms of visual perspective. This means that the proposed additions and vertical balustrading would not stand out as excessive. In addition, mature trees to the verge and site conceal much of the dwelling from view.

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

PROPOSAL

A wine cellar is proposed in the basement. On the ground floor the existing living room and the lounge is being extended towards the front boundary. On the upper floor the balcony is being extended. A new balustrade is also proposed to the front and northern side of the residence above the ceiling level of the upper floor.

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 Council Resolution

Resolution	Required	Provided
TP128a – October 2002	Generally insist on a 6m setback which does not include averaging	Cellar (majority of room below natural ground level) 4.15m setback

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	6m wall height 8.5m building height	8.4m wall height

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building

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 a Letter to Adjoining Property Owners

Submissions

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

BACKGROUND

The existing two storey residence was granted approval in April 1987 prior to the adoption of the current Town Planning Scheme No. 2. A planning approval for a similar proposal to the alterations and additions in this application was approved under delegated authority in June 2005.

The proposal approved in 2005 also included ground and first floor additions and a wine cellar. These have not been built and the approval has now lapsed. The applicant is making minor changes to this previously approved proposal which includes new alterations to the wall height.

STAFF COMMENT

Building Height

The wall height does not meet Town Planning Scheme No. 2 for two storey dwellings. As the centre of the site has a house on it, the centre of the site level was determined comparing a 4-corner average of the spot levels given by the applicant with Council's GIS information. The centre of the site is determined to be RL 28.9. The proposal is for balustrade to an 8.4m (or RL 37.3) wall height. The Scheme however allows variations as shown in Clause 5.1.1 below:

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

<i>Two Storey</i>	<i>- Wall Height:</i>	<i>6.0 metres</i>
	<i>- Roof Height:</i>	<i>8.5 metres</i>

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

In this circumstance, the wall height variation is recommended for support. The proposal is to build a new balustrade element to the northern side of the front elevation and the western side of the northern elevation along the edges of the study room.

This appears to be a decorative element which is to present to the street at the same height as the existing bedroom wall on the upper floor. While this is a significant variation in terms of height there are no perceived amenity impacts. No neighbour has objected to the height variation. The balustrade is on the northern half of the lot so there is no shadow impact to neighbours. There is no bulk impact as the balustrade faces a R.O.W to the north and the street to the west.

It could be argued that the proposed variation for this section of the residence is closer to the parapet wall and it partially conceals the roof. The RDC under Clause 3.7.1 A1.1 permits 7m external wall heights for walls which conceals roofs. It is also noted the balustrade is also lower than the roof line. The small pitched roof forms of

the dwelling and the extensive parapets mean that it has the appearance of a flat-roofed building.

The variation could be supported on merit. Alternatively, Council could ask for the balustrade to be removed.

Privacy

The following privacy (cone of vision) setbacks of the proposed additions don't comply with the Acceptable Development standards of the RDC. The setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are shown below:

Room	Required	Provided
Balcony	7.5m setback	3.5m setback looking south and 2m looking north

P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

- *the positioning of windows to habitable rooms on the development site and the adjoining property;*
- *the provision of effective screening; and*
- *the lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.*

The proposal asks for a variation to the balcony's cone of vision setback. The balcony is positioned so as to overlook the front gardens of the southern neighbour while when looking north the view is to the R.O.W. Protecting privacy of neighbouring front gardens is not seen critical in the performance criteria in the RDC and this is often approved. When looking to the south from the balcony, a screen to 1.8m in height is proposed to partially restrict the view to the front garden of the southern neighbour. This variation is supported.

The proposed lounge and living room extension to the front boundary on the ground floor are technically also privacy variations due to the area being raised over 500mm above natural ground level. However the floor levels for these areas are not changing from the existing levels and no objections have been received. This variation is also supported.

Front Setback

The cellar is proposing to be setback 4.15m from the front boundary. The RDC do allow an averaged 6m setback for R20 coded dwellings, however, Council has adopted a resolution requiring a preferred 6m front setback for residential development for the district generally which does not include averaging.

In summary, Council has in certain circumstances supported less than 6m front setbacks where the streetscape, built form and amenity considerations have been assessed as acceptable. In this circumstance a front setback variation is supported due to this proposal not being visible from the street as it is below the ground floor terrace.

It should be noted that the cellar in the front setback area was given approval under delegated authority in June 2005 as part of the previous scheme.

CONCLUSION

The proposal will provide additional interest and style to the residence built in the late 1980s. The additions complement the existing built-up nature of the streetscape. The proposal does not cause any undue impacts and there have been no neighbour objections. It is recommended the application be approved under delegated authority subject to standard conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee queried the façade treatment in relation to additional height and any viewing platform. Mr Laurie Scanlan, the architect, clarified that the balustrading is a design future only with pitched roofs behind it. The Manager Development Services also explained how the façade does not really accentuate height and is not an amenity or streetscape concern, given the topography, trees and neighbouring dwellings.

11.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Dawkins

That Council GRANT its Approval to Commence Development for the Development Application for the cellar, ground and first floor additions and new balustrade to the existing residence at No. 2, Lot 5 Chamberlain Street, Cottesloe, in accordance with the plans submitted on the 17th July 2007 and the revised elevation plans and Section A-A plan submitted on the 12th September 2007, 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) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

Carried 11/0

11.1.4 NO. 21 (LOT 42) WARTON STREET – RE-ROOFING, FENCING, ALTERATIONS AND ADDITIONS AND GARAGE TO EXISTING DWELLING

File No:	1239
Author:	Mr Lance Collison
Attachments:	Location plan Correspondence from applicant Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	29 August 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Ben Fischer
Applicant:	Croudace Architects
Date of Application:	30 July 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	541m²
M.R.S. Reservation:	N/A

SUMMARY

Single storey additions, re-roofing, a modified fence and a garage are proposed to an unusual shaped lot.

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

PROPOSAL

The proposal is to relocate the garage from the Warton Street to the Curtin Avenue frontage of the property. The existing garage area will be converted to an alfresco area and living room extension. A new covered storage area is proposed adjacent to the southern boundary. All these changes are on the ground floor.

Other changes include a new tiled roof at a greater pitch, rendering existing brickwork and a modified front and side boundary fence.

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 Planning Scheme Policy/Policies

Policy	Required	Provided
TPSP 003 - Garages and Carports in Front Setback Area	4.5m setback for garages where vehicles are parked at right angles to the primary street alignment	1.3-3.5m setback, vehicles parked at 45 degree angle to primary street alignment

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 3 – Boundary Setbacks	1.5m setback – ground south wall	1m setback to undercover storage area and garage	Clause 3.3.1 – P1

Town of Cottesloe Fencing Local Law

Local Law	Required	Provided
Fencing Local Law	Fence may be solid to 900mm and open aspect above within the front setback area	Solid fencing to 1.8m height within the front setback area.

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 a Letter to Adjoining Property Owners

Submissions

There were 2 letters sent out. There were no submissions received.

BACKGROUND

A two storey residence was given a building licence in January 1989 and was erected that year. The property was allowed to change address from 49 Curtin Avenue to 21 Warton Street on 30 June 2005.

STAFF COMMENTRe-roofing

The roof is being modified with new tiles and the pitch increased from 18 degrees to 33 degrees. This potentially has implications for overall building height. It should be noted the upper floor area is not changing.

The lot is almost flat and was determined at RL24.4 using a 4 corner averaging calculation method. This is 3mm higher than the existing ground floor level. The proposed roof height is an RL of 32.4. This is 8m above natural ground level at the centre of the site and in compliance with the Scheme.

The re-roofing also meets the Acceptable Development provisions for overshadowing.

The steeper roof may be queried in terms of urban design, as it is not essential, requires structural alteration and would add to the scale of the building (albeit height-compliant and with no direct amenity impacts), which is large and at the top of the hill. Conventional roof pitches are in the range of 23 to 35 degrees, so the existing pitch is low and the proposed pitch is at the higher-end. However, while the dwelling occupies a prominent position, its corner location and separation from other dwellings by the abutting roads and Curtin Avenue means that its presence is ameliorated and it does not block views. In addition, the elongated roof forms, the effect of visual perspective and the existence of other steep roofs to traditional dwellings in the street mean that the new roof would fit into this urban design context. Hence it can be supported.

Fencing within the front setback area

The existing front fence facing Curtin Avenue and within the front setback area facing Warton Street is proposing to become solid. At present the brickwork comprises solid height walls to 900mm and piers to 1800mm. The proposal will change the fence to a solid height of 1800mm.

This includes 8.5m of solid front fencing to Curtin Avenue, solid fencing to Warton Street within the front setback area (6m), and a solid side return section of fence on the northern edge of the driveway which is 2.5m long.

To compensate, the applicant is proposing to provide some open aspect fencing to the Warton Street boundary behind the front setback. The owner has indicated they would like additional privacy.

As the application does not comply with the Fencing Local Law, the standards may be varied if the following criteria are met. The Fencing Local Law states that Council may exercise discretion having regard to whether the fence affects:

- a) *the safe or convenient use of land;*
- b) *the safety or convenience of any person; and*
- c) *the impact of the fence on the streetscape.*

The proposed fence may assist the safe use of land and persons because it will provide a barrier against unwanted visitors. However, an open-aspect fence would provide better surveillance to the street and is provided for along a portion of the Warton Street frontage. There is also a rear private courtyard, so the front yard is not the sole outdoor private open space.

However, it is assessed that the streetscape would not be enhanced as the non-complying front fence would create bulk to the front setback area. Overall, there is a predominant pattern of open front yards along Warton Street heading west and solid 1.8m plus height front fences to the Curtin Avenue slip road. However, the combination of a solid front fence and a garage would provide too much bulk to this side of the property.

In summary, there is no compelling reason to allow solid fencing within the front setback area, and the attractive open-aspect fencing existing to this property demonstrates that it works well in its setting. It is recommended that the fence be amended to allow a solid portion to a maximum height of 900mm with the portion above to 1800mm high being open-aspect. This treatment of the fencing is assessed as important to counter-balance the introduction of increased built-form, bulk and scale by the added garage and increased roof pitch.

Boundary Setbacks

The following side boundary setback of the proposed residence doesn't comply with the Acceptable Development standards of the RDC. The setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC, which are also below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground south wall	Garage/ covered storage area	2.7m	19.5m	n/a	1.5m	1m

3.3.1 – Buildings Set back from the Boundary

P1 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 an appurtenant open spaces;*
- *Assist with the 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.*

This proposal is to have a 1m setback to the side boundary for the garage and covered storage area. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. It should also be noted this is an open area and only piers are proposed setback 1m from the boundary. This area will be largely screened from the neighbour by a new 2m high boundary fence and the variation is supported.

Also in this regard, it can be seen that in urban design terms the flat roof structure will knit-in with the adjacent high dividing boundary wall and landscaping to the adjoining property, and that neighbour has raised no objection.

Garage

It is noted the while the dwelling faces Warton Street and has its main entrance there, the Curtin Avenue frontage is considered to be the primary street setback due to the greater setback to the building and given the arrangement of the subdivided lots to that frontage.

The garage is proposed to be setback 1.3-3.5m from the front boundary. This is a variation to the requirements of the Garages & Carports in Front Setback Area Policy which requires carports to be setback 4.5m from the front boundary where vehicles are parked at right angles to the street alignment. The garage is approximately on a 45 degree angle to the road.

Variation to this setback requirement may be allowed subject to meeting the following criteria:

- (a) shall not significantly affect view lines of adjacent properties; and*
- (b) shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.*

The Council shall also have regard to:

- (a) the objectives of the Residential Design Codes;*
- (b) the effect of such variation on the amenity of any adjoining lot;*
- (c) the existing and potential future use and development of any adjoining lots;*
and
- (d) existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment.*

The proposal does not affect view/sight lines from the driveway or house on the adjacent southern property. The neighbouring carport and house is located well

setback from the front boundary and an existing brick wall with piers separates the two properties. This wall runs right up to the front boundary at a 1.8m height.

The proposal shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles. This is due to the wide verge which means the garage is located well away from the Curtin Avenue slip road and Warton Street intersection. It should also be noted the Curtin Avenue slip road is only used by local traffic.

The garage partially meets the objectives of the RDC. The performance criteria relating to garages in the RDC specify:

3.2.3 P3 "The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa"

The streetscape in this section of Curtin Avenue is unusual as the houses are all not at right angles to the street. The streetscape is somewhat disjointed due to the varying setbacks of properties to the street. The RDC also require two parking spaces per single house designed to meet standard bay dimensions, which this application satisfies. It is concluded the garage meets the RDC objectives.

The application also meets the criteria "*The amenity of the adjoining lot or deter future development on adjoining lots*". The southern neighbouring property will have a slight reduction in their amenity due to reduced sunlight to their front yard area. However any shadow will fall onto a driveway which is acceptable.

In regards to the criterion, "*the existing and potential future use and development of any adjoining lots*", the southern neighbouring property has the potential to extend or redevelop. It currently exceeds the amount of open space required and this garage proposal should not impede future development on the adjoining lot.

However, the application does not meet the final criteria being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed garage is setback 13m closer to the Curtin Avenue boundary than the southern neighbouring property.

The garage being setback 1.3-3.5m to the front boundary is a large projection and interrupts the streetscape albeit being an unusual one. This is not desirable and alternative solutions should be explored.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback a minimum of 7.3m to the Curtin Avenue boundary. A standard double garage is generally 6x6m in dimension so it can be concluded it cannot be setback further if relocated to the Curtin Avenue side.

The relocation of the garage to the Curtin Avenue side of the property is pivotal to this application. Garages within the front setback are generally not recommended; however, in this circumstance a variation could be supported. The proposed location of the garage will allow the proposed living room extension and alfresco area to be exposed to natural light and an improvement to their amenity. The proposed location

of the garage is to the unpopular side of the house and it is argued the streetscape which is disjointed will not be unduly adversely affected. It should be noted the adjoining neighbour has not objected to the proposal.

CONCLUSION

The proposal to relocate the garage to the Curtin Avenue side of the property is a key to this proposal. Relocating the garage will improve the use of the house's living areas and expose them to additional northern sunlight. The relocation of the garage has no adverse impact on the currently disjointed streetscape of the Curtin Avenue slip road. A variation to the front setback to the Curtin Avenue boundary is supported.

In regards to fencing proposed within the front setback, the solid sections facing Warton Street and Curtin Avenue are not recommended. There is no compelling need to allow solid fencing. The re-roofing and the proposed ground floor alterations to the residence are essentially compliant and are supported.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed the fencing and the extent of solid if allowed, given that the open-aspect requirement of the Local Law was important. It was concluded that the portion to Curtin Avenue plus the truncation could be solid due to that busy road, but that the portion on Warton Street should remain open-aspect. It was agreed that condition (h) to be amended accordingly.

OFFICER RECOMMENDATION

That Council GRANT its Approval to Commence Development for the Alterations and Additions to the Existing Dwelling, Re-roofing, Fencing Alterations and a Garage at No. 21 (Lot 42) Warton Street, Cottesloe, in accordance with the plans submitted on 30 July 2007, subject to:

- (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, 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.
- (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 relevant local law.
- (f) Any existing redundant crossover in Warton Street being removed, and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees (February 2000) where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) Revised plans being submitted at Building Licence stage for approval by the Manager Development Services, showing the fencing within the front setback areas to Curtin Avenue and Warton Street being modified to provide an open-aspect fence in accordance with the Fencing Local Law.
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) The proposed dividing fence (rendered brick wall) on the southern boundary to the covered storage area shall not encroach upon the neighbouring property.

11.1.4 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Alterations and Additions to the Existing Dwelling, Re-roofing, Fencing Alterations and a Garage at No. 21 (Lot 42) Warton Street, Cottesloe, in accordance with the plans submitted on 30 July 2007, subject to:

- (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, 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.**
- (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 relevant local law.
- (f) Any existing redundant crossover in Warton Street being removed, and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees (February 2000) where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) Revised plans being submitted at Building Licence stage for approval by the Manager Development Services, showing:
 - (i) the existing solid and open-aspect fencing to the Warton Street boundary being retained as is;
 - (ii) the infill fencing to the Warton Street boundary to replace the vehicle gates being open-aspect to match that existing; and
 - (iii) the fencing to the truncation facing towards Curtin Avenue, and the side-return to the garage, being solid to match that existing to Warton Street.
- (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) The proposed dividing fence (rendered brick wall) on the southern boundary to the covered storage area shall not encroach upon the neighbouring property.

Carried 11/0

11.1.5 NO. 16 (LOT 288) FEDERAL STREET – GROUND AND SECOND STOREY ADDITIONS

File No:	1243
Author:	Mr Lance Collison
Attachments:	Location plan Correspondence from applicant Plans
Author Disclosure of Interest:	Nil
Report Date:	7 September 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Simon Miller & Elizabeth Thomas
Applicant:	Nigel Denny Architect
Date of Application:	2 August 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	605m²
M.R.S. Reservation:	N/A

SUMMARY

Ground and second storey additions are proposed to a single storey residence.

The design is a skilful and subtle treatment of introducing a second storey which adds accommodation, suits the dwelling and preserves the streetscape. Were it not for a small height variation the proposal would qualify for approval under delegation as a low-key rear addition which respects neighbouring properties and the character of the locality.

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

PROPOSAL

On the ground floor the internal layout is to be altered. A timber framed pergola and terrace is proposed at the rear and stairs are proposed for a new entry to the laundry. The upper storey comprises three bedrooms, a play area (kid's room), bathroom and toilet.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	6m maximum wall height 8.5m maximum building height	6.2m wall height 6.7m building height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	3.2m setback – upper north wall	2.8-5.1m setback	3.3.1 – P1
No 8 – Privacy	6m setback – Kids' Room	4.3m setback	3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building

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 a Letter to Adjoining Property Owners

Submissions

There were 4 letters sent out. No submissions were received.

BACKGROUND

A well-established single storey residence can be found on the lot. In November 2006, a carport was approved in the front setback area. This is not part of this planning application.

STAFF COMMENT

Building Height

The wall height does not meet Town Planning Scheme No. 2 for single storey dwellings. The proposal is for a 6.2m (or RL 15.8) wall height whereas 6m is the maximum permitted under the Scheme. However, under Clause 5.1.1 *Variations may be permitted in the case of extension to existing buildings.*

In this circumstance, the wall height variation is recommended for support. The proposal is to largely conceal the second storey from the street. The applicant is employing a low pitch roof and this reduces the impression of building bulk.

Furthermore, the existing bungalow has its ground level elevated up to 800mm above natural ground level. Achieving a second storey addition within the wall height limit with an elevated ground floor is difficult. The floors to ceilings heights of the proposed upper storey level are between 2400 and 2700mm and this is not considered excessive.

It should be noted that there have been no objections to this wall height variation and there is no direct impact or loss of amenity to the neighbours. The proposed building height is 6.7m which is much lower than the maximum building height of 8.5m. The variation is minor and is not a streetscape concern.

Privacy

As the following privacy (cone of vision) setback variations of the proposal doesn't comply automatically with the Acceptable Development standards of the RDC they are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are also below:

Room	Required	Provided
Kids' room	6m setback	4.3m setback

“Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

- the positioning of windows to habitable rooms on the development site and the adjoining property;*
- the provision of effective screening; and*
- the lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.”*

The proposal asks for a variation to the kids' room cone of vision setback. It can be considered that the proposal complies with the Performance Criteria of the RDC. The window in question is located in the entrance area of the kids' room which is narrow. The area immediately adjacent to this window it is less likely to be used as an active habitable space. It should be noted no neighbours objected to this and screening is not recommended. Also, this window is the main source of daylight for the play area and passage, as other windows are highlight only.

Boundary Setbacks

The following side boundary setback of the proposed dwelling don't automatically comply with the Acceptable Development standards of the RDC, hence they are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC, which are also quoted below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Upper North Wall	Bed 2 to Staircase	6.5m	9.5m	Yes	3.2m	2.8-5.1m

3.3.1 – Buildings Set back from the Boundary

P1 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 an appurtenant open spaces;*
- Assist with the 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.*

This proposal is to have a 2.8 to 5.1m setback to the side boundary for the upper northern wall. This is usually required to be setback 3.2m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space. It can be considered that the wall does not have an adverse effect on the amenity of the adjoining property. The proposal also ensures that direct sun and ventilation to major openings to habitable rooms and outdoor living areas of adjoining properties is adequate. The staggered setback also does not increase the perception of building bulk between properties.

Other elements

The proposal complies with open space and overshadowing requirements.

CONCLUSION

The ground and upper storey additions are largely compliant with the Town's planning controls. The wall height variation of 200mm is quite minor and has no amenity impacts. It should be noted that no neighbours have objected to the proposal and the overall building height is 1.8m below the maximum permitted under Town of Cottesloe Town Planning Scheme No. 2.

