

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING**

# **MINUTES**

**The Ordinary Meeting of Council  
Held in the Council Chambers, Cottesloe Civic Centre  
on 25 November, 2002, commencing at 7.00pm.**



# ORDINARY MEETING OF FULL COUNCIL

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# **ORDINARY MEETING OF COUNCIL**

25 November, 2002

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

The Chairperson announced the meeting opened at 7.03pm.

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

### **2.1 PRESENT**

Deputy Mayor:	Cr. M.E. Ewing
Councillors:	Cr. J.S. Birnbrauer
	Cr. A.D. Furlong
	Cr. P. Rattigan
	Cr. A.O. Sheppard
	Cr. J. Utting
	Cr. J.F. Walsh
	Cr. R. Whitby
	Cr. K. Morgan
Chief Executive Officer:	Mr S.D. Tindale
Manager, Engineering Services:	Mr M.R. Doig
Manager, Development Services:	Mr S. Sullivan

### **2.2 APOLOGIES**

Apologies received from Mayor Hammond and Cr. B.R. Miller.

### **2.3 LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

Nil.

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

Nil.

## **4 PUBLIC QUESTION TIME**

Nil.

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

Nil.

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

Moved Cr. Birnbrauer, seconded Cr. Walsh, that the minutes of the Ordinary Meeting of Full Council held on the 28 October, 2002, be confirmed, subject to the following amendments:

- (1) On Page 2, Item 7 under the heading announcements by the Presiding Member without discussion the following be inserted:

**“CARE FOR COTTESLOE (LA21) COMMITTEE**

The Mayor called on Cr. Birnbrauer to make this announcement. Cr. Birnbrauer advised that the Care for Cottesloe (LA 21) Committee is organising a Sustainability Workshop at 2.00pm, on 30 November 2002 to which all ratepayers and householders will be invited. He encouraged Councillors to participate.”

- (2) In Item 8(6) amend the name “*Jan Walsh*” to read “*Jan Walker*”.

Carried 9/0

**7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****CARE FOR COTTESLOE (LA21) COMMITTEE – SUSTAINABILITY WORKSHOP**

Deputy Mayor Cr. Ewing reminded everyone of the workshop to be held between 2.00 and 4.30pm, 30 November 2002 in the War Memorial Town Hall. The Deputy Mayor noted that a letter drop to residents had been conducted.

**8 PUBLIC STATEMENT TIME**

- (1) Mr Denis Manton – Item TP156  
Mr Manton spoke in favour of the application and referred to a written request to have the matter deferred to allow for new plans to be drawn up to show amendments.
- (2) Mr Ben Dundas– Item TP159  
Mr Dundas, architect for the proposed development, spoke in support of the application and called for the requirement of a setback on the eastern boundary to be deleted.
- (3) Mr Ken Adam - Item TP159  
Mr Adam spoke as architect and town planning consultant in support of the application and for the deletion of the setback requirement for the eastern boundary.
- (4) Mr Edward Breen – Item TP149  
Mr Breen spoke in support of the application.
- (5) Mr Peter Jeanes – Item C105  
Mr Jeanes congratulated Council on conducting the survey and noted that it indicated dissatisfaction with Council’s stance on heritage. He suggested that Council was going too fast and too hard on heritage and asked Council to think again on the issue.
- (6) Mr Ken Macintyre – Item W39  
Mr Macintyre spoke as chairperson of the Cottesloe Reef Fish Habitat Protection Committee in support of relocating the reef fish habitat protection signs to the footpath level.

**9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil.

10 REPORTS OF COMMITTEES AND OFFICERS

**DEVELOPMENT SERVICES COMMITTEE**

18 November, 2002

**PLANNING**

TP146 **NO. 2 (LOT 121) SALVADO STREET, COTTESLOE – PROPOSED  
DEMOLITION OF AN EXISTING SINGLE HOUSE – LE FANU**

File No:	2 Salvado Street
Author:	Mr Stephen Sullivan
Report Date:	30 October, 2002
Author Disclosure of Interest:	Nil
Senior Officer:	Mr Stephen Tindale
Property Owner:	Ms. F Drake-Brockman
Applicant:	Owner
Date of Application:	19 June, 2002
M.R.S. Reservation:	Urban
Zoning (TPS No. 2):	Residential
Density:	R 30
Lot Area:	1497m <sup>2</sup>

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**SUMMARY**

To make a determination on an application for planning consent for the demolition of an existing building.

The building has a “Permanent” listing in the State Register of Heritage Places. The Heritage Council has advised in writing that it does not support the proposed demolition of the existing building known as Le Fanu.

The building is listed in Schedule 1 - Places Of Natural Beauty And Historic Buildings And Objects Of Historical Or Scientific Interest in the Council’s Town Planning Scheme text.

It is recommended that the request for demolition be refused.

**LIST OF ATTACHMENTS**

- Letter from owner of property
- Copy of letter from Heritage Council dated 10 September, 2002.

**STRATEGIC IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2  
Heritage of Western Australia Act 1990

**POLICY IMPLICATIONS**

Nil

**HERITAGE LISTING:**

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

**CONSULTATION**

The request for demolition of the property was referred to the Heritage Council for comments as required by section (11)(2) of the Heritage of Western Australia Act 1990.

**BACKGROUND**

The applicant has submitted an application for Approval to Commence Development for the demolition of the existing house.

The owner has previously sought to have the property demolished in the mid 1990s. An appeal against Council's decision not to permit the demolition of the building under the Local Government Act was dismissed.

The owner has also sought to have the property condemned under the Health Act. Council resolved to issue a notice requiring the property owner to upgrade the premises, however, this was not carried out by the owner.

Councillors at that time expressed concern that the condition of the property was due to neglect and even the basic maintenance of the property was not occurring. This was not seen to be a valid reason for permitting the demolition of a building that had been identified in the Town Planning Scheme as being of Heritage significance.

Following on from these requests for demolition, the owner obtained approval to subdivide the land and subsequently built a two storey building to the north of the building.

Recently, unauthorised demolition of a part of the building resulted in a successful action being taken by the Heritage Council against the owner for the unauthorised works. The courts imposed a fine, but did not require the unauthorised works to be made good.

The property is listed in Schedule 1 of the Town Planning Scheme text. Clause 6.1.1 of the Scheme Text states the following:

*"The Council considers that the places of natural beauty, and historic buildings, and objects of historic or scientific interest listed in Schedule 1 should be conserved and preserved."*



The property has been determined to be of State significance as it has a permanent listing in the State Register of Heritage Places. The Heritage Council has advised in a letter dated 10 September, 2002 that they object to the demolition of the building.

A subsequent telephone discussion with the Director of the Heritage Council has indicated that Council should proceed with the determination of the development application for demolition.

### **STAFF COMMENT**

Section 11(3) of the Heritage of Western Australia Act 1990 states:

- (3) *A decision-making authority shall not take any action that might (whether or not adversely) affect to a significant extent a registered place or a place which is the subject of a Heritage Agreement (even though that action is not directly related to the place) unless -*
- (a) *subsection (2) has been complied with by the authority;*
  - (b) *the authority has informed the Council of the proposed action and given the Council a reasonable opportunity to consider it and to advise both the Minister and that authority;*
  - (c) *that action is consistent with advice received from the Council, or there is no feasible and prudent alternative to the taking of that action; and*
  - (d) *the decision-making authority has used its best endeavours to ensure that all measures which can reasonably be taken by any person involved in the implementation of the proposal are taken so as to minimize any adverse effect.*

The Heritage Council has advised that it does not support the demolition of the existing building.

The building is also protected from demolition under the current Town Planning Scheme.

Based on the advice from the Heritage Council and the Scheme provisions, it is recommended that the application for demolition be refused.

### **VOTING**

Simple majority.

### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Furlong

That Council:

- (1) REFUSE to grant its Approval to Commence Development for a No. 2 (Lot 121) Salvado Street, Cottesloe in accordance with application received on the 26 August, 2002, for the following reasons. The building:
- (a) has been determined to be of Cultural Heritage Significance under the Heritage of Western Australia Act 1990, and demolition of the building would be contrary to the objectives of that Act;
  - (b) has been identified in Schedule 1 - Places Of Natural Beauty, And Historic Buildings, And Objects Of Historic Or Scientific Interest in the

text to the Town of Cottesloe Town Planning Scheme No. 2 as a building that should be conserved and preserved. Demolition of the building would not meet the objective of this provision of the Town Planning Scheme.

- (2) That the Heritage Council be advised of Council's decision.

#### **AMENDMENT NO. 1**

Moved Cr. Sheppard, seconded Cr. Morgan

That motion be amended with the addition of the following:

*“(3) Request the State Government to purchase the property, restore the property and resell it with a heritage listing.”*

Carried 9/0

#### **AMENDMENT NO. 2**

Moved Cr. Morgan, seconded Cr. Furlong

That the motion be amended by the addition of the words “*within 18 months*” between the words “*to*” and “*purchase*” in line one of part (3) and at the end of part (3) add the following words: “*failing which Council will reconsider its position*”.

Moved Cr. Furlong, seconded Cr. Rattigan that the motion be now put.

Carried 6/3

The amendment was put.

Carried 6/3

The amended motion was put.

#### TP146 **COUNCIL RESOLUTION**

**That Council:**

- (1) **REFUSE to grant its Approval to Commence Development for a No. 2 (Lot 121) Salvado Street, Cottesloe in accordance with application received on the 26 August, 2002, for the following reasons. The building:**
- (a) **has been determined to be of Cultural Heritage Significance under the Heritage of Western Australia Act 1990, and demolition of the building would be contrary to the objectives of that Act;**
  - (b) **has been identified in Schedule 1 - Places Of Natural Beauty, And Historic Buildings, And Objects Of Historic Or Scientific Interest in the text to the Town of Cottesloe Town Planning Scheme No. 2 as a building that should be conserved and preserved. Demolition of the building would not meet the objective of this provision of the Town Planning Scheme.**

- (2) That the Heritage Council be advised of Council's decision.
- (3) Request the State Government to, within 18 months, purchase the property, restore the property and resell it with a heritage listing, failing which Council will reconsider its position.

Carried 9/0

**TP147** **NO. 45 (LOTS 1 AND 2) BROOME STREET – PROPOSED DEMOLITION OF EXISTING SINGLE HOUSE**

**File No:** No. 45 Broome Street  
**Author:** Mr Stephen Sullivan  
**Report Date:** 13 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Tindale

**Property Owner:** David Paganin  
**Applicant:** Hardy Bowen  
**Date of Application:** 25 September, 2002

**M.R.S. Reservation:** N/A  
**Zoning (TPS No. 2):** Residential  
**Density:** R30  
**Lot Area:** 451m<sup>2</sup> each

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**SUMMARY**

To advise Council of an application for approval to demolish an existing building.

It is recommended that the application be deferred to the December meeting of Council pending the completion of the Heritage assessment of the building.

**ATTACHMENTS**

Copy of letter:

- report prepared by Ronald Bodycoat (Architect) - dated August 2002
- fax in support of application from Hardy Bowen (Solicitors) dated 25 September, 2002
- letter from Leonie and David Garnett objecting to the demolition proposal received 9 October, 2002
- letter from Heritage Council dated 14 October, 2002
- letter from Heritage Council dated 29 October, 2002
- fax from Hardy Bowen dated 13 November, 2002.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2

**POLICY IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

The cost of the assessment is \$2,450. Planning fees for the demolition application and the development application for the new house on the site totals \$905.

**HERITAGE LISTING:**

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

**AREA OF NON-COMPLIANCE****Town Planning Scheme Text**

Clause	Required	Provided
See Report		

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
012 - Places of Cultural and Heritage Significance	See Report	

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
N/A			

**CONSULTATION**

Not required.

**BACKGROUND**

The applicants have sought approval for the demolition of the existing house.

The development application was referred to the Heritage Council as the building had previously been referred to the Heritage Council for consideration for inclusion on the State Register at its meeting held on the 25 October, 2002. The Heritage Council considered the property and has advised that the building is unlikely to meet the threshold for entry on the State Register of Heritage Places. They also determined that the place: "...has a very high level of local Heritage significance."

The Heritage advisor for the application has stated in the second last paragraph of his letter as follows: "In my opinion, the place at 45 Broome Street, Cottesloe, has some cultural Heritage significance...."

At its October, 2002 meeting, Council agreed to engage the services of a consultant to do a full assessment of the property.

## STAFF COMMENT

The following comments are made:

### Town Planning Scheme Policy No. 12

Town Planning Scheme Policy No. 12 and the objectives for this Policy are reproduced below:

#### 2. OBJECTIVES

- 2.1 *To protect existing places of cultural heritage significance, and to maintain the character, amenity and 'sense of place' of the suburb.*
- 2.2 *To ensure that any additions or alterations to existing places are sympathetic to the cultural heritage significance of the building.*

The property at No. 45 Broome Street is one of those properties listed in Town Planning Scheme Policy No. 12.

### No. 2 Town Planning Scheme text

Clause 5.1.2 (b) of the No. 2 Town Planning Scheme text states the following:

#### 5.1.2 *General*

*Notwithstanding the specific provisions of this Scheme in considering a proposed development, Council shall have regard to and may impose conditions relating to the following -*

- (a) ...
- (b) *the need for preservation of existing trees or areas or buildings of architectural or historical interest;*

The definition of "Development" includes demolition.

### Changes to No. 2 Town Planning Scheme text

Council is in the process of undertaking a number of changes to its existing Town Planning Scheme to address heritage matters.

Based on the recent Tribunal decision relating to Moullins vs. the Town of Cottesloe, Council has resolved to amend its Town Planning Scheme to implement the additional heritage controls proposed on the Heritage Strategy rather than relying on Town Planning Scheme Policies as suggested in the Residential Design Codes. It is anticipated that a draft Town Planning Scheme amendment will be ready for adoption by Council at its December, 2002 meeting.

Council has also previously resolved to amend the Town Planning Scheme text to include further properties on Schedule 1 - Places Of Natural Beauty And Historic Buildings And Objects Of Historical Or Scientific Interest. This is referred to as proposed Amendment No. 29. The proposed amendment has reached the stage where it is ready for advertising for public comment. The building at No. 45 Broome Street is one of those properties that has been included on the list in proposed Amendment No. 29 to be included in Schedule 1 of the Town Planning Scheme text.

As a consequence of the employment of the temporary officer, proposed Amendment No. 29, along with a number of other amendments and projects, will be made available for public comment within a week or two.

**Municipal Inventory**

The property is listed in Council's Municipal Inventory as a Category 2 building.

**Heritage Assessment**

At its October, 2002 meeting, Council supported the carrying out of a Heritage assessment on the site at No. 45 Broome Street. The firm of Considine Griffiths has been engaged to carry out the assessment and it is anticipated that the report will be completed on or before the 6<sup>th</sup> December, 2002. The report will not be ready for the November, 2002 meeting of Council.

**CONCLUSION**

It is recommended that consideration of this matter be deferred to the December 2002 meeting of Council whilst the assessment is being carried out.

**VOTING**

Simple Majority.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Furlong

That Council defer consideration of the application for demolition of No. 45 Broome Street to the December, 2002 meeting of Council.

**AMENDMENT**

Moved Cr. Morgan, seconded Cr. Furlong

That the motion be deleted and substituted with the following: *"That Council grant approval for demolition subject to the usual conditions."*

Lost 3/6

Moved Cr. Birnbrauer, seconded Cr. Whitby that the motion be now put.

Carried 8/1

The original motion was put.

TP147 **COUNCIL RESOLUTION**

**That Council defer consideration of the application for demolition of No. 45 Broome Street to the December, 2002 meeting of Council.**

Carried 6/3

TP148 **NO. 45 (LOTS 1 AND 2) BROOME STREET – PROPOSED CONSTRUCTION OF TWO STOREY HOUSE**

<b>File No:</b>	<b>No. 45 Broome Street</b>
<b>Author:</b>	<b>Mr Stephen Sullivan</b>
<b>Report Date:</b>	<b>13 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Tindale</b>

<b>Property Owner:</b>	<b>David Paganin</b>
<b>Applicant:</b>	<b>Hardy Bowen</b>
<b>Date of Application:</b>	<b>25 September, 2002</b>

<b>M.R.S. Reservation:</b>	<b>N/A</b>
<b>Zoning (TPS No. 2):</b>	<b>Residential</b>
<b>Density:</b>	<b>R30</b>
<b>Lot Area:</b>	<b>451m<sup>2</sup> each</b>

**SUMMARY**

To advise Council of an application for approval to construct a two storey single house. It is recommended that consideration of the application be deferred to the December meeting of Council pending the completion of the Heritage assessment of the existing building on the site.

**ATTACHMENTS**

Nil

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2

**POLICY IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**HERITAGE LISTING:**

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

**AREA OF NON-COMPLIANCE**

**Town Planning Scheme Text**

Clause	Required	Provided
See Report		

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
012 - Places of Cultural and Heritage Significance	See Report	

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
Nil			

**CONSULTATION**

Three letters sent by registered mail – 1 objection received. This submission has been included as an attachment for TP147.

### **BACKGROUND**

This application is the second application to be dealt with for this site. The first relates to the demolition of the existing building (Refer to TP147). This application is for development of the site with a new two storey dwelling.

### **STAFF COMMENT**

The application has been assessed the:

- Town Planning Scheme text;
- Town Planning Scheme Policies; and
- Residential Design Codes.

#### **Town Planning Scheme text**

Council is required to be a decision in relation to clause 5.1.2(b) of the Town Planning Scheme text in relation to whether the building is of Architectural or historical significance. As stated in TP147, this assessment is currently being undertaken and should be ready for consideration at the December 2002 meeting of the Development Services Committee.

#### **Town Planning Scheme Policy No. 012**

The property is contained in the list of buildings that have been identified under Town Planning Scheme Policy No. 012 that are considered to be of cultural heritage significance to the District.

#### **Residential Design Codes**

The Residential Design Codes makes no provision for heritage matters relating to places or areas. The Codes state that these should be part of a Local Planning Policy adopted under the Town Planning Scheme.

The development complies with the Residential Design Codes provisions.

#### **Town Planning Scheme Amendments**

Refer to comments made in TP147.

### **CONCLUSION**

It is recommended that consideration of this matter be deferred to the December 2002 meeting of Council whilst the assessment for the demolition is being carried out.

### **VOTING**

Simple Majority.

### **TP148 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Furlong

**That Council defer consideration of the application for construction of a two storey house on No. 45 Broome Street, to the December, 2002 meeting of Council.**

Carried 7/2



**TP149**    **NO. 1 (LOT 50) MACARTHUR STREET - PROPOSED INCREASE IN REAR BOUNDARY FENCE FROM 1.8M TO 3.0M HIGH BOUNDARY WALL**

**File No:** No. 1 Macarthur Street  
**Author:** Mr Stephen Sullivan  
**Report Date:** 14 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

**Property Owner/Applicant:** Mr Edward Breen  
**Date of Application:** 11 October, 2002

**M.R.S. Reservation:** N/A  
**Zoning (TPS No. 2):** Residential  
**Density:** R30  
**Lot Area:** 443m<sup>2</sup>

**SUMMARY**

The purpose of this report is to consider an application for Planning Consent for the increase in the height of a rear fence from 1.8m above the datum point to 3.0m above that point.

It is recommended that the application be refused.

**ATTACHMENTS**

- Copy of Tax Plan
- Copy of plans
- Copy of letter from Owner (re-types by council for readability)
- Copy of joint submission from adjoining property owners.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2  
Residential Design Codes  
Dividing Fences Act  
Local Law Fencing

**POLICY IMPLICATIONS**

TPS Policy Implications:	Nil
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**HERITAGE LISTING:**

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

**AREA OF NON-COMPLIANCE****Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	REQUIRED	Provided
N/A		

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	3.3.1 A1 – Building to be setback 1.0m from boundary – See Report	Proposed 3.0m high wall by 5.39m in length - Nil setback	3.3.1 P1
3	3.3.2 A1 – Boundary wall permitted subject to certain criteria – See Report		

**CONSULTATION**

Not required.

