

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING**

# **MINUTES**

**ORDINARY MEETING OF COUNCIL  
HELD IN THE  
COUNCIL CHAMBER, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, MONDAY, 25 OCTOBER, 2004**

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

The Mayor announced the meeting opened at 7.05pm.

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

Mayor Robert Rowell (Chairperson)  
Cr Arthur Furlong  
Cr Peter Jeanes  
Cr Kevin Morgan  
Cr William Robertson  
Cr Anthony Sheppard  
Cr Victor Strzina  
Cr John Utting  
Cr Jack Walsh

**Officers**

Mr Stephen Tindale	Chief Executive Officer
Mr Alan Lamb	Manager Corporate Services
Mr Geoff Trigg	Manager Engineering Services
Mr Stephen Sullivan	Manager Development Services
Mrs Jodie Peers	Executive Assistant

**Apologies**

Cr Daniel Cunningham  
Cr Bryan Miller

**Leave of Absence (previously approved)**

Nil

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

Nil.

**4 PUBLIC QUESTION TIME**

Mr DC Dillon, 62 Forrest Street – Item 13, Strategic Planning

The Cottesloe Strategic Planning Committee conducted a workshop on 31 January and 7 February 2004. Thereafter, a paper and questionnaire was distributed to ratepayers.

In response to a proposal in the paper to radically upgrade the vehicular use of Forrest Street, an action group was formed. The Action Group provided a formal response to the Strategic Planning Workshop's paper. In addition to challenging the basis and logic of the Forrest Street proposal, the formal response required answers to a number of questions in relation to the factual basis which may have supported the Strategic Planning Workshop to consider upgrading the vehicular use of Forrest Street. No response to the Action Group's response has been received.

On 6 September, 2004 the Planning Committee passed a resolution to exclude from the proposal the upgrading of vehicular traffic on Forrest Street. On the same day but a few hours later, Council (by a vote of 6 for and 5 against) voted to not exclude the Forrest Street proposal.

In relation to the above, the following series of questions are asked.

- (a) Who was responsible for answering the Action Group's formal response and, more particularly, answering the series of questions asked by the Action Group? Why has no answer been given? If an answer is to be given when will the answer be received?
- (b) In considering the Forrest Street proposal further, ratepayers ask Council the following questions:
  - (i) Will Council take into account the views of ratepayers as reflected in the Action Group's response.
  - (ii) Will Council take into account that it is the clear instruction from effected ratepayers that the proposal is not to be pursued.
  - (iii) Will Council take into account that ratepayers have no interest in Cottesloe being the subject of a further major arterial road dividing up and making the suburb less safe for its residents.
  - (iv) Will Council take into account that the Workshop paper does not explain the benefit to residents of delivering into Cottesloe vast amounts of more random vehicular traffic and non-residents and, in the absence of any benefit to ratepayers, the proposal should not be pursued.
  - (v) Will Council take into account that previously Council was, with ratepayers support, working towards the reduction of vehicular traffic in the suburb but the Forrest Street proposal appears to increase vehicular traffic without any apparent benefit to the existing ratepayers.
  - (vi) More particularly, will Council take into account that it was previous policy, which policy ratepayers supported, to "calm and disperse" traffic flow through the suburb, not increase traffic flow from non-resident's vehicles, and to reduce traffic flow into the suburb.
  - (vii) Will Council please explain why a unanimous decision of the Planning Committee to abandon the Forrest Street proposal was reversed by Council and, more particularly, if the Forrest Street proposal does not have ratepayer or Planning Committee support why are ratepayers funds being wasted on pursuing that proposal.

The Mayor advised that the question would be taken on notice and replied to in writing.

Mr Dillon stated that he would like to hear direct from the Councillors their views in relation to this item. He can be contacted on mobile 0411 867 622, however would prefer answers in writing.

Mr C Wiggins, 50 John Street – Item 13, Strategic Planning

Mr Wiggins asked why is the Council pre-empting, in the Town Planning Scheme No. 3, development on the Ocean Beach Hotel site? What will the community get in exchange for the surprising generosity in terms of the value of the site? Is there a danger that the owner of the site will use the rezoning as an opportunity to appeal? Mr Wiggins asked what public consultation will be undertaken?

The Mayor replied that the Ocean Beach Hotel site is a special development site and the staff recommendation canvassed varying heights on this site. The draft Town Planning Scheme No. 3 will follow the normal consultation process, allowing ample time for public comment.

Mr Wiggins asked again why is the council pre-empting the potential future development of the site by providing for increased heights now and what is the community getting in exchange for providing these to the developer?

The Mayor replied that the situation is that the staff have been looking at all of the aspects have presented Council with a recommendation. The Council is not in a bargaining situation.

Mr P Wilks, 46 Griver Street – Item 13, Strategic Planning

Mr Wilks asked if Agenda Item 13 Strategic Planning could be brought forward in this evening's meeting so that items of particular interest to the community members in attendance could be considered early?

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

Cr Miller has applied for leave of absence for the October and November Council meetings as he will be overseas on those days.

Moved Cr Robertson, seconded Cr Strzina

That Cr Miller's request for a leave of absence from the October and November Council meetings be granted.

Carried 9/0

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

Moved Cr Strzina, seconded Cr Robertson

The Minutes of the Ordinary Meeting of Council held on Monday, 27 September, 2004 be confirmed.

Carried 9/0



**7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

- 7.1 The Mayor announced that the Town of Cottesloe is celebrating its 53<sup>rd</sup> anniversary of the first Council meeting held in these Council Chambers, along with it being the 54<sup>th</sup> anniversary of Council being housed in this building. It is also the 104<sup>th</sup> anniversary of the Cottesloe Council.
- 7.2 Tonight is also significant as the agenda introduces some major considerations regarding the Town of Cottesloe's assets. Roads, footpaths and drainage have a life of approximately 20 years. Each year Council should be renewing 5% of these assets, however during the past years Council has only renewed 2-3% each year. The Mayor stated that he hopes the community can see that works have substantially increased this year. In future the works will continue to ensure that the Town of Cottesloe's assets are properly maintained.

**8 PUBLIC STATEMENT TIME**Mrs Y Strickland, 32 North Street – Item 11.1.4, No. 32 (Lot 278 North Street – Two Storey Addition to an Existing Single House

Mrs Strickland thanked the Council for the opportunity to speak on this item. The extensions were designed by an architect to comply with the R-codes. Additional privacy screening has been provided.

Mr R Heyns, 82 Broome Street - 11.2.1, No. 82 (Lot 224) Broome Street – Unauthorised Structure - Patio

Mr Heyns thanked the Council for the opportunity to speak on this item. He honestly believed that he was replacing a structure and thought that the neighbour would be happy with the work in her choice of materials. The work continued as he understood that an agreement had been reached. Mr Heyns asked the Council to defer the decision until Christmas time. Mr Heyns also stated that the gutters and downpipes are where they should be and not missing as stated in the report.

Dr J Birnbrauer, 64 Napier Street – Item 12.1.8, Salary Package Vehicle Purchase

Dr Birnbrauer stated that the Care for Cottesloe Committee recently discovered that the Council fleet cars have been changed from gas to petrol vehicles. Is this new car going to be gas, and was the staff member asked if they wanted a gas car? Will Council in the future reconsider the decision to change to petrol vehicles and contemplate the feasibility in purchasing gas low emission vehicles when the opportunity arises?

The CEO clarified that the management of fleet vehicles rests with himself, however he recently put an agenda item up to Council in relation to the cars. Council policy states that the 'green' vehicles will be purchased if the cost is within 10% of their "non-green" equivalents. However it was found that Council has been paying more for the vehicles and receiving less for trade-ins. This proposed vehicle is a 4 cylinder and a gas conversion would be an additional cost. The CEO noted that Council has been involved in the carbon neutral

program. One motivation of Council in purchasing gas vehicles was to demonstrate by way of leadership to the community the positives of purchasing LPG vehicles but there was little evidence to suggest that members of the community were following suit.

Cr K Morgan, 2/1 Pearse Street – Item 13.1.1, Municipal Inventory

Cr Morgan made a statement as a private ratepayer who has a property on the Municipal Inventory. He stated that the agenda report fails to take into account all of the submissions on this matter. The Municipal Inventory wrongly describes the quadraplex, of which he is an owner of one unit, as a duplex. During the submission period he lodged a submission and requested that the error be corrected. This agenda item fails to properly take into account all of the public submissions received.

Dr J Birnbrauer, 64 Napier Street – Items 13.1.3, 13.1.4, 13.1.5, 13.1.8, Strategic Planning

Dr Birnbrauer stated on behalf of SOS that the committee is in favour of the proposal in Item 13.1.3.

In relation to Item 13.1.4 the Council is already aware of SOS's objections. SOS will provide a submission during the consultation period.

In relation to Item 13.1.8 regarding the Special Development Zone A – this is much too important to pass at this evening's meeting. The residents have made themselves clear about the 12 metre height limit on Marine Parade. He doesn't see the parapet arrangement as an improvement. It will be a mistake to foreshadow raising the height limit of Marine Parade in the Town Planning Scheme No. 3.

Mr P Wilkes, 46 Griver Street – Item 13.1.8, TPS No. 3 – Special Development Zone A

Mr Wilks stated that he was horrified to read the minutes in relation to this item. He does not feel that Cottesloe being landmarked is a good idea and is very aware that the community is also against it. Mr Wilkes urged Council to reject both options.

Cr K Morgan, 2/1 Pearse Street – Item 13.1.1, Municipal Inventory

Mr Morgan sought clarification that category 3 buildings will remain on the Municipal Inventory, despite submissions being lodged.

The CEO advised that the proposal is for the 6 categories to remain on the Municipal Inventory with the addition of a seventh category - Demolitions and Deletions. The category 1 properties not on the State Heritage Register will be downgraded to category 2. This agenda item has been put forward to settle the matter of a heritage list for draft Town Planning Scheme No. 3. The Municipal Inventory should not be seen as a list of scientific certainty as it is largely based on a "drive-by" assessment process.

Cr Morgan reiterated that mistakes in the Municipal Inventory have been drawn to the CEO's attention.

**9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Cr Walsh asked that all Councillors be asked to ensure that any declaration of interest is made in regards to the ownership of Multiplex shares or subsidiaries.

The Mayor requested that Councillors note this and act appropriately.

The Agenda Items were dealt with in the following order: 131.1 – 13.1.8, 11.1.1-11.1.11, 11.2.1, 121.1 – 12.1.11, 12.2.1 – 12.2.6.

**10 REPORTS OF COMMITTEES AND OFFICERS****11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 18 OCTOBER 2004****11.1 PLANNING****11.1.1 NO 6 (LOT 216) STANHOPE STREET - TWO -STOREY RESIDENCE PLUS BASEMENT**

**File No:** No 6 (Lot 216) Stanhope Street  
**Author:** Ms Lilia Palermo  
**Attachments:** Location plan  
 Correspondence from applicant  
 Revised drawing

**Author Disclosure of Interest:** Nil  
**Report Date:** 11 October, 2004  
**Senior Officer:** Mr Stephen Tindale

**Property Owner:** Dr K. Aitken

**Applicant:** Paul Meschiati & Associates  
**Date of Application:** 2<sup>nd</sup> August 2004

**Zoning:** Residential  
**Use:** P - A use that is permitted under this Scheme  
**Density:** R20  
**Lot Area:** 759m<sup>2</sup>  
**M.R.S. Reservation:** N/A

**SUMMARY**

Council is in receipt of an application for a two-storey single residence plus basement.

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

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

## APPLICATION ASSESSMENT

### AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
5.1.1 – Measurement of Building Heights	Wall height 6.0m – 26.4RL	Wall Height – 26.73 RL

#### Town Planning Scheme Policy/Policies

Policy	Required	Provided
Policy 005 – Building heights	Wall height 6.0m measured from NGL at any point on site	Wall Height 7.0m on the eastern side

## STRATEGIC IMPLICATIONS

N/A.

## FINANCIAL IMPLICATIONS

N/A.

## CONSULTATION

### REFERRAL

#### Internal

- Building
- Engineering

#### External

N/A.

### ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

### Submissions

There were 5 letters sent out. There was 1 submission received, which was an objection. Details of the submission from the adjoining neighbours on 8 Stanhope Street were included in the September report to Council.

## BACKGROUND

There was a Planning Approval granted for a two storey residence on the subject property on 14 May 2004, which contained the following specific conditions:

*Revised plans being submitted to the Manager Development Services showing:*

- (i) The wall height being reduced to a height of RL 26.4:*
- (ii) The roof ridge level being reduced to a height of RL 28.9*

The applicant subsequently submitted an application proposing the following two amended options, due to a difficulty in achieving the required driveway gradient:

- **Option A:** increasing the wall and roof ridge height of the building above the statutory height limits specified by the Planning Approval conditions;
- **Option B:** complying with the statutory height limits for wall and roof ridge height and moving the building back 4.0m.