The application is recommended to be approved subject to standard conditions and no special conditions are required.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee had no concerns regarding this proposal.

11.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Ground and Second Storey Additions at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 2 August 2007, subject to:

- (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, 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.**
- (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) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**

Carried 11/0

11.1.6 NO. 151 MARINE PARADE (BLUE DUCK) – VARIATION TO EXTENDED TRADING PERMIT: RESTAURANT SERVING ALCOHOL WITHOUT A MEAL – REQUEST FOR SECTION 40 CERTIFICATE

File No: Pro/2499-02
Author: Ms Delia Neglie
Attachments: Location plan
Letter from applicant
The Department of Racing Gaming and Liquor Policy regarding Extended Trading Permits for Restaurants to Sell and Supply Liquor Without a Meal.

Author Disclosure of Interest: Nil
Report Date: 12 September, 2007
Senior Officer: Mr Andrew Jackson

SUMMARY

The Blue Duck restaurant at 151 Marine Parade has applied for a Section 40 certificate under the Liquor Control Act to enable an extending trading permit (ETP) to serve alcohol without a meal as allowed by recent changes to the Act.

STATUTORY ENVIRONMENT

Reforms to the *Liquor Licensing Act 1988* commencing on 7 May, 2007 enable restaurants to apply to sell and supply alcohol to patrons seated at a table without a meal.

Restaurants could previously only serve alcohol without a meal within a designated area up to 20 per cent of the seating capacity. Under the reform, restaurants can now apply for an ETP to serve alcohol without a meal to all patrons as long as they are seated at a table (i.e. there would be no bar service for people not having a meal). The primary purpose of the restaurant must be the provision of meals.

The application would be advertised by the applicant for the Department of Racing, Gaming and Liquor (DRGL) in the community and may be approved for up to five years. Restaurants failing to comply with regulations would risk losing their ETP.

POLICY IMPLICATIONS**Local Policy**

Council at its meeting on 23 July 2007 resolved to endorse and advertise a draft Liquor (Licensed Premises) Policy to provide guidelines to planning applications involving liquor licences and the issue of Section 39 and Section 40 certificates under the *Liquor Control Act*. Its objectives are to provide guidelines to:

- assist Council with the assessment of liquor licence applications when issuing Section 39 and 40 certificates under the *Liquor Control Act 1988*;
 - make liquor licence applicants aware of Council's considerations when dealing with liquor licence applications;
 - assist Council in their consideration of applications for planning approval of development which may involve a liquor licence;
 - foster an appropriate type and number of licensed premises that will enhance the activity and atmosphere of commercial localities; and
-

- *protect the character and amenity of adjacent residential localities.*

The policy sets out matters that Council will consider, including hours of operation, number of premises, noise and location.

State Policy

The Department of Racing Gaming and Liquor has recently (11 June 2007) adopted a Policy regarding Extended Trading Permits for Restaurants to Sell and Supply Liquor without a Meal. The policy assists Council's consideration in this case and confirms that ... *the provisions of the Act in relation to restaurants mean that the business conducted under a restaurant license must consist primarily and predominantly of the regular supply to customers of meals to be eaten on the premises, by patrons seated at a dining table or fixed structure used for dining....*

The policy requires applicants to demonstrate to the DRGL *how the conduct of business... will be managed; that is, what strategies will be implemented so that the premises continues to be operated as a restaurant and that at all times, proper facilities and services are in place for the sale, supply and consumption of genuine meals.* It also includes possible conditions that may be imposed to a liquor license by the DRGL to ensure restaurants do not become de-facto bars (refer to attached DRGL policy).

The DRGL policy makes it clear that a restaurant granted an ETP for non-meal drinking seated at a table must operate as required and will be policed accordingly. It provides comfort to councils when considering Section 40 certificate applications for such from a town planning perspective.

STRATEGIC IMPLICATIONS

Facilitates management of licensed premises and promotes recreational role of Cottesloe beachfront.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

- Since the Liquor reforms were enacted, Council has so far supported two applications for section 39 and 40 certificates to sell and supply liquor without a meal for the Blue Waters restaurant at the beachfront and Phillips Café in the town centre.
- The Blue Duck restaurant is currently open for breakfast, lunch and dinner from Monday to Sunday 6am to late, with the last meal orders at 9pm.
- The restaurant would continue to function as it is at present, but with the addition of customers having the advantage of having pre or post-meal drinks at their table rather than in a designated bar area.
- Health requirements have been met and a Section 39 is able to be issued together with the Section 40.
- It is noted that the first few days of the week are typically quieter trading days and that any non-meal drinking during that period may be expected to be limited and low-key.

STAFF COMMENT

- Unlike some other Councils, Cottesloe has been prepared to embrace and test the restaurant liquor reform changes. In line with the objective of Council's draft Liquor Policy, encouraging a variety of smaller establishments along the beachfront may assist to spread and thereby dilute any negative impacts of drinking behaviour.
- The applicant has made it clear that the restaurant use would not alter and indeed the DRGL policy makes this clear.
- The licensing authority has safeguards including conditions to the licence and the ability to withdraw the ETP should conditions not be met. Also the application will be advertised locally to ensure that the community is aware and the specific nature of the proposal is made clear.
- The proposal would meet the criteria of the Council-endorsed draft Liquor (Licensed Premises) Policy.
- Council has the ability to recommend conditions to the Licensing Authority.
- Taking all of the above into consideration, it is recommended that the application be supported subject to conditions 1-8 of the Department of Racing Gaming and Liquor Policy regarding *Extended Trading Permits for Restaurants to Sell and Supply Liquor without a Meal (as amended 11 June 2007)*.

CONCLUSION

- The Blue Duck is a long-established and popular local beachfront restaurant which trades successfully as a licensed food-based premises capitalising on the breakfast to dinner market seven days a week.
- Allowing an ETP for drinking without a meal would relate to this business and the times of the day when customers may desire that, similar to the coffee and cake patrons.
- It is also likely that some patrons who start with drinks only may end up ordering food as they stay longer to enjoy the location.
- The ETP is considered appropriate for the area and business and hence a S40 certificate can be granted.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee noted that this proposal was similar to others supported by Council.

11.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **Agrees to the request for a Section 40 Certificate for a variation to the existing liquor licence for the Blue Duck, to include an Extended Trading Permit for Restaurants to Sell and Supply Liquor without a Meal.**

- (2) Recommends to the Director of Liquor Licensing that the Section 40 Certificate be subject to conditions 1-8 as included in the Department of Racing, Gaming and Liquor Policy: *Extended Trading Permits for Restaurants to Sell and Supply Liquor Without a Meal (as amended 11 June 2007)*.

Carried 9/2

11.1.7 NO. 1A CLARENDON STREET (LOT 311) – SIDE BOUNDARY PRIVACY SOLUTION INVOLVING VERGE

File No: Pro/760
Author: Ms Delia Neglie
Attachments: Location Plan
Correspondence from Owner
Photographs
Author Disclosure of Interest: Nil
Report Date: 12 September, 2007
Senior Officer: Mr Andrew Jackson

SUMMARY

1A Clarendon Street is located on a corner lot with a portion of the rear yard in view of Nailsworth Street. The verge area is a partially landscaped steep embankment with low limestone retaining walls at the property boundary on the lower side.

At its June meeting Council supported a proposal subject to legal advice, for a fence within the Nailsworth Street verge area to provide privacy screening. As legal advice suggests that it is not within Council 's power to approve such a structure within a road reserve, the landowner is now requesting that Council allow a hedge of screen planting such as Privet bush or similar.

The proposal is supported as a pragmatic compromise in the unusual circumstances.

STATUTORY ENVIRONMENT

Local Government Act

Relevant Local Law - *Activities on Thoroughfares and Trading in Thoroughfares and Public Places*

POLICY IMPLICATIONS

Planting in verges is subject to the above local law and also a more specific Policy regarding *Residential Verges*. Both require a permit to be obtained before any planting or other works are carried out in verges, except for lawn planting. Also, planting that exceeds 0.6metre in height is generally not permitted. While native varieties are encouraged, other species may be used.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At its meeting on 25 June 2007 Council resolved to... *authorise officers to liaise with the landowners of 1A Clarendon Street, to prepare for planning approval an acceptable design proposal for a fence within the Nailsworth Street verge area, subject to legal advice.*

Legal advice was received that Council does not have the power to authorise the proposal as it would be contrary to Council's duty under section 3.52 of the *Local Government Act 1995* to ensure that both the carriageway and verge area of Nailsworth Street remain open to the public. Section 3.5.2(2) of the Act states that *Except to the extent that it is authorised by law to close them or restrict their use, a local government is to ensure the public thoroughfares are kept open for public use.*

Regulation 17(3) of the *Local Government (Uniform Local Provisions) Regulations 1996* requires that *The ordinary and reasonable use of the public thoroughfare or public place for the purpose to which it is dedicated is not to be permanently or unreasonably obstructed.*

This was discussed at a senior management level where the advice was concurred with and the landowners were advised that the fencing proposal could no longer be pursued.

The applicant has thus come back with a request to provide screen planting by way of a privacy hedge between the present limestone wall and the existing tree line to provide privacy and enhance the streetscape (see attached letter). Privet bush is suggested as one species being considered.

STAFF COMMENT

Council's policy limits the height of any planting within a road reserve to 0.6m to ensure visibility and passage if necessary. While the landowner has not specified a proposed height, it can be assumed that for screening purposes a hedge may be grown to a height of about 1.5 metres.

It is considered that there are particular circumstances with this property that would allow Council to vary the policy in this instance and allow such hedge planting to provide additional screening:

- The corner location of the property and its exposure to being looked upon.
- The steep topography of the verge and its long established landscaping.
- The verge is not readily traversable and the street is not a busy thoroughfare.
- Existing street trees currently form a barrier and would be complemented by a hedge.
- Access to any underground services would still be possible as vegetation can be removed and replaced.

CONCLUSION

Variation to Council's policy is supported for this proposal given the overlooking issues and the steep slope of the verge.

Council previously supported the construction of a suitably designed fence within the Nailsworth Street verge to provide screening. The use of screen planting is a suitable and in many ways preferable alternative as it will blend in with the existing planting and can contribute positively to the streetscape. Public access is already restricted by the steep slope so that any additional restriction by the proposed hedge would not be an issue and planting would allow access to services to be maintained when necessary.

Liaison with Council's Works Supervisor regarding the species, location, installation and verge rehabilitation is recommended to ensure that any works in the verge, which remains public land remains suitable.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee had no concerns regarding this proposal.

11.1.7 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **Agrees to hedge screen planting in excess of 0.6m in height within the Nailsworth Street road reserve abutting 1A Clarendon Street, in accordance with the proposal dated 28 August 2008.**
- (2) **Advises the applicant to liaise with the Works Supervisor with regard to the planting, including the species, location, installation and verge rehabilitation,**
- (3) **Advises the applicant and that all costs associated with the planting shall be born by the applicant, including in relation to checking, protecting or relocating services as may be necessary; and that the applicant shall be responsible to maintain the hedge to the satisfaction of the Town.**
- (4) **Advises the applicant that Council and the services authorities reserve the right to prune, disturb or remove the planting as may be required from time to time for their purposes, without recompense to the applicant, who shall be responsible for any reinstatement and its cost.**

Carried 11/0

11.1.8 CURTIN AVENUE – MRWA ROAD DESIGN OPTIONS – STATUS REPORT

File No:	Sub/440
Author:	Ms Delia Neglie / Mr Andrew Jackson
Attachments:	Council Minutes October 2006 Notes of Meeting between officers, March 2007 Letter from MRWA, July 2007 Alignment Options Plan
Author Disclosure of Interest:	Nil
Report Date:	13 September 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

- This report updates Council on the liaison towards a solution for Curtin Avenue.
- Council last considered the overall situation and potential alignments for Curtin Avenue in October 2006, when it resolved to make recommendations on the matter to the Sustainable Transport Committee (STC) of the Western Australian Planning Commission (WAPC) – a copy of that report is attached.
- That Committee met in June 2007 and resolved, among other matters, that two alignment options be discussed further with the Town and community, being a subway option and a one-way-pair option.
- Main Roads Western Australia (MRWA) has since considered several alignment options and now wishes to reach agreement with the Town and is willing to be involved in any community consultation.
- MRWA is to provide three-dimensional illustrations of these options to assist Council to appreciate their effects and provide feedback for the next steps.

STATUTORY ENVIRONMENT

- The current Metropolitan Region Scheme (MRS) Primary Regional Road (PRR) reservation for Curtin Avenue represents a major constraint to planning for the district and land use and development in the vicinity of the route.
- The uncertainty and potential impacts are impediments to solving regional and local traffic movements and providing for a Town Centre activity node consistent with the State Government's Network City planning strategy.
- In this respect Council's Scheme Review is under an expectation of responding to regional requirements, yet this statutory instrument is likewise affected by the future of Curtin Avenue.

POLICY IMPLICATIONS

- This matter does not relate directly to any specific Council policy about Curtin Avenue, however, it is clear that regional and local transport and planning policies cannot be realised until Curtin Avenue is resolved.

STRATEGIC IMPLICATIONS

- Curtin Avenue is probably the key strategic issue facing the district, which for several decades has remained uncertain, contributing to local traffic problems, urban blight and loss of amenity.

- The growth of Perth has increased pressures on the regional road network and resultant impacts on local communities.
- A responsible approach is needed to finalise a preferred alignment and design for Curtin Avenue through Cottesloe.

FINANCIAL IMPLICATIONS

- Construction of a realigned Curtin Avenue would be an MRWA cost.
- Council will incur future costs in addressing the related local road system and land use planning for the surrounding area.
- Community consultation and advertising regarding preliminary solutions for the route may involve consultants and other costs in the order of \$10,000-20,000.

BACKGROUND

- The future of Curtin Avenue through Cottesloe is a long-standing matter and one which Council is keen to resolve.
- To this end, Council has taken the initiative and collaborated with the Department of Planning and Infrastructure (DPI) towards in-principle agreement on a preferred alignment, which can then lead to more detailed planning and implementation through the statutory process.
- This was achieved by a series of workshops involving Council, the DPI and transport consultants Maunsell, to explore the issues, options and implications.
- Council officers met with MRWA and DPI representatives in March 2007 to discuss alignment options formulated by MRWA. The advantages and disadvantages of two options, one a subway and the other a one-way-pair around the Western Power substation, were discussed. The first option was indicated as Council's generally preferred option. Also, Council's intention to conduct an Enquiry-by-Design (or similar) consultation exercise for the Town Centre was discussed, hence the possibility of presenting alignment options at such a community forum. The attached notes from that meeting elaborate.
- The DPI reported to the STC of the WAPC in June 2007 on the progress made in this matter. Council and other Government stakeholders made recommendations to the Committee – Council's recommendations are contained in the attached report.
- The STC resolved:
 - *To note the findings and completion of concept work undertaken by Main Roads WA in consultation with the Town of Cottesloe, Department for Planning and Infrastructure and other Government agencies.*
 - *That only options 2 and 3 be included in the Enquiry by Design (EBD) to be undertaken by the Town of Cottesloe.*
 - *That the rationale be given to the EBD for excluding other options (#1, #4 and Forrest St), with a focus on the assumptions and minimum acceptable conditions that led to the exclusion of these options.*
- MRWA has subsequently advised that it wishes to continue the dialogue with the Town and the community – attached letter dated 9 July 2007 refers.
- A meeting between officers was held recently in this regard. The attached diagram of the four options discussed by the STC was provided. Council officers advised that a community consultation exercise specifically for Curtin Avenue, rather than in conjunction with any EBD for the Town Centre, was now favoured. Also, that the matter would be presented to Council and that three-dimensional

illustrations would assist consideration of the options. A briefing session with officers and elected members may be arranged. It was also noted that the entire Curtin Avenue route affecting the district needed to be addressed, not simply the section passing the Town Centre.

- In this way Council will be able to explore the options in more detail and consider the implications for the route and the area including the Town Centre and railway lands, to firm-up on its position and continue to liaise with the Government agencies towards a solution.

CONCLUSION

- Previous meetings between officers have focussed on only two options, Option 2 for a subway and Option 3 for a one-way-pair around the Western Power sub-station. Council officers indicated general agreement to the subway but no support for the one-way-pair. The intended three-dimensional illustrations will assist Council to further evaluate the options.
- At this stage it is concluded that Council should only note the resolution of the STC, as Council has not received any detailed rationale for excluding the other alignment options and is to give the matter further consideration.
- In this respect the parameters identified in the October 2006 resolutions of Council remain important, particularly the local land use, built form/urban design and connectivity imperatives.
- Subject to this closer consideration Council will be able to clarify its preferred position in order to pursue agreement to a solution for Curtin Avenue.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee expressed concern that the options for Curtin Avenue were becoming limited and emphasised the need for open-minded thinking about the future of the road and integration with the surrounding areas. It was considered that the STC should provide Council with:-

- its rationale for not supporting Option 1
- any reports made to the STC regarding Options 1 & 2
- 3D illustrations of Options 1 and 2

Options 3 and 4 remain unacceptable for Cottesloe and the need for a high/wide road route is also questionable.

Options 1 and 2 must be included in the enquiry by design process and an analysis of all the issues and constraints surrounding Options 1 and 2, is necessary at the outset if orderly and proper planning is to occur.

OFFICER RECOMMENDATION

That Council:

- (1) Notes the resolution of the Sustainable Transport Committee of the WAPC at this stage.

- (2) Awaits the three-dimensional illustrations from MRWA, upon which it will give further consideration to the following in order to provide feedback to the Government agencies towards a solution for Curtin Avenue:
- (i) The pros and cons of options for the alignment and design of Curtin Avenue through Cottesloe;
 - (ii) The implications for land use, urban development and transport connectivity affecting the district;
 - (iii) The particular implications for the Town Centre and railway land areas in light of Council's planning for these areas; and
 - (iv) A course of action, including community consultation and ongoing liaison, to reach agreement on the matter.

COMMITTEE RECOMMENDATION

That Council:

- (1) Notes the resolution of the Sustainable Transport Committee of the WAPC and seeks an explanation of the rationale for excluding Option 1 and including Option 2 together with a copy of any reports to the STC on both options.
- (2) Advise the Government agencies that Options 3 and 4 are not acceptable to Council.
- (3) Seeks three-dimensional illustrations from MRWA for Options 1 and 2 only, upon which it will give further consideration to the following in order to provide feedback to the Government agencies towards a solution for Curtin Avenue:
 - (i) The pros and cons of the options for the alignment and design of Curtin Avenue through Cottesloe;
 - (ii) The implications for land use, urban development and transport connectivity affecting the district;
 - (iii) The particular implications for the Town Centre and railway land areas in light of Council's planning for these areas; and
 - (iv) A course of action, including community consultation and ongoing liaison, to reach agreement on the matter.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

The item (2) be amended to read the following:

Advises the Government agencies that a one-way-pair as per Options 3 and 4 is not acceptable to Council.

Carried 11/0

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That a new item (3) be inserted to read: “Requests consideration of a new Option 5 with Curtin Avenue and the railway line both being lowered to go under Jarrad Street”.