Joint submission from neighbours at 2 Sydney Street and 26 Marine Parade.

**BACKGROUND**

The Mayor and Chairperson of the Development Services Committee granted approval for a boundary fence to be erected at the rear of No. 1 Macarthur Street in January 2001. It was proposed to be 1.8m above the datum point and contained a proposal to include a picket gate. The fence was constructed to 1.8m above the datum point, but is about 2.1m from the side at the neighbours at No. 2 Sydney Street.

This original proposal with the gate would have provided the owner of No. 1 Macarthur Street with vehicular access from Sydney Street to the rear of his property, across private property which he does not have a right to use. The approval granted did not include permission to construct the gate.

The plan also showed that the owner intended to construct a 1.8m high brick wall from the garage to the western side boundary, at the southern end of the right of way from Macarthur Street (refer to tax plan).

**STAFF COMMENT**

The owner has now lodged an application for the increase in the height of the rear fence from 1.8m to 3.0m above the datum point. This would be approximately 3.3m above the neighbouring property. The basis for the request is contained in the supporting letter. When lodging the application, the owner advised the Manager, Development Services at the counter that he was seeking to construct a garage at the rear of his property at a later date. But he wanted to increase the height of the fence now whilst he still had the tradesmen on-site.

The owners of No. 2 Sydney Street and 26 Marine Parade have made a joint submission expressing:

- concern in relation to the height of the proposed fence; and
- the structural adequacy of the fence.

The application is unusual in that approval is being sought for a boundary wall for a future outbuilding that would normally require Council to assess it against the Residential Design Codes and the Town Planning Scheme provisions.

The existing fence would deem to be a sufficient fence and therefore, an increase in the height of the fence would seem inappropriate. There is no issue with loss of privacy between the two areas that may have warranted an increase in the height of the fence above a standard fence height.

The matter of the structural adequacy of the existing fence has been passed to the Building Surveyor for consideration.

### **Conclusion**

Based on the existing circumstances, the concerns expressed by the adjoining property owners and that the proposed increase wall height is to be used as part of a future outbuilding, it is considered that the current application be refused.

When the complete details of the proposal are submitted, then Council could properly deal with the application at that time.

### **VOTING**

Simple Majority.

Cr. Furlong left the Chamber at 8.03pm and returned at 8.05pm.

### **TP149 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Furlong

#### **That Council:**

- (1) REFUSE its Approval to Commence Development for the change in the height of a dividing fence to a wall of 3.0m in height at No. 1 (Lot 50) Macarthur Street, in accordance with the application and plans submitted on 11 October, 2002 as Council is of the opinion that the proposed wall height is excessive and will adversely impact on the adjoining property.**
- (2) Advise Mr Breen that:**
  - (a) it is not prepared to grant approval to a boundary wall for a future outbuilding; and**
  - (b) it will consider any proposal for the future outbuilding on its merits, when the complete planning application is presented to Council for its approval.**
- (3) Advise the submitters of Council's decision.**

Carried 9/0

**TP150** **NO. 583 (LOT 15) STIRLING HIGHWAY AND NO 1 & 3 (LOT 4) BRIXTON STREET – PROPOSED THREE STOREY MIXED USE DEVELOPMENT COMPRISING TEN (10) RESIDENTIAL UNITS, THREE (3) SHOWROOM UNITS ADDITION TO EXISTING SHOPS**

**File No.:** No. 583 Stirling Highway  
**Author:** Mr Stephen Sullivan  
**Report Date:** 14 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

**Owner/Applicant:** Mr R. Auguste  
**Date of Application:** 25 September, 2002

**Zoning (MRS):** Urban  
**Zoning (TPS):** Town Centre  
**Density:** R100  
**Lot Area:** 1054m<sup>2</sup>  
**Municipal Inventory:** Category 1

**SUMMARY**

To make a determination on an application for planning consent that involves the submission of revised plans previously approved by Council.

Further comments to be made following completion of the re-assessment by the staff.

**ATTACHMENTS**

- Copy of revised plans
- Copy of original plans.

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Metropolitan Region Scheme Cottesloe Town Planning Scheme No. 2 Residential Design Codes
TPS Policy Implications:	No. 5 - Building Heights
Financial Implication:	Nil
Strategic Implication:	Nil

**AREA OF NON-COMPLIANCE**

The application still remains the subject of assessment.

**NOTIFICATION OF NEIGHBOURS**

Twenty-one neighbours contacted by registered post. No submissions were received.

**BACKGROUND**

Council dealt with a similar application in early to mid 2001. The proposal was to upgrade the existing buildings fronting onto Stirling Highway and to construct a three storey mixed-use development of 10 residential units and three

showrooms to the rear of the Stirling Highway buildings. The new development would front onto Brixton Street.

Development approval was granted and work on the existing buildings fronting onto Stirling Highway was carried out.

**STAFF COMMENT**

This application was one of the nine applications that were not processed at the October Development Services Committee meeting due to the effect of the introduction of the Residential Design Codes.

The applicant has submitted revised plans for the Brixton Street portion of the development proposal.

The application is now required to be re-assessed under the Residential Design Codes. The Residential Design Codes have a specific section for mixed-use development, which was not part of the original Residential Planning Codes.

The plans are being re-assessed to determine:

- extent of changes to the plans; and
- conformity with the Residential Design Code provisions.

**CONCLUSION**

The development appears to be in general conformity with the previous approval. Following completion of the assessment of the application, further comments will be made to the Development Services Committee.

**OFFICER RECOMMENDATION**

For further consideration by the Development Services Committee following completion of the assessment of the application.

**COMMITTEE COMMENT**

The Manager, Development Services explained that the applicant had submitted revised plans for consideration for the mixed use portion of the development site. These plans had to be re-assessed under the new Residential Design Codes.

He also advised the committee that the development assessment of the revised plans had not been completed as the temporary officer was on sick leave and could not carry out the re-assessment of the application.

**TP150 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Furlong

**That consideration of this application be deferred to the December, 2002 meeting of Council.**

Carried 9/0

**TP151 REVIEW OF DELEGATION TO THE MANAGER, DEVELOPMENT SERVICES**

**File:** X4.6  
**Author:** Mr Stephen Sullivan  
**Report Date:** 30 October, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

To review the delegation of authority from Council to the Manager of Development Services and the Chief Executive Officer under Section 7.10 of the No. 2 Town Planning Scheme Text, having regards to the introduction of the Residential Design Codes.

**BACKGROUND**

The statutory documents that Council administers contain various matters that Council can delegate to other persons or Committees. This allows the routine or standard items to be dealt with by staff, leaving Council to deal with the major areas of government.

The introduction of the Residential Design Codes has resulted in a change to the structure in the way in which development is assessed. A review of the delegation is required to determine whether there are any changes required to that delegation.

Council's decision in relation to this matter is reproduced below:

- (2) *Request the Administration to:*
- (a) ...
  - (d) *Review the May 2002 Council Delegation to the Manager, Development Services and the Development Services Committee, having regard to the effect of the gazettal of the Residential Design Codes on the Delegation Policy and report to the November, 2002 meetings of Council.*

The Delegation policy sets out those

- (2) Conditions of Delegation
- (a) *If it is a requirement of:*
    - (i) *Town Planning Scheme No. 2; or*
    - (ii) *the Residential Planning Codes; or*
    - (iii) *the Town Planning Scheme Policies; or*
    - (iv) *any other relevant statutory document.*
- that the adjoining owners, occupiers and owners of other properties which may be affected by the proposed development, be advised in writing of the application and given the opportunity to submit comments in writing to the Council, then before exercising this delegated authority, the Manager of Development Services or the Chief Executive Officer, must be satisfied that when such a requirement exists:-*
- (A) *the required notices were served; and*
  - (B) *no written submissions expressing objection were received.*

*In the event of any submissions expressing objection being received, which cannot be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties, the application is to be referred to Council for determination.*

- (b) *The application is to be referred to the Council for determination where:*
- (i) *the proposed development requires the exercise by the Council of a discretion under the Residential Planning Codes, other than a discretion to vary the setbacks.*
  - (ii) *the proposed development involves the siting of a carport, garage or pergola within the front setback area and another reasonable alternative site is available; or*
  - (iii) *the proposed development does not comply with a requirement or standard of Town Planning Scheme No. 2 (other than a standard or requirement of the Residential Planning Codes) or of the Town Planning Scheme Policies and a discretion exists to vary that standard or requirement.*
- (3) *Power to Grant Planning Approval*
- (a) *Subject to part (3)(b), the power to grant Planning Approval is restricted to the following:*
- (i) *For those applications which comply in all respects with the provisions and requirements of the Council's Town Planning Scheme, Policies and/or Residential Planning Codes; or*
  - (ii) *For those applications which require a variation to setbacks having regard to site specific issues; or*
  - (iii) *Subject to conditions to ensure that the development conforms to the provisions and requirements of the Council's Town Planning Scheme, Policies, and/or Residential Planning Codes; or*
  - (iv) *For siting of carports and pergolas within the front setback area provided that there is no reasonable alternative site available and subject to all provisions of Council's policy in relation to carports (TPSP 003); or*
  - (v) *For applications for demolition where in the view of the Manager Development Services, the proposed demolition warrants the provision of conditions of planning consent relating to the general amenity of the area.*

### **STAFF COMMENT**

The areas of the Delegation Policy that needs to be reviewed are outlined below:

#### **General Comments**

Wherever the term "Residential Planning Codes" is mentioned, the term should be replaced with the "Residential Design Codes".

#### **Specific comments**

Residential development is subject to the following controls:

- Town Planning Scheme text
- Residential Design Codes; and
- Town Planning Scheme Policies.

The Scheme Text covers building heights and amenity controls. The Town Planning Scheme Policies supplement Scheme provisions or the perceived shortfall in the provisions of the Residential Planning Codes.

With the Residential Design Codes replacing the Residential Planning Codes, the structure for assessing development has changed. The Residential Design Codes have two sets of criteria and those are the Acceptable standards and Performance Criteria.

Unless there is a Town Planning Scheme text provisions or Town Planning Scheme Policy that specifically covers an Acceptable Standard – development that complies with the Acceptable Standards has met the objectives of the Codes. It was anticipated by the authors of the Codes that most applicants would seek approval under these standards. At this stage, most proposals require approval under the Performance Criteria.

For those development applications where the applicants have chosen to use the Performance Criteria – Council is required to exercise its discretion as to whether the Performance Criteria have been met to Council's satisfaction.

Therefore it is suggested that the following principles be applied in permitting Council to delegate its authority to the Manager, Development Services when dealing with Applications for Planning Consent:

- (1) The Manager, Development Services has delegated authority to determine those Residential applications for Approval to Commence Development where:
  - (a) the development meets the Acceptable Standards in the Residential Design Codes;
  - (b) the Manager, Development Services is satisfied that the development meets the Performance Criteria for Design Elements 2-6 and 8-10;
  - (c) the development meets the Acceptable Standards of Part 4.1 – Special purpose Dwellings;
  - (d) the development meets the requirements of the existing Town Planning Scheme Policies; and
  - (e) submissions received on the development proposal:
    - (i) are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated;
    - (ii) are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR
    - (iii) can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.
- (2) In considering those applications for approval to Commence Development, the obligations imposed on Council through Clause 5.1.2 of the Town Planning Scheme text are considered before a decision is made on the application;
- (3) The Manager, Development Services does not have delegated Authority to make a determination on an application for Approval to Commence Development that:
  - (a) seeks a variation to Design Element 1 - Density of the Residential Design Codes;
  - (b) seeks approval for development forward of the 6.0m street setback line (unless the matter relates to Town Planning Scheme Policy 004 – garages and Carports forward of the Building Line);
  - (c) development under Part 4.2 Mixed –Use Development provisions of the Residential Design Codes;
  - (d) variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;



- (e) unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:
  - (i) State Register of Heritage Places;
  - (ii) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
  - (iii) Municipal Inventory as Category 1 to Category 5 buildings.
  - (iv) Town Planning Scheme Policy No. 12; or
  - (v) those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.

Council’s attention is drawn to part (1)(e) of the guiding principles for delegation to the Manager, Development Services. Currently, any application that results in a submission being received is referred to Council, irrespective of the validity of the grounds of submission.

The current delegation allows as a variation, the following:

*“In the event of any submissions expressing objection being received, which cannot be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties, the application is to be referred to Council for determination.”*

The purpose of this provision is to permit the Manager, Development Services to make an assessment in relation to the validity of the submission. There are some submissions that do not relate to Planning matters or the submission is incorrect when the assessment process has been carried out.

Having made that assessment of the grounds of submissions, the Manager, Development Services can then determine whether the application should be:

- (i) referred to Council (or the Development Services Committee) for determination;
- (ii) determined following consultation between the applicant, submitter and Council;
- (iii) addressed by the imposition of a condition of Planning Consent without consultation; OR
- (iv) approved without the imposition of a special condition of approval without consultation.

### **CONCLUSION**

The revised delegation is seen as a response to the new structure of the Residential Design Codes. The delegation will need to be reviewed as circumstances change such as the development of the Streetscape and Boundary Wall policies are adopted by Council. Further, as issues arise as a consequence of the application of the Residential Design Codes to development applications, the delegation can be refined by staff or Council.

The issue of determining the validity of submissions is submitted for discussion by Council.

### **VOTING**

Simple majority.

**OFFICER RECOMMENDATION**

That Council:

**REGISTER NO. 6 - DETERMINATION OF APPLICATIONS FOR PLANNING CONSENT**

In accordance with the provisions of Clause 7.10 of the text to the Town of Cottesloe Town Planning Scheme No. 2, Council delegates to the Manager of Development Services and the Chief Executive Officer, the authority to determine those applications for planning consent detailed in Clause 1, subject to the provisions of Clause 2.

(1) **Extent of Delegation**

Subject to the provisions of Clause 2, the authority to determine applications for planning consent shall be restricted to the following types of applications:

- development relating to single houses;
- additional dwelling;
- no more than two grouped dwellings or multiple dwellings;
- home occupations;
- minor additions and alterations to existing unit developments;
- minor additions and alterations to existing commercial premises; and
- change in land uses.

In the case of applications for planning consent for the demolition of a building, the authority to grant planning approval is restricted to only those buildings that are not listed in either the:

- (a) State Register of Heritage Places;
- (b) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
- (c) Municipal Inventory as Category 1 to Category 5 buildings.
- (d) Town Planning Scheme Policy No. 12; or
- (e) those buildings that are listed as either "Essential" or "Contributory" in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.

The delegation referred to above, also extends to development that occurs within a Primary Road Reservation under the Metropolitan Region Scheme.

(2) **Conditions of Delegation**

If it is a requirement of:

- (i) Town Planning Scheme No. 2; or
- (ii) the Residential Planning Codes; or
- (iii) the Town Planning Scheme Policies; or
- (iv) any other relevant statutory document.

that the adjoining owners, occupiers and owners of other properties which may be affected by the proposed development, be advised in writing of the application and given the opportunity to submit comments in writing to the Council, then before exercising this delegated authority, the Manager of Development Services or the Chief Executive Officer, must be satisfied that when such a requirement exists, the required notices were served.

(3) **Power to Grant Planning Approval**

- (a) The Manager, Development Services has delegated authority to determine those Residential applications for Approval to Commence Development where:

- (i) the development meets the Acceptable Standards in the Residential Design Codes;
- (ii) the Manager, Development Services is satisfied that the development meets the Performance Criteria for Design Elements 2-6 and 8-10;
- (iii) the development meets the Acceptable Standards of Part 4.1 – Special purpose Dwellings;
- (iv) the development meets the requirements of the existing Town Planning Scheme Policies; and
- (v) submissions received on the development proposal:
  - (A) are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated on planning grounds;
  - (B) are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR
  - (C) can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.
- (b) The Manager, Development Services does not have delegated Authority to make a determination on an application for Approval to Commence Development that:
  - (i) seeks a variation to Design Element 1 - Density of the Residential Design Codes;
  - (ii) seeks approval for development forward of the 6.0m street setback line (unless the matter relates to Town Planning Scheme Policy 004 – Garages and Carports Forward of the Building Line);
  - (iii) development under Part 4.2 Mixed –Use Development provisions of the Residential Design Codes;
  - (iv) variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;
  - (v) unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:
    - (A) State Register of Heritage Places;
    - (B) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
    - (C) Municipal Inventory as Category 1 to Category 5 buildings.
    - (D) Town Planning Scheme Policy No. 12; or
    - (E) those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.
- (c) Notwithstanding the requirements of parts (3)(a) and (b), where Council has previously made a determination on an application for Planning Approval and:
  - (i) that approval has expired and a new application for planning approval has been lodged; or
  - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;

the Manager, Development Services or the Chief Executive Officer are authorised to deal with these application under Delegated Authority.

(4) Power to Refuse Planning Approval

When the application does not conform to the provisions and requirements of the Council's Town Planning Scheme, Policies and/or the Residential Planning Codes and no discretion to vary such control exists.

**COMMITTEE COMMENT**

Manager Development Services advised Councillors the reason for the changes and that it is giving officers authority if objection is made then officers have the power to sort the issues out if only minor without application going before Council

Cr. Ewing advised that there are a lot of people that don't understand the process and cannot read plans properly. Some people do write letters and don't include all the issues, whereas Council is there to protect these people.

Chief Executive Officer pointed out that the Manager of Development Services has the power to approve applications without the approval of the Chief Executive Officer.

"The recommendation is to be changed to read the Manager of Development Services or the Chief Executive Officer not 'and' the Chief Executive Officer."

**COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Furlong

That Council:

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(1) Extent of Delegation

Subject to the provisions of Clause 2, the authority to determine applications for planning consent shall be restricted to the following types of applications:

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- additional dwelling;
- no more than two grouped dwellings or multiple dwellings;
- home occupations;
- minor additions and alterations to existing unit developments;
- minor additions and alterations to existing commercial premises; and
- change in land uses.

In the case of applications for planning consent for the demolition of a building, the authority to grant planning approval is restricted to only those buildings that are not listed in the:

- (a) State Register of Heritage Places;
- (b) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
- (c) Municipal Inventory as Category 1 to Category 5 buildings.
- (d) Town Planning Scheme Policy No. 12; or
- (e) List of those buildings that are listed as either "Essential" or "Contributory" in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.

The delegation referred to above, also extends to development that occurs within a Primary Road Reservation under the Metropolitan Region Scheme.

(2) Conditions of Delegation

If it is a requirement of:

- (i) Town Planning Scheme No. 2; or
- (ii) the Residential Planning Codes; or
- (iii) the Town Planning Scheme Policies; or
- (iv) any other relevant statutory document.

that the adjoining owners, occupiers and owners of other properties which may be affected by the proposed development, be advised in writing of the application and given the opportunity to submit comments in writing to the Council, then before exercising this delegated authority, the Manager of Development Services or the Chief Executive Officer, must be satisfied that when such a requirement exists, the required notices were served.

(3) Power to Grant Planning Approval

- (a) The Manager, Development Services or the Chief Executive Officer has delegated authority to determine those Residential applications for Approval to Commence Development where:
  - (i) the development meets the Acceptable Standards in the Residential Design Codes;
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  - (iii) the development meets the Acceptable Standards of Part 4.1 – Special purpose Dwellings;
  - (iv) the development meets the requirements of the existing Town Planning Scheme Policies; and
  - (v) submissions received on the development proposal:
    - (A) are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated on planning grounds;
    - (B) are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR
    - (C) can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.

