

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, 25 MAY, 2009**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7:06pm.

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

Elected Members

Mayor Kevin Morgan	Presiding Member
Cr Jay Birnbrauer	
Cr Greg Boland	
Cr Patricia Carmichael	
Cr Dan Cunningham	
Cr Jo Dawkins	
Cr Victor Strzina	
Cr John Utting	
Cr Jack Walsh	
Cr Ian Woodhill	

Officers

Mr Carl Askew	Chief Executive Officer
Mr Graham Pattrick	Manager Corporate Services
Mr Geoff Trigg	Manager Engineering Services
Mr Andrew Jackson	Manager Development Services
Ms Janna Lockyer	Community & Events Support Officer

Apologies

Cr Bryan Miller

Officer Apologies

Nil

Leave of Absence (previously approved)

Nil

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 PUBLIC STATEMENT TIMEJayson Renouf, 6 Margaret Street, Cottesloe - Item 10.1.1 Alterations and Additions, Lot 20 (No. 22) Rosser Street, Cottesloe

Mr Renouf referred to his re-drawn plans as provided to the Town and circulated to Elected Members reducing the overshadowing to 26%. He indicated that the block presented challenges due to its size and topography and requested that, based upon the changes made, Council approve the proposed alterations/additions.

Jean-Nic Perrine, 28/918 Hay Street, Perth – Item 10.1.3 No. 1a Geraldine Street – Two-storey dwelling with pool and roof

Mr Perrine referred to the Committee comments and amended recommendation in relation to roof accessibility to the deck area and commended the recommendation to Council for its endorsement. He also indicated that he was available to answer any questions of Council if required.

Greg Chatfield, 9 Athelston Road, Cottesloe – Item 10.1.4 No. 2 & 4 Athelstan Road - Five Aged Persons Dwellings

Mr Chatfield was concerned that this development was contrary to the “R” codes, the size of the dwellings were too large with internal areas over 200m² and the impact of the development on property values within the street.

Jamie Loh, 25 Mann Street, Cottesloe – Item 10.1.4 No. 2 & 4 Athelstan Road - Five Aged Persons Dwellings

Mr Loh requested that Council consider a deferral of this item to allow him time to make adjustments to the proposal.

6 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Cunningham

[Minutes April 28 2009 Council.DOC](#)

The Minutes of the Ordinary meeting of Council held on Tuesday, 28 April, 2009 be confirmed.

[Minutes May 18 2009 Council.DOC](#)

The Minutes of the Special meeting of Council held on Monday, 18 May, 2009 be confirmed.

Carried 10/0

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

The Mayor advised that a special Meeting of Council was scheduled for 27 May 2009 at 7pm to consider the draft Local Planning Scheme 3.

On Friday, 22 May 2009, the prime Minister made an un-scheduled stop at John Curtin House in Jarrod Street, Cottesloe to see first hand the house of Cottesloe's greatest resident.

8.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE

Moved Cr Strzina, seconded Cr Woodhill

BACKGROUND

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

Standing Orders 12.1 and 21.5 read as follows:

Members to Rise

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

Suspension of Standing Orders

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

COUNCIL RESOLUTION

Moved Cr Strzina, seconded Cr Woodhill

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

Carried 10/0

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

For the benefit of the members of the public present the Mayor determined to consider the items in the following order:

Reports from Development Services Committee:

- 10.1.2 Alterations and Additions, Lot 30 (No. 6) Margaret Street, Cottesloe
- 10.1.4 No. 2 & 4 Athelstan Road - Five Aged Persons Dwellings

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

Reports from Works and Corporate Services Committee:

- 10.2.1 Local Government Structural Reform - Numbers of Elected Members
- 10.3.2 Town of Cottesloe - Key Result Areas for the Chief Executive Officer
- 11.1.1 Notice of Motion - Natural Areas Management Plan - Grant Street Median

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

10 REPORTS OF COMMITTEES**10.1 DEVELOPMENT SERVICES COMMITTEE MINUTES - 18 MAY 2009****10.1.1 ALTERATIONS AND ADDITIONS, LOT 20 (NO. 22) ROSSER STREET, COTTESLOE**

File No:	1623
Responsible Officer:	Carl Askew Chief Executive Officer
Author:	William Schaefer Planning Officer
Proposed Meeting Date:	18-May-2009
Author Disclosure of Interest	None
Property Owner:	R & D Faulkner
Applicant:	Dale Alcock Home Improvement
Date of Application:	10 December 2008 (Amended 28 April 2009)
Zoning:	Residential
Use:	P – A use that is permitted under this Scheme
Density:	R20
Lot Area:	446m²
M.R.S. Reservation:	N/A

SUMMARY

The application is for alterations and additions to the existing residence.

The application was listed to be dealt with under delegated authority, however, it has been referred to Council by Elected Members.

The proposed works comprise the addition of a bathroom, bedroom, verandah and front fence to the main residence, and a carport in the front setback area.

Plans were originally submitted to Council in December 2008. These plans asked for variations from Council's resolution on the front setback of residences, Council's Fencing Local Law, and Council's Policy on Garages and Carports in Front Setback Areas.

Following liaison with the Town's planning staff, revised plans were submitted on 28 April 2009 which overcame all variations other than the carport. Whilst the proposed carport does not comply with Council's resolution of a preferred setback of 6.0m, the carport has been justified under the relevant Council Policy.

At the time of writing this report, no written objections to the proposal have been received.

This report presents the technical assessment of the proposal and recommends approval subject to conditions.

PROPOSAL

The proposal is for a double carport in the front setback area, plus single storey additions of a bathroom, bedroom, verandah and front fence to the residence.

A concession is sought for the following item:

- * Carport in front setback area

CONSULTATION

The application is currently being advertised to the adjoining landowner to the north. At the time of writing this report no written submissions have been received. Any submissions received in the interim will be presented to Council.

STATUTORY ENVIRONMENT

Town Planning Scheme No. 2
Residential Design Codes

POLICY IMPLICATIONS

Garages and Carports in Front Setback Area

OFFICER'S COMMENT

With regard to the revised plans received on 28 April 2009, the main issue is as follows:

Carport in front setback area

It is proposed to construct a double carport with a front setback of 3.0m, whereas it is Council's policy to have carports located behind the 6.0m setback line. Notwithstanding this, variations to the 6.0m setback are permitted where it can be demonstrated that the proposal meets the criteria of Council's Policy TPSP 003 – *Garages and Carports in Front Setback Area*:

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

Further, the location of the building:

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

In consideration of variations to setback, Council shall also have regard to:

- (a) the objectives set out in Clause 1.2 of the Residential 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 applicant’s justification is quoted and assessed as follows:

APPLICANT’S JUSTIFICATION	OFFICER’S COMMENTS
<p>* Design, construction & materials in harmony with existing residence, which is in harmony with streetscape;</p>	<p>* Materials/finish of proposal are same as existing residence, which is considered in character with street;</p>
<p>* Open construction of carport allows good visibility, does not affect neighbour’s view lines;</p>	<p>* Open construction and eave setback of carport meet criteria for preservation of view lines and neighbour’s amenity;</p>
<p>* Rear ROW too narrow for safe ingress & egress. Proposal for carport in front setback still leaves adequate space for vehicle manoeuvre;</p>	<p>* Rear ROW (ROW # 56) is only 3.0m wide and rarely used by residents for access. ROW study indicates that location of fences in ROW makes access generally impractical.</p>
<p>* Unsuitable topography and location of existing structures at of rear of lot has forced carport to out front, where courtyards requiring northern light are also desired. Setback variation permits proposed courtyards to retain access to northern light;</p>	<p>* Several examples of reduced setbacks to carports and garages on Rosser Street (refer photograph of streetscape). See Nos. 16, 16A and 18 Rosser, which have setbacks of close to zero.</p>
<p>* Eaves of carport setback 750mm from neighbouring lot. Amenity of neighbour preserved.</p>	<p>* 1.8m dividing fence located between carport and neighbouring residence is expected to ameliorate the impact of the carport on the adjoining property.</p>

The relevant Acceptable Development Standard of the R-Codes (6.2.3 A3.4) contemplates carports in front setbacks provided that the width of the carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and the street.

In this instance the frontage at the building line is 11.06m, with the carport proposed to be 5.5m wide. Such figures satisfy the relevant standard. The construction of the carport also allows clear lines-of-sight between the street and the residence.

Thus, under an R-Code assessment, the proposal is seen to be acceptable.

Overall, the application is regarded as having met the relevant provisions of the Scheme, the R-Codes, Council's Local Fencing Law and Council's Policies.

CONCLUSION

The proposed alterations and additions are considered to satisfy the provisions of the Scheme, the 2008 R-Codes, Council's Fencing Local Law and the criteria of Council's policy of Garages and Carports in Front Setback Areas. The dwelling is single storey and modest, with the proposed improvements being relatively small-scale and consistent with the cottage character of this part of the street. Alternative vehicular access from the ROW is constrained, and the carport is in keeping with the desired outcome of off-street parking. Furthermore, the existing carport is to be replaced with a better one and it is only a single-width, rather than double-width, carport that is proposed.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

- (1) GRANT its Approval to Commence Development for the Alterations and Additions at Lot 20 (No. 20) Rosser Street, Cottesloe, in accordance with the revised plans submitted on 28 April 2009, 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 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 submitted 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) The applicant applying to the Town of Cottesloe for approval to construct a crossover of a maximum width of 5.5m in accordance with Council specifications, and being approved by the Manger Engineering Services or an authorised officer.
- (f) That the existing redundant crossover in Rosser Street be removed, the verge, kerb and all surfaces made good at the applicant's expense.
- (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) 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.

(2) ADVISE any submitters of this decision.

AMENDMENT

Moved Cr Birnbrauer, seconded Cr Walsh

Add a standard condition for open-aspect front setback area fencing in accordance with Council's Fencing Local Law.

Carried 6/0

AMENDMENT

Moved Cr Boland, seconded Cr Birnbrauer

Add a condition that the carport is setback 4.5m from the front boundary as per Council's Policy.

Lost 2/4

AMENDMENT

Moved Cr Boland, seconded Cr Strzina

Add a condition to delete any new fencing to form a courtyard in the front setback area, except for the front boundary fence.

Lost 2/4

COMMITTEE COMMENT

Committee discussed the proposed front fencing/courtyard and carport at some length and was of the view that design improvements could be made towards greater compliance and a more attractive streetscape.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

- (1) **GRANT its Approval to Commence Development for the Alterations and Additions at Lot 20 (No. 20) Rosser Street, Cottesloe, in accordance with the revised plans submitted on 28 April 2009, 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 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 submitted 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) **The applicant applying to the Town of Cottesloe for approval to construct a crossover of a maximum width of 5.5m in accordance with Council specifications, and being approved by the Manger Engineering Services or an authorised officer.**
 - (f) **That the existing redundant crossover in Rosser Street be removed, the verge, kerb and all surfaces made good at the applicant's expense.**
 - (g) **The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.**

- (h) **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.**
 - (i) **All new fencing in the front setback area shall be of “open-aspect” design and construction in accordance with Council’s Fencing Local Law.**
- (2) **ADVISE any submitters of this decision.**

Carried 10/0

10.1.2 ALTERATIONS AND ADDITIONS, LOT 30 (NO. 6) MARGARET STREET, COTTESLOE

File No: 1654
Responsible Officer: Carl Askew
Chief Executive Officer
Author: William Schaefer
Planning Officer

Proposed Meeting Date: 18-May-2009

Author Disclosure of Interest: None
Report Date: 13 May 2009
Senior Officer: Mr Andrew Jackson
Property Owner: Mr Jayson and Mrs Amanda Renouf
Applicant: Rodrigues Bodycoat Architects
Date of Application: 10 February 2009 (Amended 16 April 2009 and 22 April 2009)

Zoning: Residential
Use: P – A use that is permitted under this Scheme
Density: R20
Lot Area: 497m²
M.R.S. Reservation: N/A

SUMMARY

The application is for alterations and additions to the existing residence. The proposal has been architect-designed with special regard to the unusual site topography, which falls 5.07m from the Ozone Parade boundary at the rear to the Margaret Street boundary at the front. The effects of the unusual topography are exacerbated by the previous extensive excavation of the site, which has resulted in a portion of land at the rear of the site that is retained to a height of 2.8m.

Dialogue between the applicant and the Town commenced in February 2009 with the submission of the original proposal. The applicant has subsequently submitted revised plans and further supporting information.

This report presents the technical assessment of the proposal and recommends approval subject to conditions.

PROPOSAL

The proposal is for a two-storey garage/workshop, playroom, study and terrace extensions.

Concessions are sought for the following items:

* Wall height

- * Setback of garage from secondary street
- * Overshadowing
- * Walls on boundary

STATUTORY ENVIRONMENT

Town Planning Scheme No. 2
Residential Design Codes

POLICY IMPLICATIONS

Building Height

CONSULTATION**ADVERTISING**

The adjoining southern neighbour contacted the Council while Council was in receipt of the original plans dated 10 February 2009 and arranged an inspection. In response to these plans a written objection was lodged (refer attached).

The submission may be summarised as follows:

Mr Christopher Spaven, 4 Margaret Street

- * The proposal will overshadow a clothes drying area, the studio and garden;
- * There would be less objection if the roofline of the garage were altered to allow for the passage of more sunlight , and/or the garage wall were not as long;
- * There are no objections to the additions to the main residence.

The revised plans currently before Council were advertised to the southern neighbour, northern neighbour and to two residences on the east side of Ozone Parade. No other written submissions have been received.

APPLICANT'S JUSTIFICATION

The applicant submitted a report in support of the original proposal in February 2009 and as part of the revised submission in April 2009. Both documents are attached to this report.

OFFICER'S COMMENT

With regard to the revised plans received on 22 April 2009, the main issues are as follows:

Wall Height

It is proposed to construct a gable-roofed, two storey garage/workshop with wall heights of 7.0m in lieu of the basic 6.0m allowed by Clause 5.1.1 (c) of the Scheme. The maximum ridge height of the proposed garage is 8.4m, which is below the 8.5m permitted under the Scheme. The 7.0m reflects the R-Codes height standard for flat-roofed buildings.

The Scheme states that exceptions may be permitted in cases where natural ground forms indicate that a variation is warranted provided the amenity of neighbouring areas is not unreasonably diminished.

In this case the lot falls up to 5.07m from east to west. The lot has been heavily excavated in the past, leaving the rear of the lot retained to a height of up to 2.8m. It is on this retained portion of land at the rear of the lot that the garage/ studio is proposed to be built.

It is argued that the existing topography has limited the choice of possible sites and levels for the proposed structure. Vehicular access is from Ozone Parade, with the existing crossover having set the floor of the garage at its present level.

From the boundary nearest Ozone Parade, the wall height to the top of the plate is only 4.4m above NGL. It should also be noted that:

- * The garage storey is proposed to be 2.4m from floor to ceiling;
- * The pitching height of the store/workshop level is proposed to be 1.8m.

Given that the overall height of the garage/studio is within the parameters of the Scheme, and the ceiling heights are relatively modest, it is considered that the extra wall heights are more a function of the constraints of natural ground forms than unsuitable design.

With regard to the effect of the overheight walls on the amenity of neighbouring areas, an objection to the degree of overshadowing has been submitted by the adjoining neighbour. However, the objection relates to the original proposal, as opposed to the revised plans currently before Council. The overshadowing issue is dealt with more fully in another section of this report.

It is doubtful in any case that the degree of overshadowing would be improved by a reduction in wall height, as the overshadowing is the function of roofline and wall length rather than wall height.

No other written objections have been received.

The amenity of the neighbouring areas is therefore considered not to have been unreasonably diminished by the proposed overheight walls.

In conclusion, the overheight walls appear to satisfy the clause of the Scheme that permits variations on the basis of natural ground forms and the preservation of amenity.

Setback of garage from street

It is proposed to have the garage set back 0.5m from the secondary street boundary, whereas Acceptable Development Standard 6.2.3 A3.3 of the R-Codes specifies a setback of 1.5m.

It is therefore necessary to assess the garage setback under the relevant performance criterion, which states:

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.

There are several examples of residences with secondary street access from Ozone Parade that have garages within the 1.5m setback area. The double-width garage for No. 14 Grant Street, for example, has been constructed right up to the Ozone street boundary (refer photograph). The majority of the streetscape in either direction comprises solid boundary walls 1.8m in height (refer photograph), rather than the open front yards of residences that the codes were designed to preserve. No written objections to the secondary street setback have been received from the landowners adjacent or opposite.

With regard to the views of dwellings from the street or vice versa, it should be noted that the fall of the lot away from the secondary street and the extensive excavation of the site that has occurred in the past are such that only the rear roof of the residence is visible from Ozone Parade (refer photograph). The view to and from the residence is practically non-existent and the addition of the garage/workshop at the rear will not alter this situation.

The performance criterion of the R-Codes is therefore considered to have been met.

Overshadowing

The midwinter shadow cast by the proposal reaches 30%, whereas the Acceptable Development Standards of the R-Codes state that no more than 25% of a neighbouring lot may be overshadowed.

The proposal must therefore be justified under the Performance Criterion, which states:

Development designed to protect solar access for neighbouring properties taking account of the potential to overshadow:

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

In this instance, the adjoining neighbour has lodged an objection to the degree of overshadowing generated by the garage/workshop. However, this objection was made

with reference to the original plans submitted in February 2009, as opposed to the revised plans currently before Council. The roofline of the original proposal was configured along less compliant lines, with 32% of the neighbour's lot being overshadowed.

In his submission the objector has stated that he would have less objection if the roofline were altered to allow more sunlight into his yard. The applicant has subsequently amended the roofline and the level of overshadowing has been reduced to 30%.

It should be noted that the shadow from the garage/workshop falls on the studio (labelled as garage) and vegetation at the rear of the neighbouring lot. As no outdoor living areas, major openings, solar collectors, balconies or verandahs are overshadowed by the alterations at the rear of the lot, the proposal is considered to have satisfied the relevant performance criteria.

Walls on boundary

It is proposed to construct two new walls along the southern boundary. The wall for the garage/workshop is 8.6m long and up to 6.8m high; the study wall is intended to be 4.7m long and up to 2.8m high. For R-20 zoned areas, Acceptable Development Standard 6.3.2 A2 of the R-Codes allows walls not higher than 3.0m up to 9.0m in length.

The walls must therefore be assessed under the relevant performance criterion, which states:

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 proposed study wall forms an extension to the existing wall of the residence which permits the conversion of dead space into a useable room and therefore makes effective use of space. The neighbour has stated he has no objection to the addition and the effect of the proposed wall on the amenity of the adjoining property is considered likely to be negligible. As the extension is intended to occur in the already overshadowed area of the main house, there will be no effect on the passage of direct sun to the major openings to habitable rooms and outdoor living areas of the adjoining property.

As discussed in previous sections of this report, the location of the proposed garage/workshop is dictated by the crossover and unusual existing natural ground forms. The boundary wall is thus the function of a garage/workshop that makes effective use of the available space. As the shadow of the proposal falls on the neighbouring studio roof and an area of dense vegetation rather than on outdoor living areas and major openings to habitable rooms, it is considered that the wall on boundary will not have any significant adverse impact on the amenity of the adjoining property.

The relevant performance criterion is therefore considered to have been met.

CONCLUSION

The proposed alterations and additions are considered to warrant a variation to the Scheme's 6.0m wall height restriction. Furthermore, the proposal is assessed as having satisfied the performance criteria relevant to the setback of the garage from the secondary street, overshadowing and walls on the boundary.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Dawkins, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development for the proposed Alterations and Additions at No. 6 (Lot 30) Margaret Street, Cottesloe, in accordance with the revised plans submitted on 22 April 2009, 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 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 submitted 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) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (f) The walls along the southern boundary are to be finished to the satisfaction of the Manager Development Services.
 - (g) The existing redundant crossover in Margaret Street shall be removed, the verge, kerb and all surfaces made good at the applicant's expense.
 - (h) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees.
- (2) ADVISE the submitters of this decision.

AMENDMENT

Moved Cr Birnbrauer, seconded Cr Boland

That the plans be revised to reduce the overshadowing to no more than 25%.