Carried 11/0

11.1.8 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Woodhill

That Council:

- (1) Notes the resolution of the Sustainable Transport Committee of the WAPC and seeks an explanation of the rationale for excluding Option 1 and including Option 2 together with a copy of any reports to the STC on both options.**
- (2) Advises the Government agencies that a one-way-pair as per Options 3 and 4 are not acceptable to Council.**
- (3) Requests consideration of a new Option 5 with Curtin Avenue and the railway line both being lowered to go under Jarrad Street.**
- (4) Seeks three-dimensional illustrations from MRWA for Options 1 and 2 only, upon which it will give further consideration to the following in order to provide feedback to the Government agencies towards a solution for Curtin Avenue:**
 - (i) The pros and cons of the options for the alignment and design of Curtin Avenue through Cottesloe;**
 - (ii) The implications for land use, urban development and transport connectivity affecting the district;**
 - (iii) The particular implications for the Town Centre and railway land areas in light of Council’s planning for these areas; and**
 - (iv) A course of action, including community consultation and ongoing liaison, to reach agreement on the matter.**

Carried 11/0

**11.1.9 DRAFT TOWN PLANNING SCHEME NO. 3 – CONSENT TO ADVERTISE
SUBJECT TO REQUIREMENTS AND MODIFICATIONS – COUNCIL
RESPONSE**

File No:	Sub/334
Author:	Ms Delia Neglie / Mr Andrew Jackson
Attachments:	Various
Author Disclosure of Interest:	Nil
Report Date:	30 August 2007
Senior Officer:	Mr Stephen Tindale

INTRODUCTION

- Draft Town Planning Scheme No. 3 (TPS3) was lodged with the Western Australian Planning Commission (WAPC) in February 2006, followed by the supporting Local Planning Strategy (LPS) in April 2006.
 - Department of Planning and Infrastructure (DPI) staff subsequently assessed the proposed scheme, which involved liaison with Town of Cottesloe staff, including the provision of additional information to the DPI to assist understanding of the scheme proposals and the local planning context.
 - The Town received preliminary formal feedback from the WAPC in April 2007, which Council considered at its meeting in May 2007, and a response containing several resolutions with supporting explanations was forwarded to the WAPC on 8 June 2007.
 - Following further discussions with Town staff, the DPI reported again to the WAPC on 22 August 2007, including a recommendation to the Minister for Planning and Infrastructure on the content of the scheme and LPS for a decision as to public advertising.
 - Council has recently received the Minister's consent to advertise the draft TPS3 and LPS, subject to a number of requirements and modifications, as set out in the letter of advice from the WAPC dated 29 August 2007. A 42-day period is provided for Council to respond to the modifications.
 - This report addresses:
 - The requirements and modifications of the Minister's consent to advertise, particularly the central beachfront height limit.
 - The statutory process and policy circumstances.
 - Options and recommendations for Council's response.
 - The aim is to establish the direction Council wishes to take to settle the modifications, after which officers will be able to devise the precise provisions and revised modifications for endorsement by Council, then prepare the modified documents for resubmission.
 - For ease of reference, the following documents are attached:
 - WAPC letter conveying the Minister's consent to advertise.
 - Schedule of Modifications required by the Minister, including draft Schedule 14 to the Scheme Text.
-

- Map showing extent of required central beachfront five storey height limit.
- Standard structure plan provisions.
- Minutes of May 2007 Council item on the scheme.

STATUTORY ENVIRONMENT

- Under section 14(4) of the Town Planning Regulations, the present step in the scheme review process requires Council, within 42 days of the WAPC letter (or any longer period approved by the Minister) to resolve whether to proceed with the Scheme. If Council resolves to proceed it is to:
 - i. settle the modifications with the WAPC;
 - ii. request consent to any further modifications; and
 - iii. re-submit the Scheme with the required [agreed] modifications carried out (upon which the advertising arrangements are executed).
- If Council resolves not to proceed, it must notify the WAPC. If so, the Minister can order Council to agree to the modifications or (under section 76 of the Planning and Development Act (“the Act”)) can adopt the Scheme for advertising on behalf of Council.
- When there are matters of disagreement between Council and the WAPC / Minister it may be possible to negotiate that the Scheme be advertised with those matters clearly presented as options still under consideration – although that is by informal arrangement rather than expressly provided for. This method appears applicable to the height limit matter, as discussed amongst other options later in this report, were Council to take that approach. If so, Council would be required to commit to review these matters in light of public submissions (which it must consider in any case); and resolution through negotiation with the WAPC / Minister would then be pursued.
- Following advertising and the assessment of submissions, a modified Scheme may be adopted by Council before again being referred to the WAPC, for further consideration / reporting, possible further modifications as agreed, and a decision by the Minister regarding final approval.
- Where modifications arising from the submissions or Council are deemed substantial by the Minister, the Minister may require them to be further advertised for submissions and additional consideration prior to determination of them and finalisation of a scheme.
- In summary, the statutory process to advertise and finalise a scheme entails several steps / decisions and at each stage, unless modifications can be settled between Council and the WAPC / Minister, the process is likely to become drawn-out, hence further liaison with the WAPC and Minister may be necessary.
- With regard to the ability for a council to resolve not to proceed with a scheme, that would be exceptional, such as when there are overriding complications or overwhelming objections, where a Council decides it best to abandon the proposal, but not so as to lose control over a scheme. A guided development scheme with multiple landowners who cannot reach agreement is one such situation. In the case of a district scheme (as for Cottesloe), obviously there is an

imperative to get the entire scheme in place and it would be most unusual for Council to move to discontinue the scheme.

POLICY IMPLICATIONS

Regional Planning Policy

- In relation to the Western Australian planning system, Section 77 of the Act requires that: *every local government in preparing or amending a local planning scheme... is to have due regard to any State planning policy which affects its district....*
- It is emphasised that all local governments and town planning schemes are guided in this way, for an integrated planning approach. This reflects the framework for broad regional planning to be translated into detailed local planning and implemented through the statutory process.
- Deliberation on the draft scheme by the DPI, WAPC and Minister has included having regard to regional policies relating to urban growth, and by way of the consent and modifications they have agreed that this may be managed by land use and development under the Development, Town Centre and Foreshore zones.
- The State Coastal Planning Policy (SPP2.6) remains a contention in relation to settling the central beachfront height limit.

Local Planning Policy

- Council operates a number of existing local planning policies and related policies, and the draft scheme provides for these policies to be carried over, augmented or added to consistent with the scheme requirements.
- The modifications sought by the WAPC / Minister may cause revised or additional policies (such as design guidelines) to be prepared, but the consent granted and modifications required do not require any action in this regard. However, policy and design/development guidelines are tools relevant to settling the central beachfront height limit, as already deployed by Council.

STRATEGIC IMPLICATIONS

- Council under its existing Strategic Plan and proposed Future Plan is committed to completing the town planning scheme review.
- Council is also committed to a consultative approach and has undertaken considerable community engagement so far in formulating the draft scheme.
- Progress of the proposed scheme to the official public advertising stage is a pivotal step, whereby a range of responses from owners, residents, businesses, organisations and other interested parties may be expected, which will further help shape the final scheme.
- Completion of the scheme will set the scene for land use planning and development control for the district over the next five to ten years, which will clarify these intentions and afford certainty regarding built form and amenity aspirations.

- Over recent months Council has progressed several initiatives which are interrelated with the scheme and the future of the district, including the Foreshore Vision Working Group, a preferred alignment and design solution for Curtin Avenue, and prospective Enquiry by Design or other appropriate consultation exercises to facilitate planning for the foreshore / beachfront and the Town Centre / transport corridor plus surplus government lands.
- At the same time *Network City* workshops by the DPI have disseminated the outlook of the WAPC regarding the role of local government towards delivering housing provision / diversity, employment opportunities and transport efficiencies in the context of sustainable metropolitan development.

FINANCIAL IMPLICATIONS

- The advancement of the scheme review is variable and may entail additional community consultation, the use of consultants, legal advice and other resources, with resultant budget implications.

BACKGROUND

- In August 2006 the WAPC considered a departmental report on draft TPS3 and made recommendations to the Minister.
- The Minister expressed her support for the Commission's comments and advised the Council accordingly (letter dated 25 August 2006).
- In September 2006 a meeting between the Chairman of the WAPC and DPI staff with the Mayor of Cottesloe and Town staff was held to discuss the matter.
- The Chairman of the WAPC and DPI staff undertook to elaborate on the WAPC and Minister's views and some dialogue ensued to scope the matters to be considered.
- In April 2007 a meeting of DPI and Town staff was held to further discuss the aspects identified by the WAPC.
- By letter dated 10 April 2007 the DPI then summarised the WAPC's deliberations and requested that Council give formal consideration to them for a response to the WAPC, for another report to the Minister on advertising consent for draft TPS3 and the LPS.
- In preparing a response Council officers liaised with DPI officers to discuss the matters raised and the process involved. Council considered a report on 28 May 2007 and passed a suite of resolutions in response to the main matters.
- DPI officers have considered Council's response and following further discussion reported again to the WAPC on 22 August 2007, whereupon the WAPC made its recommendations to the Minister regarding consent to advertise the scheme and LPS.
- The Minister has granted consent to advertise the scheme subject to some advertising requirements and a number of modifications. Council is required to respond to the modifications within 42 days (or any longer period approved by the Minister). Specifically, the Minister has given consent for the scheme to be advertised for public inspection subject to:

1. *the modifications contained in the attached Schedule of Modifications (22 August 2007), with the deletion of modification 16, being effected prior to advertising ; and*
2. *the inclusion of Schedule 14 (Development Zone Provisions - 22 August 2007) for Areas 'A', 'B', 'C', 'D' and 'E' [comprising] the provisions shown in Attachment 7, being effected prior to advertising .*

- In addition, the Minister has required focussed advertising as follows:

1. *Council to write directly to owners of those lots proposed to be rezoned from 'Foreshore Centre' to either 'Restricted Foreshore Centre' or 'Residential', advising of the differences between the current and proposed zones, and inviting comment thereon.*
2. *Council to formally invite public comment on the residential densities and building heights as referred to above [ie in the letter].*
3. *In addition to its statutory obligations, Council is to ensure that all relevant authorities or bodies are made aware of the draft scheme and invited to comment, and to take appropriate steps to ensure owners and occupants of land in the Town are made aware of the draft scheme and invited to comment.*

- Such targeted advertising is a practice often applied to facilitate the public consultation phase, is relatively easy to satisfy and should assist the community and Council in any case.
- This report now presents the Schedule of Modifications, comments and recommends on each one, and recommends an overall way forward to reach the milestone of advertising the draft scheme.

OVERVIEW OF MODIFICATIONS

- It is observed that, compared to draft schemes generally, not many modifications are needed to the documents, whether editing improvements or changes of planning content. This results from Council officer efforts in submitting an initial draft that was accurate and correctly-formatted, and of ensuing liaison with DPI officers to narrow-down any editorial revisions or planning matters to be settled; which makes the task of dealing with the modifications easier for Council and staff.
- Many of the required modifications are technical details pertaining to the Scheme Text, and a few to the LPS, which have previously been discussed and agreed between DPI and Council officers. These have by-and-large been accepted by the WAPC and Minister.
- Other, more strategic, modifications as also discussed between the DPI and Council officers in April and considered by Council in May, culminated in the handful of resolutions and the supplementary advice sent to the WAPC. These aspects included:
 - *Areas with Potential for Higher Residential Densities Foreshore Activity Areas and Proposed R100 Development on Beachfront Sites.*
 - *Building Heights – Foreshore Activity Areas.*
 - *Building Heights – Residential.*

- *Additional Items – Vacant Crown Land – Curtin Avenue.*
- *Additional Items – Foreshore Land Reserved for Parks & Recreation in the MRS.*
- They have mainly been accepted by the WAPC and Minister, with some refinement, which is assessed as acceptable in-principle to Council for the purpose of advertising the scheme. The refinements relate to the structure of the Scheme Text and altering some wording, while preserving the basic intent and effect of the provisions and hence the direction of the Scheme. Much of this is for greater consistency with the standardised format and content of the Model Scheme Text. There is scope for Council to further refine some of them, as assessed hereunder.
- The central beachfront height limit is the overriding unresolved matter which warrants further negotiation, as an important component of the Scheme having lasting implications.
- The required modifications are listed below (shown numbered) with Council Officer comments on each. The discussion on the height limit comprises a separate section under the heading *Settling the Central Beachfront Height Limit*.

SCHEDULE OF MODIFICIATIONS – WITH COMMENTS

A. SCHEME TEXT AND MAP

1. *Replace the term “Town Planning Scheme” with “Local Planning Scheme”, in accordance with the provisions of the Planning and Development Act 2005, and ensure any other references to this legislation are correctly stated;*
2. *Include within Clauses 4.8 and 4.9 the provisions of the Model Scheme Text Clause 4.3.3;*
3. *Clause 4.4.2: delete “mixed land uses” and insert “a combination of land uses”;*
4. *Clause 4.10: change heading to “Continued use and development”; at the end of sub-clause (a) add “(hereinafter referred to as a non-conforming use)”, and insert as a second note, the note which is currently at the end of Clause 4.11;*
5. *Zoning Table and Definitions: delete all references to “Serviced Units” and replace with “Short-stay accommodation”; and delete all references to “Gross Leasable Area” (the term “Gross Floor Area” is to remain);*
6. *Clause 5.3.5: in the heading, add the word “of” after “Redevelopment”; and after “Scheme Map” in line 6, add “but not exceeding the existing built density”;*
7. *Clause 5.5.4 (a): modify to refer to Schedule 13;*
8. *Clause 9.1.1 (g): delete, and insert: “repairs, rebuilding, alterations or additions where there has been destruction of or damage to a non-conforming use”;*
9. *Clause 9.4.1: delete “is made”; and in part (c) replace “6.6.2” with “6.2.2”;*

Comment:

- Modifications 1-9 relate to technical details previously agreed to between DPI and Council officers to refine the Scheme Text.
- They add clarity and consistency to minor and normal operational provisions of the Scheme, while preserving the original intent.
- These are mainly minor discrepancies arose from the carry-over of TPS2 clauses and various legal reviews, whereby it is now appropriate to rectify and update these operational elements of the Scheme.
- The only one in need of highlighting is the last change mentioned in modification 6, which relates to the proposed density bonus clause for the redevelopment of existing grouped or multiple dwellings. This refinement would mean that the extra density should not be more than what exists, which is assessed as reasonable, so that the provision is not exploited with undesirable built-form outcomes.
- There is no objection to these improvements which can therefore be supported.

10. *With respect to all land which is not zoned 'Residential' but in which residential development is permitted, modify the scheme to ensure that the residential uses can only be developed on the first floor level and above, and that the ground floor is limited to those uses accessible to the public, ie retail, hospitality and other recreational activities;*

Comment:

- Council has previously agreed to such a provision for the central beachfront area along Marine Parade.
- This modification, however, applies to all non-residential zones throughout the district and would prevent any ground floor residential use, which may be unduly restrictive. (Note that this would not mean the Development zones, which are primarily residential, may allow other uses, and are to undergo the structure planning process to ascertain their land use and development parameters composition).
- In the Town Centre and Local Centres, mixed-use developments are likely to be designed accordingly, as done with Vivian's Corner and proposed for the Eric Street shopping centre/apartments redevelopment.
- However, in any of these zones, including the Foreshore zones and the Residential & Office zone, there could well be occasions where some residential use may sensibly occur at ground level.
- Examples include side streets adjoining the beachfront strip and local centres where they interface with residential.
- Also, while street frontages may be non-residential, commercial etc premises may not occupy the depth of a site, whereby a residential component may occupy the rear.

- In addition, residential lobbies, stairs/lifts, garages/storerooms, common areas/facilities (eg: gym or pool) could typically be found occupying part of ground floors, with living quarters being above.
- Therefore, Council should propose an amended modification 10 in this connection; for a suitable provision/s to be to be drafted by officers for endorsement by Council prior to resubmission.

11. *With respect to the non-residential zones along Marine Parade wherein residential densities between R60 and R100 are envisaged, modify the text to state an upper limit on dwelling size, in line with the examples indicated in the "Beachfront Site Investigations and Design Guidelines" (March 2006) document; the purpose of this provision is to foster the development of small dwellings, including tourist accommodation, to ensure that larger dwellings will not be developed at the expense of the aims of the scheme and the Local Planning Strategy;*

Comment:

- Agreement to a provision along the lines of modification 11 was resolved by Council on 28 May 2007 and can therefore be supported; for a suitable provision/s to be to be drafted by officers for endorsement by Council prior to resubmission.
- It is noted that Council's study in this regard has been recognised as a guide.

12. *Rename the proposed 'Special Development' zone 'Development' zone, delete the residential density designations for each, and delete from Table 2 (Development Requirements) the provisions for this zone;*

Comment:

- Agreement to modification 12 was recommended to Council on 28 May 2007. Council resolved to first *evaluate the likely population increase in developing the vacant reserve land beside the railway station and the town centre as compared to the changes in density coding proposed by DPI/WAPC.*
- Council considered a report regarding this on 23 July 2007, which demonstrated that the railway land and other Development zone areas could provide for future housing needs and diversity. Council noted *the primary opportunity for the railway lands to provide substantially for new residential development in the district and in support of a number of important local and regional planning aims.*
- The modified naming is acceptable, as is managing the densities by way of Schedule 14 and structure planning provisions, which modifications 14 to 16 described below address.
- Deletion of the provisions from Table 2 would be acceptable, subject to inserting them into Schedule 14 (which is permitted under modification 16), as it is considered that those important development parameters (which include plot ratio, site cover, setbacks and height) should not be lost and left entirely to the structure planning process.

- There is also the need to ensure that the Development zone objectives and provisions parts of the Scheme Text are correlated with these changes.
- Therefore, Council should propose a revised modification 12 in this connection; for a suitable provision/s to be drafted by officers for endorsement by Council prior to resubmission.

13. *Designate, as 'Development' zone, that portion of the Crown Reserve on Curtin Avenue which is zoned 'Urban' in the Metropolitan Region Scheme (the Crown Reserve referred to is that located east of the gazetted/constructed alignment of Curtin Avenue, and west of the Town Centre/MRS rail and road reserve area)*

Comment:

- The previous advice from the DPI/WAPC suggested that the land west of the Town Centre remain reserved for Public Purposes for the time being and the Local Planning Strategy reflect its potential future development. Council's 28 May 2007 resolution agreed to this.
- Subsequent discussions about how to best deal with residential densities and the Development zones has led to this modification 13.
- As mentioned above, Council has considered a report on the residential development potential of this land and other such sites, whereby it concluded that the railway land could be included as a Development zone and that those zones would cater to the demand for housing at increased densities.
- Modification 13 can therefore be supported.

14. *Incorporate, as a new clause (XX), the Commission's model structure planning provisions (in total, but modified to refer to the 'Development' zone, rather than the 'Development Areas') [electronic copy available from DPI]; these will replace the structure planning provisions in existing clause 5.12, and will also clarify that structure planning is a requirement for land in the 'Development' zone;*

Comment:

- Modification 14 relates to an essentially technical yet important Scheme Text matter previously discussed between DPI and Council officers.
- The model structure planning provisions are more detailed than those contained in clause 5.12 of the draft Scheme.
- The most significant difference is the requirement for WAPC approval of any structure plan under the model provisions, which is reasonable especially given that the WAPC is prepared to concentrate on the Development zones to contribute increased residential densities and diversity.
- That is, as determination of densities in the Development zones does not eventuate until structure planning is undertaken, the model provisions allow the WAPC to retain a role in a similar manner to a scheme amendment.
- The WAPC is also concerned to achieve uniform structure planning provisions for local governments.

- Therefore, in the context of the agreed approach to residential densities and the Development zones, it is considered that modification 14 can be supported.
- The standard structure planning provisions are an attachment.

15. *Modify the Zoning Table, under column 9 ('Development' zone), by deleting the asterisks and replacing them with the following statement (either in the column or as a note under the Zoning Table): "Development and use of land is to be in accordance with an approved Structure Plan prepared and adopted under clause XX".*

Comment:

- Modification 15 relates to a formatting and cross-referencing technique previously agreed to between DPI and Council officers regarding the Scheme Text.
- It will afford clarification and user-friendliness of the document and can therefore be supported.
- It is noted that this would not inhibit, and can be correlated with, the other modifications for the Development zone or Council's refinement of them as discussed herein.

16. *Include a new Schedule (No. 14 – Development Zone Provisions) relating to the 'Development' zones, numbering and identifying the location of each of the 5 proposed zones, plus relevant provisions applicable to each, in accordance with the attached Schedule 14 – Development Zone Provisions, dated 22 August 2007; Council, prior to advertising, may add provisions it considers appropriate, subject to Commission consent; delete, from clause 5.3.8, reference to 'Special Development Zone A';*

Comment:

- Modification 16 relates to modification 12 as the technique to incorporate Development zone provisions, which are linked to the structure planning provisions.
- As to the ability for Council to add provisions, this could include transfer of the Table 2 provisions into Schedule 14 for each Development zone, and there may be some other useful refinements in terms of tailoring the outlook for each area.
- Schedule 14 is a generic set of prescriptions for the Development zones, which outlines the broad intent and some parameters for each zone as a starting point for structure planning, and refers to *more intense* urban development, which is considered acceptable.
- For Development Zone A, the OBH site, the reference to a five-storey height limit is not acceptable and discussion under modification 17 refers.
- Clause 5.3.8 refers to a density bonus of R100 for high-quality development and is to remain, however, reference to the Development Zone A should be deleted in keeping with the density for that being addressed by modifications 12 and 16.

- This modification can therefore be supported, together with any additional prescriptions devised by Council.

17. *With respect to the 'Restricted Foreshore Centre', 'Foreshore Centre', 'Hotel' zones on and near Marine Parade, increase the maximum building height to 5 storeys, recognising the greater flexibility which is included in the Commission's State Planning Policy 2.6;*

Comment:

- Please refer to the section of this report further below entitled *Settling the Central Beachfront Height Limit*.

18. *Council is to ensure that any other modifications, required as a result of those listed above, are also included in the scheme prior to advertising;*

Comment:

- Modification 18 is a reminder that all formatting, numbering, cross-referencing, grammar, mapping notations, etc in the Scheme Text and Scheme Map need to reflect the agreed modifications and can therefore be supported; which officers will attend to.