- (b) The Manager, Development Services or the Chief Executive Officer does not have delegated Authority to make a determination on an application for Approval to Commence Development that:
- (i) seeks a variation to Design Element 1 - Density of the Residential Design Codes;
  - (ii) seeks approval for development forward of the 6.0m street setback line (unless the matter relates to Town Planning Scheme Policy 004 – Garages and Carports Forward of the Building Line);
  - (iii) development under Part 4.2 Mixed – Use Development provisions of the Residential Design Codes;
  - (iv) variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;
  - (v) unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:
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    - (C) Municipal Inventory as Category 1 to Category 5 buildings.
    - (D) Town Planning Scheme Policy No. 12; or
    - (E) those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.
- (c) Notwithstanding the requirements of parts (3)(a) and (b), where Council has previously made a determination on an application for Planning Approval and:
- (i) that approval has expired and a new application for planning approval has been lodged; or
  - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;
- the Manager, Development Services or the Chief Executive Officer are authorised to deal with these application under Delegated Authority.
- (5) Power to Refuse Planning Approval  
When the application does not conform to the provisions and requirements of the Council’s Town Planning Scheme, Policies and/or the Residential Planning Codes and no discretion to vary such control exists.

## AMENDMENT

Moved Cr. Morgan, seconded Cr. Utting

That the motion be amended by deleting the following: (1)(c), (1)(d), (1)(e) and (3)(b)(v)(C), (3)(b)(v)(D) and (3)(b)(v)(E)

Lost 2/7

The original motion was put.

TP151 COUNCIL RESOLUTION

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- (a) State Register of Heritage Places;
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- (e) List of those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.

The delegation referred to above, also extends to development that occurs within a Primary Road Reservation under the Metropolitan Region Scheme.

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If it is a requirement of:

- (i) Town Planning Scheme No. 2; or
- (ii) the Residential Planning Codes; or
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- (iv) any other relevant statutory document.

that the adjoining owners, occupiers and owners of other properties which may be affected by the proposed development, be advised in writing of the application and given the opportunity to submit comments in writing to the Council, then before exercising this delegated authority, the Manager of Development Services or the Chief Executive Officer, must be satisfied that when such a requirement exists, the required notices were served.

**(3) Power to Grant Planning Approval**

- (a) The Manager, Development Services or the Chief Executive Officer has delegated authority to determine those Residential applications for Approval to Commence Development where:
- (i) the development meets the Acceptable Standards in the Residential Design Codes;
  - (ii) the Manager, Development Services is satisfied that the development meets the Performance Criteria for Design Elements 2-6 and 8-10;
  - (iii) the development meets the Acceptable Standards of Part 4.1 –Special purpose Dwellings;
  - (iv) the development meets the requirements of the existing Town Planning Scheme Policies; and
  - (v) submissions received on the development proposal:
    - (A) are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated on planning grounds;
    - (B) are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR
    - (C) can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.
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  - (iv) variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;
  - (v) unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:
    - (A) State Register of Heritage Places;



- (B) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
  - (C) Municipal Inventory as Category 1 to Category 5 buildings.
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- (c) Notwithstanding the requirements of parts (3)(a) and (b), where Council has previously made a determination on an application for Planning Approval and:
- (i) that approval has expired and a new application for planning approval has been lodged; or
  - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;

the Manager, Development Services or the Chief Executive Officer are authorised to deal with these application under Delegated Authority.

**(6) Power to Refuse Planning Approval**

When the application does not conform to the provisions and requirements of the Council’s Town Planning Scheme, Policies and/or the Residential Planning Codes and no discretion to vary such control exists.

Carried 9/0

**TP152 NO. 238 & 238A (LOT 39) BROOME STREET, COTTESLOE – ALTERATIONS & ADDITIONS TO EXISTING RESIDENCES**

**File No:** No. 238 & 238A Broome Street  
**Author:** Mr Daniel Heymans  
**Report Date:** 12 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Sullivan

**Property Owner:** J Craven & C & L O’Keeffe  
**Applicant:** J Craven & C & L O’Keeffe  
**Date of Application:** 21 October 2002

**M.R.S. Reservation:** Urban  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 663m<sup>2</sup>

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**SUMMARY**

The purpose of this report is to seek Council approval to the alterations and additions to the existing grouped dwellings. Conditional approval is recommended.

**ATTACHMENTS:**

- Location Plan
- Submissions (x1)
- Site Plan, Floor Plans and Elevations
- Letter from applicant providing justification for variations to Scheme and Code requirements.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2  
Residential Design Codes

**HERITAGE LISTING:**

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

**AREA OF NON-COMPLIANCE****Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
003 - Garages & Carports in the Front Setback Area	6.0m	0.7m and 1.8m

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
2	0 metre setback	0.7 metres	Clause 3.2.3 – P3
3	1.0 metre from boundary	Nil Setback	Clause 3.3.2 – P1
8	4.5 metres from bedroom 3 window	3.1m	Clause 3.8.1 – P1

**CONSULTATION**

Neighbours were notified by registered post when the development application was initially submitted to Council on 21 October 2002. One submission was received.

**No. 236 Broome Street**

Objection to the:

- location of the carports in the front setback area, as they will detract from the current streetscape; and
- height of the buildings as they will overshadow 236 Broome Street.

## BACKGROUND

The subject property at Broome Street is located on the eastern side of the street, and has a right of way located at the rear of the property. Previous owners of No. 238 Broome Street previously altered the carport into bedroom 3 illegally, however at the time, Council did not proceed with legal action and accepted the unauthorised works.

## DISCUSSION

### Carport Front Setback

A variation is being sought to the front setback for carports to a 0.7m for the double carport and a 1.8m setback for the single carport. As per Clause 3.2.3 of the Residential Design Codes, the Acceptable Development (A3.4) states:

*“Carports within the street setback area, provided that the width of carport does not exceed 50 percent of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent.”*

However the carports take up approximately 68% of the frontage at the building line, so this development does not satisfy this standard.

As a result, the Performance Criteria for this clause needs to be considered:

*“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 or vice versa.”*

Town Planning Scheme Policy No. 3: Garages and Carports in Front Setback Area requires carports and garages to be positioned behind the front setback line in accordance with Table 1 of the Residential Design Codes, which on land coded R20, is 6 metres. The policy further states that Council may allow lesser setbacks to the primary street including a nil setback in the case of a carport.

In considering the variation, the Policy sets out those matters that should be taken into account. They include:

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

Notwithstanding, it is the view of Administration that the single carport be reduced in size to 5.5m in length which will provide for a front setback of 2.4m.

In relation to the double carport, it is considered that this carport, together with the single carport would obstruct the view between the dwelling and the street and also would detract from the streetscape and the appearance of the dwellings. Therefore it is recommended that the double carport be altered to a single carport and be setback 6m from the street boundary.

**Visual Privacy**

Clause 3.8.1 of the Residential Design Codes require privacy setbacks to bedrooms of 4.5 metres and to balconies of 7 metres. Assessment of the application using the cone of vision indicates that the upper floor Master Bedroom window and balcony have a 3 metre setback from the boundary.

Overlooking from the Master Bedroom window can easily be overcome by either moving the window to the eastern side of the bedroom or alternatively altering the window so that it is located 1.65 above the FFL.

The overlooking from the balcony, towards the north, can also be easily be overcome through screening the northern side to a height of at least 1650mm above the FFL.

**Overshadowing**

The Residential Design Codes allow a development to overshadow an adjoining property by 25% at the winter solstice. The only new shadow that be cast would be from the double carport for the southern most dwelling. The remaining shadow is from the existing building. The shadow from the proposed additions to the northern unit will not affect the property at No. 236 Broome Street.

**CONCLUSION**

That the proposed development be approved subject to conditions to require compliance with the Scheme and the Residential Design Codes with respect to carport locations, boundary setbacks and visual privacy.

**VOTING**

Simple Majority.

**COMMITTEE COMMENT**

Crs Ewing and Birnbrauer agreed to a site visit with the applicants at 8:00am Saturday morning (23 November, 2002).

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Furlong

That Council:

- (1) GRANT Planning Consent for the alterations and extensions to the existing dwellings at No. 238 & 238A (Lot 39) Broome Street, Cottesloe in accordance with the plans received on 21 October 2002, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service

- plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if, Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (e) Any front boundary fencing to Broome Street shall be of an "Open Aspect" design and the subject of a separate application to Council.
  - (g) Revised plans being submitted for approval by the Manager of Development Services, showing:
    - (i) The Master Bedroom Window being modified to prevent overlooking into the adjoining property by either:
      - a. being repositioned to the eastern side of the bedroom; OR
      - b. being built 1.65m above FFL.
    - (ii) The upper floor balcony being modified to prevent overlooking into the adjoining property by being provided with a fixed solid screening to a height of at least 1650mm above the FFL;
    - (ii) The proposed single carport being reduced in length to 5.5m and setback 2.4m from the front boundary;
    - (iii) The proposed double carport being modified to a single carport and being located 6m from the front setback.
- (2) Advise the submitters of this decision.

**FURTHER REPORT FROM MANAGER DEVELOPMENT SERVICES –  
25 NOVEMBER, 2002**

A letter has been received from the owner of No. 238 Broome Street seeking deferral of the application to the December 2002 meeting.

**OFFICER'S AMENDED RECOMMENDATION**

That Council:

- (1) having regard to the letter received from the owner of No. 238 Broome Street on the 25 November, 2002, defers consideration of the application for Approval to Commence Development for that site to the December, 2002 meeting of Council; and
- (2) inform the owner of No. 238 A Broome street of Council's decision.

**AMENDMENT**

Moved Cr. Morgan, seconded Cr. Walsh

That the motion be deleted and substituted with the recommendation from the Manager of Development Services' Report above.

Carried 9/0

The amended motion was put.

TP152 **COUNCIL RESOLUTION**

**That Council:**

(1) Having regard to the letter received from the owner of No. 238 Broome street on the 25 November, 2002, defer consideration of the application for Approval to Commence Development for that site to the December, 2002, meeting of Council; and

(2) Inform the owner of No. 238A Broome street of Council's decision.

Carried 9/0

**TP153 NO. 29 (LOT 22) ERIC STREET – TWO, TWO STOREY SINGLE HOUSES WITH BASEMENT CAR PARKING AREAS**

<b>File No:</b>	No. 29 Eric Street
<b>Author:</b>	Janine McDonald
<b>Report Date:</b>	12 November, 2002
<b>Author Disclosure of Interest:</b>	Nil
<b>Senior Officer:</b>	Stephen Sullivan
<b>Property Owner:</b>	MCW Cottesloe Unit Trust
<b>Applicant:</b>	Jones Coulter Young
<b>Date of Application:</b>	15 July, 2002 (revised plans on the 6 September, 2002)
<b>M.R.S. Reservation:</b>	N/A
<b>Zoning (TPS No. 2):</b>	Residential
<b>Density:</b>	R30
<b>Lot Area:</b>	354m <sup>2</sup> each

### **SUMMARY**

The purpose of this report is to seek Council approval to the development of two, two-storey single houses. Conditional approval is recommended.

### **ATTACHMENTS**

- Location Plan
- Submissions x 3
- Plans and Elevations
- Letter from applicant addressing areas of non-compliance with Scheme and Design Codes.

### **STRATEGIC IMPLICATIONS**

N/A

### **STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2  
Residential Design Codes of Western Australia

### **HERITAGE LISTING:**

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

**AREA OF NON-COMPLIANCE**

**Town Planning Scheme Text:**

Clause	Required	Provided
5.1.1. Building Height	Wall height of 16.76 RL house 1	17.27 RL
5.1.1. Building Height	Wall height of 16.25 RL house 2	16.76 RL
<b>NB: the above wall heights are the front wing only, the rear wing height is within limits</b>		
5.1.1. Building Height	Parapet height of 17.25 to house 2	17.53 RL

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
Yet to be prepared	1.5m setback to parapet wall.	Nil

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	2.5m setback to front wing	2.3m	Clause 3.3.1 – P1
8	Visual privacy setbacks to upper floor balconies	See cone of vision diagram attached	Clause 3.8.1 – P1

**CONSULTATION**

Submissions were received from the following landowners:

No. 147 Broome Street

Objects to the height of the east facing doors to the corridor which separates the front wing of house 2 from the rear wing stating that they overlook his property. The submission suggests that the door heights are lowered to 2.04 metres.

No. 149 Broome Street

Also objects to the height of the east facing doors to the corridor between the front and rear wings of proposed house 2.

No. 10 Geraldine Street

Expresses concern that there may be balconies proposed to the second storey at the rear of the proposed houses (south elevation) with the potential to overlook into his property.

**BACKGROUND**

Approval to subdivide the land into two, green title lots of 354m<sup>2</sup> each was granted by the Western Australian Planning Commission on 24 October 2001. The approval was conditional upon the applicant obtaining development approval for the development of a house on each of the lots and the buildings being constructed to plate height prior to the submission of the Plan of Survey to the Commission for endorsement.

The development site is on the southern side of Eric Street, one lot from the corner of Broome Street. The land falls in a west to east direction by approximately 1 metre. The proposal seeks to comprehensively re-develop the lots with two, double storey dwellings that are contemporary in style and are constructed primarily of concrete and cedar weatherboards. The application proposes to develop the houses with undercroft garages and a parapet wall between them.

**Design Advisory Panel**

Due to the contemporary nature of the design, the proposal was referred to the October meeting of the Design Advisory Panel for comment. The panel raised concerns with respect to the development in the street setting; the location of the crossover and possible loss of the street tree, the dominance of the garages and the filling on the eastern side of the property.

Revised plans submitted by the applicant have addressed those issues by:

- relocating the crossover (to avoid the street tree);
- removal of the proposed fill on the eastern side of the property;
- lowering of the building apart from the front section;
- changes to the front elevation of the building.

**DISCUSSION****Parapet Walls**

Clause 3.3.2 of the Design Codes state that it is acceptable to build up to a boundary where the subject site and the affected adjoining site are created in a plan of subdivision submitted concurrently with the development application. as is the case with this proposal. Conversely, the Codes do not allow the construction of parapet walls to boundaries that exist. In any event, Council resolved at its meeting of 28 October 2002 to prepare a Streetscape Policy which will effectively enforce boundary setbacks throughout the town.

Enforcing a setback between the two dwellings will have a significant impact upon the design of the houses given the narrowness of the lots and raise issues with respect to overlooking and privacy between each dwelling. This type of development has been a problem in the past where approval was given for two dwellings joined by a parapet but only one dwelling constructed. In this case this situation could not occur however, as the subdivision approval is for two dwellings to be constructed to plate height prior to the endorsement of the Plan of Survey. As a result, it is recommended that the parapet wall be allowed.

**Building Heights**

The wall height for the front wing of both houses exceeds the 6 metre limit imposed by Clause 5.1.1 of the Scheme by 510mm. The additional wall height is the result of concealing the garages as much as possible from the street by making them undercroft spaces whilst providing the necessary gradient to the driveway. The floor to ceiling heights proposed by the application are not excessive and therefore could not be reduced without detrimentally impacting upon the design. Given the above, and as the ridge heights of the development complies, no objection is raised to the wall height variation.

The rest of the building was lowered to comply with ridge heights and to help reduce the extent of filling and overlooking.

Refer to the attached letter for the applicant's comments relating to building heights

**Visual Privacy**

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. In this case, the north and south facing balconies to both houses require privacy setbacks of



7.5 metres which is measured using a cone of vision. Applying the cones of vision to the balconies proposed by this application indicates that there is the potential to overlook into the properties to the east and west of the development site. Where the acceptable setback standard is not met, compliance with the performance standards set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

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

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

The overlooking into 149 Broome Street is primarily into the rear portion of the backyard that is behind a shed and is used as a clothes drying area. A mature tree further obscures the view into the useable area of backyard. The overlooking into 147 Broome Street is into the rear yard of that property but not the area that is used for outdoor entertaining purposes which is obscured by mature vegetation and a shade sail. The forward overlooking into 27 Eric Street is onto the eastern side wall of that house and the eastern passage between the house and the boundary fence and the rear overlooking, although potentially into the rear yard of that property, is obscured by mature vegetation. Given the above, it is considered that the cones of vision do not encompass active habitable spaces and therefore the performance criteria is adequately achieved in this respect.

### **Submissions**

The concerns of the owners of 149 and 147 Broome Street regarding the height of the east facing doors to the corridor between the front and rear wing of house 2 have been addressed by the applicant in the revised plans which show a finished floor level that is approximately 750mm lower than that originally viewed by the submitters. In addition, these doors are at ground level and are set back from the boundary by 5.7m and as such, it is considered that overlooking from them is not an issue, irrespective of the height of the door frames.

There are no balconies proposed to the rear of the property, which would overlook the rear of No. 10 Geraldine Street. An elevated deck has been lowered to ground level. The only window facing the rear boundary at the upper level is an en-suite window to both dwellings. No special conditions are required.

### **CONCLUSION**

The proposal has been modified substantially to address Council’s concerns and therefore it is recommended that it be conditionally approved.

TP153 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Furlong

That Council:

- (1) **GRANTS its Approval to Commence Development for two, double storey single houses at No. 29 (Lot 22) Eric Street Cottesloe, as shown on the plans received on the 13 November, 2002, subject to the following conditions:**
  - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
  - (c) **The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
  - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
  - (e) **The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.**
  - (f) **Any front boundary fencing to Eric Street being of an "Open Aspect" design and the subject of a separate application to Council.**
  - (g) **The subdivision approval being modified to provide for an easement over the common wall between the two houses.**
  - (h) **The applicant demonstrating that the grades into the basement meet Australian Standards.**
- (2) **Advise the submitters of this decision.**

Carried 9/0

**TP154 NO. 1 (LOT 41) FINEY STREET, COTTESLOE – PROPOSED TWO LOT SURVEY STRATA SUBDIVISION**

<b>File No:</b>	<b>1 Finney Street</b>
<b>Author:</b>	<b>J McDonald</b>
<b>Report Date:</b>	<b>28 October, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Sullivan</b>

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<b>Property Owner:</b>	<b>Ms A Stroud</b>
<b>Applicant:</b>	<b>Property People Surveying</b>
<b>Date of Application:</b>	<b>4 October, 2002</b>
<b>M.R.S. Reservation:</b>	<b>Urban</b>
<b>Zoning (TPS No. 2):</b>	<b>Residential</b>
<b>Density:</b>	<b>R 20</b>
<b>Lot Area:</b>	<b>1007m<sup>2</sup></b>

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### **SUMMARY**

The purpose of this report is to make a recommendation to the Western Australian Planning Commission with respect to the above subdivision application.

### **ATTACHMENTS**

- Location Plan
- Subdivision Plan.

### **STRATEGIC IMPLICATIONS**

N/A.

### **STATUTORY ENVIRONMENT**

Cottesloe Town Planning Scheme No. 2  
Residential Planning Codes

### **POLICY IMPLICATIONS**

TPS Policy Implications: N/A

### **HERITAGE LISTING:**

State Register of Heritage Places	N/A
TPS No. 2	N/A
Town Planning Scheme Policy No. 12	N/A
Draft Heritage Strategy Report	John St Heritage Precinct – Contributory
Municipal Inventory	N/A
National Trust	N/A

### **CONSULTATION**

Neighbour notification is not required for subdivision referrals from the Western Australian Planning Commission.

### **BACKGROUND**

The subject land is on the corner of Curtin Avenue and Finey Street and is presently developed with a single storey single house. A privately owned right-of-way abuts the lot on its western boundary.

### **DISCUSSION**

#### **Proposal**

The proposal seeks to subdivide the land to create two survey strata lots of 662m<sup>2</sup> and 345m<sup>2</sup> respectively. The eastern most wall of the existing house, which contains a window, forms the proposed boundary in part. The rest of the

boundary cuts through an existing garage, which the applicant advises, is to remain.