The application was dealt with by Council at its September meeting and following decision was made:

*“That Council Defer consideration of the application for Approval to Commence Development submitted on 2 August 2004 for No. 6 Stanhope Street to the October 2004 round of meetings”*

The owner met with the Planning Officer to discuss the application and the options to address the issues raised in the September 2004 report to Council. The following letter was received from the owner of the subject property via e-mail:

*“Lilia,*

*Thank you very much for your time today - especially at such short notice.*

*We saw our architect immediately afterwards. We have, again, discussed the various options. As I anticipated the very low ceiling height on the upper floor is not workable, especially without eaves.*

*We now have two options. The first is to convince the DSC at its next meeting to grant us a variation to grant us the extra height as per Option A. If they do not, we will have to move to an alternative option.*

*The best alternative for us will be to abandon the undercroft and pool. We will put the garage where the theatre is, and push the back of the house on the east side back by approximately 6 metres.*

*In our conversation today you indicated that Council may not be prepared to grant a variation as per Option A without seeing the alternatives. This despite the fact that any alternative will obviously result in a larger, more bulky building pushed back on the east side. Our neighbours at 8 Stanhope Street will then be faced with a compliant design in which the back of our building will impose on them to a much great extent than the current design.*

*The problem for our point of view is that our architect will charge us for what will inevitably be a major redesign. Once we embark on this route we cannot afford further delays, submissions to Council etc. The re-design will be fully compliant to the R-Codes and TPS2 regulations so will presumably be passed by Council regardless of the implications on our neighbours.*

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*I have spoken to them today. They are not at all happy. I have made it clear to them that the alternative design is not our choice, nor our wish, but has in the absence of a height variation it is inevitable.*

*As we will be away for the next DSC meeting on 18 September I will be writing a letter to the Councillors explaining our position. I will send you a copy."*

## **STAFF COMMENT**

As there were no additional information or new plans received from the applicant except for the e-mail message quoted above the Council can only reconsider the previously presented Option A.

The latest amended proposal submitted to Council on the 15<sup>th</sup> September 2004, incorporated the following:

- Lowering the wall height of the building on the eastern side by 330mm, this would make it comply with the statutory wall height requirement of 24.4RL;
- Seeking a variation to the wall height for the rest of the building, which would remain at 26.73 RL (330mm over the TPS 2 requirement);

Clause 5.1.1 (c) quoted above gives Council discretion to allow variations to the statutory wall and roof height limits if Council determines that the topography of the land warrants a variation, provided that the amenity of neighbouring areas is not unreasonably diminished.

It is considered that the topography of the site does not warrant a variation to the heights limits under the TPS2 in this case.

The owners of 8 Stanhope are of the opinion that the amenity of their property would be affected.

The levels on the eastern side on the subject property are approximately 1.0m lower than the western side according to the Site Survey Plan supplied by the applicant. Therefore the wall height as seen from the adjoining property to the east 8 Stanhope Street would be approximately 7.0m.

In addition to the proposal exceeding statutory height requirements the proposal would not comply with the requirements under the Local Planning Policy – 005 – “Building Heights”.

Due to the lower natural ground level on the eastern side, the proposed development results in excessive wall height aspect towards the adjoining property to the east.

As it was mentioned earlier the owners of 8 Stanhope Street consider the proposal to have a negative impact on the amenity of their property.

It is recommended that the proposal (plans dated 13<sup>th</sup> September 2004) be refused and the applicant explore other options and modify the design in order to achieve the acceptable driveway gradient and comply with the statutory height limits under the TPS 2.

**CONCLUSION**

It is recommended that the application received on 2<sup>nd</sup> August 2004 (plans dated 13<sup>th</sup> September 2004) be refused as the proposal does not comply with the statutory height limit for wall height under the TPS 2 Clause 5.1.1 (c).

It is considered that the topography of the site does not warrant a variation to the statutory height limits under the Scheme and the amenity of the adjoining property would be affected due to the increased wall height.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

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

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) Determines the natural ground level at the centre of the site to be 20.4 RL for the purposes of Clause 5.1.1 of the Town Planning Scheme text**
- (2) REFUSE its Approval to Commence Development for the Two –Storey Residence Plus basement at No 6 (Lot 216) Stanhope Street, Cottesloe in accordance with the application submitted on 2<sup>nd</sup> August 2004 and additional plans received on 13<sup>th</sup> September 2004 as:**
  - (a) the proposed development exceeds the maximum wall height permitted under the Clause 5.1.1 (c) of the Town Planning Scheme text;**
  - (b) the Council is in the opinion that the natural ground forms on the subject property do not warrant a variation and**
  - (c) the amenity of the adjoining property would be adversely affected due to increased wall height, which would be exacerbated due to the lower ground levels on the eastern side boundary.**
- (3) Advise the submitters of Council's decision.**

Carried 9/0



**11.1.2 NO 259 (LOT 3) CURTIN AVE – PROPOSED TWO STOREY DEVELOPMENT OF PROFESSIONAL OFFICES**

<b>File No:</b>	<b>No 259 (Lot 3) Curtin Ave</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant (2) Submissions (9) Plans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>1 October, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Dean Humphrey &amp; Maria Von Peger</b>
<b>Applicant:</b>	<b>SJB Town Planning &amp; Urban Design</b>
<b>Date of Application:</b>	<b>1 October, 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>AA - A use that is not permitted unless special approval is granted by the Council</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>582m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

Council is in receipt of a development application for the demolition of the existing shop and residence on the north-west corner of Curtin Avenue and Florence Street and construction of a two-storey professional office building.

The applicant has indicated that the future use of the rear portion of the site is intended to be residential. There is an indication that the applicant will lodge an application with the WAPC for the subdivision of the existing lot into two lots, which could result in the lot sizes considerably smaller than permitted in the areas coded R20.

The existing lot is 582m<sup>2</sup> and in accordance with the current plans the following land allocation is proposed:

- office use would occupy 270m<sup>2</sup> ; and
- residential use would occupy 312m<sup>2</sup>

The subdivision of the site is not part of this application. However, it is a matter that should be considered in terms of the future planning for the area.

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

- Home Occupation and Professional Offices in Residential Zone - Policy No 007

**HERITAGE LISTING**

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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

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

**Town Planning Scheme Policy/Policies**

Policy	Required	Provided
Local Planning Policy 007	Number of Employees – 3 maximum; Number of Vehicle trips per day – 10 maximum	Number of Employees – 3 full time & 1 part-time; Number of Vehicle Trips per day estimated – 20 trips

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Sign on Site
- Letter to Adjoining Property Owners

**Submissions**

There were 28 letters sent out. There were 9 submissions received, of which 9 were objections. Details of the submissions received are set out below:

263 Curtin Ave

- *The proposed 5 car parking bays that would be accessed directly off Curtin Avenue will create a serious traffic hazard;*
- *It is totally inappropriate to have a commercial building located within the residential area;*
- *Given that the property is located in a residential area that requires residential building set backs of at least 6.0m it would not be consistent that the proposed building has a set back of only 1.5m;*
- *The proposed development would mean that the land left for residential development would be considerably below current zoning requirements;*
- *The land left for residential construction would be significantly below current zoning requirements and would be significantly below current zoning requirements and would therefore be non compliant.*

44 Florence Street

- *Could create a precedent;*
- *The property should be used for residential purposes;*
- *Traffic would increase on Florence Ave. due to the proposal;*
- *Many beach goers already use Florence Street to bypass the Eric Street lights.*
- *We strongly oppose the plan.*

261 Curtin Ave

- *We wish to lodge a very strong "No" to the proposed development;*
- *We would like to see this area kept as residential;*
- *The proposed parking at the front will look like a car yard;*
- *This will become a dangerous area with cars backing out over the footpath;*
- *If the old delicatessen is demolished we would like the standard setback rule enforced.*

48 Florence Street

- *Curtin Ave is an extremely busy street ...it would be difficult and dangerous to back onto the Curtin Ave...;*
- *This area is both zoned and in fact residential area with many families with young children;*
- *The deli represented a community amenity which strengthened the sense of local community;*
- *I do not feel that they (the Professional Offices) would be appropriate in this residential area.*

30 Florence Street

- *I understand that the present zoning for the Lot 3 to be residential R20...;*
- *Rezoning by the Council for Commercial Offices could cause a domino effect...;*
- *If approved this would increase the zoning according to "Residential Design Codes" table to medium density R30 and set precedent for future development;*
- *The combination of the proposed parking on Florence and Curtin Ave would create a dangerous zone for both pedestrians and vehicles at the junction of these two roads;*
- *The combination of these three factors, zoning, car-parking and scale of the proposal would be detrimental to the character of the area as a whole;*
- *I formally request the Council to reject this proposal...*

### 38 Florence Street

- *The proposed design is not in keeping with the Council's objective to keep the "village atmosphere" in Cottesloe;*
- *This proposal will create a precedent;*
- *The plan is completely out of context with surrounding residences;*
- *If developers want to develop a commercial building let them go to a commercial area;*
- *The proposed parking of 10 vehicles ... would result in a dangerous and busy traffic environment particularly from vehicles accessing the parking area from Curtin Ave;*
- *We would welcome redevelopment of this corner but one that is sympathetic to the area.*

### 255 Curtin Ave

- *...we formally register our objection to the plans for the proposed construction of a double storey office block on the site of the deli...*
- *It is our opinion that the area along Curtin Ave and the adjoining streets is residential and should remain so;*
- *The deli provided an amenity for local residents, where an office block is very unlikely to do the same;*
- *Proposed parking would create a more hazardous situation for the nearby residents;*
- *We ask that you reject this application and preserve the residential status of our neighbourhood.*

### **BACKGROUND**

There is an existing building located currently on the subject site, which was previously operating as the Curtin Deli, which was a non-conforming use under the Town of Cottesloe Town Planning Scheme No 2 (TPS2).

The property was sold several months ago, at which time the shop ceased its operation. It is understood that the current owners opened the shop for a short period of time so as to retain the non-conforming use rights until this matter is resolved.

The proposal was referred to the Design Advisory Panel for comment. The following comments were made:

- *If the application is approved by Council the setbacks should be as per the residential requirements;*
- *There should be a limit on hours of business operation;*
- *The proposed parking layout needs to be addressed; current layout should not be supported as it is dangerous;*
- *A crossover wider than a single crossover width should not be supported;*
- *Access from Florence Street would be preferred;*
- *It can be argued that a Building Designer is not a profession of a similar nature to an architect;*

### **STAFF COMMENT**

It is proposed to construct a two-storey brick/stone and colorbond office building on the subject lot, which would have a:

- 6.0m setback from Curtin Avenue on the ground level;
- 1.5m setback from the upper level to Curtin Avenue; and
- 1.5m setback from Florence Street.

Parking for the offices is proposed to be located underneath the building overhang to Curtin Avenue. Parking has been provided for 5 vehicles that will reverse directly onto Curtin Avenue.

The proposal indicates that proposed office development will be located on a lot that would be 270m<sup>2</sup> in area and a proposed lot of 312m<sup>2</sup> for a single house.

A nil setback is proposed on the western boundary if the proposed subdivision is carried out.

### **Proposed Professional Offices in a Residential Zone**

The subject property is zoned Residential with a density coding of R20. Professional Offices is an "AA" use in the Residential Zone, which means that the land use is not permitted unless special approval is granted by Council.

As the subject lot is located within the Residential Zone and surrounded by residential properties, the impact of the proposal in terms of land use and the proposed development on the amenity of the adjoining residential properties and area needs to be carefully considered.

Of those persons that made a submission, there was strong opposition to the development of the site for office purposes. It was considered that the use was not appropriate in the area nor consistent with the residential use of the area.

The purpose and intent of the Residential Zone is set out in Clause 3.4.1(a) of the Town Planning Scheme text.

The site has been used as a delicatessen, which is a non-conforming land use under the existing Town Planning Scheme. The non-conforming use provisions seek to remove that land use. It is proposed to replace that single storey non-conforming land use with a two-storey professional office development. The surrounding area is predominately residential in terms of land use and character. Having regard to the

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existing land use pattern, the proposed introduction of offices into this locality is considered to be inconsistent with the existing pattern of land uses and the objectives for the Residential Zone.

### **Possible future subdivision**

The subject property is 582m<sup>2</sup> in size. The subject property is located within the R20 density area, which requires a minimum lot size of 440m<sup>2</sup> and the average lot size of 500m<sup>2</sup>.

The applicant indicated in the report that a single house would be built at the rear, which would be a future application and the professional office building has been designed accordingly.

If the Professional Offices and a Single house are built on the subject lot, these will result in the following land allocation:

- office use would occupy 270m<sup>2</sup> ; and
- residential use would occupy 312m<sup>2</sup>

These lot sizes are not in accordance with the lot size requirements for R20 density. The proposal would result in two buildings being built on a single residential lot. The creation of these lots would not be consistent with the existing subdivision pattern of the area nor consistent with the standards contained within the Residential Design Codes.

It is a requirement in the R20 density in case of residential development that 50% of the site is open space. As the proposed office building is located in the Residential Zone, it is reasonable to expect and require the proposal to comply at least with the residential standards in order to minimise the impact on the amenity of the locality. This would relate to such standards as lots size, open space, setbacks, location of parking etc.

The proposal would not be consistent with these standards and it is considered that the subject site would be over developed compared to the surrounding locality, which is likely to impact on the amenity of the surrounding residential area.