B. LOCAL PLANNING STRATEGY

19. *Council is to ensure that the Local Planning Strategy is consistent with the scheme provisions (as modified prior to advertising);*

Comment:

- Modification 19 is a technical necessity in relation to format, content, terminology and cross-referencing and can therefore be supported; which officers will attend to.

20. *Add an appropriate reference in respect of the Development zone Areas 'A' to 'E', to the effect that Council intends providing for a range of dwelling types, sizes and densities to take full advantage of the opportunity for dense urban infill on these sites; and*

Comment:

- Modification 19, for reference in the Local Planning Strategy to the Development zones *providing for a range of dwelling types, sizes and densities*, is in line with previous discussions and the current content of the LPS.
- Reference to the opportunity for *dense urban infill* on these sites has not been discussed, although it is in keeping with the intent of the Development zones to accommodate housing increases/diversity, and of the associated structure planning provisions to arrive at the preferred densities.

- It is noted that the LPS is a background guide only and it is the Scheme Text provisions that have statutory force, wherein the proposed Schedule 14 refers to *more intense* urban infill.
- Therefore Council should support this LPS modification 20, but using the words *more intense*, for consistency and to avoid doubt.

21. *With respect to the MRS Parks and Recreation Reserve on Marine Parade, north of Napier Street, the Strategy is to refer to the potential for future development, comprising a 'foreshore activity' area linking the existing activity areas to its north and south; the Strategy is to recognise the need for liaison with the relevant State Government authorities, the need for an amendment to the MRS, the need to determine a boundary within which to carry out a study, the terms of reference of the study, and other related matters; it is also to refer to the existence of the nearby residential areas, a matter which would have to be carefully considered in terms of the eastward extent of such foreshore activity area, as there would be potential for negative impact residential amenity;*

Comment:

- Agreement along the lines of modification 21 was resolved by Council on 28 May 2007, regarding the possible future of that land subject to the normal planning process, and it can therefore be supported; for a suitable description to be drafted by officers for endorsement by Council prior to resubmission.

APPENDIX – REQUIRED MODIFICATION 16

Town Of Cottesloe LPS No.3 – Schedule 14 – Development Zone Provisions

AREA 'A': Lots XX bounded by Marine Parade, Eric St, Gladstone Street and Eileen Street (Ocean Beach Hotel site)

PROVISIONS:

- * *Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause YY, to guide subdivision and development;*
- * *Land uses shown on the Structure Plan shall apply in accordance with Clause YY;*
- * *The Structure Plan will depict building heights up to 5 storeys, maximum dwelling sizes of 125 square metres, and the ground floor being limited to non-residential uses, recognising the Council's aim of maintaining the socially 'active' nature of the area.*

Town Of Cottesloe LPS No.3 – Schedule 14 – Development Zone Provisions**AREA 'B': Lot XX Nailsworth Street (Council depot site)****PROVISIONS:**

- * *Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause YY, to guide subdivision and development;*
- * *Land uses shown on the Structure Plan shall apply in accordance with Clause YY;*
- * *The Structure Plan will provide for residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this unique site.*

AREA 'C': Lot XX bounded by Gibney Street, Marine Parade and Warton Street (Wearne Hostel site)**PROVISIONS:**

- * *Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause YY, to guide subdivision and development;*
- * *Land uses shown on the Structure Plan shall apply in accordance with Clause YY;*
- * *The Structure Plan will apply to the entire site and will provide for additional residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes;*
- * *The Structure Plan will have regard for, and if possible integrate with, the Structure Plan for Area 'D'.*

Town Of Cottesloe LPS No.3 – Schedule 14 – Development Zone Provisions**AREA 'D': Lot XX bounded by Gibney Street, Curtin Avenue and Warton Street (Institute for the Deaf site)****PROVISIONS:**

- * *Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause YY, to guide subdivision and development;*
- * *Land uses shown on the Structure Plan shall apply in accordance with Clause YY;*
- * *The Structure Plan will apply to the entire site and will provide for additional residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes;*
- * *The Structure Plan will have regard for, and if possible, integrate with, the Structure Plan for Area 'C'.*

AREA 'E': Crown Reserve XX, Curtin Avenue, bounded by XX**PROVISIONS:**

- * *Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause YY, to guide subdivision and development;*
- * *Land uses shown on the Structure Plan shall apply in accordance with Clause YY;*
- * *The Structure Plan will apply to the entire site and will provide for additional residential development comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes and the potential for integration with the nearby Town Centre zone on the eastern side of the railway line.*

SETTLING THE CENTRAL BEACHFRONT HEIGHT LIMIT**Consultation Considerations**

- The draft scheme reflects the considerable community consultation undertaken by Council to get to this stage.
- In addition, the beachfront height question has focused attention on the scheme, hence the community is attuned to the matter.
- The recent postal poll, despite some criticism, has maintained this level of awareness and has indicated a strong preference within the community for retention of the height limit proposed by Council. Rather than being

discredited, this feedback places Council in a better position to consider and present its case.

- It is noted that Council's intended height limit is based on all of this consultation to date and includes input from various community workshops, consultant studies, briefing sessions, staff reports and deliberations at meetings.
- The statutory advertising period provides for extensive notification and dissemination of the proposed scheme to the community. Depending on the approach taken to settling this matter, it would enable the central beachfront height limit to be elaborated upon covering all facets.

Communications Considerations

- In advancing the draft scheme, Council has provided a considerable amount of information to the DPI, WAPC and Minister regarding the height limit aspect. This has been set out in the Scheme Text, Local Planning Strategy, draft Beachfront Policy, explanatory letters, MINUTES items and supplementary material, as well as in discussions and correspondence with DPI officers, the WAPC Chairman and the Minister.
- The matter has also been closely followed by the community through participation at Council forums and in the media. This, incidentally, has facilitated the efficacy of the recent poll.
- There is concern that the WAPC and Minister may not have received the full benefit of this information justifying Council's conclusion in respect of the height limit. There is concern, too, that the WAPC and Minister have conveyed insufficient rationale for the required modification, despite the factors put forward by Council in favour of its height limit and invitations extended to the DPI/WAPC and Minister to expand on their perspectives.
- Council has led the way in this dialogue and received little response from the State bodies having regard to the height limit component or to foster community edification on this vital dimension of the beachfront.
- Apprising the Minister of the postal poll process and findings may assist her appreciation of the situation.

Analysis of Required Height Limit Modifications

- The report on the scheme to Council in May 2007 and the resolutions passed examined the height limit matter and the context for the measures adopted. This included Council deciding that it would be prudent to gauge the community's attitude once more. While the Minister queried that initiative and declined to participate, the poll has been conducted efficiently and the findings are useful to reaching agreement on the matter.
- The DPI, WAPC and Minister have not provided any particular comment on all of the scheme documentation submitted by Council. Neither have these bodies provide any detailed explanation of the required modifications other than as stated in the WAPC correspondence. The modifications do not include any basis for granting increased height as alluded to by the Minister in previous correspondence; such as ground-floor non-residential use or heritage-conservation bonuses. Development potential has been cited in

favour of height, yet it is emphasised that under WA planning practice the commercial viability of development is generally not recognised as a relevant consideration.

- The subject height limit modification reads as follows:

17. With respect to the 'Restricted Foreshore Centre', 'Foreshore Centre', 'Hotel' zones on and near Marine Parade, increase the maximum building height to 5 storeys, recognising the greater flexibility which is included in the Commission's State Planning Policy 2.6;

- In addition, under the required modification of Schedule 14 about the Development Zones, the Ocean Beach Hotel site would have a similar height limit of five storeys:

Extract: The Structure Plan will depict building heights up to 5 storeys, maximum dwelling sizes of 125 square metres, and the ground floor being limited to non-residential uses, recognising the Council's aim of maintaining the socially 'active' nature of the area.

- These modifications entail an increased height limit for a larger area than proposed in the scheme, as compared in the table below. They are also not specific and thereby appear open to interpretation in referring to a maximum height limit. That is, there could be a distribution and stepping of heights up to that maximum, depending on prescribed criteria (such as location, character, urban design, built form, amenity, views and so on). This may be taken as a constructive opportunity for Council to devise such controls and guidelines.

Zone	Height limit adopted by Council	Implications of five storey (21m) height limit
Foreshore Centre	3 storey and 12m	Two storey and 8m height increase.
Restricted Foreshore Centre	3 storey and 9m to top of wall; 10m to top of parapet; and 11.5m to top of roof ridge.	Two storey and 9.5m to 11m height increase.
Hotel (Cottesloe Beach Hotel site)	3 storey and 12m	Two storey and 8m height increase.
Development Zone (Ocean Beach Hotel site)	12m	One to two storey and 8m height increase.

- The attached extract of the Scheme Map is marked-up in red to show how the five-storey height limit would apply not only to the Foreshore Centre Zone and two hotel sites fronting Marine Parade, but also to the Restricted Foreshore Centre Zone extending inland along the side streets, which is intended by Council as a transition zone with a gradation of lesser heights to the Residential Zone. It is apparent that little if any thought has been given to the implications of applying an up to five storey height limit inland from Marine

Parade into the residential area, and the impacts of juxtaposing five and two storey development.

- Moreover, modification no. 17 as expressed is ambiguous (if not flawed) in relying on the (undefined) “greater flexibility” in SPP2.6, as the policy actually provides that:

Local planning schemes may specify lower maximum height limits in particular localities in order to achieve outcomes which respond to the desired character, built form and amenity of the locality.

- The scheme height limits are directly consistent with that policy statement and are obviously intended respect the desired character, built form and amenity of the Cottesloe beachfront, foreshore/beach and adjoining residential and recreational areas of the suburb.
- As mentioned, the modification does not rely on any basis for allowing up to five storeys, such as land use or heritage bonus methods touched-on in earlier letters from the Minister – again, it is apparent that Council may be at liberty to explore the appropriateness of such mechanisms. Clarification in this regard was sought from the DPI, who advised that *the intention is to simply replace the Council's recommended 12 metre maximum height with a five storey maximum height* – in other words, to apply SPP2.6 as a uniform (indeed arbitrary) height standard, with no recognition of the local context or the need for proper planning guidance.
- It is concluded that whatever height limits are being prescribed for the central beachfront, the reasoning for that ought to be clearly articulated, so that the community can make meaningful comment upon the proposal to assist in determination of the outcome.

Options for a Solution

1. Agree to the modifications

- This appears as an infeasible option to Council given its adopted position, the results of the postal poll and the lack of convincing rationale or specified criteria provided by the State bodies.

2. Defend the draft Scheme

- Council may maintain its position and choose to argue the matter on the grounds of all the planning and consultation it has performed to produce the scheme.
- This may make some headway but is unlikely to achieve ready agreement.

3. Liaise with the WAPC and Minister

- Council may extend the dialogue with the WAPC and Minister to round-out the discussion and hear all opinions more completely, to see if there is any change of mind.
- A deputation may be in order and Council may wish to appoint representatives at elected member and officer levels, and even expert consultants, for a balanced discussion.

This is a less determinate approach which may not get very far.

4. Negotiate an agreed solution

- Negotiation variables include the optional solutions, the process and timeframe to reach agreement, the sequence of events in relation to advertising, and the degree of control Council has over the Scheme – there are several scenarios as hereunder.
- Council's height limit could be advertised but qualified as an undetermined proposal to be revisited in light of public submissions – this would provide a further test of community attitudes, but may also cause uncertainty or confusion, and defer the debate to after the advertising phase.
- A classic compromise of four storeys could be struck as the median between three and five – while this would be another nominal standard, the built form and amenity implications would be lessened.
- The three and five storey height limits could be presented as alternatives, including Council's rationale and the State bodies' rationale, in a similar manner as with the postal poll – this would perpetuate and broaden the debate, however, it would be fair, informative and influence an even-handed weighing-up of the choices, to help overcome subjective or polarised opinions.
- Council could commit to additional detailed planning to devise a more sophisticated urban design and amenity height regime for the central beachfront, taking into account facets affecting both private property and the public domain. This would draw on all the related work undertaken by Council in preparing the scheme. It could entertain possible design controls as described in the May report to Council on this aspect, in the associated Notice of Motion and in previous exercises; eg: corner statements, upper-floors setbacks, shadow limits, and so on. This is most likely to lead to a better solution.
- In this respect, while Council has separately resolved to carry out an enquiry-by-design activity for the public domain recreation foreshore west of Marine Parade, the Minister in general correspondence has raised the prospect of an enquiry-by-design activity apparently for the private, developable land east of Marine Parade. This distinction has been emphasised by Council staff but still demands clarification. The DPI has advised that it would participate in Council's foreshore enquiry-by-design, but appears unaware of any similar suggestion by the Minister for the beachfront area. It is noted that this proposition is not formally included in the consent to advertise and required modifications, so it might be assumed as no longer contemplated.
- If an urban design and amenity solution is seen as superior (which it is) there are two approaches in terms of timing and advertising of the scheme:
 1. formulate an agreed solution before advertising; or
 2. formulate a solution, including community consultation, during advertising.

The first is clearly preferable, as it treats the matter thoroughly and achieves a degree of consensus before presenting it to the community. The second is the parked-issue method, which would allow advertising to proceed, but would defer comprehensive consideration and shift any resolution to the end.

- It is concluded that Council should seek an extension of time to reach agreement on the height limit before advertising, as expressed in the Recommendation. A period of some three months to the end of this year

would seem sufficient to expeditiously prepare for, carry-out and report-back on a consultation exercise, which would then allow for Council to reach agreement with the Minister over the holiday season and make arrangements to commence advertising in the New Year.

CONCLUSION

- The Scheme Review has come a long way since the Minister requested that it be expedited. This has been achieved by the efforts of Council, staff and consultants, the contribution from the community and liaison with the DPI and WAPC.
- This consultative and collaborative approach has yielded positive results so far, whereby almost all of the modifications now required to the draft scheme have already been agreed to in-principle by Council, hence the Minister's consent to advertise. The modification regarding the Development Zones can be generally supported by Council for the purpose of advertising. This leaves the height limit relating to the central beachfront area as the key issue to be addressed.
- Given the progress made on the draft scheme, it would be disappointing for all parties involved were this aspect to become an sticking-point, unduly delaying advertising or leading to a stand-off between Council and the Minister. As advised, the Minister can override Council to cause the scheme to be advertised. However, it would seem unnecessary and excessive to invoke such power when agreement on the overall proposed scheme content has been reached. It would also be undesirable for Council to relinquish stewardship of the scheme at this juncture, when alternative approaches exist to resolve the matter, as outlined.
- Therefore, it is advocated that the central beachfront height limit be settled as a priority, to enable the important next step for the scheme review of commencing the public advertising phase, which is a shared objective of Council, the WAPC and Minister.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee dealt with parts (A) and (B) of the recommendation separately due to Cr Furlong and Cr Carmichael declaring a proximity interest in relation to part (B).

Committee agreed that any lengthy discussion should await the full Council meeting and the Mayor advised that Council should be mindful of being united on the preferred process to settle the matters.

It was also noted that the arrangements for and participants in the consultation exercise needed to be carefully planned.

DECLARATION OF INTEREST

Cr Carmichael and Cr Furlong declared a proximity interest due to being residents of Marine Parade.

11.1.9 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Dawkins

That Council:

- A) In respect of the required modifications, apart from those requiring a five-storey height limit for the central beachfront:**
- 1. Resolves to proceed with proposed Town Planning Scheme No. 3 and the Local Planning Strategy for the purpose of advertising, and advises the Western Australian Planning Commission and Minister for Planning and Infrastructure accordingly.**
 - 2. Agrees to the modifications and advertising requirements under the consent to advertise (as set out in the WAPC correspondence dated 27 August 2007), subject to settling the revisions recommended in this report as resolved by Council.**
 - 3. Settles these modifications with the WAPC and Minister.**
 - 4. Requests a further staff report on the actual modifications to the Scheme documents, for endorsement by Council, once they are settled.**

Carried 11/0

DECLARATION OF INTERESTS

Cr Arthur Furlong and Cr Patricia Carmichael declared a proximity interest in relation to part (B) of the recommendation and left the meeting room at 8.59pm and did not participate in the debate or any vote on part (B).

AMENDMENT

Moved Cr Jeanes, seconded Cr Dawkins

Insert item (4) to read: "Invites the Minister to meet with Council to discuss the beachfront height limit, the Forrest/Jones Beachfront Concept Plan and the re-alignment of Curtin Avenue"

Lost 3/6

Cr Utting requested that the votes be recorded:-

For: Cr Miller, Cr Jeanes, Cr Dawkins

Against: Mayor Morgan, Cr Cunningham, Cr Strzina, Cr Utting, Cr Walsh and Cr Woodhill

Cr Dawkins left the meeting at 9.10 pm

Cr Dawkins returned to the meeting at 9.12 pm

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

Insert item (4) to read “Appoint the Mayor, Deputy Mayor, Chief Executive Officer and Manager Development Services as a delegation to liaise with the WAPC and the Minister (with the power to co-opt experts) to discuss the stakeholder and community engagement forum, the beachfront height limit, the Forrest/Jones Beachfront Concept Plan and the re-alignment of Curtin Avenue.

Carried 8/1

11.1.9 COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

B) In respect of the modifications requiring a five-storey height limit for the central beachfront:

- 1. Requests an extension of time, until 31 December 2007, to settle these modifications, towards advertising of the Scheme and LPS.**
- 2. Settles with the WAPC and Minister the modifications regarding the central beachfront height limit, by conducting in conjunction with the WAPC a stakeholder and community engagement forum prior to advertising, in order to reach agreement on a solution to be reflected in the Scheme and LPS for the purpose of advertising.**
- 3. Requests a further staff report on a brief for the central beachfront height limit consultation exercise, in liaison with the WAPC.**
- 4. Appoint the Mayor, Deputy Mayor, Chief Executive Officer and Manager Development Services as a delegation to liaise with the WAPC and the Minister (with the power to co-opt experts) to discuss the stakeholder and community engagement forum, the beachfront height limit, the Forrest/Jones Beachfront Concept Plan and the re-alignment of Curtin Avenue.**

Carried 8/1

Cr Strzina left the meeting at 9.38 pm

Cr Strzina, Cr Carmichael and Cr Furlong returned to the meeting at 9.39 pm

The agenda items were dealt with in the following order: Item 12.1.1, 12.1.2, 12.1.6, 12.2.2 and the balance in numerical order enbloc excluding 12.1.5 which had been dealt with earlier in the meeting.

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 18 SEPTEMBER 2007

12.1 ADMINISTRATION

12.1.1 COTTESLOE CIVIC CENTRE - MUSTARD CATERING & LESSER HALL

File No:	SUB/406
Author:	Mr Stephen Tindale
Author Disclosure of Interest:	The author discloses a financial interest in the matter
Report Date:	10 September, 2007
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made to note the submissions received from the community on the proposed conversion of part of the Lesser Hall for private catering purposes and advise the submitters of Council's decision.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Following the completion of a schematic design for the proposed Civic Centre office expansion and upgrade, Council passed the following resolution at its December 2006 meeting:

That Council:

- (1) Confirm its support for the proposed schematic design from Philip Griffiths Architects, subject to input from the Design Advisory Panel as regards the proposed new administration entrance being more sympathetic to the aesthetics of the existing building.
- (2) Invite a fixed fee from Philip Griffiths Architects for design development, cost check and approvals for budget setting purposes,

- (3) Subject to downward revision of price and price acceptability, commission Philip Griffiths Architects to complete design development, cost check and approvals for budget setting purposes,
- (4) Confirm in-principle support for the sale of the Margaret Street drainage sump lot in order to fund the office extensions and refurbishment of existing administrative and civic areas in the 2007/08 financial year,
- (5) Advise Mustard Catering that the existing kitchen facilities and the Civic Centre building are unlikely to be available for functions from early 2008,
- (6) Advise Mustard Catering that any plans for the redevelopment of the Lesser Hall will need to be with the Town of Cottesloe within the first quarter of 2007 so that community consultation can take place.
- (7) Undertake community consultation prior to any budget-setting decision.

In relation to part 6 of Council's resolution, Mustard Catering provided plans and preliminary cost estimates for the redevelopment of the Lesser Hall to the March 2007 meeting of Council.

Concerns were raised by Council about the community losing the Lesser Hall as a community meeting room and recreation space and the likely rejection of the proposed plans by the community. It was also agreed that an issue relating to the storage of chairs and tables for the War Memorial Town Hall needed to be resolved without using the Town Hall verandas.

At its May 2007 meeting, Council subsequently resolved to;

- (1) Meet the cost (to a maximum of \$5,000) of preparing Stage 2 plans and estimates for the partial conversion of the Lesser Hall for a private catering operation and that Philip Griffiths Architects be engaged to undertake the work.
- (2) Instruct the architects that;-
 - (a) No more than 30% of the area currently used for community/civic purposes within the open hall area is to be given over to the exclusive use of private caterers, and
 - (b) The southern access is to be retained for community access to the hall.