### **Residential Design Codes**

The new Design Codes gazetted on 4 October, 2002 specify a minimum lot size of 440m<sup>2</sup> and an average lot size of 500m<sup>2</sup> for lots (strata or freehold title) on land coded R20. However, the Commission has advised that the requirements of the previous Planning Codes will apply to land coded R20 until a time as yet to be determined. The previous Codes require an average lot size of 450m<sup>2</sup> for strata title lots on land coded R20.

Western Australian Planning Commission Development Control Policy DC 2.2 clause 3.2.3 states that the Commission can consider a 5% variation to the minimum and average lot sizes specified by the Codes in existing residential areas. Notwithstanding the differences between the old and the new Codes and the variation allowed under Commission Policy, the proposed lot size of 345m<sup>2</sup> is well below that required and represents a density of approximately R25.

Approval of the proposed subdivision will also result in a deficiency in car parking spaces, non-compliance with setback requirements and has implications with respect to visual privacy due to the window in the wall that comprises the proposed boundary between the lots.

### **Building Codes of Australia Requirements**

The proposed lot configuration is contrary to the requirements of the Building Codes of Australia which require minimum setbacks from boundaries for fire rating purposes. For example, the minimum setback for an opening to a boundary is 900mm and the minimum setback for eaves is 450mm. The location of the proposed boundary through the garage could not be approved as the Building Codes require a fire rated wall on the boundary between the two lots.

### **Heritage Implications**

The subject land is located within the John Street Heritage Precinct as identified within the Town of Cottesloe Heritage Strategy where the objective is to:

*“Ensure the significant historic and physical features of the heritage area are retained and conserved; to ensure the conservation of existing buildings, alterations and extensions, fencing and new development are all carefully monitored and guided by reference to the Town of Cottesloe Residential Conservation and Development Guidelines; to ensure that consent for the demolition of any building which has been identified as “essential” or “contributory” to the character of the area is not given unless an assessment of the effect upon the heritage character of the area is undertaken.”*

The existing house, which is identified as 195 Curtin Avenue within the Heritage Strategy, is listed as a contributory property. Contributory properties are those that:

*“contribute to the current character of the Heritage Areas. Retention of these properties is encouraged. If redevelopment of the site occurs any new development should reinforce the character of the area.”*

Although the owner's intention is unclear, as is a right under Town Planning Scheme No. 2, the newly created lot of 346m<sup>2</sup> could be developed with a two-storey dwelling. Development of such a small lot has the potential to adversely impact upon the heritage characteristics of the locality. Further, approval of the proposal may result in the demolition of the existing house.

### **CONCLUSION**

The proposal is inconsistent with the lot sizes specified in the Residential Design Codes and approval may result in an unsatisfactory form of development, out of keeping with the heritage values of the area. As a result, it is recommended that the Commission be advised that Council does not support the proposed survey-strata subdivision.

### **Voting**

Simple majority.

### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Furlong

That Council:

Advise the Western Australian Planning Commission that it objects to the proposed subdivision at No. 1 (Lot 41) Finey Street, Cottesloe (WAPC Ref No. 1127-02) for the following reasons:

- (1) The proposed lot size of 346m<sup>2</sup> is inconsistent with the requirements of the Residential Design Codes for land coded R20.
- (2) The proposal is inconsistent with the requirements of the Residential Design Codes relating to car parking, setbacks from boundaries and visual privacy.
- (3) The subject land is located within the John Street Heritage Precinct where it is Council's intention to preserve the historic character of the area. The subdivision if approved, and the resultant development on the smallest lot, has the potential to compromise this objective.
- (4) The proposed subdivision is inconsistent with the requirements of the Building Codes of Australia which require adequate fire separation between buildings and lot boundaries.

### **AMENDMENT**

Moved Cr. Morgan, seconded Cr. Birnbrauer

That condition (3) be deleted from the recommendation and the remainder renumbered.

Carried 6/3

The amended motion was put.

## TP154 COUNCIL RESOLUTION

**That Council:**

Advise the Western Australian Planning Commission that it objects to the proposed subdivision at No. 1 (Lot 41) Finey Street, Cottesloe (WAPC Ref No. 1127-02) for the following reasons:

- (1) The proposed lot size of 346m<sup>2</sup> is inconsistent with the requirements of the Residential Design Codes for land coded R20.
- (2) The proposal is inconsistent with the requirements of the Residential Design Codes relating to car parking, setbacks from boundaries and visual privacy.
- (3) The proposed subdivision is inconsistent with the requirements of the Building Codes of Australia which require adequate fire separation between buildings and lot boundaries.

Carried 9/0

TP155 **NO. 18 (LOT 18) ERIC STREET – 2 X 2 STOREY GROUPED DWELLINGS**

<b>File No:</b>	<b>No. 18 Eric Street</b>
<b>Author:</b>	<b>Janine McDonald</b>
<b>Report Date:</b>	<b>11 November</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Steven Sullivan</b>
<b>Property Owner:</b>	<b>BAYSWAN Enterprises Pty Ltd &amp; S. J. Moylan</b>
<b>Applicant:</b>	<b>Hodge &amp; Collard Pty Ltd</b>
<b>Date of Application:</b>	<b>19 September 2002</b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>
<b>Zoning (TPS No. 2):</b>	<b>Residential</b>
<b>Density:</b>	<b>R30</b>
<b>Lot Area:</b>	<b>693m<sup>2</sup></b>

**SUMMARY**

The purpose of this report is to seek Council approval to the development of 2 x two-storey grouped dwellings. Conditional approval is recommended.

**ATTACHMENTS**

- Location Plan
- Submissions (x6)
- Site Plan, Floor Plans and Elevations
- Cone of Vision Diagrams x 2
- Letter from applicant providing justification for variations to Scheme and Code requirements.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2  
Residential Planning Codes of Western Australia

**HERITAGE LISTING:**

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

**UNIT 1 AREAS OF NON-COMPLIANCE**

**Town Planning Scheme Text:**

Clause	Required	Provided
5.1.1 Building Height	Wall height of 18.9 RL	19.5 RL

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
TPSP No. 3	6m front boundary setback	4.5m

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
8	7.5m setback to front and rear balconies	See attached diagram	Clause 3.8.1 – P1
2	A1 - 1.5m setback to secondary street (or communal street)	Nil setback	Clause 3.2.1 – P1
4	Minimum Outdoor living area at least 2/3 uncovered	Courtyard more than 2/3 covered	Clause 3.4.1 – P1

**UNIT 2 AREAS OF NON-COMPLIANCE**

**Town Planning Scheme Text:**

Clause	Required	Provided
5.1.1 Building Height	Wall height of 18.7 RL	19.7 RL

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
N/A	N/A	N/A

**Residential Design Codes:**

DE	Acceptable Standards	Provided	Performance Criteria Clause
8	7.5m setback to forward deck and rear balcony.	See attached diagram	Clause 3.8.1 – P1
3	Walls not higher than 3.0m average can be built to boundary	Garage wall averages 3.7m and has nil setback.	Clause 3.3.2 – P1

**OTHER AREAS OF NON-COMPLIANCE****Residential Design Codes:**

<b>DE</b>	<b>Acceptable Standards</b>	<b>Provided</b>	<b>Performance Criteria Clause</b>
5	4.0m wide for grouped and multiple dwellings	3m wide driveway	Clause 3.5.4 – P4

**CONSULTATION**

Submissions were received from the following property owners:

No. 1/9 Torrens Street

States general concerns regarding a lack of privacy and an increase in noise generated by the proposed development.

No. 2/9 Torrens Street

Is concerned that the proposed balcony at the rear of Unit 2 will result in a loss of privacy and a reduction in value of their property.

No. 3/9 Torrens Street

Objects to the balcony at the rear of Unit 2 stating that it will result in a loss of privacy and a reduction in the value of their property.

No. 4/9 Torrens Street

Objects to the proposed balcony at the rear of Unit 2 which will impact upon their privacy and amenity.

No. 20 Eric Street

Requests that the screening wall on the eastern end of the front balcony of Unit 1 be removed as it would inhibit his views.

No. 6 Hamersley Street

Objects to elements of the design that may impact upon their privacy and amenity. Suggests that the west facing balcony to the Unit 2 be screened, the west facing balcony to the rear of Unit 1 be screened, the deck between Units 1 & 2 screened also, and the west facing window to the Unit 2 tv/utility room is either glazed with obscure glass or made a highlight window.

**BACKGROUND**

The development site is located on the northern side of Eric Street and is currently developed with a 2-storey residence. The subject land rises steeply from Eric Street and is then relatively flat over the rest of the site.

Council gave conditional approval for retention of the existing house and development of a rear strata unit on 27 March, 2002. The current application proposes to demolish the existing residence and develop two double-storey grouped dwellings.

**DISCUSSION****Building Heights**

Both proposed units exceed the 6 metre wall height limit as required by the Scheme. In the case of Unit 1, the variation is approximately 600mm and in Unit 2 the variation is approximately 1 metre. Contributing to the increased wall



height is the excessive floor to ceiling height of the ground floor of each unit which is 4 metres and which is designed presumably, to maximize views to the ocean. Although the ridge heights are within acceptable limits, it is considered that there is insufficient grounds to deviate from the wall height controls specified in the Scheme. Reducing the wall heights will reduce the potential for overlooking into adjoining properties and reduce the impact of the scale of the building on this site which already enjoys an elevated aspect.

Refer to point f. of the attached letter for the applicant's comments in relation to building heights.

### **Boundary Setbacks**

The application proposes a front boundary setback of 4.5 metres. Under the Residential Design Codes, a 4 metre setback applies to land coded R30. However, at its meeting of 28 October 2002, Council resolved to prepare a Streetscape Policy to enforce a 6 metre setback throughout the town in order to preserve established streetscape character. In proximity of the subject site, development is generally setback 6 metres, as is the existing development. Given the above, it is recommended that the proposed development be setback 6 metres from the front boundary.

Refer to point d. of the attached letter for the applicant's comments in relation to the front boundary setback.

A nil setback has been provided to the proposed garage to the rear unit. The parapet wall is not in accordance with clause 3.3.2 of the Design Codes which only allows walls that average 3.0m in height to be built up to one side boundary in areas coded R30 and higher (the garage wall averages 3.7m in height). In addition, the proposed Streetscape Policy mentioned above will require buildings to be setback from side boundaries. Notwithstanding, it is considered in this instance that the parapet wall will not have a detrimental impact on the streetscape given the topography of the block and that it will not be visible from the street. It is considered therefore, that the parapet could be supported subject to the wall height being reduced in height to 3.0m average or less to reduce its impact upon the neighbouring property.

Refer to point e. of the attached letter for the applicant's comments in relation to the parapet wall.

The Residential Design Codes now treat a common driveway serving two or more dwellings as a 'communal street' and requires buildings to be setback from them accordingly. The setback to a communal street is the same as to a secondary street as specified in Table 1 of the Design Codes which is 1.5 metres. Proposed Unit 1 is provided with a nil setback to the communal street and this raises concerns with respect to aesthetics, noise, privacy, safety and liability. As a result, it is considered that the setback should be required.

Refer to point g. of the attached letter for the applicant's comments in relation to the communal street setback.

### **Driveway Width**

Clause 3.5.4 A4.5 of the Design Codes states that driveways for multiple and grouped dwellings should be a minimum width of 4m, but may be reduced to

3m where necessary to retain an existing dwelling. Where the acceptable standard is not met, compliance with the performance criteria set out in clause 3.5.4 must be demonstrated. The clause states that:

*“Vehicular access provided so as to minimise the number of crossovers, to be safe in use and not detract from the streetscape”.*

The 3 metre wide driveway proposed by the application does not result in an increased number of crossovers to the street, nor is it considered that it will detract from the streetscape.

### **Minimum Outdoor Living Area**

The Residential Design Codes require a minimum area of useable open space that must be accessible from a habitable room, behind the front setback line, have minimum dimensions of 4 metres and must be at least 2/3 (67%) uncovered. With respect to Unit 1, the ground level courtyard potentially meets all of the criteria (if the area of landscaping is included within the size calculation) with the exception of coverage, that is, only 35% of the courtyard is uncovered as a result of the balcony over. This is considered to be a significant departure from the requirement of the Codes and there is no other useable area of open space available to the future occupiers of Unit 1. As a result, it is recommended that the development is modified to provide the required minimum area of useable open space.

### **Visual Privacy**

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. In this case, the balconies and decks to both units require privacy setbacks of 7.5 metres which is measured using a cone of vision. Applying the cones of vision to the balconies and decks proposed by this application indicates that there is the potential to overlook into all the properties to the west and north of the development site. Where the acceptable standard is not met, compliance with the performance criteria set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

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

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

The overlooking from the front balcony of Unit 1 into No. 16 Eric Street is of little concern as all that is visible is the blank sidewall and side utility passage of the adjoining unit development at that address. The small area of overlooking from the front balcony of Unit 1 into No. 4 Hamersley Street is of no concern either as this is measured from the strip of balcony that provides access to the proposed living room sliding door and therefore will not be used for outdoor living purposes.

The overlooking from the rear balcony of Unit 1 into No. 4 Hamersley Street is a concern as the raised lawn area shown on the cone of vision diagram represents that address's primary outdoor living area and as such, it is considered that any overlooking into it is unacceptable. As a result, it is recommended that the balcony is either screened or removed.

The cone of vision applied to the front deck of proposed Unit 2 indicates that there is only a small area of overlooking into No.'s 4 and 6 Hamersley Street. Clause 5.1.2 of the Scheme states that notwithstanding specific provisions of the Scheme, Council shall have regard to, and may impose conditions relating to, the location and orientation of buildings on a lot in order to achieve higher standards of day lighting, sunshine or privacy. As the owner of No. 6 Hamersley Street is particularly concerned that overlooking from the proposed outdoor habitable spaces will impinge on her privacy, it is recommended that the deck is either setback further, appropriately screened or is deleted altogether.

The overlooking from the rear balcony of Unit 2 is significant in that it encompasses 2 adjoining properties and has the potential to affect the most people. Indeed, the majority of the submissions received on this application site overlooking from this balcony as their main concern. The cone of vision from this balcony is the result of its unusual design and therefore overlooking can be minimised by either removing the curve of the balcony, extending the screening on the western and northern faces past the floor limit line or removing the balcony altogether.

### **CONCLUSION**

That the proposed development be approved subject to conditions to require compliance with the Scheme and the Residential Design Codes with respect to; building heights, boundary setbacks, visual privacy and open space requirements.

### **Voting**

Simple Majority.

## **TP155 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Furlong

### **That Council:**

- (1) GRANTS its Approval to Commence Development for two, two-storey grouped dwellings at No. 18 (Lot 18) Eric Street Cottesloe, as shown on the plans received on the 1 October 2002, subject to the following conditions:**
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes**

used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
- (f) Any front boundary fencing to Eric Street being of an “Open Aspect” design and the subject of a separate application to Council.
- (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
  - (i) The wall height of proposed Units 1 being reduced to a relative level of 18.9 or less.
  - (ii) The wall height of proposed Unit 2 being reduced to a relative level of 18.7 or less.
  - (iii) Proposed Unit 1 being setback 6 metres from the Eric Street boundary.
  - (iv) The garage parapet wall height being reduced to 3.0 metre average or less.
  - (v) Proposed Unit 1 being setback 1.5 metres from the communal street.
  - (vi) Proposed Unit 1 being modified to provide the required area of permanently uncovered outdoor living space.
  - (vii) The upper floor rear balcony to Unit 1 being modified to prevent overlooking into the adjoining property by either:
    - being screened to a height of at least 1650mm above the FFL; or
    - being deleted.
  - (viii) The upper floor deck to Unit 1 being modified to prevent overlooking into the adjoining property by either:
    - being screened to a height of at least 1650mm above the FFL;
    - being provided with a setback of 7 metres to the western boundary; or
    - being deleted.
  - (ix) The upper floor rear balcony to Unit 2 being modified to prevent overlooking into the adjoining property by either:
    - being adequately screened to a height of at least 1650mm above the FFL;

- being modified in design to comply with the cone of vision setbacks as specified in the Residential Planning Codes; or
- being deleted.

(2) Advise the submitters of this decision.

Carried 9/0

**TP156** **NO. 187 (LOT 2) CURTIN AVENUE, COTTESLOE – TWO STOREY SINGLE HOUSE**

**File No:** No 187 Curtin Avenue  
**Author:** Daniel Heymans  
**Report Date:** 11 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Sullivan

**Property Owner:** D and G Manton  
**Applicant:** J Corp Pty Ltd T/A Perceptions  
**Date of Application:** 25 September, 2002

**M.R.S. Reservation:** Urban  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 370m2

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**SUMMARY**

The purpose of this report is to seek Council approval for the development of a two storey single house. Conditional approval is recommended.

**ATTACHMENTS**

Location Plan  
Submissions (x3)  
Site Plan, Floor Plans and Elevations  
Letter from applicant providing justification for variations to Scheme and Code requirements.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2  
Residential Design Codes

**HERITAGE LISTING:**

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

**AREA OF NON-COMPLIANCE****Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
N/A	N/A	N/A

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
2	2.5 metres from original secondary street	1.5 metres proposed	Clause 3.2.1 – P1
3	1.0 metre from boundary	Nil Setback	Clause 3.3.2 – P1
8	4.5 metres from bedroom 3 window	3.160 metres provided	Clause 3.8.1 – P1

**CONSULTATION**

Adjoining neighbours were notified by registered post by the applicant. Submissions were received from the following landowners:

No. 26 Jarrad Street

The submitter objects to the proposed garage parapet wall abutting their common boundary. They are also concerned that there may be the potential for overlooking from the proposed window to bedroom 3.

No. 189A Curtin Avenue

The submitter objects to the potential for overlooking from the proposed window to bedroom 3 but provided no specific reasoning for this. Other issues raised in the submission are outside the scope of an application for approval to commence development such as parking in the laneway etc.

No. 28 Jarrad Street

Raised no objections to the development.

**BACKGROUND**

The subject property is located on the western side of Curtin Avenue and has a right-of-way located on the northern boundary. The development site was originally a corner lot, which was subsequently subdivided into 2 lots, one fronting onto Jarrad Street and the subject site fronting onto Curtin Avenue. The site is also located within the John Street Heritage Area.

**STAFF COMMENT****Front Setback**

Clause 3.2.1 of the Residential Design Codes states that the acceptable front setback standard is 2.5 metres, as described below:

*“Buildings other than carports and garages set back from the street in accordance with Table 1: or*

*ii) in the case of areas coded R15 or higher, where:*

- *a Single House results from subdivision of an original corner lot and has frontage to the original secondary street, the street setback may be reduced to 2.5 metres, or 1.5 metres to a porch, verandah, balcony or the equivalent.”*

The subject site was originally part of a larger corner lot that has subsequently been re-subdivided, and therefore the reduced setback of 2.5 metres applies, however the application proposes a 1.5 metre setback from Curtin Avenue. Where the acceptable standard is not met, compliance with the performance criteria set out in clause 3.2.1 must be demonstrated. The Performance criteria states that:

*“Buildings should be set back an appropriate distance to ensure they contribute to the desired streetscape.”*

At its meeting of 28 October 2002, Council resolved to prepare a Streetscape Policy to enforce a 6 metre setback throughout the Town in order to preserve streetscape character. However, the adjoining site at 28 Jarrad Street has a 1.5 metre setback to its secondary street, which is Curtin Avenue. Administration believes that the proposed development will be considerably larger in scale than the existing development at 28 Jarrad Street. In addition, existing development to the north is generally setback 6 metres. It is considered therefore, that the proposed development should be set back 2.5 metres from Curtin Avenue, which will provide a transition between the existing development on both sides of the development site.