### **Front Setback**

Several objections received by Council expressed concerns regarding the proposed reduced front setback of the upper level and its impact on the streetscape and the amenity of the residential area.

Council requires a 6.0m front setback without averaging. It is considered that the proposed reduced setback of the upper floor (1.5m) will affect the streetscape and the amenity of the residential area.

### **Building Height**

The proposed development is required to comply with the statutory height provisions under the TPS2, which are 6m for walls and 8.5m for roof and are measured from the Natural Ground level at the centre of the site.

Although the proposal complies with the statutory height restrictions it would present a wall height of 7.5m on the northern side due to the skillion design of the roof.

### **Use Class**

The Town of Cottesloe Town Planning Scheme No 2 (TPS2) provides the following definition of Professional Offices:

*“Professional Office – means a building used for the purposes of his profession by an accountant, architect, artist, author, barrister, chiroprapist, consular official, dentist, doctor, engineer, masseur, nurse, physiotherapist, quantity surveyor, solicitor, surveyor, teacher (other than a dancing teacher or a music teacher), town planner, or valuer, or a person having an occupation of a similar nature, and Professional Person has a corresponding interpretation.”*

It is stated in the report submitted by the applicant that the proposed new building would be used by Humphrey Building Designers.

The Planning Department sought clarification from the applicant regarding the exact profession of the intended users of the proposed offices. Council received a letter dated 8<sup>th</sup> August 2004 in response to the Council’s enquiry, stating the use of the proposed development will be in conformity with the TPS2 definition.

The architect profession is included in the definition of a Professional Office, which also states that a person having an occupation of a similar nature can be included in the definition.

If Council determines that the Building Designer is an occupation of a similar nature to an architect it would mean the use of the proposed Professional Office by the Humphrey Building Designers complies with the TPS 2 definition quoted above.

It is difficult to determine at this stage due the lack of information supplied by the applicant, if the proposed use of the offices by Humphrey Builders & Designers in compliance with the definition of Professional Offices in the TPS2.

An additional comment will be made to the Development Services Committee.

### **Statement of Planning Policy No 9 – Metropolitan Centres Policy**

The following is stated in the Statement of Planning Policy No 9:

- (Clause 4.1.8) *Except for designated areas, commercial developments should be located in defined centres in order to promote the centres and discourage the encroachment of commercial activities into residential areas.*
- (Clause 4.1.11) *Unless located in centres, retail and commercial developments along major roads will not be supported*
- (Clause 4.1.14) *Mix commercial development in residential areas be of a character, intensity and scale consistent with the residential amenity of the area*

The approval of the proposed development might create a precedent for similar approvals along Curtin Avenue which would result in ribbon commercial development, which is not supported by the SPP 9 nor the residents that made a submission on the application.

The proposal could result in a development of two buildings on one lot, which is not consistent with the intensity of the existing residential area.

### **Local Planning Policy 007 – Development Applications for Home Occupations & Professional Offices in the Residential Zone**

Council's Local Planning Policy 007 – "Development Applications for Home Occupations & Professional Offices in the Residential Zone" states the following:

*"It is Council's general policy to restrict the operation of Professional Offices, Small Businesses and similar activities to zones in which they are appropriately suited.*

*Council may grant special approval (AA use) for the operation of Professional Offices and Home Occupations where it is satisfied that the use will not prejudicially affect the amenity of the neighbourhood."*

In summary, the Policy also outlines the following development criteria for Professional Offices in Residential Zone:

- Number of employees - Not more than 3
- Signage - Not exceeding 0.2m<sup>2</sup>
- Service provision: - Not greater capacity than normally provided
- Hours of Trade - 9am – 5pm weekdays, excluding public holidays
- Parking - 1 bay per 40m<sup>2</sup> of gross floor area; 4 bays minimum
- Traffic Frequency - Not more than 10 vehicle trips per day;
- Clientele - Not more than 4 persons at any one time;

It is also stated in the Policy that *at least 10 properties on any side of a street shall separate Home Occupations or Professional Offices in the Residential Zone.*

#### TPS2 Definition

As it was discussed earlier in the report the proposed offices would be used by Humphrey Building Designers. The definition of professional Offices in TPS2 lists 'Architect' as one of the professions that are permitted under the definition. If Council is of the opinion that 'Building Designer' is a profession of a similar nature to an 'Architect' then it can be concluded that the proposal complies with the TPS 2 definition.

#### Number of Employees

It is stated in the applicant's report that it is proposed to have 3 full time and 1 part-time employees. This is not in accordance with the Policy 007 Requirement.

#### Signage

The applicant stated that the proposed development will have a small discrete sign. There was no size of the signage specified in the application.

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Service provision

The proposal does not require any service greater than normally provided in the residential zone and therefore does not contravene the Policy in regards to this requirement.

Hours of Trade

The application does not specify the proposed office hours, which could be conditioned if the Council is in the opinion that the approval should be granted.

Parking provision

It is a requirement of the Policy and TPS2 that 1 car bay for every 40m<sup>2</sup> gross floor area is provided. It would be required that at least 5 car bays are provided for the proposed Professional Offices.

It is proposed to construct 5 car-parking bays within the front setback with the building over the top. A bitumen driveway (14m in width) servicing the proposed bays, is proposed to come directly off Curtin Avenue. This will entail the office users to reverse directly onto Curtin Avenue.

There are some existing parking bays on the Florence Street verge, which were used as part of the non-conforming Deli use.

If Council is of a mind to approve the application it is recommended that the applicant be requested to remove the existing parking bays on the verge and reinstate the grass cover. The required parking should be provided solely within the property boundaries.

All of the objections received from the surrounding property owners express concerns regarding the proposed parking layout and vehicle access due to potential danger to pedestrians, drivers on Curtin Ave and impact on the amenity of the residential area.

Council's Engineering department does not support direct access and egress of vehicles onto Curtin Avenue due to the potential danger to pedestrians using the footpath and the very busy nature of Curtin Avenue. The retention of the existing parking bays on the Florence Street verge is also not supported by the Engineering Department.

There is a ROW located at the rear of the property, which could be used for vehicle access.

Traffic Frequency

It is stated in the report provided by the applicant that it was estimated that the proposed Professional Offices would generate up to 20 vehicle movements per day.

This is not in accordance with the Policy 007 requirement of not more than 10 vehicles trips per day.

### Clientele

It is stated in the Policy that the number of persons on the premises should not exceed 4 persons at any one time.

The applicant did not specify how many customers the proposed business is estimated to attract.

### Dispersal of Land Use

Planning Department records indicate that there are no other approved home occupation businesses or Professional offices in the close proximity to the subject site. Therefore the proposal does comply with this Development Criterion of the Policy.

### **Design of Proposed Development**

Several objectors commented on the design of the proposed building and that it is not in keeping with the existing character of the residential area.

Council does not have any adopted Design Guidelines for any areas in Cottesloe. The general Amenity Clause 5.1.1 (c) of the TPS 2 states:

*“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)
- c) *the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally;”*

There are no properties in the close proximity to the subject property that have any heritage listing in the Schedule 1, Policy 12 or Municipal Inventory. It is difficult to say if the existing residential area has a definable character that should be protected.

### **Overshadowing and Privacy**

The overshadowing from the proposed building would not affect any of the adjoining residential properties as it would fall onto the street.

It is considered that the proposed design would not cause any privacy issues for the adjoining properties as the proposed windows facing the common boundary with the adjoining residential property to the north are windows to non-habitable rooms.

### **CONCLUSION**

It is recommended that the proposal be refused by Council. The proposed use is an ‘AA’ use, which means that is not permitted unless special approval of Council is granted. Council would need to be satisfied that the proposed development would not adversely impact on the amenity of the adjoining properties and surrounding locality.

It is considered that the proposal is not in accordance with the Residential Zone provisions of Clause 3.4.1(a) of the Town Planning Scheme No. 2 as it would result in a

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development of a higher density than that permitted under the R20 density coding and would potentially impact on the residential character and amenity of the locality.

The design of the development is such that it is to accommodate a future subdivision, which would not be consistent with the pattern of the existing subdivision of the area or the R20 density standards under the density coding applicable to the locality.

The development standards of that development would be below the development standards appropriate for that locality.

The proposed front setback of 1.5m of the upper floor is not in accordance with the required front setback of 6.0m and is considered to have a negative impact on amenity of the surrounding residential properties and the streetscape.

The proposed parking layout with car reversing directly onto Curtin Avenue is not supported by the Council's Engineering Department due to potential danger to pedestrians and drivers. The width of the proposed crossover is excessive (14m).

It is also considered that the proposal is not in accordance with the general objective of the Policy 007, as it would cause a negative impact on the amenity of the neighbourhood.

The proposal is considered to be not in compliance with the development criteria specified in the Policy 007 as:

- It is proposed to employ 4 staff members; (3 permitted under Policy)
- It is indicated that the business would generate up to 20 vehicle trips (10 permitted under Policy);

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

At the request of the applicant the majority of the Committee agreed that the application should be deferred to November round of meetings to let the applicant address the various issues raised in the Officer's Report.

## **OFFICER RECOMMENDATION**

That Council:

- (1) REFUSE its Approval to Commence Development for the Professional Offices at No 259 (Lot 3) Curtin Avenue, Cottesloe in accordance with the plans submitted on 6 July 2004, as Council is of the opinion that:
  - (a) The proposed use would not meet the objectives of Clause 3.4.1 (a) of the No. 2 Town Planning Scheme text as the proposed use would not be consistent with predominate residential use of the area; and
  - (b) The proposed development has been designed to allow for an increased density of development which is inconsistent with the current pattern of subdivision and the subdivision standards for R20 in this locality;

- (c) The proposed reduced front setback would impact on the streetscape and the amenity of the adjoining residential properties;
  - (d) Approval of the proposal would create a precedent for similar applications along Curtin Avenue, which would result in a spread of ribbon commercial development.
  - (e) The proposed parking layout with direct access and egress to Curtin Avenue is unsafe and would cause danger to drivers and pedestrians;
  - (f) The proposal is not in accordance with the general objective of the Council's Policy 007 as Council is not satisfied that the proposal would not prejudicially affect the amenity of the neighbourhood;
  - (g) The proposal does not comply with the Development Criteria of the Policy 007 in regards to number of employees and the maximum traffic frequency;
- (2) Advise the submitters of Council's decision.

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

Moved Cr Furlong, seconded Cr Strzina

**That council:**

- (1) Defer consideration of the application for approval to commence development for a two storey office building submitted on 6 July 2004 for No 259 Curtin avenue to the November 2004 round of meetings; and**
- (2) Advise the submitters of Council's decision.**

Carried 9/0

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**11.1.3 NO. 14 (LOT 8 & PT LOT 7) STATION STREET – ADDITIONS & ALTERATIONS TO SHOP**

<b>File No:</b>	<b>14 Station Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant (2) Town Centre Zone Development Policy Plan Plans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>13 October, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Mrs B Gregory</b>
<b>Applicant:</b>	<b>Justin Ramshaw Architect</b>
<b>Date of Application:</b>	<b>5 August 2004</b>
<b>Zoning:</b>	<b>Town Centre</b>
<b>Use:</b>	<b>AA - A use that is not permitted unless special approval is granted by the Council</b>
<b>Density:</b>	<b>R100</b>
<b>Lot Area:</b>	<b>607m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

An application to extend the existing Vidlers Surf Store has been received, however investigations by Council staff of Council records have revealed that the shop use has never been approved by Council.

Given the assessment that has been undertaken, the recommendation is to:

- (1) not take any action in relation to the unauthorised change in land use at present;
- (2) request the staff to prepare a Town Planning Scheme amendment that will change the preferred use of the northern section of Station Street in Appendix I – Town Centre Zone Development Policy Plan from “showroom, offices, restaurants, service stations” to “retail uses”.
- (3) advise the applicants that:
  - (i) Council cannot approve the proposed development as presented and request that they withdraw the application at present; and
  - (ii) Council is proposing to take steps to amend the current Town Planning Scheme to allow for further consideration of the application once the amendment has been completed.

**STATUTORY ENVIRONMENT**

- Town of Cottesloe Town Planning Scheme No 2

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

- |                                     |     |
|-------------------------------------|-----|
| • State Register of Heritage Places | N/A |
| • TPS No 2                          | N/A |
| • Town Planning Scheme Policy No 12 | N/A |
-

- |                                  |     |
|----------------------------------|-----|
| • Draft Heritage Strategy Report | N/A |
| • Municipal Inventory            | N/A |
| • National Trust                 | N/A |

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

If Council commences an amendment to the Town Planning Scheme, it is anticipated that Council would incur costs of between \$1500 – \$2000.

**CONSULTATION**

## REFERRAL

**Internal**

- Engineering
- Building

**External**

N/A.

## ADVERTISING OF PROPOSAL

The application was advertised for community comment.

The advertising consisted of:

- Letter to surrounding Property Owners

**Submissions**

There were 7 letters sent out. No submissions were received.

**BACKGROUND**

The building was originally built in the 1960's as a carpet warehouse until the late 1980's. The last known item of discussion on the files was for a grocery market in 1987 but no application was received.

It is understood that the Surf shop use commenced sometime in either the very late 1980s or early 1990's. The first known correspondence about the surf shop is dated 12 February 1992.