Carried 5/1

COMMITTEE COMMENT

Committee discussed the proposal in relation to streetscape presentation and design function generally and to the amount of overshadowing to the southern neighbouring property in particular. It was considered that the latter should be reduced to the 25% standard by revised plans, even though it was felt that this may be difficult to achieve.

COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Strzina

That Council

- (1) GRANT its Approval to Commence Development for the proposed Alterations and Additions at No. 6 (Lot 30) Margaret Street, Cottesloe, in accordance with the revised plans submitted on 22 April 2009, 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 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 submitted 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) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The walls along the southern boundary are to be finished to the satisfaction of the Manager Development Services.
 - (g) The existing redundant crossover in Margaret Street shall be removed, the verge, kerb and all surfaces made good at the applicant's expense.
 - (h) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees.
 - (i) Revised plans being submitted at building licence stage, showing the design of the garage/studio being lowered or otherwise altered to reduce the overshadowing of the southern adjoining lot to no more than 25%, to the satisfaction of the Manager Development Services.
- (2) Advise the submitters of this decision.

AMENDMENT

Moved Cr Walsh, seconded Cr Dawkins

That item 1(i) be amended by changing the reference to 25% to 26%

Carried 10/0

COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Birnbrauer

That Council

- (1) **GRANT its Approval to Commence Development for the proposed Alterations and Additions at No. 6 (Lot 30) Margaret Street, Cottesloe, in accordance with the revised plans submitted on 22 April 2009, 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 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 submitted 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) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The walls along the southern boundary are to be finished to the satisfaction of the Manager Development Services.
 - (g) The existing redundant crossover in Margaret Street shall be removed, the verge, kerb and all surfaces made good at the applicant's expense.
 - (h) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees.
 - (i) Revised plans being submitted at building licence stage, showing the design of the garage/studio being lowered or otherwise altered to reduce the overshadowing of the southern adjoining lot to no more than 26%, to the satisfaction of the Manager Development Services.
- (2) Advise the submitters of this decision.

Carried 10/0

10.1.3 NO. 1A GERALDINE STREET – TWO-STOREY DWELLING WITH POOL AND ROOF DECK

File No: 1594
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Ed Drewett
Senior Planning Officer
Property Owner: Ms AY Ellies
Applicant: Perrine Architecture
Zoning: Residential R30
Use: P – A use that is permitted under this Scheme
Lot Area: 552m²

Proposed Meeting Date: 18-May-2009
Author Disclosure of Interest Nil

SUMMARY

This application is seeking the following variations to Town Planning Scheme No. 2 (TPS 2), Council's Policies and/or the Residential Design Codes:

- Front setback
- Visual privacy
- Walls on boundaries
- Fencing in front setback area
- Building height

Each of these issues is discussed in this report and refer to amended plans received 22 & 28 April 2009.

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

PROPOSAL

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

The proposed dwelling is of contemporary design comprising 4 bedrooms, 1 bathroom, 2 ensuites, study, living/dining/kitchen, laundry, utility/gym, pool and roof-top BBQ area and solar panels. The design of the dwelling utilises the lot's east-west positioning by locating its main outdoor active habitable areas on the northern side for best solar orientation.

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2
 - Residential Design Codes
 - Fencing Local Law
-

HERITAGE LISTING

N/A

DRAFT LOCAL PLANNING SCHEME NO. 3

It is proposed to rezone this lot to residential R40 making it potentially suitable for 2 grouped dwellings.

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE**

Policy	Required	Provided
Fencing Local Law	Open aspect fencing above 0.9m	Solid walls between 1.5m and 2.4m
Streetscape	6m (Council resolution 28/10/02)	Min. 4.8m (ground floor); Min. 4m (upper floor)

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.3 – Boundary setbacks	Walls not higher than 3.5m with an average of 3m for 2/3 in length up to one side boundary	Wall height up to 6.3m on southern boundary; Walls on two side boundaries	Clause 3.3.2 – P2
6.8 – Privacy requirements	4.5m cone of vision to bedrooms; 7.5m cone of vision from accessible rooftop	Min. 2.7-4m cone of vision to bedrooms 2 & 3; Min. 4.5m cone of vision to balcony	Clause 6.8.1 – P1
6.7 – Building height	7m to top of external wall (concealed roof)	7.3m to top of balustrade	Clause 6.7.1 – P1

ADVERTISING OF PROPOSAL

The application was advertised as per Town Planning Scheme No. 2. The advertising consisted of a letter to 6 adjoining property owners. 2 submissions were received.

The main points raised in the submissions are as follows:

Fred Zuideveld (Overman Zuideveld), on behalf of Emily Berean, 6 Gadsdon Street

- Expresses concern relating to overlooking from the first floor bedroom window as due to the level difference of 1.5m between the properties the overlooking into the private outdoor living space at the rear of 6 Gadsdon Street is increased;
- Suggests that overlooking could be reduced by the inclusion of a vertical privacy screen fixed adjacent to the west side of the first floor bedroom window. This will also have a secondary benefit of shading the window from late afternoon sun and could be conditioned accordingly; and
- No concern in relation to the inclusion of a roof terrace as designed on the proposed residence.

David Lang, 6A Gadsdon Street

- Bedroom 2 window has potential to overlook the back garden and affect the privacy of two upstairs bedrooms facing east. The proposed window should be smaller, moved further east and have sight screens installed to prevent overlooking a garden area;
- Objects to rooftop barbeque area which effectively becomes a 3rd storey entertaining area. The proposed area high above the house is likely to infringe the neighbour's privacy and to create noise nuisance; and
- Council is urged to insist on a permanent barrier surrounding the barbeque/entertainment area to ensure that no-one has access to the flat roof.

BACKGROUND

Following an assessment of the development application, the Town has been liaising with the applicant in an attempt to address various concerns including height, setbacks, walls on boundaries, retaining walls, visual privacy, overshadowing, front fencing and surveillance of the street.

The Town subsequently received amended plans on 22 & 28 April 2009 which address most of the initial concerns but do not satisfy all of Council's requirements.

APPLICANT'S JUSTIFICATION

The applicant has submitted information in support of the proposal and addressing various statutory requirements.

A summary of the main points relevant to the proposed design and this assessment are as follows:

- The proposal is specifically designed to create high levels of amenity for the occupants by creating a multi-tiered design solution in respect of passive design and energy efficiency;

- The design solution represents a fully-autonomous energy efficient house, which will enjoy mild to low subsidiary energy requirements throughout both winter and summer cycles;
- The building has been specifically designed to address the centre of the site and to create a modern built form set well away from the boundaries. In doing so, the application creates a significant area of open space to the northern third of the site, which is the primary access of view from Geraldine Street. In effect, the proposal provides for a sculptural and open vista to the street;
- Materials are natural and highly resilient to the marine location. Natural sandstone panels, glass and aluminium form the majority of the built form surface, with the glazing being tinted to maximise energy efficiency and harmonise with the natural tones of the building;
- The design represents a synthesis of modern form, quality material, and a high degree of passive design;
- A reduced front setback is proposed as TPS 2 allows the front setback to be varied, the lot sits at the end of a cul-de-sac and the adjoining garage to the north has a reduced setback;
- By the application of the proposed variations to the front setbacks the proposed development creates a landscaped avenue for the full depth of the lot and along the main axis of Geraldine Street. Built form within that corridor of any size would have a significantly greater impact on the streetscape than the carefully considered composition of the proposed development;
- Under the proposed R40 zoning, the setback required of the two potential lots would be significantly less than those proposed here. In any case, this lot is shorter than all the other lots in the street (by around 50%) and by comparison, a 6m front setback would represent a punitive (approx.) 30% of the lot area as setback area to the street with no benefits to privacy and amenity to the residence;
- The proposed walls on boundaries make effective use of space as the lot has limited area and the location of the dwelling allows maximum northern winter sun access;
- The walls will screen the development from heavily-used communal drying facilities, storage facilities, communal car parking and other communal areas that belong to the block of flats on the southern boundary. The flats will overlook the proposed development at 2nd and 3rd floor level;
- The walls have been specifically located to coincide with existing walls and communal carparking areas of the adjoining units to the south and the rights-of-way has existing walls to boundaries along its extent;

- No adjoining major openings or habitable or outdoor living areas are deprived of direct sun by the proposed walls to boundaries; and
- One small portion of the proposed building (approx. 15% of the total area of the building) uses a contemporary form of pitched roof. The roof pitches from a point with a wall height of 6m which is allowable under TPS 2 and forms a roof space which provides shelter for that area.

STAFF COMMENT

The following comments are made regarding the application and submitted plans received 22 & 28 April 2009.

The proposed development (as amended) complies with Town Planning Scheme No. 2, relevant Council Policies and the Residential Design Codes (RDC) with the exception of the following:

- Front setback
- Visual privacy
- Walls on boundaries
- Fencing in front setback area
- Building height

Each of these issues is discussed below:

Front setback

The applicant is seeking a variation to Council's preference for a 6m front setback (Council's resolution 28/10/02).

- A minimum 4m setback is proposed to a protruding wall structure (both floors) and to a utility/gym area/corridor on the upper floor;
- A minimum 4.8m setback is proposed to the ground floor entry and upper floor void area;

The remainder of the building has a front setback greater than 6m (6.95m).

Under the acceptable development standards of the RD Codes a 4m minimum front setback is required, although this may be further reduced by up to 50% provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of contiguous open space between the setback line and line drawn parallel to it at twice the setback distance.

In this case, the proposed development has a minimum 4m setback and therefore complies with the acceptable standards of the Codes.

Although the majority of dwellings in Geraldine Street do appear to have substantive front setbacks (albeit some with solid walls & gatehouse), they nevertheless are zoned R20 which is different to the subject lot which is zoned R30 (& proposed R40) and therefore these existing dwellings can be expected to contribute to a different streetscape based on the density factor alone. Furthermore, the remainder of Geraldine Street has an attractive verge area on both sides unlike the subject lot that has no verge and is adjoining an existing garage on the northern boundary with a reduced setback to Geraldine Street, which is permitted (to 1.5m), as the existing dwelling fronts Gadsdon Street and backs onto Geraldine Street.

The unique size, shape and location of the subject lot lends itself to consideration of a reduced front setback as it will not significantly impact on the existing streetscape, it recognises the higher density zoning, and the proposed design of the dwelling ensures that a significant portion of the site on the northern side compensates for the reduced setback.

The Draft Local Planning Scheme No.3 addresses front setbacks as follows:

Despite anything contained in the RD Codes to the contrary, in the case of areas with a residential density code of R30, the local government may require an R20 front setback of 6m to be applied, for the preservation of streetscapes, view corridors and amenity.

As already mentioned, it is not considered that the proposed reduced setback will have a significant visual impact on the existing streetscape and the location of the lot at the end of a cul-de-sac ensures that view corridors and amenity are adequately preserved and therefore the proposed development would satisfy this requirement.

Visual Privacy

The proposed upper floor windows to bedrooms 2 & 3, and the roof deck area, do not comply with the acceptable development standards of the RD Codes for visual privacy and need to be assessed under performance criteria.

The relevant performance criteria (Clause 6.8.1) states:

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

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

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

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

There is some potential for overlooking of the adjoining multiple dwellings on the southern side of the lot from the proposed bedroom 3 window and rear section of roof deck. However, direct overlooking of active habitable spaces will be limited due to the design and juxtapositioning of the proposed dwelling to the boundary. Furthermore, the adjoining units are predominantly orientated to the south and back onto the development site. Most windows along their northern elevation are therefore either bedroom/bathroom type windows rather than to main living areas and therefore will potentially be less affected by overlooking.

The Bedroom 2 window located on the upper floor (northern elevation) of the proposed development does have potential to overlook active habitable spaces and outdoor living areas of the properties to the west of the lot and therefore should be screened or setback in accordance with the acceptable development standards of the Codes. This would also largely satisfy concerns raised by the owners of 6 & 6A Gadsdon Street.

Walls on boundaries

The proposed walls on the southern boundary do not comply with the acceptable development standard of the RD Codes and therefore need to be considered under the relevant performance criteria which state:

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 single storey wall pertaining to the proposed dressing room and ensuite has an average height of 3.2m above NGL and length of 8.8m, and will be abutting an existing wall of similar dimension on the southern lot adjoining. A 1.275m wide portion of this proposed wall will also extend to a height of 6.7m on the southern boundary with the setback to the remainder of the upper floor gradually increasing away from the boundary.

The single storey walls to the proposed garage will have an approximate height of 3m above NGL and length of 6m and 7m along the eastern and southern boundaries respectively.

The proposed walls make effective use of space by enabling the design of the proposed dwelling to utilise maximum northern solar access. The proposed garage wall abutting the existing pedestrian accessway along the eastern boundary is permitted under the acceptable development standards (Clause 6.3.1) of the RD Codes and the garage wall along the southern boundary will be abutting a communal car parking area and therefore will have no significant adverse effect on the amenity of the adjoining property. There is

also an existing high solid fence along this boundary which will effectively screen the proposed walls.

The proposed upper floor section of wall on the boundary is relatively small in width and is unlikely to have a significant effect on the amenity of the adjoining flats compared to if the wall was setback 1.2m from the boundary as required under the acceptable development standards of the Codes. Furthermore, the existing dwelling to the west of the lot at 6 Gadsdon Street has an existing 2-storey wall on the southern boundary adjoining the flats which is far more extensive than the proposed wall and potentially has a greater impact on the adjoining flats.

Fencing in front setback area

2.4m high concrete panels and a 1.5m high solid stone clad fence are proposed in the front setback area.

Under Council's Fencing Local Law fencing in the front setback area above 0.9m in height is to be of an open aspect design.

Although the applicant advised in his submission of 14 February 2009 that the fencing design has been altered to suit, this is not shown on the amended plans and should therefore be conditioned accordingly to avoid detracting from the streetscape or setting a precedence for solid walls. This is considered important given the reduced front setback and the streetscape presentation of this no-through road.

Building Height

The calculation of building height stems from Council's determination of natural ground level (NGL). Clause 5.5.1 of the Council's Town Planning Scheme No2 expresses policy in relation to building height and paragraph (c) provides a basic formula in relation to measurement of such height.

Provision is made for Council to depart from the formula where the natural ground forms indicate that a variation is warranted provided that the amenity of the area is not unreasonably diminished. However, a variation is not considered warranted in this case as the site is relatively flat.

The NGL at the centre of the lot has been determined to be RL: 25.0 which has been derived using a site survey plan submitted by the applicant and drawn by a licensed surveyor.

Based on this NGL the maximum permitted wall height is 6m (RL: 31.0) and the maximum permitted ridge height is 8.5m (RL: 33.5). However, where a concealed (flat) roof is proposed Council has generally allowed a maximum permitted wall height up to 7m (RL: 32.0) in accordance with the acceptable development standards of the RD Codes, as the Scheme is silent on this type of roof; while proposed LPS 3 does provide for it in the same manner as the RD Codes.

The proposed dwelling generally complies with these height requirements, with the lower 6m wall height being applied to the proposed roofed area and the remaining concealed roof height being 6.3m high on the southern side and 6.8m on the northern side. Notwithstanding this, it is considered appropriate to condition the wall height to 6m above NGL where the roof extends above, to ensure compliance with the Scheme.

The proposed balustrade on top of the flat roof area exceeds the maximum 7m building height permitted under the acceptable development standards of the RD Codes by approximately 0.3m. However, providing the balustrade is within the covered roof space area then the height may be permitted, similar to a gable wall being allowed to a roofed area.

Any balustrade beyond the roofed area should be restricted to a maximum height of 7m above NGL as the proposed increased height above this would be difficult to support under the relevant performance criteria of the Codes, particularly as it would not be consistent with the desired height of buildings in the locality and any increase in height would generally exacerbate the building bulk as well as set an undesirable precedent in the area.

TPS 2 advises that the maximum building height in a residential zone shall be two storeys except that Council may permit a 3rd storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated in the Scheme and also provided that, in Council's opinion the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity.

In this case, the proposed roofed area will be conditioned to ensure compliance with the building height provisions of the Scheme and it will generally have the appearance of a 2 storey dwelling, albeit of a contemporary design.

The remaining part of the accessible roof deck that does not have a floor or ceiling above does not constitute a separate storey as the Scheme defines Storey as:

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

CONCLUSION

The applicant has attempted to address Town Planning Scheme No 2 and the RD Codes and, on balance, it is considered that the amended plans have merit and should largely be supported. Notwithstanding this, it is recommended further design revisions are considered necessary to ensure that visual privacy is addressed from the proposed Bedroom 2 window, walls within the front setback area comply with the Council's Fencing Local Law and the building height is compliant with the Scheme and acceptable development standards of the RD Codes.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Dawkins, seconded Cr Birnbrauer

That Council:

- (1) GRANT its Approval to Commence Development for the proposed two-storey dwelling with pool and roof deck at No. 1A (Lot 77) Geraldine Street, Cottesloe, in accordance with the plans submitted on 22 & 28 April 2009, subject to the following conditions:
 - (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve, pedestrian accessway or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
 - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The 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. The crossover width is not to exceed 5.5m.
 - (e) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) No retaining walls or fill within 1m of a common boundary shall exceed 0.5 metres above natural ground level.
 - (g) The pool pump and filter shall be located so as not to impact on adjoining properties and suitably housed or treated as may be necessary so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (h) Wastewater or backwash from pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.

- (i) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum 1.8 metres away from any building or boundary.
- (j) Wastewater or backwash shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (k) The finish and colour of the boundary wall facing the southern neighbour and the pedestrian accessway shall be to the satisfaction of the Manager Development Services.
- (l) The northern and western flat roof areas shall not be used as an active habitable space.
- (m) The building licence plans shall be formulated to the satisfaction of the Manager Development Services to include:
 - i The proposed bedroom 2 window being screened on its western side to a minimum height of 1.6m from the finished first floor level, or otherwise suitably addressed to provide reasonable privacy to the adjoining western neighbours;
 - ii The wall height not exceeding 6m above the calculated NGL (ie: to a maximum RL: 31.0) where proposed to be roofed, other than with a concealed (flat) roof;
 - iii. The top of the roof deck balustrade not exceeding 7m above NGL (ie: RL: 32.0), where not positioned within a proposed roofed area; and
 - iv. Fencing and walls within the front setback area being of an open-aspect design above 0.9m in accordance with Council's Fencing Local Law.
- (2) ADVISE any submitter of this decision.

AMENDMENT

Moved Cr Boland, seconded Cr Woodhill

That the following words be added to condition (l): *and shall not be accessed except for building maintenance or servicing.*

Carried 5/1

COMMITTEE COMMENT

Committee discussed the proposal broadly in relation to the rooftop terrace and was satisfied to strengthen condition (l) in order to ensure privacy. Committee also supported condition (m) for revised plans for additional refinements and requirements, including open-aspect fencing for the front setback area.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

- (1) **GRANT its Approval to Commence Development for the proposed two-storey dwelling with pool and roof deck at No. 1A (Lot 77) Geraldine Street, Cottesloe, in accordance with the plans submitted on 22 & 28 April 2009, subject to the following conditions:**
 - (a) **All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve, pedestrian access way or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
 - (c) **The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (d) **The 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. The crossover width is not to exceed 5.5m.**
 - (e) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (f) **No retaining walls or fill within 1m of a common boundary shall exceed 0.5 metres above natural ground level.**
 - (g) **The pool pump and filter shall be located so as not to impact on adjoining properties and suitably housed or treated as may be necessary so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (h) **Wastewater or backwash from pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.**
 - (i) **A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763**

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

- (j) Wastewater or backwash shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
 - (k) The finish and colour of the boundary wall facing the southern neighbour and the pedestrian access way shall be to the satisfaction of the Manager Development Services.
 - (l) The northern and western flat roof areas shall not be used as an active habitable space and shall not be accessed except for building maintenance or servicing.
 - (m) The building licence plans shall be formulated to the satisfaction of the Manager Development Services to include:
 - i The proposed bedroom 2 window being screened on its western side to a minimum height of 1.6m from the finished first floor level, or otherwise suitably addressed to provide reasonable privacy to the adjoining western neighbours;
 - ii The wall height not exceeding 6m above the calculated NGL (ie: to a maximum RL: 31.0) where proposed to be roofed, other than with a concealed (flat) roof;
 - iii. The top of the roof deck balustrade not exceeding 7m above NGL (ie: RL: 32.0), where not positioned within a proposed roofed area; and
 - iv. Fencing and walls within the front setback area being of an open-aspect design above 0.9m in accordance with Council's Fencing Local Law.
- (2) Advise any submitter of this decision.