#### **Boundary Setback – West**

A nil setback is being sought on the western boundary for the proposed garage. The parapet wall is not in accordance with clause 3.3.2 of the Design Codes, which allows walls that average 2.7m in height and up to 3m in height to be built up to one side boundary in areas coded R20 and R25. However the parapet wall proposed has an average of 3m in height. Further, Council has recently resolved to *“insist on boundary walls being setback from the side and rear boundaries”* at its meeting on the 28 October 2002.

The submission from 26 Jarrad Street also objects to the parapet wall abutting the common boundary. As a result, it is considered that the proposed parapet will have a detrimental impact on the adjoining property and therefore an appropriate setback should be required.

#### **Visual Privacy**

The Design Codes require privacy setbacks of 4.5 metres to bedrooms. Assessment of the application using the cone of vision indicates that the property to the west of the development site will be overlooked from the upper floor bedroom 3.

The potential overlooking can be easily overcome by relocating the window to the northern side of the bedroom, which will then overlook only the rear yard and the right-of-way. The change will also take advantage of the northern sun during the winter months.

**Heritage**

The development site is located within the John Street Heritage Area as identified by the Draft Heritage Strategy. The Strategy requires that new development should take into consideration the following guidelines:

- Overall Design Approach – new development should preferably be designed in a contemporary manner that is sympathetic to the surrounding area.
- Scale, Proportions and Bulk – new development should not be visually dominate.
- Views – should not obstruct views of heritage places.
- Materials, Colours, Details Setbacks, Roofs, Openings, Fencing and Landscaping – should take into consideration and relate to adjacent properties.

The proposed development has a roof pitch of 30 degrees and the windows that are visible from the street are vertical in scale. The design of the proposed balcony is sympathetic with the federation character existing in the area, as are the other elements such as the balustrading, gable treatment and use of French doors. It is considered therefore, that the design and finishing of the proposed development, whilst still contemporary in nature, adequately addresses the above guidelines.

**Conclusion**

That the proposed development be approved subject to conditions to address the relocation of the window to Bedroom 3, the offsetting of the garage parapet wall and an increase in the front boundary setback.

**Voting**

Simple Majority.

**COMMITTEE COMMENT**

The proposal was discussed and the officer recommendation was adopted, although some of the committee members and the Manager, Development Services agreed to meet the owner of the property on-site on Thursday, 21 November, 2002, at 8.00am.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Furlong

That Council:

- (1) GRANT Planning Consent for the new two storey house at No. 187 (Lot 2) Curtin Avenue, Cottesloe in accordance with the plans received on 11 November 2002, subject to the following conditions
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings



- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if, Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The Right of Way located at the rear, adjacent to the property, shall be paved and drained to the satisfaction of the Manager of Works and Special Projects. Details of the proposed works shall be submitted in accordance with Council guidelines and approved prior to the commencement of works.
- (f) Any front boundary fencing to Curtin Avenue shall be of an "Open Aspect" design and the subject of a separate application to Council.
- (g) Revised plans being submitted for approval by the Manager of Development Services, showing:
  - (i) Relocation of window to Bedroom 3 to the northern side of the house.
  - (ii) A setback of 1 metre between the garage wall and the western boundary;
  - (iii) A front boundary setback of 2.5 metres to Curtin Avenue.

(2) Advise the submitters of this decision.

**FURTHER REPORT FROM MANAGER DEVELOPMENT SERVICES –  
25 NOVEMBER, 2002**

The owner of the property has submitted a letter in support of requested variations to the Development Services Committee recommendation for this item. The variations relate to conditions (1)(g)(i)-(iii).

**Condition (1)(g)(i)**

The owner has requested that a highlight window of 1.8m high be permitted to be retained on the western elevation to bedroom 3. This is considered acceptable as the Residential Design Codes would permit a sill height of 1.65m. A new window should still be provided to the northern elevation.

**Condition (1)(g)(ii)**

The owner has requested permission to construct a carport on the western side boundary rather than have the boundary wall of the garage re-located 1.0m to the east.

The carport would achieve Council's objective of addressing the concerns of the neighbour whilst still allowing for access to the rear of the carport for a small boat.

**Condition (1)(g)(iii)**

The reasons for retaining a set back of 1.5m to Curtin Avenue rather than a 2.5 set back are outlined in the applicants letter

Should the Council support the request from the owner, an alternative recommendation is reproduced below:

That Council:

- (1) GRANT Planning Consent for the new two storey house at No. 187 (Lot 2) Curtin Avenue, Cottesloe in accordance with the plans received on 11 November, 2002 and letter on the 25 November, 2002, subject to the following conditions
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings
  - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if, Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (e) The Right of Way located at the rear, adjacent to the property, shall be paved and drained to the satisfaction of the Manager of Works and Special Projects. Details of the proposed works shall be submitted in accordance with Council guidelines and approved prior to the commencement of works.
  - (f) Any front boundary fencing to Curtin Avenue shall be of an “Open Aspect” design and the subject of a separate application to Council.
  - (g) Revised plans being submitted for approval by the Manager of Development Services, showing:
    - (i) The western window sill to Bedroom 3 shall be a minimum of 1.65m above floor level and a new northern window to that room shall be provided; and
    - (ii) the proposed garage being modified by the reduction in the boundary wall height to 1.8m; a maximum of three columns being provided on the western boundary and the roof cover shall be set back 0.75m from the side boundary.
- (2) Advise the submitters of this decision.

**AMENDMENT**

Moved Cr. Birnbrauer, seconded Cr. Furlong

That the motion be deleted and substituted with the amended recommendation from the Manager Development Services' report above.

Carried 8/1

The amended motion was put.

TP156 **COUNCIL RESOLUTION**

**That Council:**

- (1) **GRANT Planning Consent for the new two storey house at No. 187 (Lot 2) Curtin Avenue, Cottesloe in accordance with the plans received on 11 November 2002 and letter on the 25 November, 2002, subject to the following conditions**
  - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings**
  - (c) **The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
  - (d) **The roof surface being treated to reduce glare if, Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
  - (e) **The Right of Way located at the rear, adjacent to the property, shall be paved and drained to the satisfaction of the Manager of Works and Special Projects. Details of the proposed works shall be submitted in accordance with Council guidelines and approved prior to the commencement of works.**
  - (f) **Any front boundary fencing to Curtin Avenue shall be of an "Open Aspect" design and the subject of a separate application to Council.**
  - (g) **Revised plans being submitted for approval by the Manager of Development Services, showing:**

- (i) The western window sill to Bedroom 3 shall be a minimum of 1.65m above floor level and a new northern window to that room shall be provided; and
- (ii) the proposed garage being modified by the reduction in the boundary wall height to 1.8m; a maximum of three columns being provided on the western boundary and the roof cover shall be set back 0.75m from the side boundary.

(2) Advise the submitters of this decision.

Carried 8/1

**TP157 NO. 29 (LOT 82) GRIVER STREET – PROPOSED CARPORT WITHIN FRONT SETBACK AREA**

**File No:** No. 29 Griver Street  
**Author:** J McDonald  
**Report Date:** 11 November 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** S Sullivan

**Property Owner:** G & J Revdavey  
**Applicant:** Westral Outdoor  
**Date of Application:** 3 October 2002

**M.R.S. Reservation:** N/A  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 574m<sup>2</sup>

**SUMMARY**

The purpose of this report is to seek Council approval for the development of a carport within the front setback area. Conditional approval is recommended.

**ATTACHMENTS**

Location Plan  
 Plan  
 Details  
 Letter from owner  
 Photos of nearby properties

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

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

**HERITAGE LISTING:**

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

National Trust

N/A

**AREA OF NON-COMPLIANCE**

**Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
No. 3 Garages and Carports in Front Setback	Carport behind 6m setback line	2m setback to Griver Street

**Residential Design Codes:**

Design Element	Acceptable Standards	Performance Criteria Clause
3 – Boundary Setback Requirements	Primary Street setback of 6 metres. 2 metres proposed.	Clause 3.2.1 – P1
3 – Boundary Setback Requirements	Side setback of 1 metre. 500mm proposed.	Clause 3.3.1 – P1

**CONSULTATION**

The owners of 31 Griver Street signed a declaration stating that they had no objection to the proposed carport. The adjoining owner to the south, Ms Shelly Brownson who resides in Germany, was requested via email on the 2 October 2002 to make comment on the proposal but has not responded.

Neighbour notification by electronic mail is technically not in accordance with the Residential Design Codes which requires notification to be carried out by registered post and proof of the posting provided to Council. However, if the Committee agrees with staff's recommendation to make the development comply with the acceptable development standards, then further notification may not be required.

**BACKGROUND**

The development site is on the western side of Griver Street and abuts a Council owned right-of-way at the rear to which it has legal access. The application proposes a metal-framed carport with a pitched, Colourbond roof that is set back from the side boundary by 500mm and from the front boundary by 2m. The proposed carport is 4.8 metres wide and 10.3 metres long to accommodate 2 cars parked in tandem.

**DISCUSSION**

**Front Boundary Setback**

Town Planning Scheme Policy No. 3: Garages and Carports in Front Setback Area requires carports and garages to be positioned behind the front setback line in accordance with Table 1 of the Residential Design Codes, which on land coded R20, is 6 metres. The Policy further states that Council may allow lesser setbacks to the primary street, including a nil setback in the case of a carport.

In considering the variation, the Policy sets out those matters that should be taken into account. They include:

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

Whilst sightlines and manoeuvring may not be an issue, it is considered that development at the reduced setback proposed will be out of character with the immediate locality which is characterised by low open aspect fencing with development set well back from the front boundary.

The owner cites the carports at numbers 28 and 30 Griver Street as justification to support the proposed carport, however the circumstances at both these addresses was such that there was no other place for the carports to be located. At No. 29 Griver Street however, the plans indicate that there is adequate space to either set the carport behind the 6 metre setback line or locate it at the rear of the property where the existing carport is and where access can be gained from the right-of-way.

In addition, the proposed carport at 4.8 metres wide, is significantly wider than a single bay carport and as such, there appears to be no reason why the required setback of 1 metre cannot be achieved.

### **CONCLUSION**

That the proposed development be approved subject to the development being setback 6 metres from the front boundary and 1 metre from the boundary of the adjoining property.

### **VOTING**

Simple Majority.

TP157

### **DECISION OF DEVELOPMENT SERVICES COMMITTEE ACTING UNDER DELEGATED AUTHORITY**

Moved Cr. Ewing, seconded Cr. Birnbrauer

That the Development Services Committee, acting under authority delegated by Council Resolution TP40 May, 2002 GRANTS its Approval to Commence Development for a carport at No. 29 (Lot 82) Griver Street, Cottesloe in accordance with the plans submitted on the 3 October, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the

stormwater runoff from roofed areas being included within the working drawings.

- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (4) The roof surface being treated to reduce glare if, Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (5) Revised plans being submitted for approval by the Manager, Development Services, showing the proposed carport being located 6 metres from the front boundary and 1 metre from the side boundary.

Carried at Committee Meeting 5/0

**TP158**    **NO. 46 (LOT 300) NORTH STREET – PROPOSED CARPORT WITHIN FRONT SETBACK AREA**

**File No:** No. 46 North Street  
**Author:** Janine McDonald  
**Report Date:** 11 November 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Sullivan

**Property Owner:** J Olney  
**Applicant:** Phoenix Patios  
**Date of Application:** 9 September 2002

**M.R.S. Reservation:** N/A  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 502m<sup>2</sup>

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**SUMMARY**

The purpose of this report is to seek Council approval for the development of a carport within the front setback area. Conditional approval is recommended.

**ATTACHMENTS**

Location Plan  
Submission from 44 North Street  
Plan  
Elevations

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

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

**HERITAGE LISTING:**

State Register of Heritage Places

N/A

TPS No. 2	N/A
Town Planning Scheme Policy No. 12	N/A
Draft Heritage Strategy Report	N/A
Municipal Inventory	N/A
National Trust	N/A

**AREA OF NON-COMPLIANCE****Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
No. 3 Garages and Carports in Front Setback	Carport behind 6m setback line	4m setback to North Street

**Residential Design Codes:**

Design Element	Acceptable Standards	Performance Criteria Clause
3 – Boundary Setback Requirements	Buildings setback in accordance with Table 1 = 6 metres	Clause 3.3.1 – P1

**CONSULTATION**

The landowner submitted a signed declaration from the adjacent owner of 44 North Street stating that they had no objection to the proposed carport.

**BACKGROUND**

The development site is on the southern side of North Street on the corner of North and Federal Streets. The application proposes a single bay metal deck carport that is set back from the side boundary by 1.1m and from the front boundary by 4m. The proposed carport sits in front of the original enclosed single garage.

**DISCUSSION****Front Boundary Setback**

Town Planning Scheme Policy No. 3: Garages and Carports in Front Setback Area requires carports and garages to be positioned behind the front setback line in accordance with Table 1 of the Residential Design Codes, which on land coded R20, is 6 metres. The policy further states that Council may allow lesser setbacks to the primary street including a nil setback in the case of a carport.

In considering the variation, the Policy sets out those matters that should be taken into account. They include:

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



The Policy further states that that:

*“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.”*

The locality in which the development site is situated is characterised by solid front boundary fences and the adjacent property (44 North Street) has a similar carport structure setback approximately 4 metres from the front boundary. Given the above, it is unlikely that the proposed development will be out of character in the locality or affect the neighbour's amenity or site lines along North Street. Although the lot enjoys double road frontage, there is little room at the rear of the property to locate the proposed garage as it is small in size and is heavily landscaped (including a pergola structure) and vegetated.

The only concern with the proposed development is the basic method of construction. It is considered that a better result will be achieved if a fascia is added to the carport. This will create a less 'flimsy' looking structure, more in keeping with that on the adjacent lot.

#### **CONCLUSION**

The application be approved subject to a condition requiring that a fascia be added to the proposed carport to improve aesthetics.

#### **VOTING**

Simple Majority.

#### **TP158 DECISION OF DEVELOPMENT SERVICES COMMITTEE ACTING UNDER DELEGATED AUTHORITY**

Moved Cr. Furlong, seconded Cr. Miller

That the Development Services Committee, acting under authority delegated by Council Resolution TP40 May, 2002 GRANTS its Approval to Commence Development for a carport at No. 46 (Lot 300) North Street, Cottesloe in accordance with the plans submitted on the 9 September, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.

- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (5) A fascia panel being added to the proposed carport.

Carried at Committee Meeting 4/1

**TP159** **NO. 103 (LOT 1) GRANT STREET, COTTESLOE – SINGLE STOREY, SINGLE HOUSE WITH BASEMENT CAR PARKING**

**File No:** No 103 Grant Street  
**Author:** Daniel Heymans  
**Report Date:** 11 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Sullivan

**Property Owner:** Mr & Mrs Watts  
**Applicant:** Mr & Mrs Watts  
**Date of Application:** 22 October 2002

**M.R.S. Reservation:** Urban  
**Zoning (TPS No. 2):** Residential  
**Density:** R20  
**Lot Area:** 501m2

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**SUMMARY**

The purpose of this report is to seek Council approval to the development of a single storey residence at 103 Grant Street.

It is recommended that consideration of this application be deferred.

**ATTACHMENTS**

Location Plan  
 Site Plan, Floor Plans and Elevations  
 Letter from applicant providing justification for variations to Scheme and Code requirements dated 22 October.  
 Letter from owner dated 7 November  
 Letter from solicitor representing owner dated 14 November  
 Memo from Council's Engineering Technical Officer

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**

Town Planning Scheme No. 2  
 Residential Design Codes

**HERITAGE LISTING:**

State Register of Heritage Places -	N/A
TPS No. 2 -	N/A
Town Planning Scheme Policy No. 12	N/A
Draft Heritage Strategy Report -	Claremont Hill Heritage Area

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

**AREA OF NON-COMPLIANCE**

**Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
N/A	N/A	N/A

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	1.0 metre from boundary	Nil Setback	Clause 3.3.2 – P1
3	1.5 metres from boundary.	1.2 – 1.6 metres proposed.	Clause 3.3.1 – P1

**CONSULTATION**

Neighbours were notified by registered post when on 25 October 2002. No submissions were received.

**BACKGROUND**

The subject property is located on the southern side of Grant Street. The original Lot (Lot 41) has conditional approval to be subdivided into two lots. The site of the existing house also has had conditional subdivision approval to be split into two strata titles sites.

The site that is the subject of this development application is the tennis court.

The site is located within the proposed Claremont Hill Heritage Area.

**STAFF COMMENT**

The applicants are seeking approval for variations to the Residential Design Codes for the eastern and western side boundary setbacks. Apart from the Residential Design Codes, Council is required to consider the development under Clause 5.1.2 of the Town Planning Scheme text, which requires council to address certain amenity matters.

**East Boundary Setback**

A variation is being sought for the eastern boundary wall setback. Two parapet walls, each 6 metres in length, which are proposed for the eastern boundary.

As per Clause 3.3.2 of the Residential Design Codes, the Acceptable Development - A2 states that:

*“(ii) In areas coded R20 and R25, walls not higher than 3.0 metres with an average of 2.7 metres up to 9 metres in length up to one side boundary.”*

However the proposed parapet walls are up to 3.7 metres in height and therefore do not meet this development standard. Therefore it is necessary to consider at the Performance Criteria for this clause, which states:

*“Buildings built up to the 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; or*
- *Not have any significant affect 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 applicant has argued that this development meets all of the above Performance Criteria, and in particular states:

*“It should be Council practice to assist where necessary by making concessions in particular cases, especially by modifying side setbacks to allow solar access, provided that neighbours’ privacy or solar access is not affected. These concessions may include building up to a side boundary.”*

Notwithstanding, Council has recently resolved to *“insist on Boundary walls being setback from the side and rear boundaries”* at its meeting on the 28 October 2002.

Advice is being sought from a local firm of Heritage Architects to comment on the design of the proposed development in relation to the Residential Conservation and Development Guidelines developed as part of the Heritage Strategy adopted by Council in September, 2001.

The meeting with the Consultant has been arranged for Tuesday, 19 November, 2002. The meeting is to discuss the scope of the work and obtain an estimate for the assessment.

### **Boundary Setback – West**

A variation is being sought to the setback requirement for the western wall, which has no major openings, as all of the windows along this boundary are opaque and above 1.65 metres. As per Table 2a of the Residential Design Codes, the required setback is 1.5 metres. However, the posed setback ranges from 1.2 metres to 1.65 metres. Consideration of this variation is required under the Performance Criteria 3.3.1, which states:

*“P1 - Buildings setback from boundaries other than street boundaries so as to:*

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

It is the opinion of the administration that the proposed 1.2 metre setback does not fulfil these performance criteria as the setback does not provide adequate direct sun and ventilation to the building.

However as the Heritage Architects will review this development no recommendation is made at this time.

### **Street Trees**

There are two street trees located at the front of the development site.

The easternmost street tree has been assessed to be unhealthy and approval for its removal has been supported.

However, the westernmost street tree is also proposed to be removed by the applicant, to allow for the construction of a crossover into the basement car parking area.

Council's Engineering Department has recommended that the street tree located to the west of the development site remain. If the street tree remains, the applicant will need to re-design his proposal to make allowance for the change. Until this matter is determined through Council, it is difficult to finalise the assessment of the application.

### **Heritage**

The vacant lot is located within the Claremont Hill Heritage Area. Council has been having regard to the Residential Conservation and Development Guidelines when assessing applications.

The Town Planning Appeal Tribunal have raised issues with the rigid enforcement of the Residential Conservation and Development Guidelines in the Tribunal decision on Moullins vs. the Town of Cottesloe.

Council staff are currently in the process of preparing a Scheme Amendment for consideration at the December 2002 meeting of Council to strengthen its Scheme provision relating to heritage.