Stage 2 plans and estimates for the partial conversion of the Lesser Hall for a private catering operation were presented to the July 2007 meeting of Council where it was resolved to undertake community consultation on the proposed redevelopment plans for the Lesser Hall by way of:

1. Inviting submissions with the placement of advertisements in the local newspaper.
2. Placing information on the Internet at www.cottesloe.wa.gov.au together with an invitation for submissions.
3. Placing an article in Cottesloe Council News about the proposed plans and informing and encouraging feedback.
4. Consulting with ratepayer groups such as SOS Cottesloe Inc.
5. Undertaking personal briefings.

CONSULTATION

Community consultation was undertaken in accordance with Council's July 2007 resolution.

Two submissions were received.

A verbal request seeking an extension of the period for submissions was also received from Ruth Harms.

The first submission was from Valerie Frearson-Lane:

Thank you for the opportunity to comment on the proposed redevelopment of the Lesser Hall. This email is my personal comment, and not related to SOS.

Having a guided tour of the property was very helpful. Being a Lesser Hall user also backgrounds my comments. The current kitchen/toilet/storage area in the Lesser Hall is minimally used and really requires upgrading.

I would hope that the arrangements with Mustard during the planning process have not locked Council into a contract for Mustard to have exclusive use. I don't believe that the fee paid by Mustard to Council really reflects the value to them of the opportunities provided for sole catering at the Civic Centre.

As a general statement, I support the proposal outlined in the documents provided. I agree that no more than 30% of the currently available hall space (not kitchen etc. space) should be given over to the new kitchen facilities. Having viewed the current catering kitchen facilities, I am firmly of the belief that they are now inappropriately placed and in definite need of upgrade.

I am not convinced that the amount of space allocated for the venue manager and the co-ordinator is necessary. I wonder whether or not there is a permanent full time management team on site at the Civic Centre - or whether there is any real necessity for such a team. I agree that there is need for office space. However, what is provided seems excessive given the limited space on the site, and that the community is being asked to give up Lesser Hall space. I would prefer to see more space given to community use than to functional administration.

Whilst the work is being undertaken to provide catering facilities in the Lesser Hall complex, it is imperative that the toilet for the disabled be upgraded. The current facilities are not appropriate for Cottesloe Council premises. They do not provide anything like reasonable facilities in this day and age for such prestigious premises.

Apart from that, I support the proposal, and would add the request that the upgraded facilities be offered out by tender.

The second submission was from Robyn Benken writing on behalf of Cottesloe Coastcare Association:

I am pleased that Town of Cottesloe will continue to allow the Lesser Hall to be used for community meetings after the proposed redevelopment.

Cottesloe Coastcare has been grateful for the opportunity to use this venue for its AGM's for ten years, for various community workshops, seminars and community presentations. Community voluntary groups such as Coastcare do not have the funds to hire private venues and it seems appropriate that we meet at the Civic Centre.

Thank you for the opportunity to comment on the proposal.

In correspondence dated 13th July 2007 (which pre-dates the Lesser Hall submission period) SOS Cottesloe had this to say on the Lesser Hall in the context of plans to upgrade the Civic Centre.

The Lesser Hall is not included in the upgrade plans, but will be affected by the proposed changes. It appears that catering services could be relocated to that building, potentially making less space for public use. We would encourage the Lesser Hall to be included in the overall plans and acknowledge the community's need for an affordable, well located space for public gatherings, meetings, and classes. This need should be considered in relation to the catering opportunities also available on the premises. The catering function is a good revenue source and a new location should deliver service in a safe and efficient manner.

STAFF COMMENT

By the above submissions it would appear that there is no outright dissent to the Lesser Hall being partly converted for private catering purposes.

However since advertising the Lesser Hall proposal, Mustard Catering has indicated that it will be ceasing operations at the Cottesloe Civic Centre. The decision has been made at a national level by the parent company, Spotless Food Services. It reportedly reflects a desire to focus their operations on larger venues with higher turnovers such as the Perth Convention Centre, Subiaco Oval and Perth Zoo.

Spotless is also understood to be winding its operations up in smaller Melbourne venues as well.

Brian Leyden, State Manager WA, Spotless Hospitality Services will be leaving Spotless at the end of September 2007. Brian joined Spotless as part of the Mustard Catering acquisition in 1993 and has had a close association with the Cottesloe Civic Centre.

He is keen to see the Cottesloe Civic Centre continue as a venue for wedding receptions and catered events. As a result Mustard Catering continues to book events for the Sunken Lawn and Main Lawn. He is currently looking for a Perth-based operator to take over the Cottesloe business at the end of December 2007.

In discussions between the CEO and one potential operator, it appears that the requirement for kitchen and office space in the Lesser Hall could be reduced to a level below that envisaged by Mustard Catering.

Assuming that Council supports the continued use of the Cottesloe Civic Centre for sole-operator privately-catered events, it is recommended that Council keep its options open in terms of not ruling out the use of the Lesser Hall for office and

kitchen space associated with a private catering operation at the Cottesloe Civic Centre.

Such a decision would also be consistent with Council's stated intention of calling fresh tenders for private catering rights at the Cottesloe Civic Centre.

DECLARATION OF INTEREST

The author of this report makes a declaration of financial interest in as much as he has received gifts of corporate hospitality, mainly tickets and refreshments for sporting events, from Mustard Catering. The value of the gifts has ranged between \$200 and \$700 per year.

VOTING

Simple Majority

12.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Utting

That Council:

- (1) Note the submissions received from the community on the proposed conversion of part of the Lesser Hall for private catering purposes.**
- (2) Advise the submitters of Council's decision.**

Carried 11/0

12.1.2 COTTESLOE CIVIC CENTRE - PRIVATE CATERING RIGHTS

File No: SUB/406
Author: Mr Stephen Tindale
Author Disclosure of Interest: The author discloses a financial interest in the matter
Report Date: 11 September, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Mustard Catering has indicated its intention to cease operations at the Cottesloe Civic Centre at the end of 2007 (see previous agenda item on proposed plans for the Lesser Hall).

Mustard's advice lessens a perceived sense of urgency in seeking registrations of interest and going to tender on the now-expired, private-catering-rights lease agreement at the Cottesloe Civic Centre.

Instead, an opportunity has presented itself to gain a better understanding of the community's aspirations for the Cottesloe Civic Centre and Grounds. That understanding can be obtained without necessarily advancing the replication of the current lease arrangements as the necessary starting point for any new private-catering-rights lease.

As a result recommendations are made to advise Mustard Catering that;

- it may continue to take bookings for events in the grounds beyond 1st January 2008,
- responsibility for events booked in advance of 1st January 2008 rests entirely with them, and
- Council is prepared to consider the transfer of operations to an interim lease operator in the short to medium term beyond 1st January 2008.

It is also recommended that community consultation be undertaken on the continuation of private catering arrangements and/or alternative use/s of the Cottesloe Civic Centre and Grounds.

An alternative recommendation is also provided that would simply end the current private catering arrangements in the short term and allow Council to take stock of the situation prior to making any longer term commitment.

STATUTORY ENVIRONMENT

The relevant section of the *Local Government Act 1995* relating to the lease of land is 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.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

(a) it gives local public notice of the proposed disposition —

(i) describing the property concerned;

(ii) giving details of the proposed disposition; and

(iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

(b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include -

(a) the names of all other parties concerned;

(b) the consideration to be received by the local government for the disposition; and

(c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.

(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.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

If the alternative recommendation is adopted, the full impact of loss of income from Mustard Catering's operations is not expected to be felt until 2008 when income is expected to reduce by at least 85% as events and functions are phased out.

BACKGROUND

In late 2004 Council agreed to retain the Civic Centre as its administrative centre with a view to ensuring that a good standard of office space was provided for staff and ensuring that customers were better served.

Architects were engaged and they put forward the following options which were presented to the June 2005 Council meeting:

OPTION 1 - Addition/ Expansion of Current Accommodation

This option requires approximately 200m² of new accommodation, which corresponds to an estimated cost of \$345,000. This would result in an estimated total cost of \$1,200,000 with no significant increase in returns.

OPTION 2 - Addition & Relocation of Catering Services.

This option requires approximately 130m² of new accommodation, which corresponds to an estimated cost of \$225,000. A further additional cost is the refurbishment of the area previously occupied by the catering services contractor, which represents an additional 260m² at a cost of \$165,000. This would result in an estimated total cost of \$1,245,000 with no significant increase in returns. An indeterminate cost is that related to the relocation of the Catering Services, any future lease agreement will need to be negotiated to clarify the cost to be borne by each party. This option assumes the loss of the Lesser Halls as a facility or its replacement on site at a cost of say \$335,000.

OPTION 3 – Relocation of Catering Services & Retention of Caretakers Lodge

This option requires approximately 130m² of new accommodation, which corresponds to an estimated cost of \$225,000. Further additional costs are upgraded accommodation for Planning and Development Services and Community Safety, housed in the Caretakers Lodge, which represents an additional 146m² at a cost of \$92,000. The estimated total is \$1,172,000. There would be no significant increase in returns. An indeterminate cost is that related to the relocation of the Catering Services, any future lease agreement will need to be negotiated to clarify the cost to be borne by each party. This option assumes the loss of the Lesser Hall as a facility or its replacement on site at a cost of say \$335,000. This option provides no significant increase in revenue.

OPTION 4 – Construction of a New Administration Building

This option requires approximately 980m² of new office space, of which 280m² is surplus space to generate a rental income, this represents an estimated cost of \$1,372,000. Upgrade work would still be required on the council chambers, Jarrah

room, lounge area and arcade, representing an additional estimated cost of \$690,000. The total estimated cost for this option is \$2,062,000. This excludes any work being undertaken to the existing offices once vacated. However, once a use is determined there would be some associated costs. This option provides for a significant increase in revenue returns to the council through the additional rent from the surplus floor area.

In June 2005 it was decided not to proceed with further exploration of Option 4

It was also decided to engage a consultant to assess usage options for the Cottesloe Civic Centre that provided either a commercial or community benefit, or both, while at the same time optimising use of the facility and meeting Council and community needs.

VSA Property was engaged to undertake the following tasks:

- inspect and report on the existing uses within the premises;
- review the accommodation requirements – undertake a quick review of the accommodation requirements (prepared by Griffiths Muston) to ensure they are still current;
- examine potential commercial uses - this would include the existing catering arrangements and the implications (if any) of the proposed options outlined in the Town's letter to Considine & Griffiths dated 6 July 2005, i.e. the feasibility of establishing a cafe/coffee shop on site and the potential for hiring out the various meeting rooms for conference/seminar facilities. VSA Property is also to examine the feasibility of doing away with the catering lease and taking over the hiring of the facilities direct - this may involve hiring a caretaker or an onsite property manager;
- examine the current community uses that operate from the facility and determine whether there is capacity to accommodate any additional uses and/or improve the services to existing users; and
- report on the findings and recommendations.

VSA Property concluded that:

It is evident from the recent review of requirements at the Cottesloe Civic Centre that there is insufficient space to meet the demands of the all the existing users. In addition to this, the administrative functions of the Council are presently fragmented over the site.

An assessment of other potential uses on the site suggests that there are no viable alternatives. A café/coffee shop is unlikely to be commercially feasible due to the location, lack of visibility to passing traffic and competition from more successful operations on the ocean foreshore. Similarly, a seminar/conference facility is also not considered to be feasible as a standalone operation for the same reasons. It is considered that a small on-site kiosk may be viable if there is an increase in community activities especially in summer and at weekends. Also if the facilities in the building are upgraded as recommended by Considine and Griffiths, there may be a flow on effect for use of the upper level areas for seminars and conferences.

As indicated in this report, it is recommended that all the existing uses, including the on-site catering arrangement, be retained on site if at all possible. The solutions for the Cottesloe Civic Centre revolve around whether Heritage Council approval is

received for the proposed building extension(s). Two broad solutions have been identified.

The first solution, i.e. retaining all the existing uses on-site [rather than moving activities off-site], is considered to be the most attractive option. As pointed out, this solution is dependent on getting Heritage Council approval to the proposed extension(s). It is recommended that more detailed plans be developed for this option and that discussions be held with the Heritage Council to gauge the level of support for the proposed extensions. While this is happening, it is also recommended that community feedback be sought on the two solutions and the impact that these have on existing uses.

Any future tender for the existing catering arrangement should be based around an events coordinator, which would be responsible for managing and coordinating the community uses (such as craft and community fairs), the numerous private functions and any additional conferences or seminars that are held on site.

The tender should also allow for an upgrade of the existing facilities and the provision of a kiosk if it is considered necessary.

In the event that Heritage Council approval is not forthcoming, the only realistic option is to terminate the on-site catering arrangement or cease the community activities in the Lesser Hall or both, in which case the solution outlined in Section 6.2 should be progressed.

After considering the report, Council decided that a short-term contract with Mustard Catering should be prepared so that Council could retain flexibility in considering its future options.

A design brief was to be prepared for Civic Centre extensions based on the relocation of staff from the Caretakers Cottage and private catering/events coordination remaining on site (i.e. Option 2).

In September 2006 Council was asked to confirm the proposed course of action in order to avoid any unnecessary expense in developing unwanted plans.

The following excerpts come from the report that was made to Council at the time.

At the time of its acquisition by the Town of Cottesloe in 1950 there was huge enthusiasm for the Civic Centre's potential use as a cultural centre as evidenced by the staging of the opera 'Orpheus' on the main lawn in 1952. The opera was a first for local government in WA and relied heavily on local voluntary participation. It was a tremendous community building exercise by all accounts.

The enthusiasm for cultural events was substantial. Chamber music recitals in the War Memorial Town Hall were introduced along with cultural evenings with guest speakers. These sorts of events have continued right up until the present time - albeit in a much scaled down form.

At the same time, there was a general realisation that the upkeep of the Civic Centre was hugely important and that income from parties and functions was essential in ensuring that the building was self-supporting. Advertisements by the 'in-house' company Modern Caterers first appeared in the *Civic Centre News* in March, 1952

and promoted the venue as a place for morning teas, lunches, afternoon teas, wedding parties, dinners etc with "Masonic Ladies' Nights a Special Feature"...

With the exception of the Council Chamber and the downstairs RSL Meeting Room, every room in the Civic Centre has had walls removed and partitions added since the time of de Bernales.

Early 1950's

Garden Lounge portico arches filled in with masonry and glazing and converted to a supper room and café (the space now occupied by Mustard Catering). Adjoining room converted into a caterer's kitchen.

Late 1950's

Walls between the former bedrooms on the eastern side of the War Memorial Town Hall removed leaving only nibs projecting into the larger space created (the Blue Room).

Arches of the south and west verandah adjoining the War Memorial Town Hall filled in with casement windows and masonry. Wrought iron balustrades removed.

1960's

New men's toilets and servery/bar installed adjacent to the Blue Room.

1980's

Office accommodation for Mustard Catering provided in 1983 by enclosing part of the café (formerly the Garden Lounge). New kitchenette servery installed upstairs adjacent to the Blue Room.

New cool room, store, toilets, kitchen upstairs and new stairs constructed. Two storey addition made to the eastern gable to accommodate these works.

1990's

New toilet block and storeroom built adjacent to the courtyard/games room to the south of a demolished well and pump house.

Extensive renovation of existing Council offices including the removal of a bride's room and toilets and the enclosure of part of the portico with glass (current configuration).

Summary

From the above it is evident that in the 1950's and 1960's much of the emphasis was placed on converting spaces into function areas that could provide income for the maintenance of the Civic Centre.

Mustard Catering has had a presence at the Cottesloe Civic Centre since 1983.

Council records dating back to 1990 show that both the Town of Cottesloe and Mustard Catering have at times entered into agreements for the refurbishment of Council facilities on a cost-sharing basis.

While such cost-sharing arrangements have tended to be mutually beneficial, the records also show that there have been tensions between the parties in relation to:-

- noise from functions,
- noise when cleaning up,
- complaints from residents re public parking for fairs,

- set-up and break-down fees,
- delays in breaking down,
- vandalism,
- new fee structures being introduced with little or no consultation,
- lack of cleaning,
- damage to and the condition of lawns,
- seasonal planting of flowers,
- candle wax,
- inappropriate storage of Council and Mustard Catering equipment,
- inappropriate storage of gas bottles,
- extended liquor licences,
- use of each others chairs for events,
- lack of security,
- damage to reticulation systems,
- damage to gates from goods delivery vehicles,
- exclusive catering rights,
- letting of facilities for non-catered events,
- loss of potential revenue arising from Council events having priority,
- incompatible computer systems, and
- double bookings.

While the revenue from Mustard Catering for the lease and ground and hall hire fees is significant in terms of offsetting Civic Centre maintenance costs, Council staff dealing with Mustard Catering on a regular basis have had a less than kindly attitude to the business.

A Council report from 1992 shows that two things in favour of Mustard Catering were that it prepared most of its food off site which avoided "...the food factory appearance at the Civic Centre ... [and]... they have also been trained and are aware of their responsibilities."

In 1992 ... the Town of Cottesloe sought tenders for a new ten year lease. Mustard Catering's bid was the best of three received and the lease was renewed at \$42,000 per annum with a yearly rent reviews to occur from 1995 onwards. In 1993 the lease was assigned to Spotless Catering Services who continue to operate the business trading under the name of Mustard Catering.

In the current financial year [2006/07] the Town of Cottesloe is expecting \$45,672 in lease income and \$42,226 in hall and ground hire fees as a result of the presence of Mustard Catering. This figure represents about 1.6% of the Town of Cottesloe's total rate income of \$5.4m.

Mustard Catering is aware of Council's desire to maintain the current trading situation and further develop the events and functions business at the Cottesloe Civic Centre. The company would like to extend its contract past the 30th June 2007.

A copy of a draft plan prepared by Mustard Catering more than two years ago to renovate and relocate to the Lesser Hall appears as Attachment 2. Mustard Catering are keen to explore the potential for this to happen but obviously any capital investment they make is largely dependent on their length of tenure insofar as their lease is concerned.

Following the report, Council decided to support the relocation of Mustard Catering and the kitchen from the main building of the Civic Centre. Subject to community consultation, Council also indicated its willingness to consider any proposal for Mustard Catering to relocate to the Lesser Hall.

In December 2006, Council's Public Events Committee gave further thought to the matter of increased public use of the Civic Centre Grounds.

Suggestions that were made included:-

- To encourage better use of the grounds, plans are required to address the primary works and maintenance, including a budget.
- A landscape management plan is required for the Civic Centre gardens to detail the future vision for upgrading of the grounds.
- A Cottesloe Civic Centre Gardens vision/concept plan/management plan is required to detail the future vision for maximising public orientated uses of the Civic Centre. A suggestion was to have themes in different areas of the gardens and to promote the uses that will go best with these themes.
- Food and wine festival could be held on the west lawn, from 10am – 2pm on Sundays during the off-season.
- Installation of 'Spanish Steps' off the west lawn would integrate the Civic Centre with the beachfront.
- The current agreement with Mustard Catering to be reviewed. The committee agreed that the Managers of Mustard Catering be invited to an Events Committee meeting to discuss the vision and future plans for the Civic Centre.
- Staff were requested to report to the Events Committee in relation to the obligations that may need to be met in a future long term catering contract, contributing to the future upgrade and use of the Civic Centre, including annual performance criteria.
- Council may consider inviting expressions of interest from other event coordinators to see what ideas they have and what they could bring to the Civic Centre.

Council subsequently resolved to

- (1) Develop a Civic Centre Gardens Management Plan based on a conceptual plan/vision for the upgrade of the grounds.
- (2) Develop a complementary plan to maximise public orientated uses of the Civic Centre and grounds.
- (3) Enter into discussions with the current lessee concerning items (1) and (2) above.

Mustard Catering has now indicated its intention to cease operations at the Cottesloe Civic Centre at the end of 2007.

CONSULTATION

Nil.

STAFF COMMENT

Private catering arrangements at the Cottesloe Civic Centre have been the norm for several decades now. They have their origins in the need for an income stream to help assist with the maintenance of the Civic Centre.

From a staff point of view, the presence of caterers has been a necessary but unwelcome intrusion whose indirect costs have never been quantified properly.

However the presence of private caterers has relieved Council staff of the need to fully manage the individual hire of various venues within the Civic Centre. It has simplified the assignment of responsibilities for maintenance, cleaning and security. This has allowed Council staff to focus on core local government activities rather than the management of weddings and other functions.

From Council's point of view, the flow of income has been keenly appreciated and has ensured an after-hours presence (particularly during the summer season) and has generally added to the security of the Civic Centre.