Carried 10/0

10.1.4 NO. 2 & 4 ATHELSTAN ROAD - FIVE AGED PERSONS DWELLINGS

File No: 1572
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Ed Drewett
Senior Planning Officer
Property Owners: M J Hansen, T J Loh, D L Court & E S Cooley
Applicant: Lawrence Scanlan & Associates Pty Ltd
Zoning: Residential R20
Use: P- A use that is permitted under this Scheme
Lot Area: 1667m²

Proposed Meeting Date: 18-May-2009
Author Disclosure of Interest Nil

SUMMARY

This application is seeking the following variations to Town Planning Scheme No. 2 (TPS 2), Council's Policies and/or the Residential Design Codes:

- Plot Ratio
- Front setback to balconies;
- Removal of street tree

These issues are discussed in this report and refer to amended plans received on 17 & 20 March and 1 May 2009.

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

PROPOSAL

This application is for the demolition of two single dwellings and construction of 5 two-storey aged persons dwellings.

The proposed dwellings are attached and each comprise a master bedroom with ensuite, study, kitchen, living area, laundry, WIR, store/garage at ground floor level, with 2 additional bedrooms, bathroom/ensuite, family room (kitchenette/family room for 1 dwelling) and balcony on the upper floors.

The dwellings are of contemporary design with their main outdoor active habitable areas on the northern side for best solar orientation.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No. 2
-

- Council's Street Tree Policy
- Residential Design Codes

HERITAGE LISTING

The existing dwellings (to be demolished) are not on the Town's Municipal Inventory.

DRAFT LOCAL PLANNING SCHEME NO. 3

No change is proposed to the zoning and density of these lots.

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Proposed
Street Trees	Retention of street trees	Removal of 1 street tree

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.2 – Streetscape	Balcony projecting no more than 1m into the street setback area providing it does not exceed 20% of the frontage	Unit 1 – 0.2m projection for 49% of frontage; Unit 5 – 0.2m projection for 61% of frontage	Clause 6.2.2 – P2
7.1 – Special purpose dwellings	Maximum plot ratio for single houses and grouped dwellings – 100m ²	Unit 1 – 266.86m ² ; Unit 2 – 265.52m ² ; Unit 3 – 264.68m ² ; Unit 4 – 260.84m ² ; Unit 5 – 247.03m ²	Clause 7.1.2 – P2

ADVERTISING OF PROPOSAL

The application was advertised as per Town Planning Scheme No 2. The advertising consisted of a letter to 11 adjoining properties. A petition was received with 7 signatures from the owners of 1, 3, 6, 7, 8, 9 & 10 Athelstan Road [and also endorsed by the owners of 5 Athelstan Road.](#)

The main points raised in the petition are as follows:

- Given these properties are being designated as “over 55s” the design appears to be unnecessary and ‘over the top’;
- Typically these developments are single-storey, whereas in this case each dwelling is double-storey;
- The Codes stipulate a maximum area for each dwelling of 100m², these dwellings are individually over 200m²;
- The west end of the Athelstan Road cul-de-sac has 13 dwellings and a population of approx. 35 people. The development would significantly change the demographic of the street with the 5 dwellings, each with the capacity to sleep 6 people;
- The street will change from a low density, quiet, family-orientated street to one where there is significantly higher density and traffic;
- The density of the housing is more appropriate in Subi Centro rather than a quiet street in Cottesloe;
- The streetscape will be adversely affected with an approximate 45m double-storey continuous wall running down the property over two blocks. This creates a development of great bulk with no break in the solid wall (the wall behind the garages); and
- All the above factors will contribute to the devaluation of the properties in the street and this development is an example of abusing the concessions provided under the Code.

BACKGROUND

Following an assessment of the development application, the Town has been liaising with the applicant in an attempt to address various concerns including lot area, height, setbacks, setback to garages, boundary wall height, visual privacy, open space, courtyards, fencing, width of driveways, street trees and plot ratio.

The Town subsequently received a letter and amended plans on 17 March 2009 and additional supplementary plans on 20 March and 1 May 2009. These plans address most of the initial concerns but do not satisfy all of Council’s requirements.

APPLICANT’S JUSTIFICATION

The applicant submitted a detailed report with the application in support of the proposal. A copy of the report is attached although some details have subsequently been modified in the later submitted amended plans.

A summary of the main points raised that are particularly relevant to this planning assessment are as follows:

- The proposed site is ideal for over 55s dwellings as it is central to shops, public transport and within walking distance of the beach. Judging by the lack of developments available within Cottesloe, it appears that this size of property has proven quite difficult to achieve elsewhere;
- The proposed development mostly meets the acceptable development standards of the RDC and justification is provided where variations are sought;
- The subject lots rising over 5m from front to back poses a challenge in order to achieve a balanced outcome addressing the client's brief and statutory planning criteria;
- One of the design principles embraced was to minimise the visual massing of the buildings by introducing a number of architectural styles to produce a series of smaller houses rather than the perception of a single larger development. This also allows the development to sit comfortably within the streetscape that is in itself quite unique and already offers-up an eclectic grouping of bungalows on the north-south orientated sites;
- The setbacks to the first floor living areas are well behind the ground floor setbacks and the open terraces help reduce the visual mass and also reduce shading during winter;
- The design incorporates a mixture of external finishes;
- There are many developments on similar sized blocks and topography throughout Cottesloe, where walls located on common boundaries with similar bulk and mass have been approved;
- The development has been designed to restrict overshadowing and minimise heat-load gains due to the small amount of western facing glass (except for the western most residence);
- Open space is provided in accordance with the RDC;
- The development has been designed to cater for "over 55s" and with minor modification will be suitable for disabled clientele;
- First floor accommodation is designed for guests and/or grandchildren;
- All rooms have been intentionally oversized to cater for owners who are currently domiciled in the immediate area and demand large rooms to accommodate their existing oversized furniture and to be similar to what they are used to;

- Our client's research has identified that the following features are required by the target demographic:
 - (i) The size and number of rooms as presented is what is considered a minimum requirement;
 - (ii) North-facing, protected gardens are desirable;
 - (iii) Higher ceilings – minimum 3m downstairs and 2.7m upstairs are mandatory;
 - (iv) No common walls are preferable;
 - (v) High level of privacy, security, acoustic and environmental outcomes;
 - (vi) Incorporation of double glazing and Environmental Sustainable Design Principles;
- It is acknowledged that the houses proposed are far larger in size than that envisaged by the original outcomes-based guidelines. However, in this locality, the proponents are trying to accommodate the people who live in the immediate area and the size, the number of rooms and their proportions are all what the owners are demanding; and
- In order to provide for our elderly constituents to resettle in purpose-made houses designed for the aged and infirm and located close to their friends and immediate family, this type of accommodation is definitely required. Otherwise, our elderly will be forced to move to other suburbs well away from their familiar environs where they have (in some cases) resided for their lives.

STAFF COMMENT

The following comments are made regarding the application and revised plans received 17 & 20 March and 1 May 2009.

The proposed development (as amended) complies with Town Planning Scheme No. 2, relevant Council Policies and the Residential Design Codes (RDC) for aged persons dwellings, with the exception of the following:

- Plot Ratio;
- Front setback to balconies for Units 1 & 5;
- Removal of street tree;

Each of these issues is discussed below.

Plot Ratio

Under Town Planning Scheme No. 2 the lot is zoned Residential R20. This would permit a maximum 3 single or grouped dwellings on the amalgamated lots. However, Clause 6.1.3 of the RDC states:

For the purposes of an aged or dependent persons' dwelling, the minimum site area may be reduced by up to one third, in accordance with part 7.1.2 and 7.1.3.

If the 1/3 reduction is applied then the average and minimum lot area may be reduced as shown below:

Single house or grouped dwellings (without reduction)	Aged or dependent persons' dwelling (with reduction)
Min. 440m ² Ave. 500m ²	Min. 293.34m ² Ave. 333.34m ²

On this basis, the amalgamated lots would accommodate 5 aged or dependent persons' dwellings.

The proposed minimum lot areas range from 329.25m² to 330.64m² which are all in excess of the minimum lot area permissible.

The issue with the proposed development arises over the proposed plot ratio for each dwelling.

Under Clause 7.1.2 of the RDC the acceptable development standards for aged and dependent persons' dwellings state, inter alia:

A maximum plot ratio area of:

- *In the case of single houses or grouped dwellings – 100m²*

Plot ratio is defined as:

The ratio of the gross total of all floors of buildings on a site to the area of land in the site boundaries. For this purpose, such areas shall include the area of any walls but not include the areas of any lift shafts, stairs or stair landings common to two or more dwellings, machinery, air conditioning and equipment rooms, non-habitable space that is wholly below natural ground level, areas used exclusively for the parking of wheeled vehicles at or below natural ground level, lobbies or amenities areas common to more than one dwelling, or balconies or verandahs open on at least two sides.

The plot ratio for each of the proposed dwellings is as follows:

Unit 1 (western end)	266.86m ²
Unit 2	265.52m ²
Unit 3	264.68m ²
Unit 4	260.84m ²
Unit 5	247.03m ²

All of the proposed units are therefore in excess of the maximum permitted plot ratio area permitted under the acceptable development standards of the Codes.

The relevant Performance Criteria of the RDC state:

Dwellings that accommodate the special needs of aged or dependent persons and which:

- *Are designed to meet the needs of aged or dependent persons;*
- *Are located in proximity to public transport and convenience shopping;*
- *Have due regard to the topography of the locality in which the site is located; and*
- *Satisfy a demand for aged or dependent persons' accommodation*

Although the proposed development has been designed to take account of existing topography and will have reasonable access to public transport and local shops, the scale of each dwelling is of concern, especially as the applicant has advised that the first floor accommodation is for guests and/or grandchildren, rather than being specifically designed to meet the needs of aged or dependent persons. On this basis, the variation sought to plot ratio is difficult to support under performance criteria.

The explanatory guidelines of the RDC further discuss the special purpose dwelling requirements and state:

The intention of this provision is to encourage the development of small-scale specialised housing in local communities, as an alternative to larger scale, relatively segregated complexes.

Because aged or dependent persons' dwellings are generally smaller than conventional dwellings, and the occupants do not usually have a high car ownership ratio, the codes under acceptable development provision 6.1.3 allow the reduction of the site area by one-third of that provided for by the code applying to the site, together with reduced car parking standards.

To prevent these concessions from being abused, for example as a back door way of increasing density for standard housing without re-coding an area, the concessions are subject to four constraints:

- *There is a limit on the size of such dwellings;*
- *They must be purpose-designed;*
- *There is a minimum of five dwellings in a single development; and*
- *They are subject to a legal agreement to restrict occupancy.*

The guidelines also state:

It is important that dwellings designated aged or dependent persons are designed to allow for aging in place whereby dwellings cater for an individual to remain in their chosen place of residence even though their physical and sensory abilities may change over their lifespan, with certain minimum standards, as set out in appropriate Australian Standards, that are part of construction or can be introduced with relative ease. In particular, this would include designs with minimal use of levels or stairs, adequate passageways and door widths, roofed car parking spaces, accessible utilities and slip

resistant floors for kitchen, laundries, bathrooms and toilets as described in the AS 4299-1995 Adaptable housing. This would result in such dwellings being more flexible to accommodate the changing needs of older people.

Although the applicant's supporting documentation can be taken into consideration, the proposed two-storey dwellings nevertheless do not represent small scale specialised housing that meet the specific requirements of the Codes for a reduction in site area to be applied. This number of new two-storey dwellings would equate to an approximate density of R35, rather than the existing R20 code, and the combination of the number and the size of the proposed dwellings would have a negative visual impact on the existing streetscape which is predominantly comprised of low-density single-residential dwellings on individual lots.

Front setback

Units 1 (western end) and Unit 5 (eastern end) have balconies which intrude 0.2m into Council's preferred 6m front setback (Council resolution 28/10/02).

Under the RDC these are considered minor incursions that satisfy both the relevant acceptable development standards and performance criteria. The proposed balcony incursions form an integral part of the design of each of the end dwellings and will not detract from the streetscape.

Street Tree

The crossover to proposed unit 1 necessitates the removal of a street tree.

The objective of Council's Street Tree Policy is to recognise the environmental and aesthetic contribution that street trees make to the continuing development and presentation of the streetscape. The policy also emphasises that tree removal must be seen only as a last resort, used for dead and/or dangerous trees.

In this case, the Manager, Engineering Services has advised that the Peppermint tree may be removed because of its poor condition and location near the intersection. However, the tree and stump is to be removed at the owner's expense and a new semi-mature peppermint tree is to be planted in a suitable location to the satisfaction of the Manager. This has therefore been conditioned accordingly.

Building height

The calculation of building height stems from Council's determination of natural ground level (NGL). Clause 5.5.1 of the Council's Town Planning Scheme No2 expresses policy in relation to building height and paragraph (c) provides a basic formula in relation to measurement of such height.

The Council's Policy in relation to Building Heights states:

Provided that it is satisfied that the amenity of the neighbouring area will not be adversely affected, the Council will...measure building height for attached houses and grouped dwellings from NGL as determined by Council at the centre of the area contained within the external walls of each individual house.

On this basis, the NGL at the centre of each proposed dwelling has been determined to be as shown in the table below, which has been derived using a site survey plan submitted by the applicant and drawn by a licensed surveyor.

ANGL (RL)	Unit 1 – 11.60
	Unit 2 – 11.30
	Unit 3 – 10.50
	Unit 4 – 9.75
	Unit 5 – 9.50

Based on this NGL the maximum permitted heights (RL) are as follows:

		Permitted	Proposed
ANGL +6m	Unit 1	17.60	17.60
+8.5m		20.10	18.85
ANGL +7m	Unit 2	18.30	18.16
	Unit 3	17.50	14.11
	Unit 4	16.75	16.02
	Unit 5	16.50	15.27

On this basis, all the proposed dwellings comply with Council’s Building height requirements.

CONCLUSION

The applicant has attempted to address Town Planning Scheme No. 2 and the RD Codes and, on balance, the concept of larger dwellings for aged persons has some merit. However, the main issue with the development is whether it should be entitled to an increased density in view of the proposed plot ratio of each dwelling which significantly exceeds the maximum area permitted under the acceptable development standards of the RD Codes. Furthermore, the proposed development does not represent small-scale specialised housing in this case and, if approved as proposed, would potentially be visually detrimental to the streetscape and could set a precedent for similar increased density requests.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Strzina, seconded Cr Birnbrauer

That Council:

- (1) GRANT its Approval to Commence Development for the proposed 5 Aged Persons Dwellings at Nos. 2 & 4 (Lots 20 & 21) Athelstan Road, Cottesloe, in accordance with the plans submitted on 17 & 20 March and 1 May 2009, subject to the following conditions:
- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveways or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
 - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The applicant applying to the Town of Cottesloe for approval to construct the crossovers, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (e) The existing redundant crossovers being removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
 - (f) Air-conditioning plant and equipment shall be located closer to the proposed dwellings 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) Any fencing to the site within the front setback area shall be of an open-aspect design in accordance with Council's Fencing Local Law.
 - (h) No retaining walls or fill within 1m of a common boundary shall exceed 0.5 metres above natural ground level.
 - (i) The finish and colour of the boundary wall facing the eastern neighbour shall be to the satisfaction of the Manager Development Services.
 - (ii) Prior to the issue of a building licence:
 - Revised plans shall be submitted showing each dwelling having a maximum plot ratio of 100m² as defined by the Residential Design Codes, to the satisfaction of the Manager Development Services; and
 - The proposed development shall comply with the acceptable development standards of the Residential Design Codes specific

to Aged or dependent persons' dwellings, Clause 7.1.2 - A2 (iii) & (iv).

- (i) At least one occupant of each dwelling is to be disabled or a physically dependent person or aged over 55, or be the surviving spouse of such a person; the owner entering into a legal agreement, binding the owner, their heirs and successors in title to ensure that this provision is maintained, to the satisfaction of the Manager Development Services prior to occupation;
 - (j) The amalgamation of Lots 20 & 21 being finalised by the Western Australian Planning Commission before commencement of development.
 - (k) The existing street tree (identified on the approved plans to be removed) shall be removed at the owner's expense, including the stump, and a replacement semi-mature Peppermint tree shall be planted in a location to be approved by the Manager Engineering Services;
- (2) Advise the submitters of this decision.

AMENDMENT

Moved Cr Boland, seconded Cr Birnbrauer

That the proposal be recommended for refusal in accordance with the form of words provided by the officers.

COMMITTEE COMMENT

Committee expressed mixed views about the proposal, especially the matter of the size of such dwellings and the operation of the density bonus provisions, as well as the overall streetscape impact, noting the concerns of submitters. On balance, Committee was uncomfortable with the proposal and after considering the options of deferral or refusal as outlined by officers decided to recommend that a refusal would be in order.

COMMITTEE RECOMMENDATION

Moved Cr Walsh, seconded Cr Birnbrauer

That Council refuse the application for Five Aged Persons' Dwellings at Nos. 2 & 4 (Lots 20 & 21) Athelstan Road, Cottesloe, on the grounds that the proposal:

1. has a plot ratio for each dwelling which significantly exceeds the maximum area permitted under the Acceptable Development Standards of the Residential Design Codes;
2. does not represent small-scale, specialised housing designed to meet the specific needs of aged or dependent persons;
3. would be visually detrimental to the streetscape and contrary to the general provisions of Town Planning Scheme No. 2;
4. would set an undesirable precedent for similar increased density development in the locality; and

5. would be detrimental to the orderly and proper planning and the preservation of the amenity of the locality.

MOTION TO REFER BACK

Moved Mayor Morgan, seconded Cr Woodhill

That the item be referred back to administration at the request of the applicant for further consideration for a future meeting of Council to address the issues raised in the Officer's report and for revised plans to be provided.

Carried 6/4

THE SUBSTANTIVE MOTION WAS PUT

Carried 7/3

10.1.5 NO. 26 BOREHAM STREET - TWO-STOREY FRONT EXTENSION TO EXISTING DWELLING AND POOL

File No: 1678
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Ed Drewett
Senior Planning Officer
Property Owner: G Ward & S Bertrand
Applicant: Humphrey Builders and Designers
Zoning: Residential R20
Use: P-A use that is permitted under this Scheme
Lot Area: 708m²

Proposed Meeting Date: 18-May-2009
Author Disclosure of Interest Nil

SUMMARY

This application is seeking the following variations to Town Planning Scheme No. 2 (TPS 2), Council's Policies and/or the Residential Design Codes (RDC):

- Building height;
- Front setback to carport;
- Setback to porch/balcony;
- Setback to western boundary;
- Wall on boundary;
- Removal of street tree; and
- Fencing in front setback area.

Each of these issues is discussed in this report and refer to amended plans received 5 May 2009.

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

PROPOSAL

This application is for the demolition of a significant portion of the existing dwelling and for the construction of a two-storey front extension and addition to an existing pool.

The proposed extension is of a conventional design comprising 6 bedrooms, 2 bathrooms, an ensuite, pantry, WIR, store, new entry, carport, laundry and playroom. The remaining single-storey rear portion of the existing dwelling will continue to be used as a study, kitchen and living area with deck.

The main outdoor living area and pool will remain on the northern side of the lot for best solar orientation.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area
- Council’s Street Tree Policy
- Council’s Fencing Local Law

HERITAGE LISTING

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

DRAFT LOCAL PLANNING SCHEME NO.3

No changes are proposed to the zoning or density of the lot.