Council has also resolved that a Town Planning Scheme Policy be prepared to develop a streetscape policy under clause 3.2.7 A7 of the Residential Design Codes. This Clause states:

*"Buildings that comply with the provisions of a Special Planning Control Area or equivalent Local Planning Policy made under the Scheme in respect of the design of carports and garages, the colour, scale, materials and roof pitch of buildings including outbuildings, the form and materials of retaining walls and the extent to which the upper levels of buildings as viewed from the street should be limited."*

The Residential Conservation and Development Guidelines, which need to be reviewed as a consequence of the Tribunal decision, will form the basis of the Policy for the two Heritage areas.

**CONCLUSION**

It is recommended that consideration of this matter be deferred to the December 2002 meeting of Council and the applicant be requested to submit revised plans showing the retention of the existing street tree.

Having received those plans, then the application should be referred to the Heritage consultants for consideration with a report on the proposal to be considered at the December meeting of the Development Services Committee.

**Voting**

Simple Majority.

**OFFICER RECOMMENDATION**

That Council:

- (1) Defer consideration of the application for Approval to commence Development submitted by Mr & Mrs Watts at No. 103 (Lot 2) Grant Street for a single storey house with basement car parking area; and
- (2) The applicant be requested to submit revised plans showing the relocation of the crossover to the development site and the retention of the existing street tree.

**COMMITTEE COMMENT**

Cr. Miller would like to see the application dealt with and approved as the application is single storey residence and Council encourages single storey residences. Does not see that there are any heritage issues.

The Manager, Development Services explained the basis for the deferral, that being the desire to retain a healthy street tree and to consider the effect of the change in the crossover location on the design of the access into the basement.

The committee members discussed matters relating to the street tree, the two side setbacks and heritage.

The majority of Councillors agreed that a 1m setback is required on the eastern side and the western side boundary setback variation was acceptable.

The majority of councillors supported the removal of the street tree, subject to the applicant paying for the cost of the removal of the street tree and its replacement in an alternative location.

An assessment of the application by a Heritage architect was not required.

The majority of Councillors supported a change in the staff recommendation on the basis that:

- (1) the application was for a single storey house;
- (2) it was located on the edge of the heritage area; and
- (3) it was acceptable to remove the existing street tree and replace it with a new street tree in an acceptable location.

## COMMITTEE RECOMMENDATION

Moved Cr. Furlong, seconded Cr. Miller

That Council GRANT its Approval to Commence Development for a single storey house with basement car parking area at No. 103 (Proposed Lot \*\*) Grant Street, Cottesloe in accordance with the plans received on the\*\*, 2002, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (5) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
- (6) The applicant paying for the cost of the removal of the existing street tree and the cost of a replacement street tree.
- (7) Any front boundary fencing to Grant Street being of an "Open Aspect" design and the subject of a separate application to Council.
- (8) Revised plans being submitted for approval by the Manager, Development Services, such plans incorporating the eastern boundary walls being set back at least 1.0m from the eastern side boundary.
- (9) Subject to (1)(\*\*) revised plans being submitted, to the satisfaction of the Manager, Engineering Works, demonstrating that the grades and manoeuvring of cars from the street into the basement car parking area meets acceptable engineering standards, otherwise the building is required to be modified to meet those standards.
- (10) Should changes to the building be required as a consequence of compliance with condition (9), the applicant is required to submit revised plans for approval by the Manager, Development Services.

## AMENDMENT NO. 1

Moved Cr. Walsh, seconded Cr. Birnbrauer

That:

- (1) the asterisks in the recommendation be removed and replaced with the following:
  - (a) Line 2 (\*\*) replace with '1'
  - (b) Line 3 (\*\*) replace with '22 and 23 October'
  - (c) Condition 9, line 1 (\*\*) replace with '10';
- (2) the words "*is approved by the Manager of Engineering Services*" be added after the word "*tree*" in line 2 of (6);

- (3) a new condition (11) be added as follows:  
*“(11) The existing lot being subdivided and new Certificate of Titles being created for the single house lots prior to the issue of a Building Licence.”*

Carried 9/0

### **AMENDMENT NO. 2**

Moved Cr. Rattigan, seconded Cr. Furlong

That Item (8) be deleted from the recommendation and the remainder be renumbered.

Carried 5/4

### **AMENDMENT NO. 3**

Moved Cr. Utting, seconded Cr. Ewing

The motion be amended by adding the following:

- “(10) The applicant being advised that the existing street tree shall not be removed”.*

Lost 4/5

That the amended motion was put.

### **TP159 COUNCIL RESOLUTION**

**That Council GRANT its Approval to Commence Development for a single storey house with basement car parking area at No. 103 (Proposed Lot 1) Grant Street, Cottesloe in accordance with the plans received on the 22 and 23 October, 2002, subject to the following conditions:**

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (3) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**



- (5) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
- (6) The applicant paying for the cost of the removal of the existing street tree and the cost of a replacement street tree as approved by Manager of Engineering Services”.
- (7) Any front boundary fencing to Grant Street being of an “Open Aspect” design and the subject of a separate application to Council.
- (8) Subject to (8) revised plans being submitted, to the satisfaction of the Manager, Engineering Works, demonstrating that the grades and manoeuvring of cars from the street into the basement car parking area meets acceptable engineering standards, otherwise the building is required to be modified to meet those standards.
- (9) Should changes to the building be required as a consequence of compliance with condition (9), the applicant is required to submit revised plans for approval by the Manager, Development Services.
- (10) The existing lot being subdivided and new Certificate of Titles being created for the single house lots prior to the issue of a Building Licence.

Carried 7/2

**TP160 NO. 2 (LOT 7) GRIVER STREET – TWO, TWO STOREY GROUPED DWELLINGS**

<b>File No:</b>	<b>No. 2 Griver Street</b>
<b>Author:</b>	<b>Janine McDonald</b>
<b>Report Date:</b>	<b>14 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Steven Sullivan</b>
<b>Property Owner:</b>	<b>Mr P Bosza</b>
<b>Applicant:</b>	<b>As Above</b>
<b>Date of Application:</b>	<b>25 September 2002</b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>
<b>Zoning (TPS No. 2):</b>	<b>Residential</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>450m<sup>2</sup> (Lot 1) 470m<sup>2</sup> (Lot 2)</b>

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**SUMMARY**

The purpose of this report is to seek Council approval to the development of two, two-storey single houses. Conditional approval is recommended.

**ATTACHMENTS**

- Location Plan
- Submissions (x5)
- Site Plan, Floor Plans and Elevations
- Cone of Vision Diagrams.

**STRATEGIC IMPLICATIONS**

N/A

**STATUTORY ENVIRONMENT**Town of Cottesloe Town Planning Scheme No. 2  
Residential Planning Codes of Western Australia**HERITAGE LISTING:**

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

**HOUSE 1 AREAS OF NON-COMPLIANCE****Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
TPSP No. 3	6.0m setback to garage	4.5m

**Residential Design Codes:**

DE	Acceptable Standard	Provided	Performance Criteria Clause
3	Garage wall setback 1.5m	Nil setback	3.3.1 – P1
8	Visual privacy setback to balcony of 7.5m	See diagram	3.8.1 – P1

**HOUSE 2 AREAS OF NON-COMPLIANCE****Town Planning Scheme Text:**

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

**Town Planning Scheme Policy:**

Policy No.	Required	Provided
N/A	N/A	N/A

**Residential Design Codes:**

DE	Acceptable Standards	Provided	Performance Criteria Clause
3	Garage wall setback 1.5m	Nil setback	3.3.1 – P1

**CONSULTATION**

Submissions were received from the following property owners:

No. 4 Griver Street

The submitter has concerns regarding overlooking into an open courtyard on her property. The submitter suggests that bedroom sill heights to house 1,

bedroom 2 are raised from 1.5m to 1.65 metres and that bathroom and toilet windows are glazed with obscure glazing. The submitter also expresses concern with potential overlooking from the retreat and bedroom 1 windows of house 2 and requests that the sill height be elevated here also.

No. 94 Grant Street

The submitter requests that the house 2, bathroom 3 window is glazed with opaque glass and that the widow to house 2, bedroom 4 is removed altogether as she is concerned that her property can be overlooked from this window.

No. 88 Grant Street

The submitters are concerned that there may be the potential for overlooking from the front balcony of house 1 and requests that the sill heights of house 1, bedrooms 3 and 4 are increased to 1.65m.

No. 90 Grant Street

The submitters are concerned that there may be the potential for overlooking from the front balcony of house 1 and the windows to bedrooms 3 and 4. The submitters further advise that they expect Council to enforce the necessary development regulations.

No. 92 Grant Street

The submitter advises that she supports the development however requests that the storeroom of house 2 be set away from their common boundary by 450mm for maintenance purposes and that the 3 windows above the garage of house 2 have sill heights 1.7m from finished floor level.

**BACKGROUND**

Approval to amalgamate and re-subdivide No's 2 Griver Street and 92 Grant Street into 3 lots of 450m<sup>2</sup>, 470m<sup>2</sup> and 523m<sup>2</sup> respectively was granted by the Western Australian Planning Commission in December 2001. The development site is 'L' shaped with its primary street frontage at Griver Street. The land is also relatively flat and is currently vacant. The proposal seeks to develop the lots with two, two storey brick and Colourbond single houses of traditional design. Both houses propose double garages abutting the boundary of adjacent properties.

**DISCUSSION**

**Front Boundary Setback**

Town Planning Scheme Policy No. 3: Garages and Carports in Front Setback Area requires garages to be positioned behind the front setback line in accordance with Table 1 of the Residential Design Codes. The Policy further states that Council may allow lesser setbacks to the primary street. In considering a variation to the required setback of 6 metres, the Policy sets out those matters that should be taken into account. They include:

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

The location of the proposed carport will not affect view lines and adequate manoeuvring space has been provided. The garage at No. 4 Griver Street has been constructed forward of the 6 metre setback line and the garage at the rear of No. 88 Grant Street is also setback less than 6 metres from Griver Street. As a result, the location of the proposed garage is not out of character in this locality and therefore no objection is raised.

### **Boundary Setbacks**

Boundary setbacks have not been provided to the proposed garages to either house 1 or house 2. The parapet walls are not in accordance with clause 3.3.2 of the Design Codes which only allows walls that average 2.7m in height to be built up to one side boundary in areas coded R20 and R25 (the garage walls average approximately 3.1m in height). In addition, Council resolved, at its meeting of 28 October 2002, to prepare a Streetscape Policy to restrict building up to side boundaries. Notwithstanding, it is considered in this instance that the parapet wall to house 1 will not have a detrimental effect on the streetscape in this locality given that it is to be built up to a parapet wall on the adjacent property and is not set any further forward than the existing parapet. The garage parapet to house 2 is supported also as it is at the rear of the property, is not visible from any street, and the adjoining neighbour raises no objection to it, subject to the storeroom section being set back from the boundary by 500mm. A condition has been imposed accordingly.

### **Visual Privacy**

Under the Design Codes visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. In this case, the balcony to house 1 requires a privacy setback of 7.5 metres, which is measured using a cone of vision. Applying the cone of vision to the balcony indicates that there is the potential to overlook into No. 4 Griver Street and No's. 88 and 90 Grant Street. Where the acceptable standard is not met, compliance with the performance criteria set out in clause 3.8.1 must be demonstrated. The clause states that new developments must:

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

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

The overlooking into No. 4 Griver Street from the front balcony is of no concern as it is only into the front setback area of that property and over the roof of the garage. The overlooking into the No. 88 and 90 Grant Street is more of an issue as the area overlooked represents the rear yard of these properties and the submitters have raised objection to the potential loss of privacy. As a result, it is recommended that the southern end of the balcony be appropriately screened to a height of 1.65 metres.

### **Submissions**

In addition to overlooking from the balcony, the majority of submissions received on this proposal relate to the sill heights which on the upper storey bedroom and living room windows were originally set at 1.5 metres from

finished floor level. The applicant has since submitted revised plans that show raised sill heights (1.65m) to all those upper storey habitable room windows with the potential for overlooking into adjoining properties as defined using the cone of vision required by the Residential Design Codes. He has also clarified that bathroom and ensuite windows on the upper levels are to be glazed with obscure glazing. Other upper storey windows that have not been modified accord with cone of vision setbacks required by the Design Codes.

The owner of No. 4 Griver Street requests modification of the windows to the bedroom 1 and retreat of house 2. Any overlooking from the north facing windows of the retreat and bedroom 1 are into the rear yard of No. 4 Griver which is not the main outdoor living area. Conversely, there may be the potential to overlook the courtyard in the centre of the house at No. 4 Griver Street (the principle entertaining area) from the western window of the retreat even though the cone of vision setback complies. However, this can be easily remedied by relocating this window as far south as possible.

The owner of 94 Grant Street requests the removal of the southern window to Bedroom 4 of house 2. The applicant, in the revised plans, has since modified this window to make it narrower and thus reduce the line of vision into 94 Grant Street. The removal of this window is not supported as it will provide the principal source of ventilation and light to the bedroom (windows facing east are highlights) and the cone of vision is within limits set by the Residential Design Codes.

### **CONCLUSION**

That the proposed development be approved subject to conditions.

### **Voting**

Simple Majority.

## **TP160 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Furlong

### **That Council:**

- (1) GRANTS its Approval to Commence Development for two, two-storey grouped dwellings at No. 2 (Lot 7) Griver Street Cottesloe, as shown on the plans received on the 9 October 2002 and 13 November 2002, subject to the following conditions:**
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager, Engineering Services, to construct a new crossover, where required, in accordance with the local law.
- (f) Any front boundary fencing to Griver Street being of an “Open Aspect” design and the subject of a separate application to Council.
- (g) Revised plans being submitted for approval by the Manager, Development Services, showing:
  - (i) The storeroom being setback from the common boundary by 500mm.
  - (ii) The southern end of the balcony to the house on Lot 1 being screened to a height of 1.65 metres.
  - (iii) The west facing window to the retreat of house 2 being relocated as far south as possible.

(2) Advise the submitters of this decision.

Carried 8/1

**TP161 CORRESPONDENCE RECEIVED BY COUNCIL ON 18 NOVEMBER FROM MR TONY WATTS**

The Committee noted a number of statements made by Mr Watts and Mr Adams that questioned the integrity and professional ability of the Manager of Development Services, Mr Stephen Sullivan. The Committee asked that it be recorded that it had every confidence in Mr Sullivan and that his integrity and professional ability was not open to debate.

**TP161 COUNCIL RESOLUTION**

Moved Cr. Morgan, seconded Cr. Furlong

**That Council has every confidence in the Manager of Development Services.**

Carried 8/1

## **WORKS & CORPORATE SERVICES COMMITTEE**

19 November, 2002

### **C95 STATUTORY FINANCIAL STATEMENTS**

**File No.:** C7.14  
**Author:** Mr Alan Lamb  
**Report Date:** 13 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

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#### **SUMMARY**

The Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2002, are presented for perusal and it is recommended that they be received.

#### **STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement.

#### **POLICY IMPLICATIONS**

Nil.

#### **STRATEGIC IMPLICATIONS**

Nil.

#### **FINANCIAL IMPLICATIONS**

Nil.

#### **BACKGROUND**

The Financial Statements are presented monthly.

#### **CONSULTATION**

N/A.

#### **STAFF COMMENT**

The Operating Statement, on page 3, shows a number of variations of actuals to date to year to date estimates. On the expenditure side it is noted that the lower than expected expenditure in the area of Recreation and Culture (\$45,254) primarily results from timing differences in the area of Civic Centre employee costs (\$11,412), and lower than expected insurance costs in Beaches and in Park Maintenance (\$14,381).

General Purpose income is lower than expected (down \$12,448) primarily due to reduced income from interim rates (\$10,380). This variance relates to a timing difference and work is being done in this area in November. It is expected that the estimates for the year will be met.

Income is higher than expected in the areas of Administration (\$7,462), Recreation and Culture (\$23,145), Transport (\$39,652) and Economic Services (\$6,623). An unbudgeted for WALGA advertising rebate (\$2,352) and ATO refund relating to overpaid PAYG tax for 2001/02 (\$4,913) were the prime contributors to the increase in Administration income. Reimbursement of legal fees relating to the North Cott Café lease (\$38,465), partially offset by mainly

timing difference driven reductions in income, was the main cause of the higher than expected income in Recreation and Culture. Increased income, from crossovers (\$7,361) and parking (\$25,531, of which \$21,004 relates to fines) were the notable contributors to higher than expected income in the area of Transport. Building fee income (\$6,623) continues to be higher than anticipated and resulted in the variance in the area of Economic Services.

**VOTING**

Simple.

**C95 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the month ending 31 October, 2002, as submitted to the November meeting of the Works & Corporate Services Committee.**

Carried 9/0

**C96 SCHEDULE OF INVESTMENTS & SCHEDULE OF LOANS**

<b>File No.:</b>	<b>C7.12 &amp; C7.13</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>13 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

**SUMMARY**

The Schedule of Investments and Schedule of Loans for the period ending 31 October, 2002, are presented for perusal and it is recommended that they be received.

**STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

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

**CONSULTATION**

N/A.



**STAFF COMMENT**

As will be seen from the Investments statement on page 33, \$2,436,770.10 was invested as at October 31, 2002. Of this \$576,618.04 related to reserves (restricted funds) and \$1,860,152.06 to unrestricted funds. 66.6% was invested with the National Bank, 25.16% with Home Building Society and 8.24% with Bankwest.

**VOTING**

Simple.

C96 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council receive the Schedule of Investments and Schedule of Loans for the month ending 31 October, 2002, as submitted to the November meeting of the Works & Corporate Services Committee.**

Carried 9/0

C97 **ACCOUNTS**

<b>File No.:</b>	<b>C7.8</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lam</b>
<b>Report Date:</b>	<b>13 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

The List of Accounts for the period ending 31 October, 2002, are presented for perusal and it is recommended that they be received.

**STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The List of Accounts are presented monthly.

**CONSULTATION**

N/A.

**STAFF COMMENT**

Significant payments brought to Council's attention include:

- \$10,960 to Melville Mazda being the net cost of a new vehicle after a trade-in allowance

- \$16,985.97 to Western Metropolitan Regional Council for fees.
- \$32,742.79 to Roads and Robinson Rubbish Recycling for rubbish collection services
- \$17,410.63 to the ATO for monthly BAS
- \$44,728.91 and \$39,344.15 for payroll for October

**VOTING**

Simple.

**C97 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council receive the List of Accounts for the month ending 31 October, 2002, as submitted to the November meeting of the Works & Corporate Services Committee.**

Carried 9/0

**C98 PROPERTY & SUNDRY DEBTORS REPORTS**

<b>File No.:</b>	<b>C7.9</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>13 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

**SUMMARY**

The Property & Sundry Debtors Reports for the period ending 31 October, 2002, are presented for perusal and it is recommended that they be received.

**STATUTORY ENVIRONMENT**

Financial reporting is a statutory requirement.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The Property & Sundry Debtors Reports are presented monthly.

**CONSULTATION**

N/A.

**STAFF COMMENT**

It will be noted from the Sundry Debtors report on page 32 that the sundry debtors balance at October 31 was \$171,022.41. \$156,428.95 related to

October. The large item under the heading Prior, \$10,397 relating to rate rebates on pensioner owned properties, is being dealt with and should be cleared in November.

**VOTING**

Simple.

C98 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the month ending 31 October, 2002; and
- (2) Receive the Sundry Debtors Report for the month ending 31 October, 2002.

Carried 9/0

C99 **NO. 1 CARPARK – CLOSURE FOR NEW YEARS EVE 2002/03**

<b>File No.:</b>	<b>C15.8</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>11 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Tindale</b>

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**SUMMARY**

The purpose of this report is to seek approval to close No. 1 Carpark (Marine Parade) from 1.00pm on 31 December, 2002, until 11.00am 1 January, 2003.

**STATUTORY ENVIRONMENT**

Part 3 of Council's Parking and Parking Facilities Local Law provides that Council may by resolution constitute, determine and vary, and indicate by signs, among other things, permitted times in Parking Stations (carparks).