A search of Council records has revealed that no approval for the change in use to "shop" was granted at any time, although approval was granted for the existing bollards to be erected in Station Street during 1992

The applicant has also advised (refer to letter that is part of the attachments to this report) that this did not occur as additional parking would have been required which would have made it economically unfeasible and therefore Council overlooked the parking and change of use requirement at that time.

Council does not have any records to confirm this nor have the applicants been able to provide proof of Council's approval.

In addition, a recent site inspection revealed that a mezzanine level that currently exists at the rear of the store was built without Council approval as:

- there are no records (planning and building) for the works;
- the works would not meet Building Code requirements.

As a result, the shop is classified as an unauthorised use which does not have Council's approval and is therefore in contravention of the current Town Planning Scheme No. 2, in addition to the unauthorised mezzanine level.

## **STAFF COMMENT**

### **Application for Additions & Alterations**

The application for additions & alterations has been assessed and the following comments are made.

#### Parking

The additional floor space proposed requires the provision of additional parking under Table 2 of Town Planning Scheme No. 2.

Assessment of the application has revealed that a total of 65m<sup>2</sup> additional mezzanine floor space is proposed.

This requires the provision of an additional 4.225 parking bays.

Clause 5.5.4 states:

#### *"5.5.4 Cash in Lieu of Parking*

*Where land is proposed to be developed for a use which may be permitted in the Town Centre, Foreshore Centre, Business and Hotel Zones, Council may approve the development without the required number of parking spaces being provided on or (in Council's opinion) sufficiently near the land, subject to the applicant making arrangements satisfactory to the Council for the provision of off-street parking in the vicinity. In this regard Council may accept cash in lieu of parking spaces subject to the following -*

- \* *the cash in lieu payment shall not be less than the estimated cost to the owner of providing and constructing the parking spaces required by the Scheme plus the value as estimated by the Council of that area of his land which would have been occupied by the parking spaces."*

This clause allows Council to accept the provision of off-street parking on the condition that a cash in lieu payment be provided.

Town Planning Scheme Policy No. 001- Town Centre Zone - Vehicle Parking Requirements, which was adopted by Council on 24 May 1989 states the following:

*In the Town Centre Zone, the Council policy relating to the provision of parking and loading spaces as required in accordance with Table 2 - Vehicle Parking Requirements (Clause 5.5.2 of the Scheme Text) is:*

- 1. In respect of uses 1-3 inclusive, all required spaces must be provided on the development site.*
- 2. In respect of uses 4-10 inclusive, at least half of the total number of required spaces must be provided on, or adjacent to, the development site and arrangements made with the Council for the provision of off street parking in the vicinity of the site for the balance of such spaces still then required.*
- 3. Any cash in lieu payment which may be agreed in accordance with Clause 3.4.2(c)(ii) of the Scheme Text must be paid to the Council in full prior to, or at the time of issue, of the relevant Building Licence.*

Shops are use number 9 in Table 2 and therefore, fall within part 2 of the above-mentioned policy and therefore may only permit half of the required bays to be provided as off street parking bays.

The engineering department has estimated that the cost of constructing a bay is around \$2000.00 depending upon the site and the requirement for drainage.

The cost of the land required for the bays needs to be determined.

Until Council determines its position in relation to the unauthorised change in land use, it is not appropriate at this stage to consider the issue of cash-in-lieu parking.

### **Town Centre Zone Development Policy Plan in Appendix I of Town Planning Scheme No. 2**

This map sets out the preferred land uses in the Town Centre – a copy of this map is part of the attachments to the Development Services Committee agenda.

Council is required to have regard to the Schedule when considering such matters as integration of building, parking, etc.

The map sets out the preferred land uses on the northern side of Station Street as being Showroom, Office, Restaurants and Service Industries area as currently exists in TPS 2.

Clause 3.4.2(c) requires new development to comply with the required car parking standards. The exception is when the proposed conversion of a building occurs and that land use is consistent with the land uses identified in the Schedule. Council can then vary the car parking standards provided it has regard to certain matters (Clause 3.4.2(c)(i)).

If Council supports the use of “retail” on the northern side of Station Street, it could amend the Town Planning Scheme to change the Schedule. Once the Schedule is amended, Council would then have access to consider the use of Clause 3.4.2(c)(i) to vary the parking standard on the basis that the:

- the last approval on records show that the site was approved as a showroom;



- the change in the Schedule to allow “retail” as the preferred uses would allow Council to consider a change in use from “showroom” to the preferred use of “retail”;

### **Unauthorised Shop Use**

In relation to the unauthorised “shop” use, Council has 3 options to deal with a breach of the Town Planning Scheme. The options open to council under the Town Planning Scheme are as follows:

- (i) Take no further action and Council exercises its right not to prosecute;
- (ii) Issue a notice under section 10(4) of the Town Planning and Development Act requiring the owner to remove the unauthorised work. An appeal is available to the owner against the issue of the Notice to the Town Planning Appeal Tribunal. If the owner fails to comply with the notice, Council could modify the building and recover costs; or
- (iii) Council could prosecute the owner for contravening the scheme. This matter would then be determined in the local courts.
- (iv) Council could amend Town Planning Scheme No. 2, to support retail uses on the north side of Station Street and allow consideration of the parking requirement based on the conditions set out in Clause 3.4.2(c)(i).

In relation to point (i), a complaint to the Minister for Planning under Section (18)(2) of the Town Planning and development Act could result in a direction from the Minister to enforce its Town Planning Scheme and require the development to be modified to comply with the approved plans. It should also be noted that the surf shop has been in operation for around 14 years in contravention of the Town Planning Scheme.

If this amendment was gazetted then this would allow Council to consider clause 3.4.2 (c) (i) which states:

- (c) *New development shall be provided with parking in accordance with the provisions of Table 2 - Vehicle Parking Requirements, with the following exceptions.*
  - (i) *Where the use of an existing building is to change to a use consistent with that nominated on the diagram at Appendix I of this Text - Town Centre Zone Development Policy Plan, the Council may permit such change of use notwithstanding the fact that there is insufficient parking on or near the site subject to Council having regard to the nature of the use to be made of the site, the known or likely volume of goods or materials, or the numbers of people moving to or from the site and the likelihood or otherwise of congestion of traffic on any road or in other public places in the vicinity.*

The possible future utilisation of this clause enables Council to alter the parking provisions of the Town Planning Scheme and therefore ultimately approve a shop on this site, without the requirement for cash in lieu parking if that was deemed acceptable in the future by Council.

To change the approved use to “shop” currently would require the provisions of approximately 39.8 parking bays on site or the payment of cash in lieu parking for the provision of these bays in an alternative location.

The situation facing Council is a difficult situation as the current Town Planning Scheme does not have retrospective powers to approve unauthorised developments, or sufficient powers of discretion to allow in this case a wavering of the parking requirements given that the shop has been in existence for about 14 years without any complaints or major issues arising from such a use.

It is recommended that Council agree to resolve to initiate an amendment, subject to a further report being presented to the November meeting, to the Town of Cottesloe Town Planning Scheme No. 2 to change Appendix I – Town Centre Zone Development Policy Plan from “showroom, offices, restaurants, service stations” to “retail uses”.

### **CONCLUSION**

It is considered that Council should:

- (a) not take any action in relation to the unauthorised change in land use at present;
- (b) request the staff to prepare a Town Planning Scheme amendment that will change the preferred use of the northern section of Station Street in Appendix I – Town Centre Zone Development Policy Plan from “showroom, offices, restaurants, service stations” to “retail uses”.
- (c) advise the applicants that:
  - (i) it cannot approve the proposed development at present and request that they withdraw the application at present;
  - (ii) Council is proposing to take steps to amend the current Town Planning Scheme to allow for further consideration of the application once the amendment has been completed.

The cost of an amendment is between \$1500 to 2,000. Normally the applicant would be responsible for the costs associated with the amendment, however, the matter is submitted for consideration by Council.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Cr Furlong and Mayor Rowell stated that they could recall the proposal to set up a surf shop on No 14 Station Street being discussed by Council sometime during the period of 1988 – 1992. Therefore, the Committee should request the staff to search the Council minutes of that period in order to determine if the approval for a shop on the subject property was previously granted by Council.

The Committee were satisfied with the intent of the amendment.

### **OFFICER RECOMMENDATION**

That Council:

- (1) Not take any action in relation to the unauthorised change in land use at present;
- (2) Request the staff to prepare a Town Planning Scheme amendment that will change the preferred use of the northern section of Station Street in Appendix I – Town Centre Zone Development Policy Plan from “showroom, offices, restaurants, service stations” to “retail uses”.
- (3) Advise the applicants that:

- (i) it cannot approve the proposed development as proposed and request that they withdraw the application for the time being; and
- (ii) it is proposing to take steps to amend the current Town Planning Scheme to allow for further consideration of the application once the amendment has been completed.

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

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) Not take any action in relation to the unauthorised change in land use at present;**
- (2) Request the staff to prepare a Town Planning Scheme amendment that will change the preferred use of the northern section of Station Street in Appendix I – Town Centre Zone Development Policy Plan from “showroom, offices, restaurants, service stations” to “retail uses”.**
- (3) Request staff to review the minutes of Council meetings during the period between 1988 and 1992 and report back to the November meeting of Council; and**
- (4) Support in principle the proposed development and expedite a Building Licence approval.**

Carried 9/0

**11.1.4 NO 32 (LOT 278) NORTH STREET - TWO STOREY ADDITION TO AN EXISTING SINGLE HOUSE**

<b>File No:</b>	<b>No 32 North Street</b>
<b>Author:</b>	<b>Ms Lilia Palermo</b>
<b>Attachments:</b>	<b>Location plan Correspondence from applicant (2) Submission (1) Plans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>11 October, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Mr D. Stickland</b>
<b>Applicant:</b>	<b>Michael Hutton Architect</b>
<b>Date of Application:</b>	<b>11 October, 2004</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>769m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

Council is in receipt of an application for a two storey addition/alterations to the existing residence on 32 North Street.

The application was entered on the Delegated Authority Notification list issued on 20<sup>th</sup> September 2004 with the 7-day call in period ending on 27<sup>th</sup> September 2004.

There was an objection received from the adjoining property owner to the east, No 51 Griver Street during the Delegated Authority Councillors Notification period.

Two Councillors informed the Planning Department in writing on 24<sup>th</sup> September 2004 that they wished to call the application in to be dealt with at the next meeting of the Development Services Committee and Council.

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

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

N/A.

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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

**APPLICATION ASSESSMENT**

## AREAS OF NON-COMPLIANCE

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

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

**Town Planning Scheme Policy/Policies**

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

**Residential Design Codes**

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 8 - Privacy	Privacy Setback from Balcony – 7.5m;  Privacy Setback from Bedroom Window – 4.5m	Balcony setback within the cone of vision – 2.4m  Upper Bedroom setback within the cone of vision – 2.4m	Clause 8.8.1 – P1

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

- Building

**External**

N/A.

#### ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

#### Submissions

There were 6 letters sent out. There were no submissions received during the two week consultation process. The delegated authority list was prepared (dated 21 September 2004) and was sent out to Councillors. On the 23 September, an objection was received from the owner of No. 51 Griver Street. The details of the submission are set out below:

##### 51 Griver Street

- *We did not receive a letter of notification of extensions to this property;*
- *The structure is of inferior quality;*
- *The structure is an intrusion on our privacy;*
- *The bedroom window and the balcony to the rear directly look into our main bedroom and lounge upstairs;*
- *The construction is too close to our boundary;*
- *Noise levels.*

In response to the first dot point, Council has a copy of the registered mail receipt that shows that a letter was sent on the 26 August to the owners of No. 51 Griver Street.

#### STAFF COMMENT

The development site fronts onto North Street and has a right of way at the rear of the site. The complainants site is located to the east of the development site, towards the rear half of the development site. The rear of the complainants site abuts the eastern side boundary of the development site.

##### Privacy Setbacks

The proposal does not comply with the privacy setbacks under the Clause 3.8.1 – Visual Privacy.

Acceptable Development Standards under the Clause 8.8.1 A1 require the following privacy setbacks for major openings or their equivalent in direct line of sight within the cone of vision from the boundary:

- *4.5m in the case of bedrooms;*
- *6.0 metres in the case of habitable rooms other than bedrooms;*
- *7.5metres in the case of unenclosed outdoor active habitable spaces (balconies, decks, verandahs and the like)*

The proposed upper floor includes a 1m wide balcony on the southern side (rear) of the building, which wraps around the south-western corner of the house. The proposed privacy setback of this balcony from the eastern boundary is 2.4m.

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There is also a large upper bedroom window facing south, which also does not comply with the required privacy setback of 4.5m. The proposed setback from the upper bedroom window within the cone of vision to the eastern boundary is 2.4m.

Staff were satisfied that the existing landscaping provided sufficient screening to address privacy concerns, based on the lack of any submission received during the submission period.

In response to the objection from the adjoining property owner, the applicant has submitted additional plans showing a 3.5m high and 7.5m wide screen wall on the boundary.