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Proposed
Street Trees	Retention of street trees	Removal of 1 street tree
Streetscape	6m (Council’s resolution 28/10/02)	5m to front porch and balcony (complies with RDC)
Height	6m wall height; 8.5m ridge height	Wall height – 6.32m Ridge height – 9.00m
Garages and Carports in Front Setback Area	6m (may be reduced where relevant criteria are satisfied)	4m
Fencing Local Law	Open aspect fencing above 0.9m in front setback	Solid walls to 1.8m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
6.3 – Boundary setback	1.7m from ground floor to western boundary; 2.2m from upper floor to western boundary	1.60m & 2.05m from ground and upper floors to western boundary respectively	Clause 6.2.3 – P1
6.3 – Building on boundary	Wall built up to the boundary behind the (6m) front setback	4m front setback	Clause 6.3.2 – P2

ADVERTISING OF PROPOSAL

The application was advertised as per Town Planning Scheme No.2. The advertising consisted of a letter to 5 adjoining property owners. No submissions were received, but the applicant has provided signatures from both adjoining owners and the landowner to the rear (24 & 30 Boreham Street & 107 Eric Street) stating no objection to the proposal.

BACKGROUND

Following an assessment of the development application, the Town has been liaising with the applicant in an attempt to address various concerns including height, setbacks, carport on boundary, visual privacy, removal of street tree and front fencing.

The Town subsequently received a letter and amended plans on 5 May 2009 from the applicant which addresses some of the initial concerns but does not satisfy all of Council's requirements.

APPLICANT'S JUSTIFICATION

The applicant has submitted information in support of the proposal and addressing various statutory requirements.

A summary of the main points relevant to the proposed design and this assessment are as follows:

- The existing house is a face brick residence with an iron roof and an old shop built up to the footpath. In 2003 a contemporary rear extension was added with a large north facing living area. It is proposed to demolish the old house and shop but to retain the newer living area extension and then build a new 2-storey addition in a complementary style;
- Because of the sloping site it is difficult to lower the wall heights any further. The ground floor ceiling height is only 2.75m and the upper floor plate height is only

2.25m. These heights are bare minimum and it is only the sloping ground that pushes the wall heights above the deemed to satisfy requirements of the Codes;

- The proposed wall height is only 5.3m above NGL at the street;
- There will be no overshadowing of neighbouring properties;
- The walls have been kept as low as possible;
- The proposed ridge height has been lowered 110mm by reducing the pitch to 26 degrees. Lowering the pitch further would create a marked difference between the existing and new roof pitches;
- The ridge is less than 8m above NGL at the street;
- The porch and balcony have been setback a further 1m to provide a 5m front setback;
- The adjoining owner has no objection to the location of the proposed carport on the side boundary;
- A 4m front setback is proposed to the carport to allow provision of a large store behind which is designed to store bikes, canoes, camping equipment and other bulky items;
- By demolishing the old shop and existing front fence and replacing them with a setback screen, open entry portico and open carport, an aesthetically pleasing street elevation is created. This contributes to the desired streetscape, provides adequate privacy and open space and allows for safety clearances;
- The proposed extension has been centred on the existing opening at ground floor level. If the setbacks to the western boundary are increased then 200mm will be lost out of bedrooms 2 & 4 which would make them considerably smaller;
- The reduced side setback still allows adequate light and ventilation to the neighbouring property on the western side;
- Obscure glazing has been added to the rear bedroom and playroom windows;
- The street tree will be replaced by the owner; and
- The front screen wall will be 1.8m and an open design above 0.9m.

STAFF COMMENT

The following comments are made regarding the application and revised plans received 5 May 2009.

Building height

The calculation of building height stems from Council's determination of natural ground level (NGL). Clause 5.5.1 of the Council's Town Planning Scheme No2 expresses policy in relation to building height and paragraph (c) provides a basic formula in relation to measurement of such height.

However, provision is made for Council to depart from the formula where the natural ground forms indicate that a variation is warranted provided that the amenity of the area is not unreasonably diminished.

The NGL at the centre of the lot has been determined to be RL: 22.0 which has been derived using a site survey plan submitted by the applicant and drawn by a licensed surveyor.

Based on this NGL the maximum permitted wall height is 6m (RL:28) and the maximum permitted ridge height is 8.5m (RL:30.5). The proposed dwelling has a wall height of 6.32m (RL: 28.32) and a ridge height 9m (RL: 31.0) and therefore a variation of 0.32m and 0.5m is sought.

Notwithstanding this, the proposed wall and ridge heights of the addition will only appear 5.25m and 7.93m respectively above the lowest part of the street frontage of the lot (SW side) and this will be further reduced to heights of only approximately 4.62m and 7.3m above the highest point along the street frontage (SW side). The appearance of the proposed extension will therefore not have a significant detrimental impact on the streetscape.

Furthermore, the height variations take account of both the ceiling height of the rear portion of building (to be retained) and the topography of the lot which has a 3.86m difference between the front and rear. It is therefore not unreasonable to support the height variation on these grounds.

The relevant performance criteria of the RDC (Clause 6.7.1) in relation to height state:

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

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

There are a variety of housing types in the locality including single-storey and two-storey houses and therefore the proposed addition will not appear out-of-keeping with the existing streetscape, especially as the topography of the lot slopes down away from the street. The location of the addition on the northern side of Boreham Street also ensures that adequate direct sun and daylight will be maintained to adjoining properties despite the increased height proposed as overshadowing will be restricted to the road reserve.

Views of significance will not be adversely affected by the proposal and the owners of the adjoining properties on both sides and to the rear have no objection. On this basis, the proposed height variation can be supported under performance criteria of the RDC.

Setback to carport

The proposed double carport is an integral feature of the proposed addition but only has a 4m front setback.

The acceptable development standards of the RDC allow carports within the street setback area provided that its width does not exceed 50% of the frontage at the building line. In this case the proposed front setback to the carport complies with the RDC as it will not exceed 43% of the frontage.

Council's Policy for 'Garages and Carports in Front Setback Area' (Policy TPSP 003) generally requires carports to be positioned behind the 6m front setback line. However, the policy does also allow for carports to be constructed with a reduced 4.5m front setback in most cases and further variations can be considered having regard to:

- The relevant objectives of the RD Codes;
- The effect of such variation on the amenity of any adjoining lot;
- The existing and potential future use and development of any adjoining lots; and
- Existing setbacks from the street alignment in the immediate locality, in the case of setbacks from the principle street.

The Policy further states:

A carport may, with the approval of Council, be constructed up to the street alignment.

In this case, the setback variations sought for the proposed carport can be supported as it replaces an existing structure (disused shop attached to the dwelling) which has a zero setback from the street, both adjoining owners have no objection and there are other examples of carports in the locality that are within the street setback area. Furthermore, providing that it is not enclosed then it will not significantly obstruct views of the house or vice versa. This has therefore been conditioned accordingly.

Although the size of the proposed storeroom at the rear of the carport could be reduced to increase the front setback to the carport, the applicant has requested that it remain as shown as it has been specifically designed for the storage of various bulky items and it would be of inadequate size if reduced.

Front setback to porch/balcony

The main part of the proposed addition has a 6.0m and 7.77m front setback to the ground and upper floors respectively, which is consistent with Council's preference for a minimum 6m setback (Council resolution 28/10/02). However, the proposed front porch and balcony have a reduced front setback of 5m.

Under Clause 6.2.2 of the RDC the proposed porch and balcony can be considered as a *minor incursion into the street setback* and therefore it complies with the relevant acceptable development standard of the Codes as it has been modified so as to project not more than 1m into the street setback area and not exceed 20% of the frontage (17% frontage proposed). In addition, it would also comply with the acceptable development standards of the RDC in respect to *setback of buildings generally* (Clause 6.2.1) and will appear an improvement on the streetscape compared to the existing zero front setback.

Side setback

The ground and upper floors of the proposed addition have a 1.6m and 2.05m setback from the western boundary, in lieu of a minimum 1.7m and 2.2m setback required under the RDC. This variation is relatively minor and can be considered under performance criteria which state:

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

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

The side setback variations are 0.1m and 0.15m respectively and will have a negligible affect on adjoining properties, especially as the dwelling to the west is separated by an existing driveway and carport and is well clear from the western elevation of the proposed addition.

Wall on boundary

The proposed carport is to be located on the eastern boundary with a 4m front setback, in lieu of a 6m front setback required under the acceptable development standards of the RDC for a *wall on the boundary*. The length and height of the proposed structure (ie: roof and piers) would otherwise be compliant with the Codes.

The location of the carport on the boundary can be considered under performance criteria of the Codes which state:

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;*
- *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 location of the proposed carport on the eastern boundary makes effective use of space and will be less intrusive than the existing building which has a zero front setback, albeit it currently separated from the boundary by a driveway. The proposed carport will also be located a reasonable distance from the adjoining dwelling and being on its eastern boundary it will not restrict solar access to main habitable areas. Furthermore, there was no objection to the proposal from the adjoining owner.

Removal of street tree

The proposed new crossover necessitates the removal of a street tree.

The objective of Council's Street Tree Policy is to recognise the environmental and aesthetic contribution that street trees make to the continuing development and presentation of the streetscape. The policy also emphasises that tree removal must be seen only as a last resort, used for dead and/or dangerous trees.

In this case, the Manager Engineering Services has advised that the existing tree may be removed because it is no longer considered a suitable species for street tree use in the Town. However, the tree and stump is required to be removed at the owner's expense and a semi-mature Bottlebrush is to be planted in a suitable location to the satisfaction of the Manager. This has therefore been conditioned accordingly.

Fencing in front setback area

The proposed fencing along the front of the southern courtyard area has been amended to comply with Council's Fencing Local Law. However, the proposed solid 1.8m high walls within the 6m front setback area along the eastern and western boundaries should also be amended to not exceed a height of 0.9m above NGL in accordance with the Local Law.

Extension to existing pool

There is no objection to supporting the extension to the existing pool at the rear of the lot, as proposed.

CONCLUSION

The proposed extensions to the existing dwelling and pool can be supported with the variations sought as these satisfy the relevant performance criteria of the RD Codes. Furthermore, although Council's discretion is also required for a number of these variations, including for the reduced setback to the carport and height of the front extension, the relevant policy criteria and issues such as privacy, views and general amenity have all been satisfactorily addressed and the variations can therefore be supported.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council:

GRANT its Approval to Commence Development for the proposed two-storey front addition and extension to the existing pool at 26 (Lot 19) Boreham Street, Cottesloe, in accordance with the plans submitted on 5 May 2009, subject to the following conditions:

- (a) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (b) Stormwater runoff from the driveways or any other paved portion of the site shall not be discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (d) The applicant applying to the Town of Cottesloe for approval to construct the crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
- (e) The existing redundant crossover being removed and the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.**
- (f) Fencing and walls within the front setback area being of an open-aspect design above 0.9m in accordance with Council's Fencing Local Law.**
- (g) The finish and colour of the boundary wall facing the eastern neighbour shall be to the satisfaction of the Manager Development Services.**
- (h) The existing street tree (identified on the approved plans to be removed) shall be removed at the owner's expense, including the stump, and a replacement semi-mature Bottlebrush shall be planted in a location to be approved by the Manager Engineering Services;**
- (i) The proposed upper-floor side and rear windows (excluding bathrooms), and the sides of the proposed front balcony, shall be adequately screened (and non-openable) to a minimum 1.6m above the finished floor level, as indicated on the approved plans, to the satisfaction of the Manager Development Services.**
- (j) The carport shall remain open on all sides, except where it abuts the proposed addition, and shall not have any garage-type solid door.**

- (k) The pool pump and filter shall be located so as not to impact on adjoining properties and suitably housed or treated as may be necessary so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.**
- (l) Wastewater or backwash from pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.**
- (m) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum 1.8 metres away from any building or boundary.**
- (n) Wastewater or backwash shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.**

Carried 10/0

**10.1.6 REQUEST FOR AMENDMENT TO TOWN PLANNING SCHEME NO. 2 – NOS 18-20 (LOT 22)
AVONMORE TCE (CNR ROSENDO ST) – TO PERMIT THREE-STOREY RESIDENTIAL
DEVELOPMENT**

File No: D09/3137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services

Proposed Meeting Date: 18-May-2009
Author Disclosure of Interest Nil

INTRODUCTION

- This report presents a request for an Amendment to Town Planning Scheme No. 2 (TPS2), to introduce particular Scheme provisions to permit three-storey residential development on the subject site.
- TPS2 and proposed Local Planning Scheme No. 3 (LPS3) both restrict the height of residential development to two-storey, with only limited discretion which does not extend to allowing full three-storey buildings.
- The request is premised on the existing three-storey flats on the site, consideration over recent years of concept designs for replacement dwellings, the character of the locality and interpretation of relevant planning controls.
- This report assesses the requested amendment and recommends that it not be supported by Council.

BACKGROUND

- There is a history of proposals to redevelop the site over the past decade.
- In 1998 Council dealt with proposals to demolish the flats building and create six lots for single dwellings, but this was not proceeded with.
- Council's concerns at that time included density, ground levels, streetscape, design, access, height, building envelopes, vehicular access, setbacks and street trees.
- An appeal against conditions requiring height compliance with TPS2 was lost.
- From 2006 onwards the Design Advisory Panel and officers informally considered a series of concepts for redevelopment of the flats with three-storey residential complexes.
- A development application of the latest concept was lodged in 2008, then withdrawn when the Town emphasised that a prerequisite amendment would be necessary as TPS2 could not permit residential development of more than two-storeys.

PROPOSAL

- Planning consultants Greg Rowe and Associates have submitted the attached justification report in support of the amendment request.
-

- In summary, the report contains site information, consideration of planning controls and aspects, details of the locality and the description of the development concept.
- This is not repeated here so should be read in its entirety to understand the rationale put forward.
- The amendment proposal does not seek to alter the Residential zoning or R30 density coding of the land.
- It proposes that a building height limit of *three storeys or 11.5m* be specified for the subject land in Schedule 5: Special Provisions of the Scheme Text.
- No other changes or new provisions are proposed.
- This method is similar to some other amendments and also allows for an indicative concept plan to be referenced in the Schedule in order to guide a future development application for determination by Council.

STATUTORY ENVIRONMENT

- The Planning & Development Act 2005 empowers amending town planning schemes and the Town Planning Regulations govern the procedure for this.
- Council is the responsible authority to determine whether or not an amendment should be initiated and there is no right of review.
- TPS2 is the current scheme by which land use and development are controlled and which is able to be amended.
- Proposed LPS3 has passed through the advertising phase and Council is presently considering the submissions towards final approval, whereby it is a *seriously entertained planning proposal* which Council can have regard to in evaluating a request to amend TPS2.
- Amendments to TPS2 can still be made, as LPS3 remains several months away, however, Council is not required to amend TPS2 and could consider that as LPS3 draws closer TPS2 should not be amended.
- An alternative may be to consider the change by way of a modification to LPS3 (a submission was made accordingly) or by way of an amendment to LPS3 (for reasons of timing or wider consideration).

STRATEGIC IMPLICATIONS

- The amendment request is fundamentally a strategic matter for Council to determine, in relation to the framework of TPS2 plus LPS3 and its associated Local Planning Strategy.
- This is considered more-so than simply a technical assessment to demonstrate that the intended conceptual development would be acceptable.

POLICY IMPLICATIONS

- The amendment proposal does not relate directly to any planning policy under TPS2.

FINANCIAL IMPLICATIONS

- The amendment proposal does not represent a cost to Council.

PLANNING ASSESSEMENT

- In response to the rationale from the consultants, the following points are made.
- TPS2 is clear in its provisions that development in the Residential Zone is limited to two storeys (in accordance with particular heights in metres) with no discretion for the number of storeys; except for a third storey in roofspace, subject to a two-storey appearance and amenity.
- Privacy, views and building bulk are also identified as relevant planning considerations in relation to height.
- TPS2 Policy 5: Building Heights is essentially an elaboration of the Scheme operationally and cannot really be relied upon to contend amendment of the residential height limit.
- The height provisions of the Scheme prevail over the Residential Design Codes (RDC).
- In the life of TPS2 Council has made no amendment to it to increase residential building height.
- Proposed LPS3 continues this residential height regime, is more prescriptive, contains less discretion, is more certain and again prevails over the RDC.
- This approach is reflected in the Local Planning Strategy, which underscores Council's adherence to the two-storey standards to control the scale, form and amenity of residential development.
- Whilst the justification report refers to parts of the Strategy as potentially supporting the amendment request, when read as a whole the Strategy strongly conveys Council's planning direction and preference of lower-rise residential and other development, as articulated in the provisions of LPS3.
- Schedule 13 of LPS3 emphatically proscribes height discretion for residential development; so in the justification report the interpretation and expression of this is erroneous – the performance criteria quoted are taken from the RDC rather than LPS3 and are not applicable.
- The submission to LPS3 (attached) is appropriate to be determined in that connection, and while echoing this amendment request, does not in itself add weight to the matter.
- Note that the submission refers to a height limit of three storeys and *12 metres* but does not indicate why this differs from the 11.5m sought in the amendment request to TPS2.
- The submission suggests that the LPS3 height limit is arbitrary, when it is in fact a deliberate planning strategy aimed at securing and protecting amenity, despite historic over-height (and over-density) development.
- The suggestion in the submission that *economic reality* goes against redevelopment of existing over-height buildings at two storeys is questionable – 24 Princes Street not far away is an example of a three-storey block 16 small flats redeveloped at two storeys as eight luxury apartments, which sold very well.
- As a principle, neither the original owners nor the successive owners of historic over-height buildings have a right to redevelop to that height if the planning rules no longer permit such, as any purchaser buys only the right to develop under the existing rules, so there is no entitlement to capitalise on the present height.

- LPS3 does contain a discretionary density-bonus clause in respect of historic over-density development, but not any such height variation provision.
- In addition to the framework of planning controls, the justification report promotes the amendment based on the concept design details (height, architecture, materials, access, parking, sustainability, facilities, landscaping) and a number of planning considerations (surrounding development, views, streetscape, bulk and scale, density).
- This argues that the context and character of the locality support the concept development on merit; however, as explained the Schemes and Strategy are aimed at redevelopment creating a different, less impacting, scale and built form.
- There would be undesirable implications were Council to support a one-off, site-specific amendment as a departure from the established strategic height regime.
- This would appear inequitable and could generate pressure for further selective relaxation of the height limit in an unplanned fashion.
- The juxtaposition of three-storey redevelopment with existing two-storey development would be likely to lead to adverse amenity impacts, together with streetscape and view impacts over the wider area.

CONCLUSION

- While the approach taken in the justification report can be appreciated as one way of considering the suitability of the site in relation to the height of buildings, it does not account for the long term planning strategy consistently applied by Council to manage the scale and amenity of residential development, as implemented via TPS2 and intended under LPS3.
- On this basis the comparative design merit of any concept development proposal is considered insufficient reason to amend a district-wide and sustained strategy through special provisions for an individual site.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Cr Walsh, seconded Cr Dawkins

That Council declines the request to amend TPS2 to permit three-storey residential development on the subject site, as the request is contrary to the strategic intent and detailed provisions of TPS2 as well as proposed LPS3.

AMENDMENT

Moved Cr Walsh, seconded Cr Dawkins

That at the request of the proponent the item is deferred to allow further liaison between the proponent and Town towards a future report to Council.

Carried 4/2

COMMITTEE COMMENT

Committee noted the report and the recommendation to decline the requested scheme amendment, however, Committee was prepared to support deferral of the item as requested by the consultant to allow further dialogue with the Town before future consideration and determination by Council.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Dawkins

That Council defer consideration of the Scheme Amendment request pending further liaison between the proponent and the Town towards a future report to Council on the proposal.

Carried 10/0

10.2 WORKS AND CORPORATE SERVICES COMMITTEE MINUTES - 19 MAY 2009**10.2.1 LOCAL GOVERNMENT STRUCTURAL REFORM - NUMBERS OF ELECTED MEMBERS**

File No: SUB/000
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

This report addresses part four of Council's resolution from its Special meeting in March 2009 that Council *request a report by April 2009 on two possible options to reduce elected member numbers in the Town of Cottesloe; (i) eight members over four wards and (ii) six members with no wards, both options exclusive of a directly elected Mayor, for either the 2009 or 2011 October elections*".

In addition, and in line with the timeframe for reform submissions to be forwarded to the Minister, it has been requested that, as part of stage 2 of the process, the Town consider establishing a project team of two to three members (refer to Attachment 10.1.1.1).