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

In line with the strategic plan's vision of "*A safe clean and attractive Town*".

**FINANCIAL IMPLICATIONS**

Costs are expected to be limited to those associated with the hire, placement and removal of temporary barricades, and will be met from current budget provisions.

**BACKGROUND**

Problems of noise, street drinking and broken glass in the area of the No. 1 Carpark have been a regular feature of New Year's Eve for some time and more particularly last year. According to the Police, an increased Police

presence at the Scarborough Beach beachfront may have contributed to larger numbers than usual at Cottesloe last year.

Prompted by the larger than expected numbers in the carpark and surrounding areas a New Year's Eve Planning Committee was formed at the request of the local Police. The Committee consists of representatives from the Cottesloe Police (the committee is chaired by the Officer-In-Charge), Cottesloe Beach Hotel, Ocean Beach Hotel and Council staff. A number of meetings have been held and the call for the temporary closure of the carpark resulted from these meetings.

### **CONSULTATION**

Consultation has included representatives from Cottesloe Police, Cottesloe Hotel and Ocean Beach Hotel.

### **STAFF COMMENT**

Large numbers, noise and unruly behaviour of crowds in the No. 1 Carpark and the general area last year highlighted the need for better planning. At meetings of the New Years Eve Planning Committee it was suggested that hotel patrons were contained and controlled within the premises, but that large numbers of people descended on the carpark area. Street drinking, loud noise, unruly behaviour and broken glass became a problem during the evening and early morning.

On the negative, closure of the carpark will impact on beachgoers on New Year's Eve and on New Year's Day. It will also impact on hotel, other business patrons and on people who have made a tradition of seeing the New Year in from the car park.

The positives from the proposed closures include increase in space for the provision of bulk rubbish receptacles, a first aid post, parking for Police vehicles and a mobile Police command post. Reduction in the number of vehicles in the area and the anticipated reduction in the numbers of people, noise, unruly behaviour and street drinking are expected to improve the effectiveness of Police operations on the night.

### **VOTING**

Simple Majority.

### **OFFICER RECOMMENDATION**

Moved Cr. Whitby, seconded Cr. Ewing

That Council approve the closure of No. One Carpark from 1.00pm 31 December, 2002, to 11.00am on 1 January, 2003.

C99

### **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Shepperd, seconded Cr. Furlong

**That Council approve the closure of No. One Carpark from 1.00pm 31 December, 2002, to no later than 9.00am on 1 January, 2003.**

Carried 9/0

Note: The Committee sought to have the carpark opened to the public at the earliest opportunity on New Years Day.

**C100** **MARINE PARADE – PARKING RESTRICTIONS**

**File No.:** C15.8  
**Author:** Mr Alan Lamb  
**Report Date:** 11 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council the submission by M. & L. Cox of Essentials, 118 Marine Parade, for the reinstatement of the 5 minute parking bay in front of their shop and the issue of a permit to park in Overton Gardens, and to seek Council approval to amend parking restrictions in Marine Parade.

The report is also to seek Council approval to a modification to restrictions for the 2 parking bays on the east side of Marine Parade, outside the Cottesloe Beach Hotel, to provide for a taxi facility on Sunday evenings from 4.00 pm until 7.00 am Mondays.

**STATUTORY ENVIRONMENT**

The Local Government Act and Council's Parking Local Law apply. The Local Law is made under the Act and the Local Law provides, in clause 1.8, as follows:

***Powers of Local Government***

*The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle or any class of vehicles in any part of the parking region but must do so consistently with the provisions of this Local Law.*

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

New restrictions will require the erection of signage and markings, however the associated costs of this will be met from current budget provisions.

**BACKGROUND**

Based on the Officer Recommendation, Council resolved at its September 2002 meeting to restrict parking in all bays in Marine Parade from Napier to Forrest Street to 30 minutes.

The submission from the proprietors of Essentials to have the 5 minute bay reinstated is supported by 196 signatories to an objection to the loss of the 5 minute bay. Not all of the signatories are Cottesloe residents, however a good portion appear to record a Cottesloe address.

The proprietors of Essentials also point out in their letter that residents of Overton Gardens can obtain a residential parking permit to exempt them from restrictions in that street but they, as a business, are not able to obtain a permit. They note that they are ratepayers also and so should be able to park in Overton Gardens unencumbered by parking restrictions. The Residential Parking Permit system operates under Council's Parking and Parking Facilities Local Law. It is designed to increase the residents' parking opportunities in the street where there is insufficient parking space on the property. There is no separate permit system in operation for business proprietors.

The two embayed parking spaces outside the Cottesloe Beach Hotel have been used as a taxi rank on Sunday evenings and were controlled by a 5 minute parking restriction until the recent 30 minute restrictions were introduced.

### **CONSULTATION**

This report is prompted by the letter from Essentials and representation from the Cottesloe Beach Hotel management and written following consultation with Council's Senior Ranger.

### **STAFF COMMENT**

Rangers report that the new 30 minute restrictions appear to work well in that the turnover rate of parking bays in Marine parade has increased and there are increased parking opportunities. However, it is apparent from Essential's submission and other representations made by residents and the public, that users of the parking facilities want to see the 5 minute bay in front of Essentials reinstated. Based on the amount of support for the reduced restriction, it is recommended that the 5 minute restriction be reintroduced.

The residential permit system for residents appears to have been extended to some businesses in the past, however the title of the scheme and information on permit application forms (that have been in use since the inception of the scheme in Cottesloe) indicate the system is for residents only. It is suggested that this matter be reported on separately at a later date when more information is available.

It is suggested that the two embayed parking spaces in front of the Cottesloe Beach Hotel be restricted to taxi use only on Sunday evenings to make this alternative mode of transport more accessible to hotel patrons and other users of the beachfront area.

### **VOTING**

Simple majority.

C100

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

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council approve the following amendments to parking restrictions in Marine Parade:**

- (1) A five minute restriction for the bay on the east side of Marine Parade, north of the intersection with Overton Gardens;**

- (2) No parking, except taxis, on Sundays 4.00 pm to Mondays 7.00 am for the two embayed parking bays on the east side of Marine Parade outside the Cottesloe Beach Hotel.

Carried 9/0

**C101 ANIMAL CONTROL – DOGS TETHERED ON MARINE PARADE VERGE OF NORTH COTTESLOE SURF LIFE SAVING CLUB'S BOAT HOUSE**

**File No.:** C15.2  
**Applicant:** N/A  
**Author:** Mr Alan Lamb  
**Report Date:** 12 November, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council the matter relating to a petition tabled at the September meeting of Council calling for a restoration of the dog tethering facilities near the Blue Duck.

**STATUTORY ENVIRONMENT**

Section 4.1 of Council's Dogs Local Law provides that dogs are prohibited absolutely from entering or being in a public beach or reserve which is not prescribed as a dog exercise area.

**POLICY IMPLICATIONS**

Council's Beach Policy provides, among other things that dogs are only permitted on prescribed beaches at prescribed times.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The following is an extract from the September 2002 Council meeting minutes:

*Cr. Birnbrauer presented a petition signed by 15 residents of Cottesloe. The prayer reads:*

*"We the undersigned ratepayers of the Town of Cottesloe, would be grateful for your earnest consideration of this petition for the restoration of the tethering facilities for dogs formerly available outside the Blue Duck Restaurant and along Marine Parade in the vicinity of the beach at north Cottesloe."*

*Moved Cr. Birnbrauer, seconded Cr. Ewing*

*That the petition presented by various ratepayers and residents of Cottesloe be accepted and referred to the October meeting of the Works & Corporate Services Committee for consideration and report.*

It is not clear who placed rings in the wall of the North Cottesloe Surf Club's boat shed, or when and neither Council nor the Club appears to have given approval for this. However these were used for the purpose of tethering dogs

and the practice of patrons of the Blue Duck tethering dogs on the grassed area in front of the North Cottesloe Surf Life Saving Club's boat shed appears to go back some time.

Around twelve months ago, a number of complaints were received regarding barking dogs particularly early on weekend mornings. One complainant wrote to the Mayor on 4 December, 2001. Another complainant wrote on behalf of the committee of owners of No. 152 Marine Parade on 11 December, 2001. A further complainant wrote to the Mayor on 11 January, 2002. Rangers report that verbal complaints were received from at least six different people on a regular basis up until July/August this year.

The Dog Act provided no immediate solutions to the problem. Section 31 of the Act covers dogs in certain public places and provides for the tethering of dogs for a temporary purpose. Whilst the complaints related to the nuisance of barking dogs the relevant section of the Act (Section 38) could not be used as it refers to a dog creating a noise, by barking or otherwise, which persistently occurs or continues to a degree or extent not normally habitual in dogs and has a disturbing effect on the state of reasonable physical, mental, or social well-being of a person. The section refers to a specific dog (in that it talks in the singular) and a persistent disturbance and in this case it appears that there were different dogs at different times.

Following the complaints in December/January, Rangers conducted an education campaign, with assistance from Blue Duck staff, and regular morning patrols were undertaken. When dogs were found to be barking, Rangers attempted to locate owners but not all owners were cooperative. Complaints about barking dogs were still being received during this campaign and so other remedies were sought. It was noted that a portion of the grassed section of the verge in question was on the Beach Reserve and the other part on the Marine Parade Road Reserve. Council's Dogs Local Law prohibits dogs on beach reserves other than those set aside as dog beaches. Council's Beach Policy has a similar provision. Prior to enforcing the local law provisions, efforts were made to find alternative locations for tethering the dogs, where any barking may not cause such a disturbance, however this was not successful. The rings were removed and dogs prohibited signs erected around July this year and Rangers gave verbal cautions for approximately one month. The first infringement notice was issued 7 August after a complaint regarding a barking dog. Rangers have cautioned a few dog owners for tethering dogs in front of the Surf Club boat shed and since then complaints regarding the barking dogs have ceased.

### **CONSULTATION**

Nil in relation to this item, however there has been consultation relating to the matter of tethering dogs in the specific location since December 2001. Council staff have consulted with various complainants (complaining about the barking dogs), the proprietor and staff of the Blue Duck and various persons in the control of dogs.

### **STAFF COMMENT**

Measures to attempt to control the dog barking problem consumed resources as did the constant early morning and after hours complaint calls to Rangers, that resulted in callouts to resolve the problems. The current measures are in



line with Council policy and local laws and appear to have resolved the issue for the complainants. Unfortunately a number of dog owners are now disadvantaged. However it is difficult to see how to meet their wants and at the same time ensure that residents are not disturbed by barking dogs.

In attempting to check a dog's registration tag, the Ranger who is trained in dog handling, was nipped by a dog tethered in the area in question. This raises the issue of liability. It is suggested that if Council were to sanction or provide facilities for the dog tethering area, it could attract some liability in the event some person, or another dog or other animal, were to be injured by a tethered dog. Council may also attract some liability in relation to the well-being of dogs tethered in the area. It is suggested that dogs are generally tethered in a location where the persons in control of the dog can see and hear the dog and so have some degree of control over the dog. The Blue Duck is set up to take greatest advantage of the ocean views and such that it may be difficult for patrons, who bring dogs with them, to see or hear dogs tethered in front of the Surf Club boat shed and so may not be able to exert control such as to prevent them barking.

Rangers have remarked how well the majority of dogs in the area are trained and how well they behave in public areas. However a number of the dogs tethered in front of the boat shed appear to have caused a disturbance by their barking, and perhaps inciting other dogs also tethered there to bark also.

#### **VOTING**

Simple majority.

#### **C101 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council note the concerns expressed by residents in their petition and advise, with regret, that the current restrictions relating to dogs in front of the North Cottesloe Surf Club boat shed (Marine Parade frontage) will remain in place.**

Carried 9/0

#### **C102 ANNUAL ELECTORS MEETING – ANNUAL REPORT**

<b>File No.:</b>	<b>C7.1</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Stephen Tindale</b>
<b>Report Date:</b>	<b>11 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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#### **BACKGROUND**

Council is required to hold a general meeting of electors once in each financial year and this meeting is to be held not more than 56 days after Council accepts the annual report (Section 5.27). The Annual Report is to be accepted by the Council no later than 31 December following the close of the financial year to which it relates, unless the Auditors' Report is not available at that time, in which case the annual report is to be accepted by Council no later than two months following receipt of the auditors' report (Section 5.54).

**COMMENT**

The Annual Report is made up of a number of documents that include reports from the Mayor and CEO, reports on principal activities, auditors' report, financial report and other reports and information as may be prescribed (Section 5.53). The auditors' report (unqualified) is to hand and is presented along with the Annual Financial Statements. Other items that make up the Annual Report will be presented to the November Council meeting.

Council held the last Annual General Meeting of Electors in February, 2001. Assuming that Council accepts the Annual Report at its November meeting, the earliest suitable date to hold the electors meeting will be Wednesday, 11 December, 2002. It is suggested that this date be selected.

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

**POLICY IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Furlong, seconded Cr. Ewing

That Council:

- (1) Accept the Annual Report for the 2001/02 Financial Year as presented to the November Council meeting; and
- (2) Call the Annual Meeting of Electors, to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 11 December, 2002, commencing at 7.00pm.

**AMENDMENT**

Moved Cr. Utting, seconded Cr. Morgan

That the meeting be held in February 2003.

Lost 3/6

The original motion was put.

**C102 COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council:**

- (1) **Accept the Annual Report for the 2001/02 Financial Year as presented to the November Council meeting; and**

- (2) Call the Annual Meeting of Electors, to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 11 December, 2002, commencing at 7.00pm.

Carried 6/3

Cr. Morgan request that the voting be recorded.

#### DIVISION

**For:** Crs Ewing, Furlong, Sheppard, Birnbrauer, Walsh and Whitby.  
**Against:** Crs Rattigan, Morgan and Utting.

C103

#### DECEMBER COUNCIL MEETING TIMES & DATES FOR 2003

**File No.:** X4.3  
**Author:** Mr Stephen Tindale  
**Report Date:** 13 November, 2002  
**Author Disclosure of Interest:** Nil

#### **SUMMARY**

A resolution approving an earlier commencement time for the December 2002 meeting of Council and setting the ordinary Council meeting dates for 2003 is required.

#### **STATUTORY ENVIRONMENT**

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

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

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

#### **POLICY IMPLICATIONS**

Nil.

#### **STRATEGIC IMPLICATIONS**

Nil.

#### **FINANCIAL IMPLICATIONS**

Nil.

#### **BACKGROUND**

The earlier start to the December 2002 meeting is recommended so that Councillors and staff can partake in a Christmas gathering with their partners.

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

Chief Executive Officer to resolve any urgent issues that may arise during the January recess.

### **CONSULTATION**

Nil.

### **STAFF COMMENT**

Nil.

### **VOTING**

Simple majority.

### **OFFICER RECOMMENDATION**

That Council:

- (1) Confirm the change in the commencement time of the December 2002 ordinary Council meeting as being 5.00pm rather than 7.00pm;
- (2) Observe a recess in January 2003, with no ordinary meeting of Council being held;
- (3) Confirm the ordinary Council meeting dates for the balance of 2003 as the fourth Monday in the month commencing at 7.00pm with the exception of December when the meeting is to be advanced to 15 December commencing at 5.00pm; and
- (4) Delegate authority to the Mayor and Chief Executive Officer to resolve any urgent issues that may arise during the January 2003, Council recess period.

### **COMMITTEE RECOMMENDATION**

Moved Cr. Sheppard, seconded Cr. Furlong

That Council:

- (1) Observe a recess in January 2003, with no ordinary meeting of Council being held;
- (2) Confirm the ordinary Council meeting dates for the balance of 2003 as the fourth Monday in the month commencing at 7.00pm with the exception of December when the meeting is to be advanced to 15 December; and
- (3) Delegate authority to the Mayor and Chief Executive Officer to resolve any urgent issues that may arise during the January 2003, Council recess period.

Note: The Committee was concerned that the proposed early starting time for the December meetings could pose difficulties for members of the public who may want to attend.

### **AMENDMENT**

Moved Cr. Utting, seconded Cr. Morgan

That the motion be amended in item (3), line 2 after the word '*urgent*' by adding the words '*non-controversial*'.

The original motion was put.

Lost 1/8

C103 COUNCIL RESOLUTION

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council:**

- (1) Observe a recess in January 2003, with no ordinary meeting of Council being held;
- (2) Confirm the ordinary Council meeting dates for the balance of 2003 as the fourth Monday in the month commencing at 7.00pm with the exception of December when the meeting is to be advanced to 15 December; and
- (3) Delegate authority to the Mayor and Chief Executive Officer to resolve any urgent issues that may arise during the January 2003, Council recess period.

Carried 9/0

C104 STATION STREET SUMP – PROPOSED CAR PARK

File No.: E15.9  
Author: Mr Stephen Tindale  
Report Date: 13 November, 2002  
Author Disclosure of Interest: Nil

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**SUMMARY**

A recommendation is made to engage consultants to:

- prepare conceptual plans and an artist's impression of a two-storey car park on the Station Street sump site
- provide a valuation for the sale of the existing car park on the corner of Station Street and Railway Street as a mixed-use development.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The conceptual plans, artists impression and valuation are anticipated to cost somewhere in the vicinity of \$5,000 all up. The expenditure can be funded from the \$25,000 set aside in this years budget for consultants.

**BACKGROUND**

In 1998, Council sought advice on the commercial viability of the Council-owned land in Station Street and then resolved to seek expressions of interest for its potential development.

Two expressions of interest were received – one from the BP/McDonalds group and one from Uzbek Pty Ltd. The former related to the construction of a retail outlet with associated parking, toilet and community facilities while the latter offered three options based on the construction of a major carpark with or without an office development of one or two stories.

The advice received from Chesterton International regarding the potential for development of the subject land demonstrated that it would not be commercially viable for Council to improve the land. The advice was based on the high cost of constructing a platform over the existing sump which had to be retained as part of the drainage system.

It is a matter of history that the BP/McDonalds proposal floundered because of public opposition and that BP subsequently tried to salvage the development proposal.

In July 2002 Council resolved not to proceed with the acquisition and sale of land to BP for the purpose of redeveloping the service station site on the corner of Stirling Highway and Station Street.

Instead Council resolved that “...an investigation be made of alternative uses of the Station Street sump site, that fits the long term strategic development of Cottesloe and its town centre.”

As part of the investigation, the feasibility of constructing a two-storey car park over the Station Street sump has been examined.

### **CONSULTATION**

The subject of a car park over the Station Street sump was broached at a recent special meeting of the Cottesloe Business Association in response to a suggestion that the land in question be turned into a park.

While it was not the subject of a formal resolution, there was more support at the meeting for the construction of a car park, rather than a park on the Station Street sump site.

### **STAFF COMMENT**

A thorough investigation of alternative uses of the Station Street sump site that fits the long term strategic development of Cottesloe and its town centre has not been made.

Council does not have a particular strategic vision for the “village” but Council’s strategic plan does make reference to the following under the heading of town planning.

*Define, enhance and preserve the following precincts: Marine Parade (commercial and residential); Napoleon St and Town Centre; Heritage; Recreational and Residential.*

There has been some discussion about relocating the Council depot or the Council offices to Station Street but that discussion has only served to complicate rather than simplify matters. The relocation of the depot into the “village” would undoubtedly be controversial and the relocation of the Council

offices raises the issue of what to do with the Civic Centre. Neither of the proposed relocations figures as a high priority for Cottesloe residents – particularly in the absence of value adding that can be easily recognised.

The issue has therefore been reduced to one of what can the Town of Cottesloe do to add value to the town centre area in the short to medium term.

Car parking is tight within the town centre area. At times Council has waived or reduced development charges associated with on-site car parking requirements in the Town Centre – presumably because Council has been convinced that developers are unable to make a contribution and/or Council does not have a parking project that it can be seen to be spending the money on. The construction of a new car park for \$2m will undoubtedly provide sufficient reason to ensure that parking contributions are fully levied with any new development.