At infrequent intervals, Council and the public have questioned and/or attempted to break out of the constraints imposed by agreed lease agreements but to little or no avail.

Independent advice from property consultants in 2005 has confirmed that commercial opportunities at the Civic Centre are limited. This is evidenced by the fact that the current catering operation has enjoyed a monopoly since 1983 despite the catering rights being put out for tender in the interim.

In 2006/07 Mustard Catering made a profit of \$102,700 on a turnover of \$1,064,000. This represents a 9.7% profit margin for the year. 2006/07 was a very good year for Mustard Catering compared to previous years but not so outstanding as to warrant the retention of the business.

As a result of the presence of Mustard Catering, income accruing to the Town of Cottesloe for the 2006/07 financial year has been calculated at \$45,672 in lease income and \$42,226 in hall and ground hire fees. This figure represents about 1.6% of the Town of Cottesloe's total rate income of \$5.4m.

In the author's view, the departure of Mustard Catering and the proposed Civic Centre building program in 2008 presents a timely opportunity to pause and reflect. It provides an opportunity to properly ascertain the community's aspirations for the Cottesloe Civic Centre without being constrained by the need to maintain a healthy ongoing business relationship with the current lessee of the Civic Centre.

It should be understood that Mustard Catering is currently looking for another lease operator who is willing and capable of taking over the private catering operation at the Cottesloe Civic Centre in the short to medium term.

An interim operator will ensure that the goodwill in the business is maintained and more importantly, ensures continuity of service. Without an ongoing operator at the Civic Centre in the short to medium term, the lead time in planning for weddings and

events will lengthen considerably. Any temporary cessation of privately catered events at the Civic Centre means that the business will inevitably take some time to build up again and/or may simply become unviable.

To put it another way, given Council's historic support for the catering rights agreement, Council is encouraged not to forego the loss of income received from current operations and do everything within its powers to ensure that operations continue beyond 1st January 2008 so that the business remains an attractive proposition.

To this end, it is open to Council to enter into a private treaty agreement with a private operator under the provisions of Section 3.58(3) of the *Local Government Act 1995* (see details under the sub-heading of STATUTORY ENVIRONMENT above).

The interim operator could then gain a better understanding of the business and make a more informed decision regarding the long-term potential of the business.

In the meantime Council could continue to explore the options for future use of Civic Centre and Grounds at its own leisure and without necessarily committing to a replication of the current lease agreement.

Alternative Recommendation

The departure of Mustard Catering and the proposed Civic Centre building program in 2008 also presents an opportunity to see what life would be like without a catering operation at the Civic Centre.

Experimentation and unsolicited approaches from others may open up new and exciting opportunities for the Civic Centre and Grounds.

To that end, an Alternative Officer Recommendation is also provided.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Confirm with Mustard Catering that it intends ceasing operations at the Cottesloe Civic Centre by the end of December 2007.
- (2) Advise Mustard Catering that it may take bookings for events in the grounds beyond 1st January 2008.
- (3) Advise Mustard Catering that responsibility for events booked in advance of 1st January 2008 rests entirely with them and that it is open to them to make whatever arrangements are necessary in order to fulfil **any contractual** obligations in that regard subject to and conditional upon the express approval of the CEO.
- (4) Advise Mustard Catering that Council is prepared to consider the transfer of operations to an interim lease operator in the short to medium term subject to -

- (a) Council compliance with the provisions of Section 3.58(3) of the *Local Government Act 1995*, and
 - (b) a suitable interim operator being found and advised to the Town of Cottesloe prior to 10th October 2007.
- (5) Undertake community consultation on the potential continuation of long-term private-catering arrangements and/or alternative use/s of the Cottesloe Civic Centre and Grounds.

12.1.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council:

- (1) Confirm with Mustard Catering that it intends ceasing operations at the Cottesloe Civic Centre by the end of December 2007.**
- (2) Advise Mustard Catering not to take any more bookings for events beyond 1st January 2008.**
- (3) Advise Mustard Catering that responsibility for events already booked in advance of 1st January 2008 rests entirely with them and that it is open to them to make whatever arrangements are necessary in order to fulfil any contractual obligations in that regard subject to and conditional upon the express approval of the CEO.**
- (4) Undertake community consultation on the potential continuation of private catering arrangements and/or alternative use/s of the Cottesloe Civic Centre and Grounds.**

Carried 7/4

Cr Utting requested that the vote be recorded:-

For: Mayor Morgan, Cr Carmichael, Cr Miller, Cr Strzina, Cr Utting, Cr Walsh and Cr Woodhill

Against: Cr Jeanes, Cr Cunningham, Cr Furlong and Cr Dawkins

**12.1.3 PROPOSED CIVIC CENTRE EXPANSION AND UPGRADE -
APPOINTMENT OF ARCHITECT**

File No: SUB/398
Attachment(s): [Philip Griffiths Architects Tender Bid](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 12 September, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At the July 2007 meeting of Council, a decision was made to sign off on the developed design for the proposed Cottesloe Civic Centre upgrade and expansion and to call tenders for fee proposals for professional services to complete the project including contract documentation and administration.

Tenders for fee proposals for professional services were called for in accordance with the requirements of the *Local Government Act 1995*.

A recommendation is made to award the tender for professional services to Philip Griffiths Architects for the lump sum of \$235,900.

STATUTORY ENVIRONMENT

Section 3.57 of the *Local Government Act 1995* provides:-

3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

Extracts from the relevant regulations of the *Local Government (Functions and General) Regulations 1996* are as follows.

11. Tenders to be invited for certain contracts

- (1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000
...

14. Requirements for publicly inviting tenders

- (1) When regulation 11(1), ... requires tenders to be publicly invited, Statewide public notice of the invitation is to be given...
- (2a) If a local government —
 - (a) is required to invite a tender; ...

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

- (3) The notice, whether under subregulation (1) or (2), is required to include —

- (a) a brief description of the goods or services required;
- (b) particulars identifying a person from whom more detailed information as to tendering may be obtained;
- (c) information as to where and how tenders may be submitted; and
- (d) the date and time after which tenders cannot be submitted...

15. Minimum time to be allowed for submitting tenders

(1) If the notice is published in the newspaper as part of giving Statewide public notice, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice...

18. Choice of tender

- (1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.
- (2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender...
- (4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them it thinks it would be most advantageous to the local government to accept.
- (4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.
- (5) The local government may decline to accept any tender...

POLICY IMPLICATIONS

Item 1.7.4 of the Town of Cottesloe's *Purchasing* policy requires the following:-

Tender Criteria

The Town of Cottesloe shall, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

The evaluation panel shall be established prior to the advertising of a tender and include a mix of skills and experience relevant to the nature of the purchase.

For Requests with a total estimated (Ex GST) price of:

- Between \$40,000 and \$99,999, the panel must contain a minimum of 2 members; and
- \$100,000 and above, the panel must contain a minimum of 3 members.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

An amount of \$2.8m has been provided for in the 2007/08 budget for the proposed expansion and upgrade of the Cottesloe Civic Centre. \$300,000 of that amount relates to professional fees.

The sole tender bid received for professional fees is \$235,900 which represents a potential saving of \$64,100 on the budgeted figure.

BACKGROUND

The criterion and weighting for the assessment of the tenders was advertised as follows:

Relevant Experience – 40%

Describe your experience in completing/supplying similar requirements. Tenderers shall as a minimum address the following information:

- (a) provide details of similar work including heritage work and work with other local governments. Provide the details of services provided, the key client staff members and their roles and client referees;
 - (b) provide scope of the Tenderer's involvement including details of outcomes;
 - (c) provide details of issues that arose during the project and how these were managed;
 - (d) demonstrate competency and proven track record of achieving outcomes; and
 - (e) demonstrate sound judgement and discretion.
-

Resources (people, technical skills & equipment) and experience of key personnel – 20%

Give a brief statement of current workload and available resources. Tenderers should also provide information of proposed personnel to be allocated to this project, such as:

- (a) their role in the performance of the Contract;
 - (b) curriculum vitae;
 - (c) membership to any professional association;
 - (d) qualifications, with particular emphasis on experience of personnel in projects of a similar requirement; and
 - (e) any additional information.
-

Methodology – 15%

Tenderers should describe their firm's project methodology and how the firm intends to guarantee a high quality, cost efficient end product. Provide information to explain the firm's process for achieving the desired outcomes with respect to managing and completing projects on time and within budget.

Communication and Liaison Skills – 10%

Tenderers should nominate how their firm proposes to communicate and liaise with the Principal, providing examples of reporting and feedback mechanisms and processes.

Quality Assurance – 5%

Tenderers should demonstrate progress (if any) towards implementing AS/NZS ISO 9001:9004 – Quality Systems – Model for quality assurance in design development, production, installation and servicing. Respondents to nominate quality accreditation sought (if any), progress made or provide a copy of quality certification.

Any other quality management practices should be enumerated.

Tendered Price – 10%

Tenderers **must** provide the information required under clause 3.4.2 “Price Basis”. Before completing the Price Basis, Tenderers should read the entire Request.

The Tender Evaluation Panel (appointed by Council at last month’s Council meeting and comprised of the Mayor, Presiding Member of the Works & Corporate Services Committee and the CEO) met on Monday 10th September 2007 to consider the tenders received.

CONSULTATION

Nil.

STAFF COMMENT

One tender was received (see Attachment) by the closing date and it came from Philip Griffiths Architects.

During the tender period, a telephone enquiry was received from another architectural firm but did not result in the receipt of a tender bid.

Philip Griffiths Architects are well known to the Town of Cottesloe and recently provided architectural services in relation to the design development and costing for the proposed project

As their tender

- has addressed the criteria set by the Town of Cottesloe for the project
- is within budget, and
- was the only tender received

it is recommended that Philip Griffiths Architects be awarded the contract for the provision of architectural and allied services.

VOTING

Simple Majority

12.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council:

- (1) **Award the contract for the provision of architectural and allied services associated with the proposed expansion and upgrade of the Cottesloe Civic Centre to Philip Griffiths Architects for the lump sum fee of \$235,900 exclusive of GST as detailed in the following table:**
-

Discipline	Contract Documentation	Contract Administration	Relocation	TOTAL	GST
Architectural	50,800	50,800	5,000	106,600	10,660
Interior Design	22,400	8,000	4,400	34,800	3,480
Structural	19,000	8,000	-	27,000	2,700
Electrical	20,000	5,000	3,500	28,500	2,850
Mechanical	19,000	5,000	4,500	28,500	2,850
Hydraulic	5,500	-	-	5,500	550
Quantity Surveyor	5,500	-	-	5,000	500
TOTAL	\$141,700	\$76,800	-	\$235,900	\$23,590

- (2) Authorise the Mayor and CEO to sign and seal a General Conditions of Contract for the Provision of Services with Philip Griffiths Architects.

Carried 11/0

12.1.4 INCREASE IN PROPERTY INSURANCE

File No: SUB/165
Attachments: [Property Risks Insurance Asset Register 2007/2008](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 14 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to increase the value of the property insured by the Town of Cottesloe to reflect recent valuations.

STATUTORY ENVIRONMENT

The *Local Government (Financial Management) Regulations 1996* provide the following:-

5. Financial management duties of the CEO

(2) The CEO is to —

(a) ensure that the resources of the local government are effectively and efficiently managed;

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The additional premium for the policy has been estimated as \$12,138.

BACKGROUND

The Town of Cottesloe has a number of buildings that are recorded in the balance sheet at a value that was determined between 4 and 5 years ago. With the significant increases in prices in recent years there is a substantial discrepancy between the carrying value of the buildings and their replacement value.

At the end of last financial year the Town's insurer, LGIS, offered to carry out a valuation of the Town's land and buildings. This offer was taken up in order to obtain an objective value of some of the major assets.

The exercise showed that the assessed value of the assets is \$27,828,000 compared to the currently insured value of \$13,735,943. This represents an insurance shortfall of \$14,092,057 with the main causal factor being the value of the Cottesloe Civic Centre (\$11,007,082).

CONSULTATION

Nil

STAFF COMMENT

The problem of being underinsured is that it can have a negative double impact.

Not only does the Town of Cottesloe **not** receive the replacement value of the asset if we are under-insured but we also only get a **proportion** of the asset value that is insured should there be a claim.

The insurance scheme includes a clause that penalises the Town of Cottesloe if it has less than 85% of the value of the asset insured. For example, if there were damages to the Cottesloe Civic Centre of \$1,000,000 the insurance payout would only be \$587,857. This is calculated by determining the proportion of the currently insured value (\$10,992,918) compared to 85% of the current replacement value (\$22,000,000) multiplied by the claim value:

$$(\$22,000,000 \times 85\%) = \$18,700,000$$
$$\$10,992,918 / \$18,700,000 \times \$1,000,000 = \$587,857$$

The inadequate insurance of Town of Cottesloe assets is a significant issue that needs to be addressed.

VOTING

Absolute majority – unbudgeted expenditure.

11.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council increase the insured value of buildings and contents to \$34,023,328 being the recommended valuation provided by LGIS.

Carried by absolute majority 11/0

12.1.5 PARKING STUDY - TOWN CENTRE & BEACHFRONT

File No: SUB/582
Attachment(s): [SINCLAIR KNIGHT MERZ REPORT](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 12 September, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Recommendations are made to:-

- Install Meter Eye equipment throughout monitored parking areas in Cottesloe as provided for in the 2007/08 budget.
- Confirm the March 2007 Council decision to request staff to prepare a report on a process to be followed in developing Council land in Station Street for mixed use and public parking purposes.
- Undertake community consultation on proposed changes to current car parking time limits.
- Advise Procott Incorporated of Council's decision in relation to this matter.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

An amount of \$300,000 has been set aside in the 2007/08 budget for the installation of Meter-Eye equipment.

BACKGROUND

At the April 2007 Council meeting staff were requested to provide a report on the long term parking requirements and solutions for the town centre within the context of plans to spend approximately \$300,000 on the new meter-eye parking management system in the 2007/08 financial year.

At the May Council meeting, Council was advised that any analysis of long term parking requirements should not be undertaken in isolation from medium and short term parking requirements.

As Council staff had neither the expertise nor the time to prepare a comprehensive report on parking requirements and solutions for the town centre, it was recommended that the work be contracted out so that a meaningful report could be brought back to Council.

Council subsequently decided:-

That Council staff be requested to prepare a parking study brief for Council's consideration with a view to engaging Sinclair Knight and Merz to provide a parking strategy for the town centre and direction for the planned installation of Meter-Eyes.

Details of the parking study brief were provided to the June meeting and amended so as to include the following;

- Extend the scope of the Meter-Eye roll out study to address all parking spaces within the town rather than just confining it to the town centre.
- Identify and address the short, medium and long term parking requirements of the town centre and recommend time limits.
- Address the use of railway land for parking, particularly on the east side of the railway and investigate what plans, if any, the Perth Transport Authority has for the land.
- Rather than confining the days selected for surveys as being two weekends, also consider undertaking surveys on two weekdays (in particular Friday).

Sinclair Knight Merz has now completed the parking study and a copy of their report is attached.

The recommendations of the report are as follows:-

Recommendations

From the data collection and analysis undertaken, SKM makes the following recommendations relating to parking provision and management within Cottesloe Foreshore and Town Centre areas.

- (1) The Station Street 4 hour car park is currently being utilised for all-day parking. There are two possible approaches to address this issue, one is to convert the car park from a 4 hour limit to no time limit and encourage all-day parking. The second option is to enforce the car park as a 4 hour limit to service visitors to the town centre and direct long term parkers to an alternative car park, possibly to the west of the rail-line (current informal parking site). This may be a preferred approach to provide more parking for visitors to Station Street and Napoleon Street who wish to park for between 2 and 4 hours.
- (2) Napoleon Street has a sufficient mix of 15 minute and 1 hour bays appropriate for the centre core. Over-stay in 15 minute bays reflects the demand for parking in the core area (1 hour bays are full) rather than a need to modify the time restrictions.
- (3) A number of bays (suggest around 10 bays) on Forrest Street should be converted from 2 hours to 30 minutes. This would address the demand for over-stay in the 10 minute bays (demand for around 30 minutes at the 85th

- percentile) and the lack of variation in parking provision between 10 minutes and 2 hours.
- (4) The mix of parking on Marine Parade should be changed to provide 30 minutes and 1 hour parking. The current parking mix provides 37, thirty-minute bays and 1 five-minute bay, the duration of stay in the 30 minute bays is 45 minutes at the 85th percentile (ie 85% of people stay for less than 45 minutes).
 - (5) Overton Gardens appears to be attracting long term parkers. The surveys show that 85% of people are parking for up to 6 hours in the 1 hour bays in Overton Gardens- this does not include residential permit holders. It is understood that workers to a near-by building site have been permitted to park in the street for the interim and we therefore suggest the time restriction not be changed.
 - (6) Consider converting the informal verge parking north of Napier Street into formal parking.
 - (7) Signage directing people to parking around the town centre should be improved. Parking maps showing locations of short and long term parking should be erected at key sites.
 - (8) Construction of new car parks or extension of existing parking needs to be combined with an upgrade of lighting facilities (where relevant). This is especially important for long term car parks where employees may be returning to their vehicles after dark. Pedestrian routes to designated car parks should also be well lit and follow streets with active uses and direct frontage where possible.
 - (9) In the future investigate the potential to convert Station Street car park (54 bays at grade) into a multi-storey long term parking facility. This would most likely need to be accompanied by introduction of charging for parking and may include plans for a secure access system.
 - (10) Several people in the surveys suggested an underpass to connect Cottesloe Central with the town centre. Whilst an underpass is not recommended and has personal safety implications, the pedestrian phasing at the traffic signals may need to be reviewed. It is suggested that this be re-assessed at a later stage following more detailed planning for the library.
 - (11) A pricing strategy may become necessary in the longer term as a mechanism to direct parkers to the most appropriate location, for example to discourage short term parkers in long term areas (sliding price scale).

CONSULTATION

Two questionnaire surveys (intercept and business) were developed for the purposes of completing the study. The response rate to these surveys is detailed on page 3 of the report.

STAFF COMMENT

The parking study indicates that by and large, the provision of timed parking spaces in Cottesloe is pretty close to the mark.

Town Centre

As most elected members would know, the Station Street 4 hour car park is being utilised for all-day parking by traders and employees in the town centre. Time limits are rarely enforced but the 4 hour time limit has remained in place in order to deter rail commuters from using the parking space.

The report identifies a need for 2 to 4 hour parking for visitors to the town centre. This need would be satisfied by the Station Street 4 hour car park were it not for the fact that it has been given over to all-day parking on a de-facto basis.

The normal practice in most retail activity centres is to establish short term parking at the heart of the activity centre with parking limits increasing progressively the further out you go from the activity centre. To discourage short term parking in long term bays, a pricing strategy is used to discourage unwanted behaviour.

The parking study has identified that the practical difficulty in providing all-day parking further out from Napoleon Street and Station Street has more to do with unsafe pedestrian access and personal security concerns rather than the absence of land as such.

These safety concerns can be quite easily overcome by providing secure multi-storey car-parking facilities in Station Street on vacant Council land or further out (e.g. the Railway Street verge north of Forrest Street or on the western side of the railway) with improved lighting and pedestrian access.

The former solution can be easily achieved by kick-starting a March 2007 Council resolution to prepare a report on a process to be followed in developing Council land in Station Street for mixed use and public parking purposes. The report was put on hold pending completion of the parking study by Sinclair Knight Merz.

The latter solution requires more work and needs to be undertaken with some sensitivity to the needs of nearby residents and in the context of the planned strategy for the town centre.

Beachfront

The significant recommendation coming out of the parking study in relation to the beachfront is that the "... mix of parking on Marine Parade should be changed to provide 30 minutes and 1 hour parking. The current parking mix provides 37, thirty-minute bays and 1 five-minute bay, the duration of stay in the 30 minute bays is 45 minutes at the 85th percentile (i.e. 85% of people stay for less than 45 minutes)."

In other words, notwithstanding the limited 1 and 2 hour parking that is provided in side streets off Marine Parade, 1 hour parking is required in Marine Parade. The most obvious place for this parking (based on the principle that short term parking is placed at the heart of the activity centre with parking limits increasing progressively the

further out you go from the activity centre) is on the western side of Marine Parade (i.e. adjacent to but not in the No.1 car park).

The other recommendation is to consider paved verge parking on the northern side of Napier Street. This proposal has been considered before but not acted upon. It is understood that the No. 2 carpark was seen to be a sufficient.

Meter-Eye

The request for the parking study was triggered by a report to Council in April 2007 that recommended the installation of Meter-Eye "...equipment throughout the monitored parking areas in Cottesloe in a manner to be confirmed during the budget process for 2007/2008."