The proposed screen wall would restrict views from the proposed upper floor balcony and the bedroom into the sensitive areas of 51 Griver Street and therefore would satisfy the acceptable development standard of the R-Codes which states:

*(Major Openings or equivalent) are provided with permanent vertical screening to restrict views within the cone of vision from any major opening of an active habitable space.*

Council has not received any comments from the adjoining neighbours regarding the proposed screen wall.

The proposed screen wall is almost twice the height of a standard fence, which might affect the amenity of the adjoining property.

The adjoining neighbours stated in their letter that their upper bedroom and lounge room will be overlooked from the proposed balcony and the upper floor bedroom.

A check of the approved plans for 51 Griver Street (approval issued in June 2001) showed that the upper floor windows facing west (towards the development site) have the following setbacks:

Sitting room – 9.0m

Bedroom – 7.0m

The sitting and bedroom windows on the upper western side of 51 Griver Street have a sufficient privacy setback as per the R-Codes requirements not to be affected by overlooking from 32 North Street.

There is also a large balcony at the rear of 51 Griver Street. The owners of 51 Griver Street did not express concerns regarding the privacy of the balcony. The existing balcony has a setback of 4.5m to the rear boundary of 51 Griver Street. The whole of the rear area on 32 North Street is subject to overlooking from the large balcony of the objectors' property.

There will be some minor incursion of the cone of vision from the proposed rear balcony on 32 North Street into the rear balcony on 51 Griver Street.

The general amenity Clause 5.1.2 requires that Council have regards to various issues that can affect the amenity of the adjoining properties, which also includes privacy issues.

It is recommended that the applicant be required to provide screening on the eastern and southern side of the balcony to prevent overlooking into the rear areas of 51 Griver Street.

In regards to the reference in the objector' letter to *Inferior quality* of the proposed additions, the following comments are made below.

The objection was not very clearly worded. If the objector is referring to the design and the materials proposed to be used for the two storey additions, Council does not have any specific Design Guidelines for any areas in the district.

The general Amenity Clause 5.1.1 (c) of the TPS 2 states:

*"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)
- c) *the choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally;"*

There are no properties in the close proximity to the subject property that have any heritage listing. It is difficult to say if the existing residential area has a definable character that should be protected.

The objectors' letter also mentions *Noise Levels*. The proposed additions are for normal residential purposes. The applicant is not proposing to install any noise generating plant or equipment as part of the proposal. It is considered that the assumption that the proposal would contribute to excessive noise levels in the locality is not a valid objection.

## **CONCLUSION**

The proposed screening on top of the existing boundary fence is not considered appropriate, as it will result in a 3.5m wall on boundary.

It is recommended that the application be conditionally approved subject to the applicant providing sufficient screening on the eastern and western side of the rear balcony in accordance with the R-Codes to prevent overlooking into the adjoining property 51 Griver Street.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Nil



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

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) GRANT its Approval to Commence Development for the Two Storey Addition to Residence at No 32 (lot 278) North Street, Cottesloe in accordance with the plans submitted on 11 October, 2004, 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) Revised plans being submitted for approval by the Manager, Development Services, such plans showing**
    - (i) the rear portion of the building being modified to comply with the Privacy Design Element of the Residential Design Codes in order to provide privacy to the rear of No. 51 Griver Street; or**
    - (ii) the proposed detail for the privacy screen received on the 7<sup>th</sup> October 2004 is not approved unless the written consent of the owners of No. 51 Griver Street is received for the proposed privacy screen or a modified version of the current proposal.**
- (2) Advise the submitters of this decision.**

Carried 9/0

**11.1.5 NO. 29A (LOT 106) ERIC STREET – NON COMPLIANCE WITH PLANNING APPROVAL**

<b>File No:</b>	<b>29A Eric Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Attachments:</b>	<b>Location plan Plan Correspondence 29/10/03 – 31/08/04</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>7 October, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Label1_p1</b>	<b>Mr &amp; Mrs Carrick</b>
<b>Label1_p2</b>	<b>Residential</b>
<b>Density:</b>	<b>R20</b>

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**SUMMARY**

The approved plans for a new two storey residence have not been complied with, in particular they have not built timber batten screening on the eastern upper floor passageway. The new owners of the property have not responded to two written requests to contact Council and discuss the matter. Council now has 3 options in dealing with this issue.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

An application for a two storey residence was lodged with Council on the 15 July 2002. The application was subsequently approved on the 25 November 2002 subject to conditions, as a consequence of submissions from the adjoining property owners.

The approved plans for the development showed that the windows facing east on the upper floor passageway were screened with timber batten screens.

The timber batten screens were not built during the construction of the house. Council received two letters of complaint regarding the overlooking from these windows on the 2 February 2004 and on the 29 February 2004 from the adjoining neighbours at 147 Broome Street and 149 Broome Street.

Council offices conducted a final inspection of the building on site to investigate the concerns of the neighbours. It was found that the timber privacy screens had not been built and that they were shown on the approved plans.

Council wrote to the owners of 29A Eric Street on the 31 March 2004 advising that there had been a departure from the approved plans and that the screens are required to be built.

In the meantime the ownership of 29A Eric Street had changed hands to Mr & Mrs Carrick at 8 March 2004.

In Council's advice to the incoming property owners as part of the property enquiry, they were advised that there was still a final inspection required of the new buildings.

The lawyers for the original owners of 29A Eric Street responded to Council's letter and advised that they had contacted the new owners Mr & Mrs Carrick, the neighbours and tried to come to some agreement, which could not be reached.

The lawyers also advised that the new owners would not allow any work to be undertaken on their property.

Currently, there are blinds that provide privacy. However, the blinds:

- are not a permanent solution and only work when they are completely down; and
- do not comply with the approved plans.

Therefore on the 29 May 2004 Council advised in writing the new owners, Mr & Mrs Carrick, the following:

- Screens had not been constructed in accordance with the planning approval;
- At the time of settlement they were told that a final inspection of the premises had yet to be carried out;
- The final inspection revealed that the screens had not been built;
- That as they are the new owners they were now responsible for any works that do not comply with the approved plans;
- Any action that is required to be taken would be taken against them as the new owners.

The owners were advised that they should contact the planning department to discuss this issue.

No response was received from the new owners and another letter was sent to Mr & Mrs Carrick advising that they had until the 10 September 2004 to respond to Council's letter.

Again no response was received from Mr & Mrs Carrick.

### **STAFF COMMENT**

As a result of the above Council is faced with the following 3 options.

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

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

In relation to point (i), a complaint to the Minister for Planning under Section (18)(2) of the Town Planning and development Act could result in a direction from the Minister to enforce its Town Planning Scheme and require the development to be modified to comply with the approved plans. The neighbour at 147 Broome Street previously advised Council that if no action was taken in regard to the screens then they would take legal action against Council.

### **CONCLUSION**

Given the non-compliance with the approved plans and the contravention of the Town Planning Scheme, Council is required to make a determination in relation to the non-compliance with the planning approval. In this regard, Council may choose one of the following options:

- (i) Take action - against the owner; or
- (ii) Require the building to be modified in accordance with the approved plans; or
- (iii) Accept the development as it has been constructed.

The original owner/builder has been prepared to rectify the non-compliance, however, the new owners do not wish to construct the screens as shown in the original approval.

The non-compliance with the planning approval is believed to be a major variation and therefore, it is considered that the timber batten screens should be built to provide screening to prevent overlooking into the adjoining property owners.

The recommendation is to:

- (1) Request the owners of No. 29A Eric Street to comply with the conditions of approval within 2 months;
- (2) Authorise the Chief Executive Officer to commence the action

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

The Committee were concerned that this matter had progressed for a considerable period of time without any results. Part (3) was amended to reduce the time frame for the compliance works to be carried out.

**OFFICER RECOMMENDATION**

That Council advise the owners of No. 29A Eric Street that:

- (1) The development at No. 29A Eric Street has not been constructed in accordance with the approved plans;
- (2) The development is required to be modified to accord with the approved plans;
- (3) As owners of the property, they are required to build the timber batten screens on the eastern upper floor passageway to accord with the approved planning plans within two months of written notification; and
- (4) Should they not comply with this direction in part (1)(b), the Chief Executive is authorised to institute legal action against them.

**COMMITTEE RECOMMENDATION**

That Council advise the owners of No. 29A Eric Street that:

- (1) The development at No. 29A Eric Street has not been constructed in accordance with the approved plans;
- (2) The development is required to be modified to accord with the approved plans;
- (3) As owners of the property, they are required to build the timber batten screens on the eastern upper floor passageway to accord with the approved planning plans within one month of written notification; and
- (4) Should they not comply with this direction in part (3), the Chief Executive is authorised to institute legal action against them.

**STAFF COMMENT**

The Manager Development Services provided an alternative officer recommendation after receipt of a letter from owner of No. 29A Eric Street.

**11.1.5 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) Defer consideration of this matter to the November round of meetings; and**
- (2) The owners of No. 29A Eric Street and Nos. 147 and 149 Broome Street be advised of Council's decision.**

Carried 9/0

**11.1.6 NO.46A BROOME STREET – PROPOSED TWO STOREY SINGLE HOUSE**

**File No:** 46A Broome Street  
**Author:** Mr Daniel Heymans  
**Attachments:** Location plan  
Correspondence from applicant  
Plans  
**Author Disclosure of Interest:** Nil  
**Report Date:** 5 October, 2004  
**Senior Officer:** Mr Stephen Sullivan

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**SUMMARY**

A revised application for a two storey residence has been submitted for No. 46A Broome Street. The applicant is requesting Council to remove three conditions from a previous planning approval for a two storey residence which was issued on the 2 July 2004.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

The previous planning approval was issued under delegated authority by the Manager Development Services on the 2 July 2004. The approval was issued subject to a number of conditions, the condition in question (No. 7) stated the following:

- “(7) *Revised plans being submitted for approval by the Manager, Development Services, showing:*
- (i) *Bedroom 2 window is to be relocated to the eastern edge of the northern wall;*
  - (ii) *Bedroom 2 window is to be modified by having a sill height of 1650mm above FFL; and*
  - (iii) *Bedroom 3 window is to be modified by having a sill height of 1650mm above FFL.”*

The applicant is seeking a new approval without the inclusion of the above condition.

The above condition was imposed as a result of a complaint from the adjoining neighbour and assessment of the impact on the adjoining property owner by the planning department.

Assessment of the overlooking showed that it would be possible to look into the adjoining neighbours, high level ground floor lounge room windows from the proposed upper level bedroom windows.

### STAFF COMMENT

#### Overlooking

The above conditions were imposed to restrict overlooking from Bedroom 2 & 3 windows which face north, into No. 48 Broome Street. The Residential Design codes require a 4.5m setback from these windows to prevent overlooking into adjoining properties.

Assessment of these windows showed that the setback to the nearest boundary was 6.66m, which complied with the acceptable development standards of the Residential Codes of Western Australia.

However clause 5.1.2 (f) of the Town of Cottesloe Town Planning Scheme No. 2 states:

*“(f) the location and orientation of a building or buildings on a lot in order to achieve higher standards of daylighting, sunshine, or privacy or to avoid visual monotony in the street scene as a whole.”*

It was believed by the planning department, at the time of the assessment, that the imposition of a condition requiring higher standards of privacy was appropriate as the overlooking was into a sensitive area of No. 48 Broome Street, in particular the living room.

The applicant has now stated that the imposition of these conditions is unreasonable for the following reasons:

- Any view through the neighbours highlight window will be insubstantial and could easily be blocked with curtains, screens or landscaping;
- The applicant will be installing a new landscaped screen on their side;
- The owners of No. 46A do not want the neighbour to look into their property;
- The relocation and modification of the subject windows will restrict access to the northern light;
- The bedrooms in question are bedrooms 2 and 3 and are not substantial viewing rooms.

The application for removal of these conditions was advertised to the neighbour at No. 48 Broome Street again and the owners of No. 48 Broome Street have lodged a further objection to any change to these windows for the following reasons:

- The windows will look directly into their ground floor living room;
- Viewing through a highlight window above the fireplace will cause overlooking into their lounge room;
- Due to the nature of the highlight window no coverings are in place;
- Want the original conditions to remain on the approval.

It is believed the original assessment by the planning department was correct in that there was the potential for overlooking into the adjoining property owner at No. 48 Broome Street.

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The suggestion of landscaped screening by the applicant is not deemed to be sufficient as landscaped screens can take years to be effective and they can also be easily removed.

The applicant has not provided any details or sketches illustrating how any such screening would work or its effectiveness.

Therefore it is recommended that the original planning conditions be imposed on the new application.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Nil

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

Moved Cr Furlong, seconded Cr Strzina

#### **That Council**

GRANT its Approval to Commence Development for the two storey Single Residence at No. 46A (Lot 18) Broome Street, Cottesloe in accordance with the plans submitted on 7 September 2004 subject to the following conditions:

- (a) All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.**
- (b) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.**
- (c) Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. The gutters and downpipes used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings.**
- (d) The owner shall treat the roof and wall surfaces to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (e) The applicant applying to the Town of Cottesloe for approval to construct the new crossovers, if applicable, in accordance with the local law, and be approved by the Manager, Works.**
- (f) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.**
- (g) Revised plans being submitted for approval by the Manager, Development Services, showing:**



- (i) The northern facing window of bedroom 2 being modified to prevent overlooking into the adjoining property by either:
  - having opening sill heights of not less than 1650mm above the FFL, or
  - being relocated to the eastern side of the northern wall and being no wider than 1.2m;
- (ii) Bedroom 3 window is to be modified by having a sill height of 1650mm above FFL.
- (h) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) The finish and colour of the boundary wall facing the neighbour to be to the satisfaction of the Manager Development Services.