This report recommends that Council:

1. Note the information provided in relation to elected member numbers, wards and boundaries.
2. Appoint the Mayor, Chief Executive Officer, Cr _____ and Cr _____ as members of the Town of Cottesloe Project Team for the preparation of the Town's Reform Submission to the Minister for Local Government by 31 August 2009.
3. Based upon its final Reform Submission and any subsequent decisions by the Minister, determine to commence the process of reviewing its elected member numbers, wards and boundaries in time for the October 2011 local government elections.

BACKGROUND

The Minister for Local Government, the Hon John Castrilli MLA, announced a local government reform strategy on 5 February 2009. The reforms are based on amalgamations of local governments in WA, the reduction of elected members and the formation of appropriate regional groupings of local governments. The reforms offer a tight timeframe. The Department of Local Government and Regional Development and the Local Government Reform Steering Committee distributed *Structural reform*

Guidelines on 27 February 2009. The Guidelines provide principles without parameters and a timeframe for reform submissions to the Minister.

The staged timeframe proposed by the Minister requires a process to be carried out commencing in March 2009 and culminating in the lodgement of a reform submission by 31 August 2009. Stage 1 of the reform process involved the completion of a reform checklist which was endorsed by Council and returned to the Local Government Reform Steering Committee by 30 April 2009. This stage also involves local governments considering a reduction in the number of elected members to between six and nine.

CONSULTATION

Nil

STAFF COMMENT

PROJECT TEAM

In accordance with the Minister's Structural Reform Guidelines each Local Authority has been requested to form a project team;

2.1 Details of Reform Submission

It is recommended that a project team be established, comprising two - three members of the proposed amalgamating local governments, including the Mayor/President and the CEO. The project team should consider the following:

- how the preferred amalgamated structure will improve social, economic and environmental capacity on behalf of their communities;*
- how the gaps identified in individual checklists will be addressed;*
- how community identity and representation will be preserved or improved;*
- community consultation strategies;*
- elected member representation;*
- membership of regional groupings;*
- the transition timeframe; and*
- estimated reasonable additional costs that are likely to be incurred as part of the transition.*

It will be recommended that consideration be given to nominating two elected members to be part of the Project team for the Town of Cottesloe together with the Mayor and CEO.

Ward Boundary Review

The Town of Cottesloe last undertook a formal review of its ward boundaries and representation in 2004. The review outcome and subsequent Council resolution was to;

Advise the Local Government Advisory Board that the Town of Cottesloe has made a review of its ward boundaries and representation is unable to recommend an order for change.

Council is required to review its ward boundaries and number of offices of councillors for each ward *from time to time so that not more than eight (8) years elapse between successive reviews*. The typical review process involves a number of steps;

- Council resolves to undertake a review on ward boundaries and the number of offices of councillor
- Prior to conducting a review a local government is to give local public notice that a review is to be carried out
- Public submission period opens (local advertising and website) – minimum of 42 days
- Information provided to community for discussion including a range of alternatives to the current ward system
- Public submission period closes – minimum of 42 days from date of notice
- Council considers all submissions and relevant facts and makes a decision
- Council submits a report to the Local Government Advisory Board for consideration (the Board considers that the ratio of councillors to electors is always significant and it is expected that each local government will have similar ratios of electors to councillors across the wards of its district with no resulting ratio being plus or minus 10% of the average ratio for that local government).
- If a change is proposed the Board submits a recommendation to the Minister for Local Government
- Any changes approved by the Minister, where possible, will be in place for the next ordinary election

Boundaries and representation are generally assessed against a number of criteria including;

- community of interest,
- physical and topographic features,
- demographic trends,
- economic factors, and
- the ratio of councillors to electors in the various wards.

The Local Government Advisory Board offers the following interpretation of these factors.

1. Community of interest

The term community of interest has a number of elements. These include a sense of community identity and belonging, similarities in the characteristics of the residents of a community and similarities in the economic activities. It can also include dependence on the shared facilities in an area as reflected in catchment areas of local schools and sporting teams, or the circulation areas of local newspapers.

Neighborhoods, suburbs and towns are important units in the physical, historical and social infrastructure and often generate a feeling of community and belonging.

2. Physical and topographic features

These may be natural or man made features that will vary from area to area. Water features such as rivers and catchment boundaries may be relevant considerations. Coastal plain and foothills regions, parks and reserves may be relevant as may other man made features such as railway lines and freeways.

3. Demographic trends

Several measurements of the characteristics of human populations, such as population size, and its distribution by age, sex, occupation and location provide important demographic information. Current and projected population characteristics will be relevant as well as similarities and differences between areas within the local government.

4. Economic factors

Economic factors can be broadly interpreted to include any factor that reflects the character of economic activities and resources in the area. This may include the industries that occur in a local government area (or the release of land for these) and the distribution of community assets and infrastructure such as road networks.

According to the Department of Local Government and Regional Development in their circular of November 2008 related to *Review of Wards and Representation*, after the community comment period any feedback is assessed and summarized and presented to Council for consideration and resolution. Once a decision is made the local government may consider the impact of implementing any change at the next ordinary election. In some circumstances elected members may be unable to complete their term of office in view of the implementation of changes.

Once the local government has completed its review it must provide a written report about the review to the Local Government Advisory Board. If a local government expects changes to be in place in time for an ordinary election, it must submit its report to the Board by the end of December in the year prior to an ordinary election day. This will allow sufficient time for any changes to be considered and processed for the beginning of the election cycle.

The current situation at Cottesloe has a Mayor elected “by the community” plus a total of 10 Councillors elected from four (4) wards as follows:

Ward	Number of Electors	Number of Councillors	Councillor: Elector Ratio	% Ratio Deviation
North	2315	4	1 / 579	+10.50%
Central	943	2	1 / 472	-9.92%

South	1008	2	1 / 504	-3.82%
East	974	2	1 / 487	-7.06%
Total	5240	10	1 / 524	

Note: Data is from the Electoral Commission and based upon eligible voters as of the April 2009.

Attachment 10.1.1.2 shows the current ward boundaries. The % ratio deviation gives a clear indication of the % difference between the average councillor/elector ratio for the whole local government and the councillor/elector ratio for each ward. It can be seen that there is a significant imbalance in representation across the Town. According to the Advisory Board it is recommended that a balanced representation would be reflected in the % ratio deviation being within plus or minus 10%.

Additional Background Information

Elected Members

The ideal number of elected members for a local government is for the local government to determine. There is a diverse range of councillor/elector ratios across Western Australia reflecting the sparsely populated remote areas and the highly populated urban areas. The structure of the Council's operations will provide some input into the number of elected members needed to service the local government.

According to the Local Government Advisory Board, the **advantages** of a reduction in the number of elected members may include the following:

- The decision making process may be more effective and efficient if the number of elected members is reduced. It is more timely to ascertain the views of a fewer number of people and decision making may be easier. There is also more scope for team spirit and cooperation amongst a smaller number of people.
- The cost of maintaining elected members is likely to be reduced.
- The increase in the ratio of councillors to electors is unlikely to be significant.
- Consultation with the community can be achieved through a variety of means in addition to individuals and groups contacting their local elected member.
- A reduction in the number of elected members may result in an increased commitment from those elected reflected in greater interest and participation in Council's affairs.
- Fewer elected members are more readily identifiable to the community.
- Fewer positions on Council may lead to greater interest in elections with contested elections and those elected obtaining a greater level of support from the community.

- There is a State wide trend for reductions in the number of elected members and many local governments have found that fewer elected members works well.

The **disadvantages** of a reduction in the number of elected members may include the following:

- A smaller number of elected members may result in an increased workload and may lessen effectiveness. A demanding role may discourage others from nominating for Council.
- There is the potential for dominance in the Council by a particular interest group.
- A reduction in the number of elected members may limit the diversity of interests around the Council table.
- Opportunities for community participation in Council's affairs may be reduced if there are fewer elected members for the community to contact.
- An increase in the ratio of councillors to electors may place too many demands on elected members.

Ward Systems

Many local governments have a ward system and find that it works well for them. The **advantages** of a ward system may include:

- Different sectors of the community can be represented ensuring a good spread of representation and interests amongst elected members.
- There is more opportunity for elected members to have a greater knowledge and interest in the issues in the ward.
- It may be easier for a candidate to be elected if they only need to canvass one ward.

The **disadvantages** of a ward system may include:

- Elected members can become too focused on their wards and less focused on the affairs of other wards and the whole local government.
- An unhealthy competition for resources can develop where electors in each ward come to expect the services and facilities provided in other wards, whether they are appropriate or not.
- The community and elected members can tend to regard the local government in terms of wards rather than as a whole community.

- Ward boundaries may appear to be placed arbitrarily and may not reflect the social interaction and communities of interest of the community.
- Balanced representation across the local government may be difficult to achieve, particularly if a local government has highly populated urban areas and sparsely populated rural areas.

No Ward System

The **advantages** of a *no ward* system may include:

- Elected members are elected by the whole community not just a section of it. Knowledge and interest in all areas of the Council's affairs would result broadening the views beyond the immediate concerns of those in a ward.
- The smaller town sites and rural areas have the whole Council working for them.
- Members of the community who want to approach an elected member can speak to any elected member.
- Social networks and communities of interest are often spread across a local government and elected members can have an overview of these.
- Elected members can use their specialty skills and knowledge for the benefit of the whole local government.
- There is balanced representation with each elected member representing the whole community.
- The election process is much simpler for the community to understand and for the Council to administer.

The **disadvantages** of a *no ward* system may include:

- Electors may feel that they are not adequately represented if they don't have an affinity with any of the elected members.
- Elected members living in a certain area may have a greater affinity and understanding of the issues specific to that area.
- There is potential for an interest group to dominate the Council.
- Elected members may feel overwhelmed by having to represent all electors and may not have the time or opportunity to understand and represent all the issues.
- It may be more difficult and costly for candidates to be elected if they need to canvass the whole local government area.

Options for Cottesloe

The option to reduce elected member numbers in the Town of Cottesloe to eight (8) members over four wards, exclusive of a directly elected Mayor, would result in a change to both the Councillor/elector ratio as well as a change in actual ward boundaries.

The variation plans and tables included in attachment 10.1.1.3 provide for a number of “variations” to the current ward boundaries and are provided only to demonstrate the potential options. If Council were to determine to proceed to endorse such a change then these are the sorts of options that would be used during any community consultation process and prior to Council making a formal recommendation to the Local Government Advisory Board. In each case the Councillor/elector ratios have been shown along with the % ratio deviation. Where possible, and within the appropriate numerical deviations, ward boundaries have been aligned geographically and using primary roads within the district. Overall the Councillor/elector ratio increases from 1/524 to 1/655 under a system of 8 Councillors.

The option to reduce the number of elected members to six (6) members with no wards, exclusive of a directly elected Mayor, would result in a Councillor/elector ratio of 1/873.

Attachment 10.1.1.4 shows the range of Councillor/elector ratios currently across the metropolitan area based upon data from the West Australian Local Government Association directory for 2009.

In relation to timing, and as mentioned above, conducting a ward and representation review can be a lengthy process and, according to the Department of Local Government any changes to be implemented before the 2009 local government elections must be gazetted 80 days before the election date. It is therefore very unlikely that any decision of Council at this time to commence this process would result in any change and implementation by the October 2009 elections.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The potential strategic implications for Council are significant. Whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2008-09 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform, including changes to the number of elected members. The announcement by the Minister for Local Government in relation to reform strategies has brought into sharp focus the need for the Town to consider its position with regard to the Ministers call for;

- voluntary amalgamations to form larger local governments,
- reduce the total number of elected members to between six and nine and

- local governments to form appropriate regional groupings of councils to assist with the effective delivery of services.

The Town is required to formally respond to the Minister outlining its intentions on these matters by 31 August 2009. The Minister has established a Local Government Reform Steering Committee who has, through the Department of Local Government and Regional Development, provided a set of structural reform guidelines to assist local governments.

STATUTORY REQUIREMENTS

Local Government Act 1995, particularly section 2.1 and Schedule 2.1.

Division 1 — Districts and wards

1.1.1.1.1. 2.1.STATE DIVIDED INTO DISTRICTS

- (1) *The Governor, on the recommendation of the Minister, may make an order —*
 - (a) *declaring an area of the State to be a district;*
 - (b) *changing the boundaries of a district;*
 - (c) *abolishing a district; or*
 - (d) *as to a combination of any of those matters.*
- (2) *Schedule 2.1 (which deals with creating, changing the boundaries of, and abolishing districts) has effect.*
- (3) *The Minister can only make a recommendation under subsection (1) if the Advisory Board has recommended under Schedule 2.1 that the order in question should be made.*

Schedule 2.1 — Provisions about creating, changing the boundaries of, and abolishing districts

[Section 2.1(2)]

1. Interpretation

In this Schedule, unless the contrary intention appears —

“affected electors”, in relation to a proposal, means —

- (a) *electors whose eligibility as electors comes from residence, or ownership or occupation of property, in the area directly affected by the proposal;*
or
- (b) *where an area of the State is not within or is not declared to be a district, people who could be electors if it were because of residence, or ownership or occupation of property, in the area directly affected by the proposal;*

“affected local government” means a local government directly affected by a proposal;

“notice” means notice given or published in such manner as the Advisory Board considers appropriate in the circumstances;

“proposal” means a proposal made under clause 2 that an order be made as to any or all of the matters referred to in section 2.1.

2. Making a proposal

(1) *A proposal may be made to the Advisory Board by —*

- (a) the Minister;*
- (b) an affected local government;*
- (c) 2 or more affected local governments, jointly; or*
- (d) affected electors who —*
 - (i) are at least 250 in number; or*
 - (ii) are at least 10% of the total number of affected electors.*

(2) *A proposal is to —*

- (a) set out clearly the nature of the proposal and the effects of the proposal on local governments;*
- (b) be accompanied by a plan illustrating any proposed changes to the boundaries of a district; and*
- (c) comply with any regulations about proposals.*

3. Dealing with proposals

(1) *The Advisory Board is to consider any proposal.*

(2) *The Advisory Board may, in a written report to the Minister, recommend* that the Minister reject a proposal if, in the Board’s opinion —*

- (a) the proposal is substantially similar in effect to a proposal on which the Board has made a recommendation to the Minister within the period of 2 years immediately before the proposal is made; or*
- (b) the proposal is frivolous or otherwise not in the interests of good government.*

** Absolute majority required.*

(3) *If, in the Advisory Board’s opinion, the proposal is —*

- (a) one of a minor nature; and*
- (b) not one about which public submissions need be invited,*

the Board may, in a written report to the Minister, recommend that the Minister reject the proposal or that an order be made in accordance with the proposal.*

** Absolute majority required.*

(4) *Unless it makes a recommendation under subclause (2) or (3), the Advisory Board is to formally inquire into the proposal.*

4. Notice of inquiry

- (1) *Where a formal inquiry is required the Advisory Board is to give —*
 - (a) *notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and*
 - (b) *a report to the Minister.*
- (2) *The notice and report under subclause (1) are to —*
 - (a) *advise that there will be a formal inquiry into the proposal;*
 - (b) *set out details of the inquiry and its proposed scope; and*
 - (c) *advise that submissions may be made to the Board not later than 6 weeks after the date the notice is first given about —*
 - (i) *the proposal; or*
 - (ii) *the scope of the inquiry.*
- (3) *If, after considering submissions made under subclause (2)(c), the Advisory Board decides* that the scope of the formal inquiry is to be significantly different from that set out in the notice and report under subclause (1), it is to give —*
 - (a) *another notice to affected local governments, affected electors and the other electors of districts directly affected by the proposal; and*
 - (b) *another report to the Minister.*
- (4) *The notice and report under subclause (3) are to —*
 - (a) *set out the revised scope of the inquiry; and*
 - (b) *advise that further submissions about the proposal, or submissions about matters relevant to the revised scope of the inquiry, may be made to the Board within the time set out in the notice.*

** Absolute majority required.*

5. Conduct of inquiry

- (1) *A formal inquiry is to be carried out, and any hearing for the purposes of the inquiry is to be conducted, in a way that makes it as easy as possible for interested parties to participate fully.*
 - (2) *In carrying out a formal inquiry the Advisory Board is to consider submissions made to it under clause 4(2)(c) and (4)(b) and have regard, where applicable, to —*
 - (a) *community of interests;*
 - (b) *physical and topographic features;*
 - (c) *demographic trends;*
 - (d) *economic factors;*
 - (e) *the history of the area;*
 - (f) *transport and communication;*
-

- (g) *matters affecting the viability of local governments; and*
- (h) *the effective delivery of local government services,*
but this does not limit the matters that it may take into consideration.

6. Recommendation by Advisory Board

- (1) *After formally inquiring into a proposal, the Advisory Board, in a written report to the Minister, is to recommend* —*
 - (a) *that the Minister reject the proposal;*
 - (b) *that an order be made in accordance with the proposal; or*
 - (c) *if it thinks fit after complying with subclause (2), the making of some other order that may be made under section 2.1.*

** Absolute majority required.*

- (2) *The Advisory Board is not to recommend to the Minister the making of an order that is significantly different from the proposal into which it formally inquired unless the Board has —*
 - (a) *given* notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation of its intention to do so;*
 - (b) *afforded adequate opportunity for submissions to be made about the intended order; and*
 - (c) *considered any submissions made.*

** Absolute majority required.*

7. Minister may require a poll of electors

In order to assist in deciding whether or not to accept a recommendation of the Advisory Board made under clause 6, the Minister may require that the Board's recommendation be put to a poll of the electors of districts directly affected by the recommendation.

8. Electors may demand a poll on a recommended amalgamation

- (1) *Where the Advisory Board recommends to the Minister the making of an order to abolish 2 or more districts (“**the districts**”) and amalgamate them into one or more districts, the Board is to give notice to affected local governments, affected electors and the other electors of districts directly affected by the recommendation about the recommendation.*
- (2) *The notice to affected electors has to notify them of their right to request a poll about the recommendation under subclause (3).*
- (3) *If, within one month after the notice is given, the Minister receives a request made in accordance with regulations and signed by at least 250, or at least 10%, of the electors of one of the districts asking for the recommendation to be put to*

a poll of electors of that district, the Minister is to require that the Board's recommendation be put to a poll accordingly.