In the report, Council was advised as follows:-

FINANCIAL IMPLICATIONS

The installation cost of the system if implemented fully in the Town of Cottesloe will be approximately \$300 000. There is however, an expected revenue increase due to the increased effectiveness of parking management. It is anticipated that the installation cost will be recovered within the systems' first three years of operation.

BACKGROUND

The Rangers' role is demanding with a multitude of differing tasks that need to be completed, these often require immediate action. Parking management is another task that Rangers conduct. Most parking management is the control of over staying vehicles. The traditional method for detecting overstaying vehicles is marking the tyres with chalk that requires the Ranger to return to check these markings. Unfortunately, often higher priority duties don't allow the Ranger to return to the marked vehicles at the appropriate times and thus the chalk marks are wasted and parking management effectiveness is reduced. Chalking of tyres also has inherent health/safety risks. Repetitive bending to mark the tyres, putting hands in wheel wells, as well as being amongst the traffic in the car parks and streets, all provide health and safety concerns for the Ranger.

	2006	2007	\$ increase
Revenue Napoleon Street	\$3,885	\$15,050	\$11,165
Revenue Rest of Town	\$4,795	\$7,105	\$2,310

The Meter-Eye parking management system was installed in Napoleon Street in January. The system has just completed a 10 week trial and has shown significant increases in parking infringements and revenue compared to chalking during the same period last year. See below for a summary of the data.

	2006	2007	% increase
Napoleon St. Total Infringements	111	430	287%
Rest of Town Total Infringements	137	203	48%

The key advantage with Meter-Eye is that the Ranger can conduct primary tasks while at the same time monitor parking in busy areas. If there is an over stay in the street the Ranger is driving through, the Ranger is alerted and has the option to write an infringement. Additionally, a Ranger in the administration area can be aware of the current status of parking throughout the Town from viewing the PC. A quick phone call can then be made to other Rangers if a necessity arises to police a particular area.

The Meter-Eye system also collects data on all vehicle movements within the monitored bays. This data will be useful for analysing current parking trends and possibly assist with the facilitation of improved parking strategies. Also, this real time data will be used to show drivers how many bays are available in particular areas (via signs in prominent locations).

STAFF COMMENT

The Rangers historically have used the system of chalking tyres to manage parking within the Town. This method is time consuming, presents health and safety issues, and is only partially effective. Since January, the Town has been trialling the Meter Eye Parking Management System in Napoleon Street. These devices electronically detect the presence of vehicles and alerts Rangers via a hand held device if vehicles over stay. This system eliminates the need for chalking and many of its inherent problems. The Meter-Eye system will have the benefit of recording vehicle movements in real time, thus significantly increasing the detection of overstaying vehicles. Additionally, the system will provide substantial data on parking bay vehicle movements that can be used by the Town to facilitate improved parking strategies.

The recommendation is to install the Meter-Eye system into the other timed parking areas of the Town. This will include both the business precinct and the beach areas. The Meter-Eye Parking Management system will improve the effectiveness of parking management within the Town by actively monitoring vehicle movements in real time. The Rangers can read this data both locally (parking area) and remotely (office) and act accordingly. Rangers will be able to perform their primary duties knowing that when a free moment is available, they can drive past busy areas and monitor the over stay situation.

The traditional method of chalking tyres takes considerable time and is only partially effective at managing parking even if the Ranger is able to return to check the marked tyres. This method also has considerable Health and safety issues

Page 18 of the parking study summarises the views of respondents to the parking study survey on the introduction of the Meter-Eye parking management system. The primary concern with Meter-Eye can be traced back to the shortage of 3 hour visitor parking in the town centre which has been aggravated by the de-facto use of the existing 4 hour car park in Station Street for all-day parking by traders and their employees.

If the Town of Cottesloe can find an alternative solution for trader and employee parking needs, then the needs of visitors for 3 hour parking will be automatically catered for. It is suggested that an alternative solution exists in the provision of multi-storey car parking in Station Street.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Install Meter Eye equipment throughout monitored parking areas in Cottesloe as provided for in the 2007/08 budget.
- (2) Confirm the March 2007 Council decision to request staff to prepare a report on a process to be followed in developing Council land in Station Street for mixed use and public parking purposes.
- (3) Undertake community consultation on the proposed changes to current car parking time limits.
- (4) Advise Procott Incorporated of Council's decision in relation to this matter.

COMMITTEE RECOMMENDATION

That Council:

- (1) Install Meter Eye equipment throughout monitored parking areas in Cottesloe as provided for in the 2007/08 budget.
- (2) Delay the installation of Meter Eyes in the Station Street car park until alternative long term parking arrangements are found.
- (3) Confirm the March 2007 Council decision to request staff to prepare a report on a process to be followed in developing Council land in Station Street for mixed use and public parking purposes.
- (4) Request staff to provide a report to Council on an interim solution for long term parking pending the development of Station Street long term parking solutions.
- (5) Request staff to prepare a parking development and maintenance policy which incorporates the use of net gains from parking infringements.
- (6) Undertake community consultation on the proposed changes to current car parking time limits and the installation of Meter Eye.
- (7) Advise Procott Incorporated of Council's decision in relation to this matter.

AMENDMENT

Moved Mayor Morgan, seconded Cr Dawkins

At item (2) delete the word 'the' and replace with the word 'further' and after the words 'Station Street' insert 'until community consultation has been undertaken'

Carried 8/3

AMENDMENT

Moved Mayor Morgan, seconded Cr Miller

That item (1) be amended to read 'Agree in principle to install Meter Eye equipment throughout monitored parking areas on the beachfront as provided for in the 2007/08 budget subject to community consultation'.

That item (2) be amended by deleting the words 'Station Street car park' and inserting the words 'town centre'.

That item (6) be amended by deleting the words 'and the installation of Meter Eye' and inserting the words 'on the beachfront'.

Carried 7/4

AMENDMENT

Moved Cr Dawkins, seconded Cr Strzina

That item (7) be amended to read: 'Discuss with Procott Incorporated prior to Council's decision in relation to the town centre matter.'

Carried 11/0

AMENDMENT

Moved Cr Cunningham, seconded Cr Dawkins

That item (4) be amended to read: 'Request staff to provide a report to Council on an interim solution for additional and long-term parking, pending the development of Station Street long-term parking solutions, including the possibility that the interim solution also be the long-term solution.'

Carried 9/2

12.1.5 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council:

- (1) Agree in principle to install Meter Eye equipment throughout monitored parking areas on the beachfront as provided for in the 2007/08 budget subject to community consultation.**
- (2) Delay further installation of Meter Eyes in the town centre until community consultation has been undertaken.**
- (3) Confirm the March 2007 Council decision to request staff to prepare a report on a process to be followed in developing Council land in Station Street for mixed use and public parking purposes.**

- (4) Request staff to provide a report to Council on an interim solution for additional and long-term parking, pending the development of Station Street long-term parking solutions, including the possibility that the interim solution also be the long-term solution.**
- (5) Request staff to prepare a parking development and maintenance policy which incorporates the use of net gains from parking infringements.**
- (6) Undertake community consultation on the proposed changes to current car parking time limits on the beachfront.**
- (7) Discuss with Procott Incorporated prior to Council's decision in relation to the town centre matter.**

Carried 10/1

12.1.6 SEA VIEW GOLF CLUB

File No: SUB/235
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 12 September, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to endorse an application to the State Government's Community Sporting and Recreation Facilities Fund by the Sea View Golf Club. The application seeks a grant towards the upgrade of their reticulation system.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

BACKGROUND

The Sea View Golf Club originally sought funding from the Town of Cottesloe and was redirected to the Department of Sport and Recreation as a more appropriate source of funds.

CONSULTATION

Nil

STAFF COMMENT

This application is comprehensive and is part of an overall management plan the Sea View Golf Club has prepared. The application takes into consideration water restrictions and includes initiatives aimed at reducing water consumption levels.

VOTING

Simple majority

DECLARATION OF INTEREST

Mayor Morgan, Cr Furlong, Cr Strzina and Cr Walsh declared an interest of impartiality as members of the Sea View Golf Club.

12.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Woodhill

That Council endorse the Sea View Golf Club's Community Sporting and Recreation Facilities Fund application for the upgrade of club's reticulation system.

Carried 11/0

12.2 ENGINEERING

12.2.1 2008/09 STATE AND FEDERAL BLACKSPOT SUBMISSIONS

File No: SUB/573
Attachment(s): [Sketches of Proposed Treatments](#)
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil.
Report Date: 11 September, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Submissions for the 2008/09 State and Federal Blackspot grants closed on 20 July, 2007. Submissions for eleven locations were submitted on behalf of the Town of Cottesloe.

This report recommends the acceptance of these grants if the grants are approved and the provision of a one-third contribution towards the total cost during the 2008/09 financial year.

STATUTORY ENVIRONMENT

Main Roads WA (MRWA) is responsible for all traffic control signs and linemarking, including 'Stop', 'Give Way' and speed control signs. The Police Department enforces the law in relation to these lines and signs as well as driver compliance with all posted speed limits. Apart from West Coast Highway and Stirling Highway, all road reserves within the town are vested in the Town of Cottesloe. Therefore responsibility for all road surfaces, kerbing, installation and maintenance of traffic control devices and warning signs rests with the Town of Cottesloe.

Blackspot funding is available to assist local governments to install properly designed traffic treatments which will improve the safety of the built road system - particularly at proven accident sites.

POLICY IMPLICATIONS

The only associated policy is the *Traffic Management* policy, adopted in 2002. This policy is included as an attachment. The policy deals with road hierarchy, general overall objectives, the need to foster cycling, pedestrian activity and the use of public transport plus an elaborate series of intervention guidelines when complaints are received regarding potential dangerous sites.

STRATEGIC IMPLICATIONS

The most applicable provisions within the Strategic Plan are:

District Development – Asset Management – Appropriate Planning: produce and implement a realistic five year plan for the maintenance of all major assets.

District Development – Environment – Streetscape: provision of clean, safe sustainably managed streetscapes, with appropriate selections of trees and infrastructure, which are pedestrian friendly and incorporate tidy verges.

The core words from these provisions are safe, sustainable, appropriate infrastructure, pedestrian friendly, maintenance of all major assets.

FINANCIAL IMPLICATIONS

State Blackspot grants are approved on the basis of a \$2 : \$1 State : Council contribution level. Federal Government Blackspot grants provide for 100% of the cost to be covered by the grant.

These eleven submissions cover the installation of a number of different facilities at eleven sites, including street light improvements in Broome Street. Two submissions were provided for the roundabout at the Broome Street/Jarrad Street intersection, for alternative funding through State or Federal Blackspot programs.

The total estimated cost of all works is \$728,400 of which Council would contribute \$242,800 if all were State Blackspots. This Council contribution could reduce by as much as \$160,000 if the four projects submitted under both State and Federal Categories are funded from the Federal Blackspot program.

BACKGROUND

Every year, MRWA makes the data collected on crash statistics available to each local government for their immediate area. Requests are then made for funding submissions under the State and Federal Blackspot programs for solutions to the sites most affected by injuries and damage to property.

A specialist consultant then analyses the data provided and works with the Manager for Engineering Services to determine the sites most likely for success as well as the most applicable treatments.

The data collected is over a five year period and pre-computed costs are assigned to each type of accident to determine a total community cost of accidents occurring at each site. The cost of the proposed treatment is determined and a Benefit Cost Ratio (BCR) is then determined.

The higher the BCR, the better chance of the site crash solution being funded from the grant level available.

A high BCR may also indicate that the Federal Blackspot program may fund 100% of the treatment rather than two-thirds by the State program.

CONSULTATION

No public consultation has occurred on this matter. The submissions for Blackspot funding are based on the crash statistics for each site, the applicability of the solution and the benefit cost ratio of the solution.

STAFF COMMENT

Prior to these Blackspot submissions being prepared, a Road Safety Audit was undertaken by Porter Consultants in addition to the specific examination of the section of Broome Street between Jarrad Street and Eric Street.

The improvements recommended in the Safety Audit are acceptable to MRWA as an alternative to submissions based on the data included on the annual crash disk, where a Benefit Cost Ratio (BCR) is completed and the result, if over 1.0 is used to justify the proposed treatment.

Staff worked with the consultant to analyse the most accident prone sites and the most applicable Broome Street Safety Audit issues, the types of accidents occurring and the most applicable solutions for a total of eleven different sites. Submissions were then developed for funding under the 2008/09 State and Federal Black Spot programs. These submissions were:

1) Railway Street/Station Street Intersection

Proposal: Install median islands on all three approaches to the intersection. Reinforce priority signs with linemarking and signage on Station Street. Remove parking embayment with kerbing and install signage.

Accidents: 8 over 5 years

Benefit Cost Ratio: 1.02

Project Cost: \$30,000
State Project

2) Eric Street/Marmion Street Intersection

Proposal: Install roundabout

Accidents: 9 over 5 years

Benefit Cost Ratio: 2.01

Project Cost: \$150,000
State Project

3) Marine Parade/Eileen Street Intersection

Proposal: Install median island on the eastern leg of the intersection (Eileen Street) and reduce parking on the north and east legs to improve sight

Accidents: 5 over 5 years

Benefit Cost Ratio: 1.02

Project Cost: \$9,900
State Project

- 4) Curtin Avenue/Sydney Street Intersection
Proposal: Install median islands on all 3 legs of the intersection and reinforce priority signs.
Accidents: 5 over 5 years
Benefit Cost Ratio: 1.07
Project Cost: \$21,000
State Project
- 5) Eric Street/Broome Street Intersection
Proposal: Install intersection lighting to comply with Australian Standard AS1158
Accidents: 6 over 5 years
Benefit Cost Ratio: 3.50
Project Cost: \$24,000
State Project
- 6) Broome Street/Forrest Street Intersection
Proposal: Install intersection lighting to comply with Australian Standard AS1158
Accidents: Submission made through the Safety Audit findings. One accident in 5 years.
Project Cost: \$13,500
State Project
- 7) Jarrad Street/Brixton Street/Railway Street Intersection
Proposal: Install median islands on Railway Street and Brixton Street. Install left turn slip lane on Railway Street.
Accidents: 14 over 5 years
Benefit Cost Ratio: 2.36
Project Cost: \$60,000
State Project/Possible National Project
- 8) Broome Street/Jarrad Street Intersection
Proposal: Install roundabout
Accidents: Proposal based on Road Safety Audit
Benefit Cost Ratio: Not Applicable
Project Cost: \$90,000
Submitted for State and Federal Blackspot programs.
- 9) Broome Street/John Street Intersection
Proposal: Install median islands at intersection
Accidents: Proposal based on Road Safety Audit
Benefit Cost Ratio: Not Applicable
Project Cost: \$30,000
Submitted for State and Federal Blackspot programs.
-

- 10) Broome Street - Eric Street to Jarrad Street
Proposal: Upgrade street lighting to comply with Australian Standard AS1158
Accidents: Proposal based on Road Safety Audit
Benefit Cost Ratio: Not Applicable. Number of night accidents exceeds normal rate.
Project Cost: \$120,000
Submitted for State and Federal Blackspot programs.
- 11) Broome Street – Napier Street to Eric Street
Proposal: Install pedestrian refuge islands in Broome Street opposite the northern end of tennis courts.
Install footpath on west side of Broome Street from north end of tennis courts to Napier Street.
Install intersection islands on Broome Street at Clarendon Street and Geraldine Street.
Accidents: Proposal based on Road Safety Audit
Benefit Cost Ratio: Not Applicable
Project Cost: \$180,000
Submitted for State and Federal Blackspot programs.

Of these projects, the treatments proposed for the Railway Street/Station Street intersection, the Marine Parade/Eileen Street intersection and the Curtin Avenue/Sydney Street intersection are simple median islands.

The solutions proposed for the Eric Street/Broome Street intersection and the Broome Street/Forrest Street intersection are improvements in intersection lighting from two to four lights, to comply with Australian Standards.

New roundabouts are proposed for the Eric Street/Marmion Street intersection and the Broome Street/Jarrad Street intersection.

One project proposed the general street lighting upgrade of Broome Street from Eric Street to Jarrad Street.

Intersection islands are proposed at the Broome Street/John Street intersection to control turning traffic and reduce speed on Broome Street.

It is also proposed to equip the Jarrad Street/Railway Street/Brixton Street intersection with median islands on the north and south leg plus install a left turn lane for vehicles turning left from the north leg of Railway Street into Jarrad Street.

Using the results of the Broome Street Safety Audit, the final project involving road installation involved the installation of median islands on Broome Street, at the Geraldine and Clarendon Street intersections plus a pedestrian crossing median island at the north end of the tennis courts.

In order to keep pedestrians on a safe alignment along Broome Street, on the west side past the tennis courts, a 1.5m side concrete path was proposed from Napier Street to the northern end of the tennis courts.

Blackspot approvals for funding to other councils to improve intersection and longer lengths of street lighting are now becoming more regular, where lighting is seen to be a road safety issue.

Therefore, Broome Street lighting is included from Jarrad Street to Eric Street plus the Eric Street and Forrest Street intersections, at two thirds cost to the Blackspot grant.

Solar lighting would be one consideration if these projects are approved.

Main Roads WA is now investigating received proposals to establish an initial approval list. Council will not be informed of any successful project approvals until early in 2008. Detailed design plans would not be commenced until Council resolves to include its funding for such projects in the next budget. (2008/09)

VOTING

Simple Majority

12.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council resolve to agree in principle that the 2008/09 budget include up to one-third contributory funding towards the following eleven State and Federal Blackspot submissions subject to these submissions being approved by Main Roads WA and the Minister receiving Blackspot grant funding:

- (1) Railway Street/Station Street Intersection – median island.**
- (2) Eric Street/Marmion Street Intersection – roundabout.**
- (3) Marine Parade/Eileen Street Intersection – median island.**
- (4) Curtin Avenue/Sydney Street Intersection – median islands.**
- (5) Eric Street/Broome Street Intersection – intersection lighting.**
- (6) Broome Street/Forrest Street Intersection – intersection lighting.**
- (7) Jarrad Street/Railway Street/Brixton Street Intersection – median islands and left turn lane.**
- (8) Jarrad Street/Broome Street Intersection – roundabout.**
- (9) Broome Street/John Street Intersection – median islands.**
- (10) Broome Street – Eric Street to Jarrad Street – improved lighting.**
- (11) Broome Street – Napier Street to Eric Street – west side footpath, pedestrian islands, intersection median islands.**

Carried 11/0

12.2.2 BUSINESS PLAN, SALE OF NO. 25, LOT 43 MARGARET STREET, COTTESLOE

File No: PRO/2245
Attachment(s): [Business Plan](#)
[Aerial Plan](#)
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 12 September, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting on the 18 December, 2006 Council resolved to:

- (1) Confirm its support for the proposed schematic design from Philip Griffiths Architects, subject to input from the Design Advisory Panel as regards the proposed new administration entrance being more sympathetic to the aesthetics of the existing building.
- (2) Invite a fixed fee from Philip Griffiths Architects for design development, cost check and approvals for budget setting purposes,
- (3) Subject to downward revision of price and price acceptability, commission Philip Griffiths Architects to complete design development, cost check and approvals for budget setting purposes,
- (4) Confirm in-principle support for the sale of the Margaret Street drainage sump lot in order to fund the office extensions and refurbishment of existing administrative and civic areas in the 2007/08 financial year,
- (5) Advise Mustard Catering that the existing kitchen facilities and the Civic Centre building are unlikely to be available for functions from early 2008,
- (6) Advise Mustard Catering that any plans for the redevelopment of the Lesser Hall will need to be with the Town of Cottesloe within the first quarter of 2007 so that community consultation can take place.
- (7) Undertake community consultation prior to any budget-setting decision.

This item deals with part (4) of Council's resolution and covers the Business Plan requirement for the sale of the Margaret Street drainage sump.

A recommendation is made to advertise the Business Plan for the sale of No. 25 (Lot 43) Margaret Street, Cottesloe.

STATUTORY ENVIRONMENT

Sections 3.58 and 3.59 of the *Local Government Act, 1995* apply.

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.

(3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —

- (a) it gives local public notice of the proposed disposition —
 - (i) describing the property concerned;
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

and

- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.

(4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —

- (a) the names of all other parties concerned;
- (b) the consideration to be received by the local government for the disposition; and
- (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.

(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.

3.59. Commercial enterprises by local governments

(1) In this section —

“acquire” has a meaning that accords with the meaning of “dispose”;

“dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;

“land transaction” means an agreement, or several agreements for a common purpose, under which a local government is to —

(a) acquire or dispose of an interest in land; or

(b) develop land;

“major land transaction” means a land transaction other than an exempt land transaction if the total value of —

(a) the consideration under the transaction; and

(b) anything done by the local government for achieving the purpose of the transaction,

is more, or is worth more, than the amount prescribed for the purposes of this definition;

“major trading undertaking” means a trading undertaking that —

(a) in the last completed financial year, involved; or

(b) in the current financial year or the financial year after the current financial year, is likely to involve,

expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

“trading undertaking” means an activity carried on by a local government with a view to producing profit to it, or any other activity carried on by it that is of a kind prescribed for the purposes of this definition, but does not include anything referred to in paragraph (a) or (b) of the definition of “land transaction”.