The new medical centre in the town centre is putting heavy car parking pressure on Forrest Street. Properly designed, a new car park over the Station Street sump may alleviate the pressure on Forrest Street in an orderly manner.

There is no guarantee that the parking area in Railway Street on the western side will always be available. It is currently leased from Westrail by the Town of Cottesloe and may be affected by proposed east/west linkages to a realigned Curtin Avenue.

All day parking is a problem for resident businesses. Currently, Council's rangers turn a blind eye to anyone overstaying the 4-hour time limit in the 60-bay Station Street car park.

The Grove does not provide all-day parking and despite the vacant car bays, Stirling Highway seems to be a real barrier to pedestrian movements between the Grove shopping centre and Napoleon Street. The barrier no doubt impacts on car parking within the village – particularly for those who see safety as a significant consideration where walking is involved.

As previously advised, the Station Street sump does not lend itself to a normal commercial development because of the capital cost of putting a platform over the sump. The land only had value for BP when joined with the Stirling Highway frontage. If Council were to acquire the freehold title to the portion of the sump land that is currently held as a reserve, then it would have to pay \$285,000 for the privilege. The payment of \$285,000 would constitute a dead loss for absolutely no gain in the absence of a buyer.

By constructing a two-storey car park over the sump, Council can realise the value of the land without paying for the land itself (existing freehold land excluded). The consulting engineers have indicated that the average cost per car bay could be as low as \$15,361 per car bay. "Guesstimates" of the current value of a car bay in Station Street suggest that the real value is somewhere around \$32,000 per bay. This figure is what the Town of Cottesloe would expect a developer to pay if they were unable to provide on-site parking adjacent to Station Street.

To fund the construction of the car park, it is proposed that the existing 60-bay car park in Station Street be sold for development as a mixed residential development. A local developer has expressed a strong interest (to the extent of providing concept plans and submitting a funding proposal) in developing the land.

Naturally due process would need to be followed in listing the land for sale – either by tender or auction. The proceeds from the sale of the land may only be sufficient to construct the ground floor of the car park. Then again, the sale proceeds may be sufficient to construct the two storey version, plus much-needed public toilets under the car park ramp.

So that Council has a firmer understanding of what might be achieved, it is recommended that a valuation of the existing Station Street car park be obtained.

Conceptual plans and an artist's impression of the proposed car park would also help in terms of presenting a proposal to the community, before any firm commitment is made to proceed.

The provision of car parks and public toilets are core areas of responsibility for the Town of Cottesloe.

#### **VOTING**

Simple majority.

#### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Sheppard, seconded Cr. Furlong

That Council engage consultants to:

- (1) prepare conceptual plans and an artist's impression of a two-storey car park on the Station Street sump site; and
- (2) provide a valuation for the sale of the existing car park on the corner of Station Street and Railway Street as a mixed-use development.

#### **AMENDMENT**

Moved Cr. Morgan, seconded Cr. Utting

That a the motion be amended by adding the following:

*“(3) prepare conceptual plans and an artist's impression of a park on the Station Street Sump site.”*

Carried 6/3

The amended motion was put.

C104

#### **COUNCIL RESOLUTION**

**That Council engage consultants to:**



- (1) prepare conceptual plans and an artist's impression of a two-storey car park on the Station Street sump site; and
- (2) provide a valuation for the sale of the existing car park on the corner of Station Street and Railway Street as a mixed-use development.
- (3) prepare conceptual plans and an artist's impression of a park on the Station Street Sump site.

Carried 6/3

**C105** SERVICES SURVEY – STRATEGIC PLAN

**File No.:** X12.4  
**Author:** Stephen Tindale  
**Report Date:** 13 November, 2002  
**Author Disclosure of Interest:** Nil

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**SUMMARY**

The results of the services survey have been tabulated and distributed to Council members by separate mail. The results have also been published on Council's website.

A recommendation is made to formally receive the results of the survey and to incorporate the results into a review of Council's strategic plan.

Further, that the CEO set out a process and timetable for the review of Council's strategic plan to be commenced in the New Year.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

The community services survey is pivotal to the development of Council's strategic plan.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

In March of this year Council resolved to undertake a community services survey to assist with the development of its strategic plan.

At the time, it was pointed out that if a strategic plan is to work, then it has to be 'issues' based. If it is anything else, then it runs the risk of being a vague and wordy document that means everything and nothing to all and sundry.

It was also pointed out there are issues in Cottesloe of an outstanding nature that need to be resolved. However these specific issues are hinted at rather than being clearly documented within the existing strategic plan.

The results of the community services survey presents a range of views on a number of topical issues as well as identifying the Town of Cottesloe's standard of service delivery across the full range of services provided. It also indicates the willingness within the community to pay for increased services and the frequency of use of existing services.

The issues and results of the survey can now be incorporated into Council's strategic plan while providing some guidance in the interim on areas that need to be addressed sooner rather than later.

### **CONSULTATION**

Of the 358 surveys that were distributed, 182 were returned. With a 95% confidence interval, the margin for error is 7%. What that means is that in 95 out of 100 samples of the population, we could expect the survey results to be within 7% of the results obtained with this sample.

In other words, the survey results are a fairly accurate reflection of the community attitudes.

### **STAFF COMMENT**

Now that community attitudes are known, the Town of Cottesloe can proceed with the development of its strategic plan.

### **VOTING**

Simple majority.

## **C105 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

- (1) That the results of the Services Survey be received;**
- (2) That the CEO set out a process and a timetable for the review of Council's strategic plan; and**
- (3) That the process and a timetable be presented to the December meeting of Council.**

Carried 9/0

## **C106 WESTERN SUBURBS GREENING PLAN – ADOPTION BY THE TOWN OF COTTESLOE**

<b>File No.:</b>	<b>X11.20</b>
<b>Author:</b>	<b>Stephen Tindale</b>
<b>Report Date:</b>	<b>13 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

### **SUMMARY**

A recommendation is made to adopt the recommendations contained within the Western Suburbs Greening Plan.

### **STATUTORY ENVIRONMENT**

Nil.

## **POLICY IMPLICATIONS**

Nil.

## **STRATEGIC IMPLICATIONS**

The Western Suburbs Greening Plan resonates with the principles of sustainability as articulated within Council's strategic plan.

## **FINANCIAL IMPLICATIONS**

Depends entirely on the degree to which the recommendations of the Western Suburbs Greening Plan are taken up by the Town of Cottesloe.

## **BACKGROUND**

The Western Suburbs Greening Plan is an initiative of the Western Suburbs Regional Organisation of Councils.

The specific recommendations of the report are as follows:

### **Protection and Management of Existing Bushland**

1. Retain and improve, where possible, all existing bushland and wetlands found within the Western Suburbs;
2. Develop management plans for all major bushland and wetland areas within the Western Suburbs.
3. Encourage community involvement in the management of existing bushland. Ensure that adequate training is given to volunteer groups before undertaking restoration efforts.

### **Develop and Maintain Greenways**

4. Develop greenways in the order of regional linkages, securing linkages and developing linkages on local government managed land.
5. Develop and maintain greenways to encourage movement of native biota
6. Develop partnerships with major land owners such as Main Roads WA, Westrail and Western Power to increase the ecological and aesthetic value of their land so they have the capacity to act as greenways.
7. Encourage individual, corporate and institution landowners to contribute to the greenway program through the development of ecological and aesthetic enhancement of their land.
8. Undertake detailed planning and design of greenway project sites.

### **Establish Greenways on Publicly Owned Land**

9. Where possible expand existing remnants through restoration of contiguous land.
10. Increase the quantity and quality of bushland adjoining existing remnants.
11. Develop demonstration sites that show the contiguous expansion of bushland through various restoration techniques.

### **Green Parkland Areas**

12. Identify public open space areas that may contribute to greenway development.
13. Prepare innovative designs for sites that demonstrate a distinctive sense of place for each area that embraces the unique characteristics of the environment.
14. Establish community ownership of parks through precinct groups, schools or friends of park groups.
15. Incorporate public art to create spaces with unique identities that create a sense of place and local community ownership.
16. Implement the greening and habitat enhancement of parts of public open space.
17. Demonstrate the use of primarily native flora in the design of public open space.

### **Coastal and River Foreshore Areas**

18. Develop a continuous and contiguous greenway along the river foreshore and coastal areas.
19. Develop ecological and landscape designs that minimise conflicts with adjoining owners through their involvement in the design process.
20. Create interpretative displays that educate and inform the public about the environmental process in coastal areas, and the Aboriginal and European history of the areas.

**Streetscapes**

21. Use streetscapes as a means of connecting natural bushland areas;
22. Increase the aesthetic and ecological values of existing streetscapes;
23. Encourage community involvement in streetscape design; and
24. Develop demonstration sites that help create new precedents in streetscape design within the context of greenways;
25. Develop designs and plans for different road and street hierarchies (taking account of public safety and design requirements) which incorporate greenway principals, the retention of existing trees and the involvement of the community in the process.

**Greening of Private Land**

26. Work with relevant government land owners and departments to develop their land for greenway purposes.
27. Encourage the use of innovative design that meet sustainability measures in the greening of government land.
28. Encourage private residences adjacent to greenways to introduce indigenous vegetation into their property.
29. Encourage properties not directly related to the Greening Plan to vegetate their property with appropriate local species as this contributes to the amenity of the area.
30. Promote that all landowners have the opportunity to participate in and contribute to the creation of a more attractive and sustainable environment.
31. Encourage the development of planting plans which provide appropriate indigenous species and incorporate any existing significant vegetation.
32. Promote planting lists of appropriate flora for private property abutting major greenways to maximise the width of greenways and include requirements for appropriate landscape plans into future major development approvals.

**Educational Institutions and Corporations**

33. Involve educational institutions, corporations and businesses in the development of the greening plan.
34. Involve school and tertiary institutions in the monitoring and evaluation of the greenways program.
35. Provide formal recognition, assistance and planning and resources to participating Institutes.
36. Involve students in projects to educate them in all aspects of the Greening Plan.

**Community Education, Awareness and Involvement**

37. Develop a community awareness and involvement program for the Western Suburbs Greening Program.
38. Actively involve the community in green plan initiatives.
39. Provide literature and support to land owners who wish to undertake greening initiatives particularly within greenway priority areas.

**CONSULTATION**

The Western Suburbs Greening Plan has been endorsed by the Care for Cottesloe (LA21) Committee.

**STAFF COMMENT**

The implementation of the objectives of the Western Suburbs Greening Plan will need to occur at two levels – regional and local.

The lead Council for the implementation of objectives at the regional level is the Town of Mosman Park. It is expected to:

- (1) identify those objectives that are best suited to implementation at a regional level (e.g. preparation of educational materials),
- (2) obtain the necessary resources, and
- (3) implement action on the ground.

Success levels in implementing the initiatives at regional and local levels will depend largely on the level of political and administrative support within each local government for the Western Suburbs Greening Plan.

Financial constraints and competing priorities may mean that some of the objectives of the Western Suburbs Greening Plan are only partially (or perhaps never) implemented.

The Western Suburbs Greening Plan supports the Town of Cottesloe's Strategic Plan and the over-arching theme of sustainable development. If only for that reason alone, the Western Suburbs Greening Plan is recommended to Council for adoption

**VOTING**

Simple majority.

**OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Sheppard, seconded Cr. Furlong

That Council:

- (1) adopt the recommendations of the Western Suburbs Greening Plan;
- (2) make the document available to interested residents in hard copy form and post it on the Town of Cottesloe's Web Site.

**AMENDMENT**

Moved Cr. Walsh, seconded Cr. Birnbrauer

That the motion be amended by deleting the word '*adopt*' in item (1) and substituting with the word '*receive*'.

Carried 9/0

The amended motion was put.

**COUNCIL RESOLUTION**

**That Council:**

- (1) receive the recommendations of the Western Suburbs Greening Plan;**
- (2) make the document available to interested residents in hard copy form and post it on the Town of Cottesloe's Web Site.**

Carried 9/0

**W38**

**WADING POOL**

<b>File No.:</b>	<b>E 2.13</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Malcolm Doig</b>
<b>Report Date:</b>	<b>13 November, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

To consider the further reports relating to the options for the supply of seawater to the wading pool in lieu of the original ground water supply order to comply with current health standards.

**STATUTORY ENVIRONMENT**

The Health Act.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Council has amended the budget to provide \$20,000 for the design works. As costs to date will not exceed \$3,000 the budget would need to be increased by a further \$60,000 to \$70,000 if the works are to proceed.

**BACKGROUND**

In July, 2002 Council (ref W24) resolved to:

- (1) Resolve to retain the Cottesloe Beach Children's Wading Pool as a public facility providing safe recreational enjoyment to adult-supervised children;
- (2) Amend the 2002/2003 Budget to provide \$20,000 for the design of urgent modifications to provide the Wading Pool with a continual flow of clean seawater as suggested by the Health Department of WA;

Contact was then made with Mr Andrew Collins of Blakers Pump Engineers who has been providing technical advice on saltwater pumping options to the proponents of the lap pool. Further technical advice was sought from the mechanical engineer at McDowall Affleck Pty Ltd as there were still issues to be resolved in relation to the pipe work necessary to achieve the circulation required.

**CONSULTATION**

Nil - reference is made in the customer survey.

**STAFF COMMENT**

The cost estimates in the McDowall Affleck report indicate that the cost of installing a salt water supply would range from \$66,000 to \$89,000 depending on the configuration preferred. An estimate of \$79,700 is based on a dual pipe from the ocean in order to allow periodic flushing of either supply line, but only utilising a single pump. A second pump, as originally recommended as a standby and boosted when peak demand occurs, would cost an additional \$9,020 installed. The deletion of one of the supply lines would save approximately \$13,970. These prices are higher than the original guesstimate of \$40,000 for the provision of a saltwater supply.

It should be noted that for the purpose of this report the cost estimates were based on above ground galvanised steel pipes running parallel to the southern

edge of concrete pavement on the groyne. Options to run the lines across the reef were not considered because of the complex issues likely to be raised.

The pumping estimates exclude the suggested modifications to the pool which were to include sandblasting, tiling, cutting down wall height, construction of an overflow gutter, with gutter grating and three sets of steps totalling \$70,000. A further \$15,000 would be required if non-slip tiles or vinyl is required on the floor.

In July 2002 the Department of Health conceded that the facility is primarily designed as a wading pool, not a swimming pool and that the present provisions of the Health Act (Swimming Pools) Regulation 1964 would not be applicable. However a departmental officer repeated his concern about the current design of the facility to contribute to the creation of a public health hazard, as samples taken from the well have revealed the presence of potentially harmful bacteria.

In a recent discussion with an officer of the Department of Health council staff were advised that the new legislation for aquatic facilities is likely to be released for public comment in about two months and that they were unlikely to impact on the facility if satisfactory water quality can be achieved. The use of seawater is seen as the only viable alternative as regular testing over a long period has shown that the quality in this area is satisfactory. This is reassuring as the report prepared by Geoff Ninnes Fong and Partners had noted that the general conception of seawater is pristine and clean and can be used in pools without treatment is not always the case.

Consideration does need to be given to the longer-term future of the wading pool particularly as the concept plans for the suggested lap pool indicate that the current pool site would be used and a new wading pool constructed. In these circumstances the supply lines and pump(s) required for the existing wading pool may prove to be redundant.

If Council does wish to proceed with the construction it is likely that approval would be required from the Ministry for Planning, Department of Health and appropriate aboriginal groups.

Based on the fact that Council has already resolved to retain the Cottesloe Beach Children's Wading Pool as a public facility providing safe recreational enjoyment to adult-supervised children and has provided \$20,000 in the current budget there are a number of actions to be considered:

- Commission McDowell Affleck to proceed to design detail so that the necessary approvals can be sought;
- Make sufficient provision in the current budget, perhaps by borrowing additional funds;
- Make provision in a future budget for tenders to be called and the works to proceed.

## **VOTING**

Absolute majority is required at Council for a budget amendment in the current year.

A normal majority would be required if a recommendation is made to consider the works in the 2003/2004 budget.

### **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Sheppard, seconded Cr. Furlong

That Council:

- (1) Receive the further reports on the options and estimated costs of pumping seawater to the wading pool;
- (2) Engage McDowall Affleck Pty Ltd to prepare the necessary design detail and specifications based on twin supply pipelines from the ocean, with a single pump housed in the existing well structure and utilising the existing delivery and discharge lines to the pool.
- (3) Not proceed with the suggested modification to the existing wading pool which were estimated to cost an additional \$70,000;
- (4) Seek all necessary approvals from Department of Health and Department of Planning;
- (5) Resolve to fund the amount of \$90,000 in the 2003/4 budget.

Absolute Majority Required

### **AMENDMENT**

Moved Cr. Birnbrauer, seconded Cr. Sheppard

That Council defer consideration of item W38 relating to the Wading Pool.

Lost 4/5

The original motion was put.

W38

### **COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

That Council:

- (1) Receive the further reports on the options and estimated costs of pumping seawater to the wading pool;
- (2) Engage McDowall Affleck Pty Ltd to prepare the necessary design detail and specifications based on twin supply pipelines from the ocean, with a single pump housed in the existing well structure and utilising the existing delivery and discharge lines to the pool.
- (3) Not proceed with the suggested modification to the existing wading pool which were estimated to cost an additional \$70,000;
- (4) Seek all necessary approvals from Department of Health and Department of Planning;
- (5) Resolve to fund the amount of \$90,000 in the 2003/4 budget.

Lost 4/5



Cr. Morgan requested that the voting be record.

DIVISION

**For:** Crs Ewing, Birnbrauer, Whitby and Rattigan

**Against:** Crs Furlong, Sheppard, Morgan, Walsh and Utting.

W39

**BEACH – REEF FISH HABITAT PROTECTION AREA - SIGNS – NOTICE OF MOTION – 6/2002**

**File No.:**

**E2.4 & X4.10**

**Applicant:**

**Cr. J. Birnbrauer**

**Senior Officer:**

**Mr Stephen Tindale**

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**SUMMARY**

Cr. Birnbrauer has indicated that at the Works & Corporate Services Committee meeting he intends to move the following:

*“That Council relocate the Reef Fish Habitat Protection Area signs to footpath level opposite Sydney Street and Vera View Parade”.*

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Staff time taken to moving signs.

**BACKGROUND**

Cr. Birnbrauer advised in writing that he intends to move the following: “That Council relocate the Reef Fish Habitat Protection Area signs to footpath level opposite Sydney Street and Vera View Parade”.

He stated that if the motion is considered a rescission, it will be seconded by Crs Sheppard and Utting.

The CEO advised that standing order 10.14 provides as follows:

**Repetition of Lost Motions**

No motion which has the same specific intent to one which has been lost within the preceding three months shall be moved unless it is presented as a notice of motion and the notice is signed by one third of the officers of the members of council, whether present or not.

Cr. Birnbrauer further advised in writing that the four signatories for the motion are Crs Birnbrauer, Ewing, Sheppard and Utting.

**VOTING**

Requires one third of the officers of the members of council, whether present or not.

**W39 COUNCILLOR & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Sheppard, seconded Cr. Furlong

**That Council relocate the Reef Fish Habitat Protection Area signs to footpath level opposite Sydney Street and Vera View Parade.**

Carried 8/1

Note: As this motion had been lost at a meeting within the last three months, it required the support of four elected members before it could be put. Support for the motion was given, on notice, from Crs. Birnbrauer, Utting, Sheppard & Ewing.

**11 ELECTED MEMBERS' MOTION OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING****(a) ELECTED MEMBERS**

Nil.

**(b) OFFICERS**

Nil.

**13 MEETING CLOSURE**

*The Mayor announced the closure of the meeting at 9.36pm.*

CONFIRMED: MAYOR \_\_\_\_\_

DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_