- (4) *This clause does not limit the Minister's power under clause 7 to require a recommendation to be put to a poll in any case.*

9. Procedure for holding poll

Where, under clause 7 or 8, the Minister requires that a recommendation be put to a poll —

- (a) *the Advisory Board is to —*
- (i) *determine the question or questions to be answered by electors; and*
 - (ii) *prepare a summary of the case for each way of answering the question or questions;*
- and*
- (b) *any local government directed by the Minister to do so is to —*
- (i) *in accordance with directions by the Minister, make the summary available to the electors before the poll is conducted; and*
 - (ii) *conduct the poll under Part 4 and return the results to the Minister.*

10. Minister may accept or reject recommendation

- (1) *Subject to subclause (2), the Minister may accept or reject a recommendation of the Advisory Board made under clause 3 or 6.*
- (2) *If at a poll held as required by clause 8 —*
- (a) *at least 50% of the electors of one of the districts vote; and*
 - (b) *of those electors of that district who vote, a majority vote against the recommendation,*
- the Minister is to reject the recommendation.*
- (3) *If the recommendation is that an order be made and it is accepted, the Minister can make an appropriate recommendation to the Governor under section 2.1.*

10A. Recommendations regarding names, wards and representation

- (1) *The Advisory Board may —*
- (a) *when it makes its recommendations under clause 3 or 6; or*
 - (b) *after the Minister has accepted its recommendations under clause 10,*
- in a written report to the Minister, recommend the making of an order to do any of the things referred to in section 2.2(1), 2.3(1) or (2) or 2.18(1) or (3) that the Board considers appropriate.*
- (2) *In making its recommendations under subclause (1) the Advisory Board —*
- (a) *may consult with the public and interested parties to such extent as it considers appropriate; and*

- (b) *is to take into account the matters referred to in clause 8(c) to (g) of Schedule 2.2 so far as they are applicable.*

11. *Transitional arrangements for orders about districts*

- (1) *Regulations may provide for matters to give effect to orders made under section 2.1 including —*
- (a) *the vesting, transfer, assumption or adjustment of property, rights and liabilities of a local government;*
 - (b) *the extinguishment of rights of a local government;*
 - (c) *the winding up of the affairs of a local government;*
 - (d) *the continuation of actions and other proceedings brought by or against a local government before the taking effect of an order under section 2.1;*
 - (e) *the bringing of actions and other proceedings that could have been brought by or against a local government before the taking effect of an order under section 2.1;*
 - (f) *if the effect of an order under section 2.1 is to unite 2 or more districts, the determination of the persons who are to be the first mayor or president, and deputy mayor or deputy president, of the new local government;*
 - (g) *the continuation of any act, matter or thing being done under another written law by, or involving, a local government.*
- (2) *Subject to regulations referred to in subclause (1), where an order is made under section 2.1 any local governments affected by the order (including any new local government created as a result of the order) are to negotiate as to any adjustment or transfer between them of property, rights and liabilities.*
- (3) *Where an order is made under section 2.1 the Governor may, by order under section 9.62(1), give directions as to any of the matters set out in subclause (1) if, and to the extent that, those matters are not resolved by regulations referred to in that subclause or by negotiation under subclause (2).*
- (4) *A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order under section 2.1 so as to make it less favourable to that person unless —*
- (a) *compensation acceptable to the person is made; or*
 - (b) *a period of at least 2 years has elapsed since the order had effect.*
- (5) *The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government.*
- (6) *If land ceases to be in a particular district as a result of an order under section 2.1, any written law that would have applied in respect of it if the order had not been made continues to apply in respect of the land to the extent that its continued application would be consistent with —*
-

- (a) *any written law made after the order was made; and*
 - (b) *any order made by the Governor under subclause (8).*
- (7) *Regulations may make provision as to whether or not, or the modifications subject to which, a written law continues to apply in respect of land under subclause (6).*
- (8) *The Governor may, in a particular case, by order, vary the effect of subclause (6) and regulations made in accordance with subclause (7).*
[Schedule 2.1 amended by No. 64 of 1998 s.52.]Schedule 2.2 — Provisions about names, wards and representation

[Section 2.2(3)]

6. Local government with wards to review periodically

A local government the district of which is divided into wards is to carry out reviews of—

- (a) *its ward boundaries; and*
- (b) *the number of offices of councillor for each ward,*
from time to time so that not more than 8 years elapse between successive reviews.

SUSTAINABILITY IMPLICATIONS

The final outcome in regard to the Dollery report and the Minister's reform agenda may have an impact upon Council's future objectives and plans however this is unknown at this stage.

FINANCIAL IMPLICATIONS

The resources required to address the issues contained within the Dollery report may have a significant impact upon Council's future budgets whilst the potential cost of any future amalgamation or shared services arrangement is unknown.

There will also be costs associated with any proposal for ward boundary changes (including community consultation) and associated elections as a consequence of any change to elected member numbers.

In the immediate term there will be significant human resource costs (officer time) to Council in responding to the Minister's Structural Reform agenda.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

1. Note the information provided in relation to elected member numbers, wards and boundaries.

2. Appoint the Mayor, Chief Executive Officer, Cr _____ and Cr _____ as members of the Town of Cottesloe Project Team for the preparation of the Town's Reform Submission to the Minister for Local Government by 31 August 2009.
3. Based upon its final Reform Submission and any subsequent decisions by the Minister, determine to commence the process of reviewing its elected member numbers, wards and boundaries in time for the October 2011 local government elections.

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

Point 2 of the officer recommendation be amended to have one Councillor nomination and that the nomination to be determined at the Full Council Meeting on Monday 25 May 2009.

Carried 6/1

COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

THAT COUNCIL:

- 1. Note the information provided in relation to elected member numbers, wards and boundaries.**
- 2. Appoint the Mayor, Chief Executive Officer and Cr _____ as members of the Town of Cottesloe Project Team for the preparation of the Town's Reform Submission to the Minister for Local Government by 31 August 2009.**
- 3. Based upon its final Reform Submission and any subsequent decisions by the Minister, determine to commence the process of reviewing its elected member numbers, wards and boundaries in time for the October 2011 local government elections.**

AMENDMENT

Moved Cr Strzina, seconded Cr Dawkins

That Cr Birnbrauer be appointed to the Town of Cottesloe' Project Team under Item 2 of the Committee Recommendation.

Cr Birnbrauer accepted the nomination.

Carried 10/0

COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Woodhill

THAT COUNCIL:

- 1. Note the information provided in relation to elected member numbers, wards and boundaries.**
- 2. Appoint the Mayor, Chief Executive Officer and Cr Birnbrauer as members of the Town of Cottesloe Project Team for the preparation of the Town's Reform Submission to the Minister for Local Government by 31 August 2009.**
- 3. Based upon its final Reform Submission and any subsequent decisions by the Minister, determine to commence the process of reviewing its elected member numbers, wards and boundaries in time for the October 2011 local government elections.**

Carried 10/0

10.2.2 DELEGATED POWERS

File No: sub/38
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

In order to expedite decision-making within the Town of Cottesloe, a recommendation is made to delegate a number of powers and duties to the Chief Executive Officer as provided for in the Local Government Act (1995).

BACKGROUND

This is a standard agenda item which is presented to Council annually.

It allows the CEO to make decisions under the authority of Council without having to constantly refer business of a routine nature to Council.

The CEO delegates some of the powers in turn to senior staff.

CONSULTATION

Nil

STAFF COMMENT

As advised last year, the list of delegated powers was considerably reduced in May of 2002, and since that time no customer service difficulties have arisen as a result of working with a reduced list.

However, one additional delegation is recommended from the list that was approved by Council in 2008 and this is Section 403 of the Local Government (Miscellaneous Provisions) Act 1960 "*Give Notice of dangerous buildings*". As suggested, this matter implies urgency and it is considered more practical for this to be delegated with the responsibility for administration held by the CEO and Principal Building Surveyor.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

Sections 5.42 and 5.43 of the *Local Government Act (1995)* provide as follows:-

5.42. Delegation of some powers and duties to CEO

(1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

* *Absolute majority required.*

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.43. Limits on delegations to CEO's

A local government cannot delegate to a CEO any of the following powers or duties:-

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (h) any power or duty that requires the approval of the Minister or the Governor; or
- (i) such other powers or duties as may be prescribed.

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Absolute Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council delegate the following powers and duties to the Chief Executive Officer effective to 30 June, 2010

Section	Local Government Act 1995
3.18	Administration and enforcement of local laws
3.21	Performance of executive functions relating to land
3.24/3.25/3.26(3)	Powers to be exercised by authorised persons in relation to land
3.28/3.29	Powers of entry to land
3.31/3.33/3.34	Powers of entry to land
3.36	Opening/closing of fences
3.39	Authorising employees to impound goods
3.46	Withholding of goods
3.47	Disposal of impounded goods
3.47A	Disposal of sick or injured animals
3.48	Recovery of costs associated with impounded goods
3.50	Closure of thoroughfares to certain vehicles
3.50A	Closure of thoroughfares for repairs or maintenance
3.57	Inviting tenders for goods and services under contract
5.2	Ensuring that an appropriate structure exists for administration
5.36	Employment of persons other than the Chief Executive Officer
6.12	Waive, grant concessions or write off individual debts to a maximum of \$100
6.14	Investing funds not required
6.49	Make agreements with persons regarding payment of rates
6.64	Action taken when rates are unpaid for at least 3 years
6.76(4,5,6)	Dealing with objections to rates records
9.10	Appointment of authorised persons
Section	Local Government (Miscellaneous Provisions) Act 1960
374.(1) (b)	Plans of buildings to be approved
401	Give notice of required alterations to buildings
403	Give notice of dangerous buildings
Section	Dog Act 1976
9	Administer and enforce provisions of the Dog Act.
Law No.	Signs, Hoardings and Billposting Local Law
28	Revoke sign licences
33	Issue and revoke special permits for signs
36A	Remove and dispose of signs unlawfully displayed
Law No.	Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law
6.2	Approve or refuse an application for a permit to trade, conduct a stall or outdoor eating facility.

Section	Local Government Act 1995
Regulation	Building Regulations 1989
20	Issue a certificate of classification
Regulation	Local Government (Financial Management) Regulations 1996
12(1)(a)	Power to make payments from the municipal and trust funds

Carried 10/0

10.2.3 REBATE CLAIM WRITE-OFF

File No: SUB/000
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services

Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

During the period between July 1998 and June 2007 processes employed by the Town to administer rebate claims under the *Rates and Charges Rebates and Deferments) Act 1992* were not adequate to ensure that all possible rates were collectable.

Claims for rebates were not completed in a timely manner, and rejections from those claims were not processed. Processes employed during the settlement of properties from one owner to the next assumed that all rebates allowed would be collectable.

In July 2007, the value of unsettled rebates was \$156,597.98. This debt was recorded in Council's records as a sundry debtor. The balance of this account (which also tracked successful claims) was not analysed, and as the balance rose steadily over the nine year period was not identified as an anomaly.

In early 2008, a process review recognised that this balance was composed of previously rejected claims. These claims should have been either resubmitted to State Revenue, or been written back onto the property as an outstanding charge. This had not been done. The Audit committee of the Town was advised, and action commenced to identify valid claims and determine the debts to be written off. Each of the claims able to be identified was resubmitted to the State Government to be reassessed.

With the assistance of the Officer of State Revenue, and the allocation of resources by Council, 245 previously rejected claims were identified. Of these, 143 rebates were successfully claimed. Those unsuccessful were reviewed and confirmed as not entitled to the rebate at the time of processing.

The value of these successful claims was \$83,237.37. The amount recommended for write off by Council for declined rebate claims during the period July 1998 to June 2007 is \$73,360.61.

Due to the elapsed time between when these charges were originally raised, and when it was realised that they could not be claimed as rebates, it was not appropriate to return the debt to the property. In many cases ownership had changed, and these debts should have been recovered by Council at that time.

BACKGROUND

Information held on Council's Property and Rates database for each ratepayer is used to determine their entitlement for the forthcoming rating year. Thus, the information from one rating year is used to calculate the rebate due for the following year. The ratepayer then receives their notice with the rebate already calculated, and is only required to pay the total due shown on the notice.

Council is usually unaware that the circumstances of the ratepayer have changed until after the ratepayer's portion of the rates has been paid, and the claim by Council to the State Government is rejected. Council is then required to research the reason for the rejection, update their data, and either resubmit the claim or ensure that the ratepayer receives notification of the change, and advice of the additional amount of rates due to be paid. Delay in this action by Council may mean that the property has been sold during the period, and that the debt was not recognised at the time of the change of ownership.

In 2001, an agenda item was prepared to recommend the write off declined rebates that, in the opinion of the Officer of the day, were not recoverable. At the time, it was considered that further investigation be undertaken prior to taking the action to write off the debt. This investigation was not completed.

Since that time, and until July 2007, the problems encountered with rejected rebate claims remained and were not addressed.

CONSULTATION

Officers have met with Council's Audit committee on two occasions. Firstly in April 2008 when the matter was identified, and again in February 2009 to update them with the progress of recovering some of the monies from the State Government.

STAFF COMMENT

A combination of a lack of resources, and an inadequate understanding of the electronic data processing of earlier computer applications were the primary cause of this issue. Identification of the problem and participation in its resolution will ensure that both practise and procedure will be adhered to by current and future staff.

Procedures are now in place to ensure that the Finance Manager is required to authorise all journals posted out of the Rating subsidiary ledger.

Procedures within the rating section ensure that declined rebates are written back against the relevant property within the month.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

The relevant section of the Local Government Act 1995 provides the following:

6.12. POWER TO DEFER, GRANT DISCOUNTS, WAIVE OR WRITE OFF DEBTS

- (1) Subject to subsection (2) and any other written law, a local government may —
 - (a) when adopting the annual budget, grant a discount or other incentive for the early payment of any amount of money;
 - (b) waive or grant concessions in relation to any amount of money; or
 - (c) write off any amount of money,which is owed to the local government.
- (2) Subsection (1)(a) and (b) do not apply to an amount of money owing in respect of rates and service charges.
- (3) The grant of a concession under subsection (1) (b) may be subject to any conditions determined by the local government.
- (4) Regulations may prescribe circumstances in which a local government is not to exercise a power under subsection (1) or regulate the exercise of that power.

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Provision for this write off was made in the 2007/2008 Financial Year.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

1. Authorise the amount of \$73,360.61 be written off against Debtor 151 and 152 (Office of State Revenue) against the provision for doubtful debt provided in the 2007/2008 Financial Accounts.
2. Request the Chief Executive Officer ensure that adequate procedural checks are employed and maintained to ensure identification of outstanding debts.

AMENDMENT

Moved Cr Boland, seconded Cr Strzina

The word 'early' be inserted after the words "*and maintained to ensure*" and the words '*and recovery*' be placed after "*identification*" in point 2 of the officer recommendation.

Carried 7/0

COMMITTEE COMMENT

Committee discussed the report and sought clarification for two separate debtor numbers for the Office of State Revenue.

The Rates Officer advised that one is for FESA and the other is general rates and are submitted as two separate claims.

The current procedures now in place to ensure that this issue does not reoccur were explained for the benefit of the members.

Committee thanked Natasha for all her efforts in working through a very complex problem to final resolution.

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- 1. Authorise the amount of \$73,360.61 be written off against Debtor 151 and 152 (Office of State Revenue) against the provision for doubtful debt provided in the 2007/2008 Financial Accounts.**
- 2. Request the Chief Executive Officer ensure that adequate procedural checks are employed and maintained to ensure early identification and recovery of outstanding debts.**

Carried 10/0

10.2.4 TRAFFIC ISSUES AT NORTH COTTESLOE PRIMARY SCHOOL

File No: SUB/121
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services
Attachment: North Cottesloe Primary School Intersection
Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

The North Cottesloe Primary School is experiencing parental concerns regarding the movement of vehicles around the school plus problems with school parking.

A request is made for Council to arrange a safety audit to determine safety improvements for traffic flow and parking.

The report recommends that Council resolve to:

1. Arrange a Consultant safety audit to investigate matters of concern regarding vehicle movement and parking at the North Cottesloe Primary School.
2. Inform the North Cottesloe Primary School P & C of Councils' decision in this matter.

BACKGROUND

The North Cottesloe Primary School, situated on Eric Street and Railway Street, has experienced parking and traffic flow problems for many years. The heavy vehicle flow on Eric Street, between Curtin Avenue and Stirling Highway, has continued to grow over the years, with a growing conflict of parental vehicles dropping off and picking up school children with the 'through traffic'.

This conflict is added to by the Curtin Avenue/Eric Street light controlled intersection, the Railway Street/Eric Street roundabout being misused and the general lack of parking capacity near the school while the percentage of parents using cars to deliver or pick up school children seems to be growing.

In addition, the State Government policy of shutting down small school and redirecting students to schools such as North Cottesloe has meant more buildings and students at that site.

CONSULTATION

At P & C meetings only.

STAFF COMMENT

It has been general State Government practice over many years to 'expect' local government to provide adequate parking for school staff and parental use. North Cottesloe is a standard situation where Council has provided substantial parking facilities on adjacent road reserves, with such parking being used for very short periods, Monday to Friday during school terms.

The idea of 'peripheral' car parking areas (eg Florence Street, Hawkstone Street, Grant Street, Mann Street etc) to serve the school and car park on Railway Street being used as the main drive through drop off and pick up site could have substantial negative impact on local residents and non-school traffic flow.

A traffic study audit would cost approximately \$4,000 - \$5,000 depending on the detail required. Any works proposed from any findings on such an audit could be the subject of a discussion with the Department of Education and Training in relation to who would provide the required finding.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

Any car parking or Traffic control installations on road reserves vested in Council would be Councils' responsibility regarding management and liability.

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

\$4,000-\$5,000 for Safety Audit.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Moved Mayor Morgan, seconded Cr Utting

That Council:

1. Arrange a Consultant safety audit to investigate matters of concern regarding vehicle movement and parking, as in attachment 10.2.1, at the North Cottesloe Primary School.
2. Inform the North Cottesloe Primary School P & C of Councils' decision in this matter.

AMENDMENT

Moved Cr Woodhill, seconded Cr Utting

After the words "*North Cottesloe Primary School*," in point 1 of the Officer recommendation the following words are to be added, '*including seeking input from appropriate local police services*.'

Carried 7/0

COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- 1. Arrange a Consultant safety audit to investigate matters of concern regarding vehicle movement and parking, as in attachment 10.2.1, at the North Cottesloe Primary School, including seeking input from appropriate local police services.**
- 2. Inform the North Cottesloe Primary School P & C of Councils' decision in this matter.**

Carried 10/0

10.2.5 NATURAL AREAS MANAGEMENT PLAN - GRANT STREET MEDIAN

File No: SUB/620 & SUB/707
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Geoff Trigg
Manager Engineering Services

Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

The following Notice of Motion from the Mayor has been received:

That Council initiate a community engagement process to develop a landscape concept for the Grant Street median strip, so as to replace the relevant portion that Council recently removed from its Natural Areas Management Plan, on the basis that:

1. The community engagement process involve local advertising, the Council' website and a mail-out to Grant Street residents; and
2. The concept plan will provide for:
 - a. Any ailing Norfolk Island Pine Tree to be replaced by a new Norfolk Island Pine sapling rather than another tree variety;
 - b. Any replacement of couch grass by local plant species be confined to species that are low lying;
 - c. Adequate provision for car parking on the median strip by residents and their visitors; and
 - d. Consideration to be given to surfacing any car parks with suitable natural ground cover rather than bitumen.

STATUTORY ENVIRONMENT

None known.

POLICY IMPLICATIONS

None known.

STRATEGIC IMPLICATIONS

One of the dynamic priorities contained within Councils' Future Plan is to develop a District Management Plan (Future Plan – Section 6).

Under objective 3 – Enhance beach access and the foreshore, Major Strategy 3.2 is to *“Improve beach access and dune conservation outside the central foreshore zone.”*

SUSTAINABILITY IMPLICATIONS**FINANCIAL IMPLICATIONS**

The Natural Areas Management Plan and Five Year plan proposes set annual financial allocations to fund the objectives of the Natural Areas Management Plan.

BACKGROUND

In the 2007/08 budget, Council included a \$20,000 allocation towards the creation of an overarching Environmental Management Plan, in conjunction with Cottesloe Coastcare. A \$25,000 grant was also applied for, under the Coastal Planning Incentive Program, with Cottesloe Coastcare to provide \$5,080 in value from Coastcare site inspections, provisions of information and general local *'on site'* aid to the Consultant.

A Natural Areas Management Plan consultants *'brief'* was prepared in November 2007, with Council staff working with Cottesloe Coastcare to develop this document.

The consultants brief was sent to three consultants: Coffey Environments, Ecoscape and Cardno BSD.

Quotations and proposals were received and the proposal prepared by Ecoscape was adopted in December 2007.

Ecoscape worked on the development of the Cottesloe Natural Areas Management Plan from January 2008, until the presentation to Council of the draft Natural Areas Management Plan in July 2008.

At it's July 2008 meeting, Council resolved to *"receive the Cottesloe Natural Management Plan and release it for a four week public comment period"*. (Carried 9/0)

At the September 2008 Committee and full Council meetings, Council considered a total of eight submissions: one from Cottesloe Coastcare and seven from individuals. These submissions had been received after advertising took place on Councils' website, Council notice boards, by a newspaper advertisement and over the counter at the Civic Centre.

None of the submissions requested any changes relating to the proposals or possibilities covered in the draft Natural Areas Management Plan regarding the Grant Street median strip area.

At the September 2008 Council meeting, Council resolved:
That Council:

1. Approve the content changes incorporated into the Natural Areas Management Plan and adopt the plan.
 2. Note that a five year works plan regarding Natural Areas Management will be developed incorporating recommendations from the Natural Areas Management Plan. This will include priorities for action and a works schedule which will be presented to Council for approval in early 2009. (Carried 7/0)
-

In February 2009, a *“Five year Plan – Natural Areas Management”* was presented to Council.