Advise the submitters of Council's decision.

Carried 9/0

**11.1.7 NO 151 MARINE PARADE – PROPOSED SHADE SAIL STRUCTURE FOR THE NORTH COTTESLOE SURF LIFE SAVING CLUB**

<b>File No:</b>	<b>151 Marine Parade</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Attachments:</b>	<b>Location Plan Correspondence from applicant Submission (1) Plans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>5 October, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Department of Planning &amp; Infrastructure</b>
<b>Applicant:</b>	<b>North Cottesloe Surf Life Saving Club</b>
<b>Date of Application:</b>	<b>18 December 2003</b>
<b>Zoning:</b>	<b>N/A</b>
<b>Use:</b>	<b>N/A</b>
<b>Density:</b>	<b>N/A</b>
<b>Lot Area:</b>	<b>N/A</b>
<b>M.R.S. Reservation:</b>	<b>Regional Park and Recreation Reserve</b>

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**SUMMARY**

The North Cottesloe Surf Life Saving club is proposing to erect a shade sail over the northern courtyard.

The recommendation is to advise the Western Australian Planning Commission that Council holds no objection to the proposed Shade Sail.

**STATUTORY ENVIRONMENT**

- Metropolitan Region Scheme
- Local Government Act 1995

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

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

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

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**CONSULTATION**

## REFERRAL

**Internal**

N/A.

**External**

- Western Australian Planning Commission

## ADVERTISING OF PROPOSAL

The application was advertised for community comment.

The advertising consisted of:

- Letter to surrounding Property Owners

**Submissions**

There were 11 letters sent out. One submission was received.

1/158 Marine Parade

The owner of objected to the following:

- The height of the proposed shade sail as it will obscure views from their property; and
- Stated that it would be acceptable if it was the same height as the previous shade sail.

**BACKGROUND**

The North Cottesloe Surf Life Saving Club has applied for a shade sail to be located over the northern courtyard for shade during the summer months. The club previously had four individual flat shade sails over the courtyard that were lower but larger in area than what is proposed currently. The proposed shade sail has already been put up on previous occasions by the surf club and Council has requested that it be removed until Council considers this application.

**STAFF COMMENT**

The Western Australian Planning Commission is the decision making body for applications on land reserved as "Parks & Recreation" under the Metropolitan Region Scheme. Council provides advice on the application to the WAPC for their determination.

A site visit has revealed that a small proportion of the proposed shade sail would project over the current roof line of the surf club building and that the vast majority of the shade sail would be below the roof line. It is believed that the proposed shade sail will not adversely affect the views of the owner of 1/158 Marine Parade.

Alternatively, Council could require the fixing point of the proposed shade sail to the central post to be modified to have a lower pitch or alternatively request a flat shade sail.

**CONCLUSION**

It is recommended that Council advise the Western Australian Planning Commission that it holds no objection to the proposed shade sail.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**11.1.7 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Strzina

**That Council advise the Western Australian Planning Commission that it holds no objection to the proposed erection of the shade sail to the northern courtyard of the existing North Cottesloe Surf Club.**

Carried 6/3

**11.1.8 NO 47 BROOME STREET – COTTESLOE RUGBY CLUB – NEW PATIO**

<b>File No:</b>	<b>47 Broome Street</b>
<b>Author:</b>	<b>Mr Daniel Heymans</b>
<b>Attachments:</b>	<b>Location plan Plans</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>13 October, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Sullivan</b>
<b>Property Owner:</b>	<b>Town of Cottesloe</b>
<b>Applicant:</b>	<b>Heritage Outdoor</b>
<b>Date of Application:</b>	<b>13 August 2004</b>
<b>Zoning:</b>	<b>N/A</b>
<b>Use:</b>	<b>N/A</b>
<b>Density:</b>	<b>N/A</b>
<b>M.R.S. Reservation:</b>	<b>Regional Park and Recreation Reserve</b>

**SUMMARY**

An application has been received for a new patio at the Cottesloe Rugby Club. It is recommended to advise the Western Australian planning Commission that Council holds no objection to the proposal.

**STATUTORY ENVIRONMENT**

- Metropolitan Region Scheme
- Local Government Act 1995

**POLICY IMPLICATIONS**

N/A.

**HERITAGE LISTING**

- |                                     |            |
|-------------------------------------|------------|
| • State Register of Heritage Places | N/A        |
| • TPS No 2                          | N/A        |
| • Town Planning Scheme Policy No 12 | N/A        |
| • Draft Heritage Strategy Report    | N/A        |
| • Municipal Inventory               | Category 5 |
| • National Trust                    | N/A        |

**STRATEGIC IMPLICATIONS**

N/A.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

REFERRAL

**Internal**

N/A.

**External**

- Western Australian Planning Commission

## ADVERTISING OF PROPOSAL

The application was not required to be advertised.

**BACKGROUND**

The Cottesloe Rugby Club is located on Harvey Field which is owned by the Town of Cottesloe and is reserved under the Metropolitan Region Scheme as "Parks and Recreation".

The Western Australian Planning Commission is the decision making body for applications on land reserved as "Parks & Recreation" under the Metropolitan Region Scheme. Council provides advice on the application to the WAPC for their determination.

The original house was built in 1926 and only small parts of the original building are in their original condition. The building is listed as a category 5 building on the Town of Cottesloe Municipal Inventory.

A category 5 building is classified as:

*"Significant in Contributing to Local Character  
Significant but not essential to an understanding of the history of the district.  
Photographically record the place prior to any major redevelopment or demolition."*

**STAFF COMMENT**

Concern was expressed at the original application that was lodged by the Club and the matter was referred to the Design Advisory Panel for comment. Based on those comments, the plans were revised and are considered more acceptable.

The proposed patio is in keeping with the existing building in that the pitch of the patio will match the pitch of the existing building.

It is believed that the proposed development will not adversely impact on the existing building or the heritage listing.

**CONCLUSION**

That Council advise the Western Australian Planning Commission that it has no objection to the proposed patio.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

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

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) Authorises the Chief Executive Officer to sign the MRS application form; and**
- (2) Advise the Western Australian Planning Commission that it has no objection to the proposed patio at No 47 Broome Street.**

Carried 9/0

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**11.1.9 NO. 14 (LOTS 50 & 51) EDWARD STREET – DEMOLITION OF CHURCH – LISTED ON TOWN PLANNING SCHEME POLICY NO. 12**

<b>File No:</b>	<b>No. 14 Edward Street</b>
<b>Author:</b>	<b>Mr Stephen Sullivan</b>
<b>Author Disclosure of Interest:</b>	<b>Nil.</b>
<b>Report Date:</b>	<b>12 October, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

Council resolved at its September 2004 meeting to engage consultants to assess the cultural heritage significance of the church site at No. 14 Edward Street. Consultants were engaged on Friday 8 October 2004. Due to the short timeframe the report will not be ready for inclusion in the main agenda. The report may not be ready for the Development Services Committee meeting, but should be ready for the Council meeting.

For further consideration pending receipt of the report from the Consultants.

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No. 2.

**POLICY IMPLICATIONS**

The property is listed on Town Planning Scheme Policy No. 12 and is seen as an important building to the District. The study will determine whether that classification is correct and whether demolition approval should be granted or not.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The anticipated cost is approximately \$3,000.

**BACKGROUND**

An application was received for the demolition of the building. Council considered the request for demolition of the building at its September 2004 meeting. At that meeting, Council resolved as follows:

*“That Council:*

- (1) Defers consideration of the application for demolition of the buildings on No. 14 Edward Street to the October meeting of Council; and*
- (2) Engage the services of a heritage consultant to advise Council at its October 2004 meeting of the cultural heritage significance of the property at No. 14 Edward Street. The assessment is to include the review of the existing documentation and any other relevant information.*
- (3) The applicant’s be advised of Council’s decision.”*

**STAFF COMMENT**

The firm of Palassis Architects were selected to carry out the study and they have engaged Dr Robyn Taylor to carry out the historical research. Timing in terms of the completion of the work for it to be ready for consideration at the October Development

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Services Committee meeting may be a problem. Otherwise, the report will be ready for consideration at the October Council meeting.

The report, once reviewed, will be circulated as soon as possible.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

The report from the Consultant's was received late on the afternoon of the Development Services Committee and was tabled at the meeting.

The Committee were concerned with the summary and felt that further information was required to substantiate the findings in the summary.

**OFFICER RECOMMENDATION**

For further consideration pending receipt of the report from the Consultants.

**11.1.9 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) Defer consideration of this item to the November 2004 round of meetings;**
- (2) Request the Consultants to provide additional information regarding the information contained in the Summary section of the Consultant's report.**

Carried 6/3

**11.1.10 NO. 215 BROOME STREET - PROPOSED TOWN PLANNING APPEAL  
MEDIATED OUTCOME**

**File No:** No. 215 Broome Street  
**Author:** Mr Stephen Sullivan  
**Attachments:** Location plan  
Letter form Town Planning Appeal Tribunal  
Draft Minute of Consent  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

To seek Council's position in relation to the proposed mediated outcome for the appeal at No. 215 Broome Street.

The recommendation is for Council to endorse the mediated outcome and the revised conditions of approval.

**STATUTORY ENVIRONMENT**

Town Planning and Development Act

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Council granted its Planning Consent the construction of a new two storey single house at its June 2004 meeting. The following condition was imposed at the Council meeting:

- (g) *Revised plans be submitted to the satisfaction of the Manager Development Services showing the windows to the upper level passageway being of obscure glazing or modified to a highlight window 1650mm above finished floor level.*

The appellant appealed against the imposition of the condition of Planning Consent.

The Manager of Development Services attended the case management hearing for this appeal on the 14 September. In discussions with the applicant, an alternative to Council's condition of approval was considered – this being a pergola or a solid wall. The Town Planning Appeal Tribunal member was advised that the alternative options would be discussed with the adjoining property owners who were affected by the proposed development. The case management hearing was then deferred.

A meeting was held on the 20 September with Mr and Mrs Knowles of No. 217 Broome Street. They advised that they were prepared to consider a wall if this still provided privacy to their ground floor bedroom. The Town Planning Appeal Tribunal member was advised that day of the progress, and that a meeting of the two parties would be held at the Council offices.

A site inspection by the Manager of Development Services was carried out on the 27 September to calculate the required height and location of wall that would be required if the two parties agreed to this option.

The meeting was held on the 28 September when Mr and Mrs Hossen (the Appellants) and Mr and Mrs Knowles met with the Manager of Development Services to discuss possible alternatives to Council's condition of Planning Consent.

The primary issue of concern was the loss of privacy to the master bedroom. The loss of privacy to the upper level bedroom and the loss of privacy to the courtyard of Mr and Mrs Hossen's property from that upper level bedroom was accepted by both parties.

It was agreed by both parties that a brick wall would be provided by Mr and Mrs Hossen on the northern boundary to address the concerns of the Knowles. The final details of the wall would need to be the subject of confirmation by the Manager, Development Services when construction of the development had reached the first floor level. This would allow confirmation of the calculated height and length of the wall.

Support for this option was agreed to by both parties.

This agreement is reflected in the proposed new conditions that form part of the draft Minute of Consent – which is part of the attachments to this report.

A copy of the draft Minute of Consent was sent to both parties. Mr and Mrs Hossen have responded by supporting the new conditions of Planning Consent subject to the wall being a height of 3.0m. However, there are no reference points to calculate or measure the 3.0m high wall height from.

The proposed condition in the draft Minute of Consent relates to an RL level of 19.514 for the top of the wall. This RL level to the top of the proposed wall is 3.0m above the proposed finished courtyard level of RL16.514. The use of the RL reference allows for the condition to be very specific as it relates to a datum point.

Mr and Mrs Knowles went on holidays on the 2 October and they will not be back until the 23 October 2004. They were not able to respond to the draft minute of consent and therefore, formal agreement to this option has not been received at this stage from the Knowles.

The Town Planning Appeal Tribunal have advised that if they do not have any further correspondence by the 7 November, then a further case management hearing will be arranged.

**STAFF COMMENT**

The process that needs to be followed at this point requires Mr and Mrs Hossen (as the appellants) and Council as the respondent to agree to the draft Minute of Consent that forms part of this attachment.

If both parties agree, then the signed Minute of Consent is forwarded to the Town Planning Appeal Tribunal for acceptance. The Minute of Consent then alters Councils approval as set out in that Minute of Consent.

Whilst Council is the respondent and will be the signatory to the Minute of Consent, it is believed that Mr and Mrs Knowles will accept the option presented during mediation. They do not return from holidays until the 23 October, which is the weekend before the October Council meeting.

On the basis that there has been support from both parties for the alternative option and revised conditions of approval as discussed at the meeting between the various parties on the 28 September, it is recommended that Council agree to the draft Minute of Consent that forms part of the attachments.