(2) Before it —

(a) commences a major trading undertaking;

(b) enters into a major land transaction; or

(c) enters into a land transaction that is preparatory to entry into a major land transaction,

a local government is to prepare a business plan.

(3) The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of —

- (a) its expected effect on the provision of facilities and services by the local government;
- (b) its expected effect on other persons providing facilities and services in the district;
- (c) its expected financial effect on the local government;
- (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56;
- (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
- (f) any other matter prescribed for the purposes of this subsection.

(4) The local government is to —

(a) give Statewide public notice stating that —

- (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;
- (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
- (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

(b) make a copy of the business plan available for public inspection in accordance with the notice.

(5) After the last day for submissions, the local government is to consider any submissions made and may decide* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.

** Absolute majority required.*

(5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.

(6) If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.

(7) The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.

(8) A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.

(9) A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.

(10) For the purposes of this section, regulations may —

- (a) prescribe any land transaction to be an exempt land transaction;
- (b) prescribe any trading undertaking to be an exempt trading undertaking.

The proposed sale of land by public auction meets the requirements of 3.58.

The property sale is affected by Section 3.59 of the *Local Government Act, 1995* because the income for this sale is likely to be in excess of 10% of the annual operating expenditure of the Town of Cottesloe. This necessitates the preparation and advertising of a business plan for the sale.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

One of the objectives of Council's Strategic Plan is to "produce and implement a realistic five year plan for the maintenance of all major assets". Income from this land sale will allow Council to fund its major building asset improvements.

FINANCIAL IMPLICATIONS

Council has budgeted to receive \$1.44m income from the sale of this property nett of GST.

There is a separate budget allocation of \$30,000 to cover the clean up and filling of the property ready for sale.

BACKGROUND

As per the *Local Government Act, 1995, Section 3.59*, a business plan is required because the projected income from the sale may be in excess of 10% of the annual operating expenditure of the Town of Cottesloe.

The main purpose of this property sale is to provide Council with the capacity to meet its financial requirements for the Civic Centre upgrade, office extensions and refurbishment of existing administrative and civic areas in the 2007/08 financial year.

CONSULTATION

The Business Plan is to be advertised in a state-wide newspaper, on Council's webpage and on Councils notice boards.

It is intended that the results will be considered by Council at its November 2007 meeting.

STAFF COMMENT

The sale of the Margaret Street drainage sump is a major part of Council's 2007/08 budget income. The sale will provide a substantial part of the funds required to extend and refurbish the Civic Centre and Council Offices.

The drainage pipelines directing water into this sump have now been closed off. A substantial number of side entry soak pits have been installed in the catchment as an alternative and replacement method of road drainage.

If after the advertising process is completed Council resolves to progress this sale, the property will be cleaned up and properly filled and compacted prior to sale.

This process is identical to that undertaken in the past two budget years for the sale of 103 Eric Street and 45 Lyons Street.

VOTING

Simple Majority

Cr Cunningham left the meeting at 9.58 pm

Cr Cunningham returned to the meeting at 10.01 pm

OFFICER & COMMITTEE RECOMMENDATION

That Council in compliance with Section 3.59 of the *Local Government Act 1995*, the Town of Cottesloe advertise the Business Plan for the sale of No. 25 (Lot 43) Margaret Street, Cottesloe.

AMENDMENT

Moved Cr Miller, seconded Cr Furlong

That Council seek a report from a suitably qualified consultant to advise on the long term sustainability of the proposed Margaret Street drainage catchment and existing sump site.

Carried 11/0

12.2.2 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) In compliance with Section 3.59 of the *Local Government Act 1995*, the Town of Cottesloe advertise the Business Plan for the sale of No. 25 (Lot 43) Margaret Street, Cottesloe.**
- (2) Seek a report from a suitably qualified consultant to advise on the long term sustainability of the proposed Margaret Street drainage catchment and existing sump site.**

Carried 11/0

12.3 FINANCE**12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 JULY, 2007**

File No: SUB/137
Attachments: [Statutory Financial Statements](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 July, 2007
Senior Officer: Mr Stephen 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 July, 2007, 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.

STAFF COMMENT

The new council software package has been in for 2 months. The rates were sent out on time, all staff and bills have been paid and the majority of teething problems sorted. The reports for July 2007 have had to be prepared by the Accountant with some intervention as we are waiting for the final sign off from the auditors of the previous year's accounts. Once this has occurred we can transfer the balance sheet into Civica and begin automating our reporting.

VOTING

Simple Majority

12.3.1 OFFICER & COMMITTEE RECOMMENDATION & 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 July, 2007, as submitted to the 18 September 2007 meeting of the Works and Corporate Services Committee.

Carried 11/0

12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 JULY, 2007

File No: SUB/150 & SUB/151
Attachment(s): [Schedule](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 July, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 July, 2007, 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.

STAFF COMMENT

The Schedule of Investments on page 8 of the Financial Statements shows that \$1,787,170.24 was invested as at 31 July, 2007.

Reserve Funds make up \$1,218,152.81 of the total invested and are restricted funds. Approximately 75% of the funds are invested with the National Australia Bank, 12% with Home Building Society and 13% with BankWest.

The Schedule of Loans on page 9 shows a balance of \$285,920.03 as at 31 July, 2007. There is \$160,078.24 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 July, 2007, as submitted to the 18 September 2007 meeting of the Works and Corporate Services Committee.

Carried 11/0

12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 JULY, 2007

File No: SUB/144
Attachment(s): [Accounts](#)
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 July, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 July, 2007, 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

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 6 of the Financial Statements:

- \$17,930.00 to Jaymar Pumps for work at Harvey Field
- \$25,664.48 to James Reid Electrical Controls for work on irrigation pumps
- \$16,106.66 to LGIS for 50% of business insurance premiums for 2007/2008
- \$33,894.01 to Trum P/L for waste collection
- \$11,000.00 to John Parker Vactor Jet Rodding for cleaning storm water pits
- \$38,593.78 to Town of Mosman Park for road construction costs
- \$32,981.25 to Shacks Motors for the purchase of new vehicle
- \$12,971.38 to LGIS for motor vehicle insurance premiums for 2007/2008
- \$11,550.00 to Civica as part of software implementation program
- \$12,656.90 to WA Local Govt Super Fund for staff deductions
- \$100,121.06 for Staff payroll July 2007

VOTING

Simple Majority

12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Cunningham

That Council receive the List of Accounts for the period ending 31 July, 2007, as submitted to the 18 September 2007 meeting of the Works and Corporate Services Committee.

Carried 11/0

13 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**13.1.1 NO. 40 JARRAD STREET – BOATSHED – REMOVAL OF FRONT PARKING**

File No: PRO/1855-02
NOM Date: 18 September 2007
Authors: Stephen Tindale / Andrew Jackson / Delia Neglie
Attachments: Location Plan
Letters from Boatshed dated 13 November 2006 and 10 July 2007
Councillors: Miller, Utting, Cunningham & Furlong

SUMMARY

This matter was considered by Council at its meeting last month where the following motion was lost on the casting vote of the Mayor.

That Council agrees to the change of use of the private land area located immediately in front of the Boatshed (as shown on the attached location plan) from car parking to a forecourt, subject to:

- (1) The Boatshed making a cash-in-lieu payment of a yet to be determined amount to the Town towards the unauthorised removal of the approved car bays in the forecourt area.
- (2) All delivery and service vehicles using designated loading or service bays in the rear laneway or nearby (such as in the railway carpark on Railway Street) but not using public car bays in the shared customer carpark to Jarrad Street.
- (3) This arrangement be formalised by a development application to vary the previous planning approval accordingly.

As provided for in Council's *Standing Orders Local Law* and the *Local Government Act 1995*, Councillors Miller, Utting, Cunningham and Miller have presented a properly completed Notice of Motion that seeks a reconsideration of the matter.

Their Notice of Motion is:-

That Council agrees to the change of use of the private land area located immediately in front of the Boatshed (as shown on the attached location plan) from car parking to a forecourt, subject to:

- (1) The Boatshed making a cash-in-lieu payment of \$10,000 to the Town towards the unauthorised removal of the approved car bays in the forecourt area.
 - (2) All delivery and service vehicles using designated loading or service bays in the rear laneway or nearby (such as in the railway carpark on Railway Street) but not using public car bays in the shared customer carpark to Jarrad Street.
 - (3) Arrangement to be formalised by submission of a development application.
-

STATUTORY ENVIRONMENT

Standing Order 10.14 provides that:-

No motion which has the same specific intent to one which has been lost within the preceding three months shall be moved unless it is presented as a notice of motion and the notice is signed by one third of the offices of member of council, whether present or not.

Regulation 10 of the *Local Government (Administration) Regulations 1996* provides the following:-

10. Revoking or changing decisions made at council or committee meetings — s. 5.25(1)(e)

(1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —

(a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or

(b) in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee,

inclusive of the mover.

(1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.

(2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —

(a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or

(b) in any other case, by an absolute majority.

(3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

Town Planning Scheme No 2 applies.

- Clause 5.5 and Table 2 provide minimum vehicle parking requirements.
- Clause 3.4.2(c) applies to parking requirements in the Town Centre for a change of use and allows Council to waive these requirements *subject to Council having regard to the nature of the use to be made of the site, the known or likely volume of goods or materials, or the numbers of people moving to or from the site and the likelihood or otherwise of congestion of traffic on any road or in other public places in the vicinity.*

- Clause 3.4.2(c) applies to the proposal as the Boatshed was established following a change of use from a warehouse.

POLICY IMPLICATIONS

Planning Policy No 1 that relates to car parking applies as follows:

In the Town Centre Zone, the Council policy relating to the provision of parking and loading spaces as required in accordance with Table 2 - Vehicle Parking Requirements (Clause 5.5.2 of the Scheme Text) is:

1. *In respect of uses 1-3 inclusive, all required spaces must be provided on the development site.*
2. *In respect of uses 4-10 inclusive, at least half of the total number of required spaces must be provided on, or adjacent to, the development site and arrangements made with the Council for the provision of off street parking in the vicinity of the site for the balance of such spaces still then required.*
3. *Any cash in lieu payment which may be agreed in accordance with Clause 3.4.2(c)(ii) of the Scheme Text must be paid to the Council in full prior to, or at the time of issue, of the relevant Building Licence.*

STRATEGIC IMPLICATIONS

Planning for the Town Centre is a primary strategy for Council and parking provision and management are key facets of a successful town centre. The application of parking requirements, rationalisation of parking arrangements and operation of relevant discretion are all part of making ongoing improvements to the overall form and function of the town centre precinct.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

- By way of background it is important to note that the Boatshed's conversion to Food Market was approved in June 1988 subject to: *the applicant pay to Council a cash in lieu of parking of \$70 000 with a credit for 137m² of warehouse floor area and 447m² of retail floor area.* Six on-site bays were provided at the front of the building.
- Also, an application to extend the warehouse component was approved in December 1992 with the 6 on-site bays at the front of the building retained. The applicant was advised that the parking requirement to provide 2 additional on-site bays was waived and that any future redevelopment may require variation to the on-site parking requirements. A subsequent proposal in 1994 for the use of a mezzanine for an office and lunch room was in fact approved subject to provision of 1 additional car bay.
- With regard to the proposal before Council now, the Town become aware in late 2006 of the conversion of the parking spaces that were located immediately in front of the Boatshed to a forecourt and blocking of vehicular access.

- This effectively constitutes a change of use as well as development works, which had not been the subject of any planning application or approval.
- Moreover, removal of the parking bays is considered contrary to the previous planning approvals for the Boatshed, which required those on-site bays.
- The landowner and business operator were advised of this by letter dated 2 November 2006 and were asked to provide a written explanation and rectification of the matter.
- The Boatshed advised, by letter dated 13 November 2006 that the area was repaved and bollards installed to improve safety of customers. The area was a risk to pedestrians due to uneven paving and vehicles reversing into the area. It is believed that the risks have been exacerbated due to increase in trade over the years and the development of Vivien's Corner at Jarrad and Station Streets which attracts customer and even resident visitor parking. The MLA for Cottesloe also encouraged the owners to address the problem.
- The Manager Development Services has corresponded further with the applicants (letters dated 15 December 2006, 19 March 2007 and 29 June 2007) to discuss Council's position and negotiate an acceptable outcome.
- The Boatshed believes that *the situation of vehicles crossing the footpath and manoeuvring in and out of the area has become a serious risk to pedestrians* and requests that Council *waive the need to replace or compensate for the car bays* and believe that re-marking the existing Council car park would yield additional car bays to compensate. They are happy to assist Council with the re-marking and to discuss the possibility of providing further parking at the rear of 42 Jarrad Street.

THE SITUATION

- Parking provided under previous planning approvals cannot simply be removed without prior application and approval, and may require compensation by replacement bays or cash-in-lieu. This is subject to Council's agreement and it should not be presumed that the loss of parking will be accepted or any compensation reduced or waived.
- Earlier Council decisions and advice have emphasised the importance of retaining this parking and not using it otherwise.
- The Boatshed now provides no on-site customer parking, as the Jarrad Street shared parking is in the road reserve and provided by the Town.
- The bollards confuse shoppers who park in the former driveway space (despite the two "No Parking" signs) and some have been booked by Council Rangers. This is caused by the change made. The Rangers have been asked to cease bookings while the matter is resolved.
- It is acknowledged that the previous bays were desirable in terms of parking provision, but not ideal in terms of accessibility, pedestrian safety and general amenity, whereby reinstatement of that actual parking may be considered undesirable.
- The Town is in the process of resurfacing and line-marking the public car parking area to Jarrad Street.

- This will include creating parking bays over the former vehicular access to the forecourt of the Boatshed (former parking bays).
- However, that should not be interpreted as absolving the Boatshed from redressing the unauthorised removal of the parking bays or from contributing to parking provision.
- In addition, the new public parking bays should not be used by delivery or collection vehicles, which should use the dedicated rear lane access or loading bays in the vicinity.
- It is also apparent that some relatively minor trading activities are occurring from the forecourt area, ie signs, plants/flowers and shopping trolleys, which albeit on private land, was disallowed as part of the approval to the former parking bays.

POSSIBLE SOLUTIONS

- The principle behind the loss of the car bays is important as the area was approved to be used for car parking as part of the original approval. Despite the safety issue, the planning approval process is required to be followed and as the development relies on a shared Council car park, Council's involvement and approval is essential.
- The potential options for a solution in relation to the provision of parking include:
 - The Boatshed providing replacement parking nearby on land it owns or leases.
 - The Boatshed providing cash-in-lieu for the lost bays, subject to Council approval.
 - The Boatshed seeking Council approval to waive the need to replace or pay cash-in-lieu for the lost bays.
 - Some combination of the above, and/or partial rather than whole satisfaction of the ultimate requirements.

- The relative feasibilities are assessed as follows:

Replacement Parking

- Replacement parking could be provided by the proposed re-marking of the existing car park. Two new bays would be provided in the former access way to the forecourt area. Re-marking would also provide a more efficient car park arrangement.
- The applicant has suggested parking at the rear of 42 Jarrad Street. This should not, however, be relied upon as a proposal that was approved in 2004 for rearrangement of the shops at this site included the provision of 2 new bays at the rear (with access from the right of way) of which only one was a surplus bay. While technically a surplus this additional bay is in fact required to service 42 Jarrad which has no other parking.

Cash-in-lieu

- Clause 5.5.4 of TPS2 and Council's Town Centre Parking Policy enable Council to require cash-in-lieu in this situation.
- The original conversion of the building to the Boatshed market incurred a substantial amount in cash-in-lieu.
- Given that the existing situation has been brought about in the interests of safety and that the number of usable bays that were removed is likely to be

replaced by re-marking of the car park, it may appear heavy-handed to require cash-in-lieu.

Waiver

- Clause 3.4.2(c) allows Council to waive the parking requirements despite Council's Town Centre Parking Policy that would require at least half to be provided either on or adjacent to the site.
- The practical loss of the car bays is not great. Although 6 bays were shown on the approved plans usually only one or two cars at a time actually parked there as the location of the space was difficult to get in and out of and felt dangerous and as it was un-marked and its purpose was ambiguous.
- These one or two cars will be reinstated by the re-marking of the car park.

CONCLUSION

- Car parking provision in the Town Centre is an issue that Council is currently aiming to address through the Town Planning Scheme review and proposed Parking Policy and the Town Centre Study.
- There is a high demand for this and other shared car parking in the Town Centre due to the shortage of such bays overall and the relative shortage of on-site car bays. There are a number of constraints to providing on-site parking, including the retention of existing buildings that enhance the amenity of the Town Centre.
- Council car parks and street parking contribute significantly to customer parking provision and whilst businesses compete for a share of the public parking, its provision is for the mutual benefit of all businesses and the economic viability of the centre as a whole.
- Re-marking the Council car park to create a more efficient car park will be of benefit to all the businesses and properties that currently rely on this car park for customer and visitor car parking.
- This matter was discussed at a senior management meeting, where the Administration agreed that the original approval for car parking immediately in front of the premises was not ideal, insofar as it did not appear to weigh-up the efficacy of car parking in front of the main entrance/exit for the Boatshed, with the associated problems for amenity, safety and exhaust fumes.
- It is thus considered reasonable to agree to the retention of the forecourt, rather than attempting to reinstate it as parking.
- It is also considered reasonable to see the re-marking of the car park as making-up for the removal of the original on-site bays in a practical sense in terms of parking provision, which as observed actually experienced limited use.
- As cash-in-lieu was originally paid for use of the Council car park, it may be seen as unreasonable to request a further large cash-in-lieu payment for the official loss of six bays, and as a full valuation for that would most likely be a prohibitive amount in the order of several tens of thousands of dollars.
- However, a nominal additional cash-in-lieu payment for the lost bays may be regarded as important in principle, being a suitable gesture and fair recompense in the circumstances.

- An amount of \$10,000 is suggested, representing a conservative estimate of the value of one bay (typically \$12,000-15,000 generally and often more in areas such as Fremantle or the western suburbs).
- Also, the efficiency of the car park would be increased if its use was not restricted by vehicles loading and unloading.
- Therefore, it is recommended that the deleted bays be accepted, subject to the Boatshed paying some cash-in-lieu and loading and unloading being undertaken from the rear of the building or other designated service bays (such as in the nearby railway carpark along Railway Street).
- The cash-in-lieu would be deployed for ongoing parking purposes in the interest of the overall Town Centre.

VOTING

Simple Majority

COMMITTEE COMMENT

At last month's Development Services Committee meeting, the committee queried the amount of cash-in-lieu and emphasised the need to ensure that delivery vehicles did not park in the customer bays. There was some discussion about Town Centre parking generally and other previous parking approvals.

Similar concerns were raised at Council level.

NOTICE OF MOTION

That Council agrees to the change of use of the private land area located immediately in front of the Boatshed (as shown on the attached location plan) from car parking to a forecourt, subject to:

- (1) The Boatshed making a cash-in-lieu payment of \$10,000 to the Town towards the unauthorized removal of the approved car bays in the forecourt area.
- (2) All delivery and service vehicles using designated loading or service bays in the rear laneway or nearby (such as in the railway carpark on Railway Street) but not using public car bays in the shared customer carpark to Jarrad Street.
- (3) Arrangement to be formalised by submission of a development application.

AMENDMENT

Moved Cr Morgan

That the motion that was voted on at the last Council meeting be put.

Lost for want of a seconder

PROCEDURAL MOTION

Moved Cr Furlong, seconded Cr Cunningham

That the notice of motion be now put.

Lost 5/6

AMENDMENT

Moved Cr Walsh, seconded Cr Utting

At item (1) replace the amount of '\$10,000' with '\$25,000'.

Carried 9/2

13.1.1 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council agrees to the change of use of the private land area located immediately in front of the Boatshed (as shown on the attached location plan) from car parking to a forecourt, subject to:

- (1) The Boatshed making a cash-in-lieu payment of \$25,000 to the Town towards the unauthorised removal of the approved car bays in the forecourt area.**
- (2) All delivery and service vehicles using designated loading or service bays in the rear laneway or nearby (such as in the railway carpark on Railway Street) but not using public car bays in the shared customer carpark to Jarrad Street.**
- (3) Arrangement to be formalised by submission of a development application.**

Carried 11/0

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 10.29 pm.

CONFIRMED: MAYOR DATE:/...../.....