The motion *“that Council adopt the Natural Areas Management Five Year Plan as per attachment 10.2.9 and Year one be used as the basis for inclusion in the draft 2009/2010 financial year budget for funding consideration”* lapsed for want of a quorum.

The item was deferred until March 2009 meeting. The agenda item for this draft five year plan included, for Council consideration, \$8,000 to extend native shrub plantings on the east side of Marmion Street intersection sump, in Year Four – 2012/2013, on the Grant Street median.

It also included in Year Five – 2013/2014, \$8,000 on the Grant Street median on the west end to convert a trial area to natives. No proposal was included to change any of the existing Norfolk Island Pine Trees to Australian native species. This was in keeping with the Natural Areas Management Plan adopted by Council in September 2008.

The agenda item included, as part of the main text (not as an attachment) a direct quotation from the consultant of the Natural Areas Management Plan titled Median Strips/Grant Street (p49), as adopted by Council in September 2008, which underlined what the Natural Areas Management Plan intended to be considered for that median.

The Natural Areas Management Five Year Plan was brought back to Council in March 2009, but in the intervening month, Cottesloe Coastcare had studied the draft Five Year Plan and made suggestions, based on the need to concentrate, for the first five years, on Existing Natural Areas (ENA's) with Potential Natural Areas (PNA's) being a lesser priority at least for the first five years.

Staff agreed with the majority of the points made by Cottesloe Coastcare and the draft Five Year Plan was modified, with Years Three, Four and Five receiving changes. The main changes were in Year Three Entry Statements, Curtin Avenue/Marine Parade being replaced with 'Vlamingh Area for an allocation of \$8,000, in year Four Grant Street median and Eric Street verge were being replaced with Cottesloe Native Garden and Marine Parade west side verge for a total allocation of \$18,000, and Year Five being modified to replace Grant Street west end with increased expenditure on weedicide application, replanting programs and erosion control.

The subsequent Council resolution in March 2009 for this agenda item was:

That Council adopt the Natural Areas Management 5 Year Plan and Year 1 be used as the basis for inclusion in the draft 2009/2010 financial year budget for funding consideration (Attachment W10.2.3) and that the comments in the officer's report (page 37 of the Council minutes) which references sections from the Natural Areas Management Plan (NAMP - page 49) related to the Grant Street median strip be removed from the NAMP and a copy of this report be notified as an addendum to the Natural Areas Management Plan.

CONSULTATION

The Natural Areas Management Plan was advertised for public comments, which were considered before Council adopted the plan in September, 2008. The five year program was based on the contents of the Council – adopted Natural Areas Management Plan.

STAFF COMMENT

In the February 2009 Committee and Council meetings, there were two unrelated agenda items – ‘Parking and Parking Facilities Local Law’ presented by the Manager of Corporate Services and “Five Year Plan – Natural Areas Management” presented by the Manager of Engineering Services.

The Local Law item, as a very small part of its content dealt with parking/no parking on median strips. This item was deferred and reintroduced by the officer in April 2009. The main objection was the need to “address matters of popular parking on median strips”.

The Natural Areas Management Five Year Plan was included in a group of other five year plans dealing with a large range of infrastructure types, for forward budgeting. Council had previously adopted the consultants’ report and required a staff generated Five Year Plan, based on the formally adopted Natural Areas Management Plan. Shortly after the February 2009 Council meeting, a pamphlet was delivered to every Grant Street letterbox stating in part;

“On Monday March 23, the Council will vote on a motion to ban parking on median strips in Cottesloe. The council engineer’s 5 year plan to replace the current grass and Norfolk Island Pine trees on the Grant Street median strip with native scrub and melaleucas or tuart trees will also be voted on (and would definitely end any parking there). The three councillors who live on Grant Street cannot vote on the latter proposal.”

A number of issues arise due to the wording of this pamphlet:

1. There was no motion to ‘*ban parking*’, only to adopt a modified Parking and Parking Facilities Local Law, a small part of which dealt with median islands.
2. The Five Year Plan was based on the Council adopted document Natural Areas Management Plan, which included comments on a number of areas in Cottesloe, including the Grant Street median. The agenda item went to some lengths to underline or repeat the consultants comments regarding Grant Street, all of which had previously been adopted formally by Council in September, 2008.
3. There is no Five Year Plan to replace the existing Norfolk Island Pine Trees in Grant Street. The consultants comments include, *“The current Town practice is to replace these trees with ne Norfolk Island Pine saplings. It may be possible to alter this practice and ...”*.

Since that time there has been some discussion in the community including residents of Grant Street and Cottesloe Coastcare, regarding the future of Grant Street median and works relating to the implementation of the Natural Areas Management Plan.

There is now a degree of confusion regarding the future plans for the Grant Street median area and a need to bring all parties (Council, Coastcare, Residents and Staff)

together to work through the issues that have been raised and find an acceptable solution, hence the Mayor's Notice of Motion.

VOTING

Simple Majority

COUNCILLOR RECOMMENDATION

Moved Mayor Morgan, seconded Cr Strzina

That Council initiate a community engagement process to develop a landscape concept for the Grant Street median strip, so as to replace the relevant portion that Council recently removed from its Natural Areas Management Plan, on the basis that:

1. The community engagement process involve local advertising, the Council' website and a mail-out to Grant Street residents; and
2. The concept plan will provide for:
 - a. Any ailing Norfolk Island Pine Tree to be replaced by a new Norfolk Island Pine sapling rather than another tree variety;
 - b. Any replacement of couch grass by local plant species be confined to species that are low lying;
 - c. Adequate provision for car parking on the median strip by residents and their visitors; and
 - d. Consideration to be given to surfacing any car parks with suitable natural ground cover rather than bitumen.

AMENDMENT

Moved Mayor Morgan, seconded Cr Boland

That '*Cottesloe Coastcare*' be added after the words "*Grant Street residents,*" in recommendation one and the words "*The concept plan will provide for:*" be removed from recommendation two and replaced with the following '*The community engagement process will consider the possibility of the Natural Areas Management Plan providing for:*'

Carried 5/0

COMMITTEE RECOMMENDATION

That Council initiate a community engagement process to develop a landscape concept for the Grant Street median strip, so as to replace the relevant portion that Council recently removed from its Natural Areas Management Plan, on the basis that:

- 1. The community engagement process involve local advertising, the Council website and a mail-out to Grant Street residents, Cottesloe Coastcare; and**
- 2. The community engagement process will consider the possibility of the Natural Areas Management Plan providing for:**
 - a) Any ailing Norfolk Island Pine Tree to be replaced by a new Norfolk Island Pine sapling rather than another tree variety;**
 - b) Any replacement of couch grass by local plant species be confined to species that are low lying;**
 - c) Adequate provision for car parking on the median strip by residents and their visitors; and**
 - d) Consideration to be given to surfacing any car parks with suitable natural ground cover rather than bitumen.**

Cr's Cunningham, Walsh and Woodhill declared a Proximity interest in this item and left the meeting at 7:37pm.

COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council initiate a community engagement process to develop a landscape concept for the Grant Street median strip, so as to replace the relevant portion that Council recently removed from its Natural Areas Management Plan, on the basis that:

- 1. The community engagement process involve local advertising, the Council website and a mail-out to Grant Street residents, Cottesloe Coastcare; and**
- 2. The community engagement process will consider the possibility of the Natural Areas Management Plan providing for:**
 - a) Any ailing Norfolk Island Pine Tree to be replaced by a new Norfolk Island Pine sapling rather than another tree variety;**
 - b) Any replacement of couch grass by local plant species be confined to species that are low lying;**
 - c) Adequate provision for car parking on the median strip by residents and their visitors; and**
 - d) Consideration to be given to surfacing any car parks with suitable natural ground cover rather than bitumen.**

Carried 7/0

Cr's Cunningham, Walsh and Woodhill returned to the meeting at 7:39pm.

10.2.6 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 APRIL 2009

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Attachment: Financial Statements for the Period Ending 30 April 2009
Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending **Error! Unknown document property name.9** as per attachment , to Council.

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Operating Statement on page 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$313,294 as at 30 April 2009. Operating Revenue is ahead of budget by \$7,830 (.1%). Operating Expenditure is \$52,116 (.7%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 30 April 2009 is shown on pages 7-8.

The Capital Works Program is listed on pages 23 - 25 and shows total expenditure of \$4,341,311 compared to YTD budget of \$9,008,271. The reason for the significant difference is the delay with the library.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

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

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 April 2009, as per attachment 10.3.1, as submitted to the 19 May 2009 meeting of the Works and Corporate Services Committee.

Carried 10/0

10.2.7 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 30 APRIL 2009

File No: SUB/150 & SUB/151
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Attachment: Financial Statements for the Period Ending 30 April 2009
Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending **Error! Unknown document property name.009**, as per attachment, to Council.

BACKGROUND

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

CONSULTATION

Nil

STAFF COMMENT

The Schedule of Investments on page 18 of the Financial Statements shows that \$772,772.14 was invested as at 30 April, 2009.

Reserve Funds make up \$764,358.88 of the total invested and are restricted funds. Approximately 66% of the funds are invested with the National Australia Bank, 34% with BankWest.

The Schedule of Loans on page 19 shows a balance of \$2,122,683.66 as at 30 April, 2009. There is \$495,960.94 included in this balance that relates to self supporting loans.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

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

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 April 2009, as per attachment 10.3.1, as submitted to the 19 May 2009 meeting of the Works and Corporate Services Committee.

Carried 10/0

10.2.8 ACCOUNTS FOR THE PERIOD ENDING 30 APRIL 2009

File No: SUB/137
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Graham Pattrick
Manager Corporate Services
Attachment: Financial Statements for the Period Ending 30 April 2009

Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending **Error! Unknown document property name.9**, as per attachment, to Council.

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 10 of the Financial Statements:

- \$16,118.32 to WA Local Govt Super Fund for staff deductions
- \$12,852.35 to Synergy for street power etc for March 2009
- \$16,478.80 to WA Local Govt Super Fund for staff deductions
- \$16,434.20 to WA Local Govt Super Fund for staff deductions
- \$13,846.00 to FER for unpaid infringements
- \$13,345.45 to WATC for payment on loan 104
- \$22,471.72 to ATO for BAS for March qtr 2009
- \$12,546.11 to Verifact for beachfront ASB investigation
- \$472,920.86 to KMC for building claim 9
- \$106,821.00 to Shire of Peppermint grove for library contributions for March qtr 2009
- \$17,038.34 to B&N Waste for greenwaste collection in March 2009
- \$15,652.16 to Surf Life Saving WA for contract for February 2009
- \$34,980.00 to Key2Design for stage 2 of the Think Water campaign
- \$18,650.10 to WMRC for disposal and tipping fees
- \$24,492.15 to Ocean IT for anti-virus and protection software

- \$45,594.16 to Transpacific Cleanaway for domestic & commercial waste disposal in March 2009
 - \$16,500.00 to Donegan Enterprises for Coast Care project
 - \$13,739.86 to WMRC for disposal and tipping fees
 - \$13,927.93 to ATO for FBT year end for March 2009
- \$64,901.32, \$84,462.48 and \$66,485.27 for staff payroll

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

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

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 30 April 2009, as per attachment 10.3.1, as submitted to the 19 May 2009 meeting of the Works and Corporate Services Committee.

Carried 10/0

10.2.9 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD ENDING 30 APRIL 2009

File No: SUB/145
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Attachment: Financial Statements for the Period Ending 30 April 2009
Proposed Meeting Date: 19-May-2009
Author Disclosure of Interest Nil

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending **Error! Unknown document property name.9**, as per attachment, to Council.

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil

STAFF COMMENT

The Sundry Debtors Report on pages 20-21 of the Financial Statements shows a balance of \$154,363.59 of which \$59,701.63 relates to the current month. The balance of aged debt greater than 30 days stood at \$94,661.96 of which \$73,360.61 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

Property Debtors are shown in the Rates and Charges analysis on page 22 of the Financial Statements and show a balance of \$342,435.33. Of this amount \$222,519.55 and \$48,685.66 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$119,916 in 2009 compared to \$133,987 last year.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

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

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council receive and endorse the Property Debtors Report and Sundry Debtors Report for the period ending 30 April 2009, as per attachment 10.3.1, as submitted to the 19 May 2009 meeting of the Works and Corporate Services Committee

Carried 10/0

10.3 STRATEGIC PLANNING COMMITTEE MINUTES - 20 MAY 2009**10.3.1 TOWN OF COTTESLOE - FUTURE PLAN AND ACTION PLAN REVIEW**

File No: SUB/108
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 20-May-2009
Author Disclosure of Interest Nil

SUMMARY

This report recommends that Committee consider amendments to its Future Plan and 2008/09 Strategic Priorities. It also recommends that Committee receive the updated *Action Plan* report and provide feedback to the CEO and senior staff present at the meeting on agreed modifications to the *Action Plan*.

BACKGROUND

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

The November 2008 review did not take place due to a turnover of staff. At the December 2008 meeting of Council it was resolved that the *Future Plan* review be postponed until March 2009, pending the appointment of the Town's new Chief Executive Officer.

At the March 2009 meeting of Council a report was tabled by the Chief Executive Officer and Council resolved, in part, to;

1. *Defer the review of the Future Plan 2006 to 2010 for the Town of Cottesloe until the Strategic Planning Committee in May 2009.*

The Future Plan is designed to link the Town's strategic direction with its financial and organisational capacity. The Plan is predicated on informed decisions regarding the allocation of scarce resources, was developed in accordance with the provisions of the Local Government Act 1995 and is designed to set out broad objectives of the local government for the future. The Plan identifies the vision and objectives of Council including a number of underpinning sustainability principles. The primary objectives contained within the Plan are:

1. *To protect and enhance the lifestyle of residents and visitors.*
2. *To achieve connectivity between east and west Cottesloe.*
3. *To enhance beach access and the foreshore.*
4. *To manage development pressures.*
5. *To maintain infrastructure and council buildings in a sustainable way.*
6. *To foster the community's confidence and support for Council.*

In addition Council also has a number of *Priority Dynamic Projects* and these include;

- Develop sustainability and capacity criteria to assess major strategies
- Finalise Town Planning Scheme No. 3
- Finalise and adopt a plan for the foreshore
- Proactively pursue solutions for Curtin Avenue and the railway
- Consider the new library concept
- Consider options for the council Depot site
- Enhance use of the Civic Centre
- Develop a District Management Plan
- Implement a Community Safety Strategy

Finalise and adopt a plan for the Town Centre

CONSULTATION

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

STAFF COMMENT

Since the Future Plan was developed and endorsed, significant changes have been placed before Council. In February 2009 as part of a report to Council in relation to the WESROC strategy *Rising to the Challenge: Reform Options for the Western Suburbs*, Council was advised that;

...whilst Council has a Future Plan for the period 2006 – 2010 and has endorsed action plans through the budget process in 2008-09 to achieve its goals, any future strategic planning and subsequent actions will need to address the issue of structural reform. The announcement by the Minister for Local Government in relation to reform strategies has brought into sharp focus the need for the Town to consider its position with regard to the Ministers call for;

- *voluntary amalgamations to form larger local governments,*
- *reduce the total number of elected members to between six and nine; and*
- *local governments to form appropriate regional groupings of councils to assist with the effective delivery of services.*

The Town is required to formally respond to the Minister outlining its intentions on these matters by 31 August 2009.

At the Special meeting of Council on 9 March 2009 Council resolved to;

1. *Endorse, in principle, the Dollery Report "Rising to the Challenge: Reform Options for the Western Suburbs" as a foundation planning document for WESROC member council's and use it to support a submission to the Minister, in response to his proposed reform strategies for restructuring of Local Government.*
2. *Advise WESROC of its position.*
3. *Note that the WESROC Board has resolved to engage, through its executive committee, suitably qualified consultant(s) to assess for comparison purposes, the likely costs and benefits (including social costs and benefits) of;*
 - 3.1 *an amalgamation of the WESROC councils,*
 - 3.2 *an amalgamation of Cottesloe, Mosman Park and Peppermint Grove Councils, together with an amalgamation of Claremont and Nedlands Councils, with Subiaco remaining independent, and*
 - 3.3 *a fast tracked (2 – 3 year) maximization of regional cooperation and resource sharing amongst the WESROC Councils.*

This assessment is to include consideration of matters the subject of the Structural Reform Guidelines assuming that district boundary changes are a possibility irrespective of which if any of the above options were to prevail.

4. *Request a report by April 2009 on two possible options to reduce elected member numbers in the Town of Cottesloe; (i) eight members over four wards and (ii) six members with no wards, both options exclusive of a directly elected Mayor, for either the 2009 or 2011 October elections".*

In relation to the Action Plan, the following strategies were identified by Council as priorities for 2008/09 at its July 2008 meeting.

- 1.2 Reduce beachfront hotel numbers to a sustainable level.
- 1.5 Identify increased opportunities to use existing facilities or provide new venues for formal community cultural events and activities.
- 2.1 Produce a draft Structure Plan for consultation purposes showing the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links.
- 3.1 Develop the 'Foreshore Vision and Master Plan' in consultation with the community.
- 3.4 Introduce electronically timed parking.
- 4.1 Develop planning incentives for heritage properties.

- 4.5 Consider undeveloped Government owned land for higher density development provided there is both public support and benefit for the Cottesloe community.
- 5.1 Adopt a policy position on assets that have a realisable value such as the Depot and Sumps.
- 5.2 Subject to the satisfactory resolution of land tenure, design and funding requirements, progress the development of new joint library facilities.
- 5.3 Develop an integrated Town Centre plan to improve all aspects of the infrastructure of the Town Centre.
- 5.6 Develop a long term asset management plan and accompanying financial plan.
- 6.1 Further improve the community consultation policy in recognition that there are different techniques for different objectives.
- DP1 Complete the Civic Centre additions and renovations on budget and on time.
- DP2 Complete the adoption of Local Planning Scheme No. 3 including the preparation of all draft policies to a stage where they can be advertised for public comment.
- DP3 Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe

The Plan represents a significant body of work and there are a number of objectives and actions that are now either complete, substantially complete or ongoing. In reviewing the Plan Council is to consider modifying the plan including potentially extending the period the plan.

In reviewing its Strategic Plan and 2008/09 Action Priorities, Council also needs to consider what changes it wishes to make at this time. With the uncertainty that is currently before all local governments it would be prudent for Council to consider maintaining its Future Plan and to continue to pursue and finalise its current Action Plans. In addition, the next Council elections are scheduled for October 2009 and, depending upon Council's final determined position with regard to structural reform, it may be appropriate for the new Council to again consider its future direction after the Minister has considered and/or determined his position with regard to local government structural reform and voluntary amalgamations.

In relation to the current Future Plan the following comments are made in relation to the primary objectives;

1. *Lifestyle* – whilst some of the strategies in this objective will be addressed as part of the LPS3 and EbD a number appear ongoing and appropriate
2. *Connectivity*– the strategies in this objective are contingent upon the successful endorsement and implementation of proposed solutions from the EbD process

3. *Beach & Foreshore Enhancement*– some of the strategies in this objective have been addressed to concept stage through the EbD process and others have been implemented are ongoing and appropriate
4. *Development*– whilst some of the strategies in this objective will be addressed as part of the LPS3 and EbD a number will remain ongoing
5. *Infrastructure*– some of the strategies within this objective such as 5.1 *policy on assets with realisable value* have been completed whilst others, 5.2 - *joint library facilities*, are ongoing. Objectives such as 5.6 *asset management* are only partly complete with significant work still to be done. Some of the remaining objectives will be affected by LPS3 and EbD outcomes. Section 5.6 could be enhanced to include the *adoption of best available asset management practices*. In addition a new 5.8 could be added to support *water resource and conservation studies/initiatives*. The current WESROC and WMRC (waste management) partnership initiatives could also be referenced within this objective.
6. *Community Support*– this objective should remain as many of the strategies are current and ongoing.

In relation to the current *Priority Dynamic Projects* the majority are linked to the EbD and LPS 3 which is clearly a high priority for Council for 2009. In addition, projects related to the Library and Depot are also ongoing/critical for the Town's future.