Mr and Mrs Knowles were advised of the meeting dates and that the MINUTESs for the Committee and Council meeting were accessible on the Council's website. They advised that they would not be able to access the website until their return from holidays.

If Council does not have written confirmation from Mr and Mrs Knowles to the draft Minute of Consent before the October meeting of Council, it could authorise the Manager of Development Services to seek that written confirmation after that Council meeting. If the written confirmation to the revised conditions is received, then the Manager of Development Services should then be authorised to sign the Minute of consent on Council's behalf.

If that written consent is not forthcoming, Council would then need to either:

- require the Manager of Development Services to refer the matter back to Council for further consideration;
- require the Manager of Development Services to finalise the appeal subject to the direction from the chairperson of the Development Services Committee; or
- authorise the Manager of Development Services to finalise the appeal on Council's behalf.

If Council is required to make a decision in relation to the three dot points referred to above, it should be aware that the:

- (a) Town Planning Appeal Tribunals is seeking advice on this matter by the 7 November otherwise the matter will be referred to a case management hearing; and
- (b) appellants have the right at any time to abandon the current mediation process and require the matter to be considered by the Town Planning Appeal Tribunal.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**11.1.10 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) Agrees to the draft Minute of Consent that formed part of the agenda to the Development Services Committee; and
- (2) Authorises the Manager of Development Services to sign the Minute of Consent on behalf of Council.

Carried 9/0

**11.1.11 PROPOSED AMENDMENT TO THE METROPOLITAN REGION SCHEME - LEIGHTON BEACH AND ENVIRONS**

**File No:** D2.7  
**Author:** Mr Stephen Sullivan  
**Attachments:** Metropolitan Region Scheme Amendment report  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The Western Australian Planning Commission have commenced the community consultation process in relation to a proposed amendment to the Metropolitan Region Scheme. The amendment relates to Leighton Beach and environs.

Most of the amendment relates to the City of Fremantle where the amendment will affect various areas. Minor changes to the Metropolitan Region Scheme are proposed in the Towns of Mossman Park and Cottesloe.

The major change in the Town of Cottesloe relates to changing the Urban Zone applicable to the McCall Centre to the Public Purpose (Special Uses) Reserve. No objection is held to this change.

It is recommended that Council:

- support the changes proposed for the land within the Town of Cottesloe; and
- staff be requested to prepare a draft Town Planning Scheme amendment to the existing Town Planning Scheme when the Metropolitan Region Scheme has been finalised.

**STATUTORY ENVIRONMENT**

Metropolitan Region Scheme  
Town of Cottesloe Town Planning Scheme No. 2

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

If the proposed Metropolitan Region Scheme amendment reaches finalisation, Council is required to amend its current Town Planning Scheme to reflect the changes to the Metropolitan Region Scheme as a consequence of this amendment.

Costs will be associated with the presentation for the documentation and the carrying out the necessary advertising process to amend the current Town Planning Scheme.

**BACKGROUND**

The Fremantle Regional Strategy was gazetted in 1994. This set out the framework for the future development of this area, including transport, land use and planning for the Fremantle region, including the Port of Fremantle.

It identified the location of the Western Suburbs Highway along the western side of the railway line, between Tydeman Road and the southern boundary of the Town of Cottesloe.

Westrail in the mid to late 1990s set out to develop the marshalling yards and engaged a company to develop plans for the development of this land.

There was a substantial backlash from the community as there were no guidelines for the development of this area. The development was leading the guidelines rather than the guidelines leading development.

The process was stopped and a new process was undertaken which resulted in the formulation of the Leighton Regional Planning Guidelines in December 2000. The guidelines were developed to guide Government, the community and the future developers of this area for the future use and development of the site and as such would then be the basis for a Metropolitan Region Scheme amendment.

This study reduced the land available for private development from 33 hectares to 4 hectares. The remaining 29 hectares would then become part of a regional park and recreation reserve.

The amendment seeks to make the following major changes:

- (a) Town of Cottesloe:
  - (i) transfer of the McCall Centre from the Urban Zone to the Public Purposes reserve;
  - (ii) rationalisation of the Urban Zone, Railway reservations and Primary Road Reservations to the north and east of the McCall Centre
  
- (b) Other areas:
  - (i) transfer of the Montessori School site from the Urban Zone to the Public Purposes reserve;
  - (ii) transfer of 29 hectares from the Urban Zone to the Park and Recreation Zone;
  - (iii) retention of 4 hectares for urban development; and
  - (iv) transfer of approximately 9 hectares from the Waterways Reservation (the ocean) to a Ports Installations Reservation.

There are other minor changes that are outlined in Part 3 of the amendment report.

**STAFF COMMENT**

The changes within the Town of Cottesloe are seen as minor.

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The change from the Urban Zone of the McCall Centre to the Public Purposes (Special Uses) Reserve is in response to the Department for Community Developments intention to further develop the McCall Centre as a hostel and training centre for adolescents (juvenile rehabilitation). The change to the reservation reflects the use of the land.

The other changes are minor changes to the existing reservation and do not affect the intent or purpose of the reserve.

It is considered that Council should advise the Western Australian Planning Commission that it holds no objection to the proposed changes to the Metropolitan Region Scheme as it relates to land within the Town of Cottesloe.

When the Metropolitan Region Scheme amendment is finalised, Council would then need to consider what changes it needs to make to the existing Town Planning Scheme to reflect the final version of the Metropolitan Region Scheme.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

The majority of Committee were unclear on some aspects of the proposed Metropolitan Region Scheme amendment and were reluctant to provide their advice to the Western Australian Planning Commission at this stage. The Committee suggested that it would be beneficial if a representative from the Department for Planning and Infrastructure was invited to address Councillors at the next round of meetings in order to clarify several points.

### **OFFICER RECOMMENDATION**

That Council:

- (1) Advise the Western Australian Planning Commission that it holds no objection to the proposed changes to the Metropolitan Region Scheme outlined in proposed Amendment No. 1074/33 to the Metropolitan Region Scheme that are located within the Town of Cottesloe; and
- (2) Request staff to prepare a draft Town Planning Scheme amendment to address changes required to the Town of Cottesloe Town Planning Scheme No. 2 when the proposed Metropolitan Region Scheme amendment is finalised.

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

Moved Cr Furlong, seconded Cr Strzina

**That Council:**

- (1) Defer consideration of the proposed Metropolitan Region Scheme Amendment to the November 2004 round of meetings; and**
- (2) Request administration to invite a representative from the Department for Planning and Infrastructure to attend the November Committee meeting to clarify some points regarding the proposed Metropolitan Region Scheme Amendment.**

Carried 9/0



**11.2 BUILDING****11.2.1 NO. 82 (LOT 224) BROOME STREET - UNAUTHORISED STRUCTURE - PATIO**

<b>File No:</b>	<b>82 Broome Street</b>
<b>Author:</b>	<b>Mr L Stone</b>
<b>Attachments:</b>	<b>Location plan Site plan (approved 1984) Site plan (approved 25 September 1998) Plan of proposed structure Photographs (4)</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>14 October 2004</b>
<b>Senior Officer:</b>	<b>Mr S Sullivan</b>

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**SUMMARY**

A structure, incorporating a patio and pergola area, has been constructed at the above address without Council approval. The structure is approximately 12m long by 3.9m wide. The matter of whether Council wishes to take action in relation to the unauthorised work is submitted for consideration.

It is recommended that the unauthorised structure be removed.

**STATUTORY ENVIRONMENT**

Town of Cottesloe Town Planning Scheme No.2.  
Residential Design Codes  
Local Government (Miscellaneous Provisions) Act 1960  
Building Regulations 1989.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

Mr Assheton Craven acting on behalf of his mother Mrs N Craven - Smith - Milne, the owner of No. 2 Graham Court, contacted Council on 20 May 2003 to lodge an objection to the construction of a wooden structure at the rear of No. 82 Broome Street.

Council conducted an inspection of the property on the 21 May 2003. This revealed that an open timber structure had been constructed at the rear of No. 82 Broome St, adjacent to the side boundary of the adjoining property (see photographs). The pitched roof structure included a section that had a lightweight, translucent roof sheet covering

both sides (patio) while the remainder of the roof was covered on one side only (pergola).

A search of Council records failed to find any records relating to the construction of a pergola or patio at the above address.

A letter was sent to Ms M A Heyns, the owner of the above property, on the 27 May 2003 requesting details of any approvals relating to the structure.

Mr Heyns contacted Council and advised that no details of approvals were available. Mr Heyns explained that he was repairing the existing pergola to make it safe and had modified the structure to improve it aesthetically. He claimed that he was unaware that Council approval was required for work on the existing pergola.

In an endeavour to achieve an amicable resolution to the situation Councils Principal Building Surveyor suggested that Mr Heyns have plans professionally drawn of the structure and provide them to Mr Craven for comment.

This approach was adopted as Council had no documented evidence of what had previously existed and accepted by the neighbours as being on the property. (the approval of minor structures, such as pergolas, has always been a grey area with many Councils not requiring a building licence for construction).

Mr Heyns agreed to have the plans drawn and provide Mr Craven with copies. It was hoped that the two parties could then discuss the proposed structure and if agreement was obtained the matter referred to Council for ratification.

In December 2003 Mr Heyns forwarded a copy of the plans to No. 232 Marmion St, being the address of Ms D Craven – Smith – Milne. Later it became apparent that the plans had not been forwarded onto Mr Craven.

On 23 January 2004, Mr Craven rang Council to enquire what action was being taken. At this point Council was informed that Mr Craven had not received a copy of the plans. Council advised Mr Heyns and arranged for the plans to be sent to the correct address.

On 28 January 2004, Mr Heyns submitted as constructed drawings to the Planning and Building Departments for consideration (attached).

Mr Craven called Council on the 5 March 2004 and advised that Mr Heyns had sent him some plans, however his mother still wanted the structure removed. The objection was that the structure affected the amenity of his mothers property and restricted sunlight into the backyard.

At this stage the plans were held pending the provision of additional information. Council had requested the submission of a detailed site plan to enable an accurate assessment. Council's Planning Department again phoned the applicant on the 1 June 2004 to obtain a revised site plan, however this has not been received.

Mr Craven has subsequently asked for Council to deal with the matter.

**STAFF COMMENT**

The patio/ pergola at the rear of No.82 Broome St has been constructed without Council's Planning or Building approval.

On inspection, the timber framed structure appeared to be in a sound condition, with the materials and method of construction complying with the Building Code of Australia. It was considered that the structure did not pose a risk to property and was not life threatening.

The pergola and patio are classified as Class 10 structures within the Building Code of Australia (BCA).

The current structure does not have any gutters and downpipes and therefore does not comply with BCA Performance Requirement Part 2.2 – Damp and Weatherproofing. Without the appropriate drainage system the surface water could cause damage or a nuisance to the adjoining property. To achieve the BCA performance requirement the structure would require further modification.

The structure complies with all other Performance Requirements of the BCA.

The structure has a wall length of 12.0m and does not comply with setback requirements of the Residential Design Codes. The structure requires a 1.5m setback to the rear boundary, adjoining No. 2 Graham Court. The structure is setback approximately 200mm from the boundary with the roof being located on or near the boundary.

It is considered that the patio would have little impact on restricting sunlight into No. 2 Graham Ct. This property has a north / south orientation while No. 82 Broome St faces east / west.

**CONCLUSION**

Given the above report, it is recommended that Council make a determination in relation to the unauthorised pergola and patio. In this regard Council may choose one of the following options:

- Require the patio to be removed; or
- Accept the patio as it has been constructed.

It is recommended that the structure be removed.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**COUNCIL COMMENT**

Cr Jeanes suggested that the item be deferred to allow the owner the opportunity to negotiate with the neighbour and to comply.

**OFFICER & COMMITTEE RECOMMENDATION**

That Council advise the owner that:

- (1) The existing pergola and patio structure is an unauthorised structure;
- (2) The pergola and patio structure is to be removed.

**AMENDMENT**

Moved Cr Jeanes, seconded Cr Robertson

That the item be deferred.

Carried 9/0

**11.2.1 COUNCIL RESOLUTION**

Moved Cr Furlong, seconded Cr Strzina

**That the item be deferred.**

Carried 9/0

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 19 OCTOBER 2004****12.1 ADMINISTRATION****12.1.1 CONSULTATION POLICY (RESUBMITTED)**

**File No:** X4.11  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation was made to the August meeting of Council to adopt a draft *Public Consultation Policy* and seek public submissions on same.

The meeting resolved to refer the matter back to the Works & Corporate Services Committee.

**BACKGROUND**

At a special electors meeting held on the 27<sup>th</sup> April 2004 the following resolution was passed.

That the Council, prior to commencing formal processing under the Act of a Town Plan Amendment under TPS 2 or TPS 3:

- a) Make available to all electors draft plans for changes or amendments to the Town Planning Scheme, clearly indicating any changes to zoning, uses, heights and setback controls.
- b) Provide background information to the proposed changes addressing:
  - (i) the reasons for and the objectives of the proposed changes;
  - (ii) alternatives that can be considered;
  - (iii) the short and long term implications to the community of these changes.
- c) Organise a series of public workshops in the form of precinct planning groups for each proposed precinct affected by the change, unless Council decides by a two thirds majority that the changes are not material to the overall Town Plan and do not warrant a public workshop being held.
- d) By not later than 30 June, 2004 establish guidelines and timeframes for public consultation on changes to be made in the new Town Plan No. 3.