In relation to the current Future Plan, the primary objectives are outward and community focussed and Council may wish to consider including an additional objective that focuses on its primary assets – *“its people and its work processes, practices and performance.”* If this was to be endorsed by Council it is recommended that the following be considered for inclusion;

Objective 7 – Organisational Development

The effective management of Council's resources and work processes

- 7.1 *Deliver high quality professional governance and administration.*
- 7.2 *Ensure our workplace enables staff to be innovative and confident.*
- 7.3 *Implement technologies to enhance decision making, communication and service delivery.*
- 7.4 *Enhance our ability to embrace and manage change.*

The potential action items that may then flow from these strategies could include;

- *Continue to review and update Council policies and work practices*
- *Review service standards, structures and organisational values*
- *Implementing structural reform strategies including a review of wards, boundaries and Council representation*
- *Developing improved financial management strategies including infrastructure/asset management*

This agenda item represents an opportunity for committee members to review progress and provide informal feedback on where staff should be headed in terms of implementing individual actions. It is recommended that Committee receive the Action

Plan and provide comment to the CEO and senior staff present at the meeting on agreed modifications to the Action Plan prior to presentation to Council.

POLICY IMPLICATIONS

None known.

STRATEGIC IMPLICATIONS

The Future Plan has obvious strategic implications.

STATUTORY REQUIREMENTS

Division 5 — Annual reports and planning principal activities

5.56. PLANNING PRINCIPAL ACTIVITIES

- (1) *Each financial year, a local government is to prepare a plan for the next 4 or more financial years.*
- (2) *The plan is to contain details of—*
 - (a) *the principal activities that are proposed to be commenced or to be continued in each financial year affected by the plan;*
 - (b) *the objectives of each principal activity;*
 - (c) *the estimated cost of, and proposed means of funding, each principal activity;*
 - (d) *how the local government proposes to assess its performance in relation to each principal activity;*
 - (e) *the estimated income and expenditure for each financial year affected by the plan; and*
 - (f) *such other matters as may be prescribed.*

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

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

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

**Absolute majority required.*

SUSTAINABILITY IMPLICATIONS

The Town has continuously demonstrated a high level of regard for the sustainable management of Council's resources and the Future Plan not only supports sound

financial management but also meets the legislative requirements contained within the Local Government Act 1995 and associated Regulations.

FINANCIAL IMPLICATIONS

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

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

That Council:

1. **Note the officer comments in relation to the Future Plan primary objectives as per attachment 1 and endorse;**
 - a. **the amendment of Objective 5 *Maintain infrastructure and Council buildings in a sustainable way* with the inclusion of an additional strategy;**
5.8 – support water resource and conservation studies/initiatives
 - b. **the inclusion of a new objective related to Organisational Development**
Objective 7 – Organisational Development
The effective management of Council's resources and work processes
 - 7.1 **Deliver high quality professional governance and administration.**
 - 7.2 **Ensure our workplace enables staff to be innovative and confident.**
 - 7.3 **Implement technologies to enhance decision making, communication and service delivery.**
 - 7.4 **Enhance our ability to embrace and manage change.**
2. **Receive the updated Action Plan report as per attachment 2.**
3. **Determine to review its Future Plan again after the Local Government election in October 2009 and after the outcomes of the Minister for Local Government's Reform Strategies are announced.**

Carried 10/0

10.3.2 TOWN OF COTTESLOE - KEY RESULT AREAS FOR THE CHIEF EXECUTIVE OFFICER

File No: SUB/108
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 20-May-2009

Author Disclosure of Interest The author has an interest in the matter as it directly relates to his employment.

SUMMARY

This report recommends that Council consider and nominate a number of strategies as Key Result Areas (KRA's) for the CEO for 2009.

BACKGROUND

In accordance with the Position Description for the Chief Executive Officer the principal Objectives of the position are;

- Provides visionary leadership and strategic management and direction for the Town of Cottesloe.
- Provides the primary link through effective engagement between the Council, Staff, Stakeholders and the Community to achieve the Town's goals and objectives.
- Responsible for ensuring the highest level of business excellence, integrity, corporate governance and accountability, which is demonstrated within an environment of transparency, trust, openness, honesty and fairness for all.
- Commits to "Broad Objectives for the Future" in the Future Plan 2006 – 2010, namely:
 - Protecting and enhancing the lifestyle of residents and visitors.
 - Resolving the divisive nature of the configuration of the railway and main roads.
 - Enhancing beach access and the foreshore.
 - Managing the complexities involved in pressures for development.
 - Managing infrastructure and council buildings in a sustainable way.
 - Earning the community's confidence in council.

Clause 7 of the CEO's contract reads as follows;

7. PERFORMANCE CRITERIA & KEY RESULT AREAS

The following performance criteria apply to this contract:

- *Provide accurate and timely advice to Council based on available and appropriate information;*
- *Works collaboratively with Council;*
- *Facilitate the development and achievement of the Local Government's strategic plan through the involvement of stakeholders and the persistent application of effort;*
- *Maintain a work environment that facilitates the development of people and encourages them to perform at a high level;*
- *Ensure the effective and accountable application of financial and physical resources;*
- *Develop and implement continuous improvement strategies to enhance service delivery;*
- *Initiate the development, implementation and review of Policy.*

These performance criteria may be varied and any other criteria may be included by agreement between the parties at any time during the term of this contract.

Key Result Areas

Key Result Areas will be developed for each 12-month period of the Contract.

Key Result Areas are not intended to cover all aspects of the position, only those which are most clearly linked to the achievement of the Local Government's strategic objectives and Future Plan.

Key Result Areas will be tangible and measurable and within the Employee's area of control and authority.

As part of the Town's Future Plan 2006 to 2010 there are a number of Strategic Priorities and *Priority Dynamic Projects*. In relation to both the Action Plan and Dynamic Projects, the following strategies were identified by Council as priorities for 2008/09 at its July 2008 meeting.

- 1.2 Reduce beachfront hotel numbers to a sustainable level.
- 1.5 Identify increased opportunities to use existing facilities or provide new venues for formal community cultural events and activities.
- 2.1 Produce a draft Structure Plan for consultation purposes showing the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links.

- 3.1 Develop the 'Foreshore Vision and Master Plan' in consultation with the community.
 - 3.4 Introduce electronically timed parking.
 - 4.1 Develop planning incentives for heritage properties.
 - 4.5 Consider undeveloped Government owned land for higher density development provided there is both public support and benefit for the Cottesloe community.
 - 5.1 Adopt a policy position on assets that have a realisable value such as the Depot and Sumps.
 - 5.2 Subject to the satisfactory resolution of land tenure, design and funding requirements, progress the development of new joint library facilities.
 - 5.3 Develop an integrated Town Centre plan to improve all aspects of the infrastructure of the Town Centre.
 - 5.6 Develop a long term asset management plan and accompanying financial plan.
 - 6.1 Further improve the community consultation policy in recognition that there are different techniques for different objectives.
-
- DP1 Complete the Civic Centre additions and renovations on budget and on time.
 - DP2 Complete the adoption of Local Planning Scheme No. 3 including the preparation of all draft policies to a stage where they can be advertised for public comment.
 - DP3 Report on the proposed tasks identified in the Climate Change Vulnerability study and their impacts, priorities and applicability to the Town of Cottesloe

Key result Areas for the CEO now need to be developed in accordance with his employment contract.

CONSULTATION

Nil

STAFF COMMENT

The appointment of the CEO occurred in January 2009. At that time, and given the need to "settle in", it was agreed between the Mayor and CEO that time would be allowed for the CEO to familiarise himself with the current objectives, projects and operations of the Town's Administration prior to determining key result areas for the remainder of 2009.

As listed above, a number of strategies were identified by Council as priorities for 2008/09 at its July 2008 meeting. The table in attachment A 1 indicates the status of each project. A number of these projects have been progressed and/or continue to be an ongoing priority such as *reducing beachfront hotel patron numbers to a sustainable level*, whilst others have been substantially completed i.e. *introduce electronically timed*

parking. Others are nearing completion such as the *Civic Centre renovations*. A number of the priorities are related to the Town Planning Scheme, the Enquiry by Design and the Building Design Controls and these are also are nearing finalisation in terms of submission to the WAPC & Minister. Committee may consider it appropriate that some of these ongoing projects/priorities be listed as KRA's for the CEO for the balance of 2009.

In addition 2009 has seen significant additional changes placed before Council, specifically the future of WESROC, the implementation of the WESROC strategy *Rising to the Challenge: Reform Options for the Western Suburbs* and the announcement by the Minister for Local Government related to Structural Reform and voluntary amalgamations. The Minister's reform agenda includes potential voluntary amalgamations to form larger local governments, reduce the total number of elected members to between six and nine; and local governments to form appropriate regional groupings of councils to assist with the effective delivery of services. A formal submission by Council is required by 31 August 2009. It is therefore recommended that Council also consider these issues as potential KRA's for the CEO, together with administration of a successful Council election in October 2009.

In addition, the following matters are also raised by the CEO as issues of importance for the Town and possible consideration as KRA's.

- Progress and report possible medium to long term solutions for Council's Depot.
- Ongoing management of the Civic Centre Functions and Events

This agenda item represents an opportunity for committee members to review progress and provide feedback to the CEO through the setting of KRA's for the balance of 2009 with priority strategies and actions. It is recommended that Committee discuss and support the following KRA's prior to presentation to Council.

POLICY IMPLICATIONS

None known.

STRATEGIC IMPLICATIONS

The achievement of Council's Future Plan is directly related to the performance of the CEO.

STATUTORY REQUIREMENTS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

Moved Mayor Morgan, seconded Cr Dawkins

That Council nominate the following strategies and Key Result Areas for the CEO for 2009:

- 1. Progress and finalise the Town Planning Scheme No. 3 for submission to the West Australian Planning Commission and Minister for Planning**
- 2. Develop a long term asset management plan and accompanying financial plan that takes into account the community call for better quality public buildings**
- 3. Progress the development of new joint library facilities**
- 4. Finalisation of Council's Reform Submission to the Minister for Local Government**
- 5. Progress and report possible medium to long term solutions for Council's Depot.**
- 6. Complete the Civic Centre additions and renovations on budget and on time.**
- 7. Revitalisation and ongoing management of the Civic Centre Functions, Events & catering services**
- 8. Administration of a successful Council election in October 2009**

The Chief Executive Officer declared a interest in Item 10.3.2 as the matter directly relates to his employment and remained in the meeting by Council consensus.

AMENDMENT

Moved Cr Cunningham, seconded Mayor Morgan

That point 2 of the recommendation add the words "*short and*" before the words "*Long term asset management*" and that point 5 of the recommendation remove the words "*medium to long term*".

Carried 10/0

AMENDMENT

Moved Cr Carmichael, seconded Cr Strzina

That at the end of point 2 of the Recommendation the words "*inclusive of appropriate environmentally sensitive design (ESD) initiatives and universal access design features*" be added.

Carried 10/0

COUNCIL RESOLUTION

That Council nominate the following strategies and Key Result Areas for the CEO for 2009:

- 1. Progress and finalise the Town Planning Scheme No. 3 for submission to the West Australian Planning Commission and Minister for Planning**
- 2. Develop a short and long term asset management plan and accompanying financial plan that takes into account the community call for better quality public buildings inclusive of appropriate environmentally sensitive design (ESD) initiatives and universal access design features.**
- 3. Progress the development of new joint library facilities**
- 4. Finalisation of Council's Reform Submission to the Minister for Local Government**
- 5. Progress and report possible solutions for Council's Depot.**
- 6. Complete the Civic Centre additions and renovations on budget and on time.**
- 7. Revitalisation and ongoing management of the Civic Centre Functions, Events & catering services**
- 8. Administration of a successful Council election in October 2009**

THE SUBSTANTIVE MOTION WAS PUT

Carried 10/0

11 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**11.1.1 ALBION HOTEL - GAMING LICENSE**

Responsible Officer: Carl Askew
Chief Executive Officer

Author: Carl Askew
Chief Executive Officer

Proposed Meeting Date: 25 May 2009

Author Disclosure of Interest Nil

BACKGROUND

The following is a Notice of Motion received from Cr Utting regarding the application by the Albion hotel to hold gaming evenings:

- 1. That Council advise the Department of Racing, Gaming & Liquor that it objects to the Albion Hotel conducting gaming evenings on its premises on the basis that it is not an activity consistent with the established use of the hotel.*
- 2. Furthermore, Council has procedures for community consultation, and these have not been complied with in this case.*
- 3. Furthermore, the Hotel closely adjoins the Shire of Peppermint Grove. As far as we are aware neither the Shire President nor the Shire residents have been advised of the proposal which could possibly have adverse effects on the Shire.*

The Albion Hotel recently submitted an application to hold gaming evenings in what was previously their pool room which accommodates up to a maximum of 40 people. The Hotel required support from the Town stating that it conforms with the Health Act and does not contravene Town Planning regulations, prior to submitting their application to the Department of Racing, Gaming & Liquor (RG&L).

The Hotel proposed to hold the gaming evenings regularly on Tuesdays for up to 12 months. It is proposed that the evenings will commence at 6.00pm and it is anticipated the session will run for 4 hours. The hotel's license is to 12.00 midnight.

Food and alcohol will be served with discounts to be offered on food and the normal responsible service of alcohol will apply. Participants are required to be a member of the WA Poker League A percentage of the proceeds are required to go to a local charity, the Cottesloe Rugby Club. Advertising will be internally and through the hotel's database.

This is the first such license to be applied for in Cottesloe, others have been for a single occasion or short period.

Under TPS 2 the definition of Hotel is as follows:- *land and buildings providing accommodation for the public the subject of a Hotel License granted under the provisions of the Liquor Act, 1970 (as amended)*. From a planning perspective gaming is not contrary to Hotel use, and although it is not required to be located at a liquor-licensed venue there are no other land use classes in TPS2 that capture this activity separately. Providing the number of patrons proposed for this activity are similar to the numbers attracted to similar activities such as pool, quiz nights, etc, then there would be no basis for a change of use or other trigger for a planning application/approval.

CONSULTATION

Nil

STAFF COMMENT

Given that the application does not contravene the Health Act or Town Planning Regulations, the support form was signed and has been submitted with the Hotel's application to the Department of Racing, Gaming & Liquor. The Town is not the approving authority, as with liquor licences, the RG&L issue the approval or refusal.

With regard to Cr Utting's Notice of Motion Part 1, from a planning perspective this activity is considered consistent with the Hotel use, and although gaming is not required to be located at a liquor-licensed venue there are no other land use classes in TPS2 that capture this activity separately.

Providing the number of patrons attracted to this activity is similar to the number attracted to similar activities such as pool, quiz nights, etc, and is in accordance with any limits, then in terms of parking there would be no argument. On this basis there is no change of use or other trigger for a planning application/approval.

Cr Utting's Notice of Motion Part 2 refers to the Town's Community Consultation Policy. In the case of the Hotel's application, it is the Department of Racing, Gaming & Liquor that imposes the requirement that the Hotel consult with the community. There is no specific requirement that Council undertake community consultation.

With regard to Cr Uttings's Notice of Motion Part 3, again it is the Department of Racing, Gaming & Liquor that determines if comments from a neighbouring local government are to be sought. It is not the Town's responsibility to advise the Shire of Peppermint Grove and seek comment on behalf of the Department of Racing, Gaming & Liquor.

Advice has been received from the Department that approval for this activity has now been issued. However, contrary to our advice, the approval has been issued for a period of five (5) years, the permitted period that a Gaming Permit may be issued for. It is understood that this application was for a trial period of twelve (12) months and it was on this basis that the local government form was signed.

The Department of Racing, Gaming & Liquor has now agreed to reissue the approval for the proposed period of twelve (12) months and that it will be reviewed at the conclusion of this period if a further application is received.

It is recommended that a report be put to Council at the end of the twelve (12) month period to review this application if the activity is proposed to continue.

In the event that adverse comments or complaints regarding the activities covered by this approval are received by the Town at any time, the administration is to write to the Department of Racing, Gaming & Liquor requesting an immediate review of the Gaming Permit.

POLICY IMPLICATIONS

The Town of Cottesloe Community Consultation Policy, Table One, does not specifically require that Council undertake community consultation.

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

Gaming & Wagering Commission Act 1987
Section 55. Application for a Permit

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

VOTING

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Utting, seconded Cr Strzina

That Council:

- 1. Request that a report be put to Council at the end of the twelve (12) month period to review this application if the activity is proposed to continue; and**
- 2. Write to the Department of Racing, Gaming & Liquor upon receipt of adverse comments or complaints regarding the activities covered by the Gaming Permit, requesting an immediate review of the Permit.**

Carried 10/0

12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**12.1.1 2009 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT AND AUSTRALIAN COUNCIL OF LOCAL GOVERNMENT**

File No: sub/36
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Carl Askew
Chief Executive Officer
Proposed Meeting Date: 27-May-2009
Author Disclosure of Interest Nil

SUMMARY

Mayor Kevin Morgan has been invited to attend the 2009 National General Assembly of Local Government to be held at the National Convention Centre in Canberra between 21 and 24 June 2009. The Australian Government has also confirmed that the next meeting of Mayors and Shire Presidents as part of its Australian Council of Local Government (ACLG) will also be held to coincide with the Assembly.

A recommendation is made to authorise the accommodation and travel expenses of Mayor Morgan in attending the both the Assembly and ACLG.

BACKGROUND

On 18 September 2008, the Prime Minister, the Hon Kevin Rudd MP, and the Federal Minister for Local Government, Anthony Albanese, announced the establishment of the Australian Council of Local Government (ACLG) to forge a new cooperative engagement between the Commonwealth and local government. The creation of this Council has been endorsed by the Australian Local Government Association. The Mayor was invited to attend the inaugural meeting of the ACLG held at Parliament House in Canberra on the 18th November 2008.

The National General Assembly is the major event on the annual local government events calendar and typically attracts more than 700 Mayors, councillors and senior officers from Council's across Australia.

CONSULTATION

Nil

STAFF COMMENT

The Australian Government is increasingly looking to local government to play a role as a partner in tackling the major issues facing the nation and the Assembly is the opportunity to make sure that our Council's views are represented. The Assembly is also a great opportunity to hear from senior politicians and interesting key note speakers and is an unparalleled networking opportunity within the local government sector.

The theme for this year's Assembly is *Rising to the Challenge – Infrastructure, Financing, Climate Change*.

It would be politically astute to have as many Mayors and Presidents from local governments in WA present at the Assembly and ACLG meeting so that the tyranny of distance doesn't undermine any claim by WA local governments for infrastructure and/or climate change funding or the like in the future.

Cottesloe rarely has any elected member attending an interstate conference (or for that matter any State conference) and the Mayor's willingness to attend both the National General Assembly and the next ACLG will assist in demonstrating Cottesloe's willingness to partner with the Commonwealth Government on both current and future projects.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

STATUTORY REQUIREMENTS

Section 2.8 of the *Local Government Act 1995* provides the following in part:-

1.1.1.1.2.2.8. THE ROLE OF THE MAYOR OR PRESIDENT

- (1) *The mayor or president —*
 - (a) *presides at meetings in accordance with this Act;*
 - (b) *provides leadership and guidance to the community in the district;*
 - (c) *carries out civic and ceremonial duties on behalf of the local government;*
 - (d) *speaks on behalf of the local government;*
 - (e) *performs such other functions as are given to the mayor or president by this Act or any other written law; and*
 - (f) *liaises with the CEO on the local government's affairs and the performance of its functions.*

SUSTAINABILITY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The cost of attendance including accommodation is estimated to be \$2,000 to \$2,500. An amount of \$3,500 has been set aside in the 2008/09 budget for conference and training expenses for elected members of which approximately \$2,000 has been expended to date.

VOTING

Simple Majority

OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Woodhill, seconded Cr Dawkins

That Council authorise the accommodation and travel expenses of Mayor Morgan in attending both the 2009 National General Assembly of Local Government and the next meeting of the Australian Council of Local Government (ACLG) to be held at the National Convention Centre in Canberra between 21 and 24 June 2009.

Carried 10/0

13 MEETING CLOSURE

The Mayor announced the closure of the meeting at 7:52pm

CONFIRMED: MAYOR DATE: / /