The resolution has been dealt with by Council but when looked at from a broader perspective, it could be argued that the resolution is symptomatic of lack of confidence in Council to undertake meaningful consultation as and when required.

Against this background, it is recommended that Council adopt a consultation policy which clearly articulates the type of consultation that may/will be used by the Town of Cottesloe when dealing with a range of issues.

**CONSULTATION**

Nil at this point in time but if the draft policy is adopted, it is intended that it be put out for public comment in compliance with the policy itself.

The SOS ratepayers' organisation considered the draft *Public Consultation Policy* at its meeting held on the 13<sup>th</sup> September 2004 and has made a submission which is to hand.

SOS believed there was some urgency in putting the policy in place in light of proposed Town Planning Scheme No.3 however I was able to advise them that specific recommendations that addressed the concerns of SOS were already going forward to Council (agenda item 1.3 of the 6<sup>th</sup> October 2004 meeting of the Strategic Planning Committee relates).

If Council decides to proceed with the adoption of a consultation policy then it is felt that the SOS submission should be considered along with any others received during the public submission period.

**STAFF COMMENT**

Unless public consultation processes are properly managed, Council may find itself dealing with inappropriate forms of consultation that eventually compromise sound and informed decision making.

With a public consultation strategy in place, stakeholders affected by any decision of the Council can be reasonably assured that their voices will be heard.

The attached draft consultation policy is based on that of the Cardinia Shire Council and has been adapted to the Cottesloe environment.

**POLICY IMPLICATIONS**

This is a new policy.

**STRATEGIC IMPLICATIONS**

The mission of the Town of Cottesloe as articulated in its strategic plan is:

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

Adoption of the policy will confirm Council's commitment to consultation.

**FINANCIAL IMPLICATIONS**

Nil.

**STATUTORY ENVIRONMENT**

Nil.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

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**12.1.1 OFFICER & COMMITTEE RECOMMENDATION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council adopt the draft Public Consultation Policy and seek public submissions on same closing on Tuesday 30<sup>th</sup> November 2004.**

Carried 8/1

**12.1.2 QUARTERLY NEWSLETTER - CIVIC CENTRE NEWS**

**File No:** X3.3  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 13 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to continue with the production and distribution of a quarterly newsletter.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

One of Council's strategic objectives is that *Council will keep in regular two-way contact with residents, using all appropriate media, and will provide readily accessible information on its activities.*

**FINANCIAL IMPLICATIONS**

If Council is to continue with the production of the newsletter in its current format then an absolute majority decision is required in order to approve unbudgeted expenditure of approximately \$15,000.

This cost could be reduced to \$10,000 if Council decided to roll the winter 2005 edition over into the 2005/2006 financial year.

**BACKGROUND**

At its June 2004 meeting Council resolved to

- (1) Trial the production and distribution of a quarterly newsletter; and
- (2) That the results of the trial be listed for discussion at the next Strategic Planning Committee meeting.

Council was informed that the first four page edition would cost \$3,813 plus delivery costs of \$400 (incl. GST).

As it turned out production costs amounted to \$4,771 plus \$543 in delivery costs.

The increased costs arose mainly from a management decision to increase the print number (from 3500 to 4000) and the number of pages (from 4 to 6).

**CONSULTATION**

Nil.

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**STAFF COMMENT**

The next ordinary meeting of the Strategic Planning Committee is scheduled for the 29<sup>th</sup> November 2004 which is far too late for the purposes of obtaining Council approval for the production of a summer edition of the newsletter.

Staff have received very little feedback from Cottesloe residents on the newsletter however it is my view that, in comparison to other local government newsletters, *Civic Centre News* is an excellent production.

Councillors may well be in a better position to indicate how well the newsletter has been received by the community and whether the continued expense is warranted.

**VOTING**

Absolute Majority – unbudgeted expenditure

**COMMITTEE COMMENT**

Nil

**COUNCIL COMMENT**

Some Councillors reported negative resident feedback specifically in relation to the information may not be up to date as it is a quarterly newsletter, high cost to produce, produced on environmentally unfriendly paper.

The Mayor said that many separate distributions to residents occur during the year and that this newsletter provides the opportunity for the provision of information and messages to the whole community in one communication.

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council approve expenditure of \$10,000 on the production and distribution of a summer and a spring edition of *Civic Centre News*.**

Lost 5/4

**12.1.3 MEETING PROCEDURE**

**File No:** X4.11  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to adopt the City of Subiaco's procedures relating to *Making a Statement at A Council or Committee Meeting* and *Council or Committee Meeting Public Question Time*.

**STATUTORY ENVIRONMENT**

The *Local Government Act 1995* provides that "...Time is to be allocated for questions to be raised by members of the public and responded to at every ordinary meeting of a council; and such other meetings as may be prescribed."

Further that "...regulations may make provision in relation to the procedure to be followed at, and in respect of, council or committee meetings..."

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Council has the following strategic objectives under the Governance heading.

- *Council acknowledges the views and interests of all components of the community and strives to achieve a balanced and proactive position on issues which affect public, commercial and private sectors.*
- *Council gives full and public account for its decisions*

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

Dealing with unruly members of the public is an emergent issue for many local governments.

The paper from Council's solicitors entitled *The Unruly Gallery* provides good background reading in this regard.

While the Town of Cottesloe has not had a great deal of adverse experience with members of the public at Council and committee meetings, it may be prudent to tighten up on meeting procedures now so that the potential for trouble is lessened.

**CONSULTATION**

Nil.

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**STAFF COMMENT**

Currently a great deal of largesse is provided to members of the public at Council and committee meetings.

Public Statement Time is perhaps a good example of where, in the interests of “natural justice”, Council has granted members of the public an opportunity to speak to upcoming agenda items with a view to making sure that whatever decisions are made, are based on the best information available.

However there are emergent signs that some members of the public are prepared to abuse the largesse that has been extended in order to further their own political agenda with **none** of the accountability that is expected of elected members and staff.

If the abuse goes unchecked then it may become the norm for many others who have a particular barrow to push.

The documentation used by the City of Subiaco to govern Public Statement Time and Public Question Time was circulated to Councillors.

With respect to Public Question Time it should be noted that the City of Subiaco:

- Limits each person to two questions with a total time limit of two minutes per speaker.
- Puts greater emphasis on lodging the questions with the CEO prior to the meeting.
- Raises the possibility that agenda items may be deferred on the basis that the questions raised may require further consideration at a later date.
- Limits people who have asked questions from raising the same matter under public statement time.

With respect to Public Statement Time the City of Subiaco:

- Encourages a summary of the statement to be lodged with the CEO prior to the meeting.
- Under certain conditions, limits the number of speakers on the same subject to two for and two against.
- Raises the possibility that agenda items may be deferred on the basis that statements made may require further consideration at a later date.
- Limits people who have made statements from raising the same matter under public question time.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**COUNCIL COMMENT**

The general feeling of Councillors was that the gallery isn't 'unruly' and that the residents may feel offended. The main concerns are repetitious statements, the occasional bad manners of speakers and ensuring the time limit of three minutes is kept too. It was suggested that the Chair of the meeting exercise appropriate discretions.

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council adopt the City of Subiaco's procedures relating to public question time and public statement time.**

Lost 6/3

**12.1.4 WALGA - DATE OF LOCAL GOVERNMENT ELECTIONS**

**File No:** X 6. 1  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 13 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

In April 2004 the WA Local Government Association (WALGA) canvassed members seeking an indication as to a possible change of date for the holding of Local Government Elections from May to October every two years. Responses were received from in excess of 100 member Councils and it was clear that over 60 members supported a broad change to the September/October period.

Further correspondence has been received from WALGA asking Councils if they support a change of Election Day to the 3<sup>rd</sup> Saturday in October every two years.

A recommendation is made that Council advise WALGA that it does not support a change of election day to the 3<sup>rd</sup> Saturday in October every two years.

**STATUTORY ENVIRONMENT**

Local Government Act 1995

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Nil.

**BACKGROUND**

In April 2004 the WA Local Government Association (WALGA) canvassed members seeking an indication as to a possible change of date for the holding of Local Government Elections from May to October every two years. This request was after several of the Association's Zones requested that consideration be given to changing the date for the conduct of biennial Local Government elections. Currently all elections are held on the first Saturday in May each two years, with the next election due in 2005.

Responses were received from in excess of 100 member Councils and whilst there was not a specific date indicated it was clear from the consultation that over 60 members supported a broad change to the September/October period.

In working through the likely scenarios of a suitable date for the elections a number of points were considered including the following:

- Federal Elections – can be held anytime during this period but more often are held in November.
- School holidays – generally including the last Saturday in September for two weeks.
- Long weekend and Royal Show during the last week of September for two weeks.
- AFL Grand Final on the last Saturday in September. It is also likely that during the later part of September many people are involved in the finals of various sporting events, which could impact on interest in the election process.
- If the election is held in September many candidates and sitting Councillors will be campaigning during the budget process and from an administration view point the electoral function will impact significantly upon Councils who may already be under pressure to complete the budget in a timely way. From an elected member point of view they may feel uncomfortable in standing for election immediately after adopting a budget, which may be causing concern in the community.
- A change to early September will still not overcome one of the main stated reasons for change being proposed and that is to be able to deal with the budget process.

The State Council in considering the report on the outcome of the request for comment from members noted that there was not a specific date proposed in the previous consultation process and as such felt that before adopting a position on a possible date the specific proposal of the 3<sup>rd</sup> Saturday in October should be canvassed with members.

Against this background, Council has now been asked by WALGA to provide a response to the following question:

“Does Council support a change of election day to the 3<sup>rd</sup> Saturday in October every two years?”

### **CONSULTATION**

Nil.

### **STAFF COMMENT**

This matter was last considered by Council in May of this year when Council resolved to support the status quo i.e. the 1<sup>st</sup> Saturday in May.

At the time Council was advised by staff that the NSW Government had recently re-scheduled its own local government elections cycle from September to March i.e. NSW had gone the other way.

The change followed a request from the Local Government Association of NSW which sought more financial responsibility and control for newly elected officials.

The change was advocated on the basis that a newly-elected September Council to work with the previous Council's budget until the start of the next financial year and that it was unfair to expect a newly-elected council to implement a previous local government's budget.

Further that changing the timing of local government elections to March would:

- Provide newly elected councillors with better control over their budgets;
- Improve financial transparency and accountability by reducing the time between elections and drafting council budgets; and
- Ease the workload on the State Electoral Office to conduct a state election and local government elections in the same year.

If the NSW experience is anything to go by then an October election date should not be supported and more so given the complications of potential Federal Elections, school holidays, sporting event finals etc.

For that reason it is recommended that Council advise WALGA that it does not support the proposed change.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Nil

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council advise the WA Local Government Association that it does not support a change of election day to the 3<sup>rd</sup> Saturday in October every two years.**

9/0

**12.1.5 STATION STREET SUMP - PROPOSED REDEVELOPMENT**

**File No:** X4.11  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

This matter is resubmitted from the August meeting of Council where it was resolved that Council refer the matter back to the Works and Corporate Services Committee.

A recommendation is made to seek revised documentation from all those who lodged an expression of interest.

The revised documentation is sought so that Council is enabled to make a decision on a shortlist of potential tenderers.

**STATUTORY ENVIRONMENT**

Sections 3.57 to 3.59 of the Local Government Act 1995 have particular application and are reproduced in full below.

**3.57. Tenders for providing goods or services**

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

(Note: Except in certain circumstances, the regulations require that tenders are to be publicly invited before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$50,000.

In addition, if a local government thinks that there is good reason to make a preliminary selection from amongst prospective tenderers as a preliminary to making a decision to tender, it may seek expressions of interest with respect to the supply of the goods or services.

Good reason to make a preliminary selection can exist where —

- (a) the nature of the goods or services required; or
- (b) the cost of preparing plans, specifications or other information for the purpose of adequately describing the goods or services required,

makes it advantageous to the local government if tenders were invited from persons it considers to be capable of satisfactorily supplying the goods or services.)



**3.58. Disposing of property**

- (1) In this section —
- “dispose” includes to sell, lease, or otherwise dispose of, whether absolutely or not;
- “property” includes the whole or any part of the interest of a local government in property, but does not include money.
- (2) Except as stated in this section, a local government can only dispose of property to —
- (a) the highest bidder at public auction; or
  - (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.
- (3) A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —
- (a) it gives Statewide public notice of the proposed disposition —
    - (i) describing the property concerned;
    - (ii) giving details of the proposed disposition; and
    - (iii) inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- And
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.
- (4) The details of a proposed disposition that are required by subsection (3)(a)(ii) include —
- (a) the names of all other parties concerned;
  - (b) the consideration to be received by the local government for the; and
  - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to —
- (a) a disposition of land under section 29 or 29B of the Public Works Act 1902;
  - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
  - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
  - (d) any other disposition that is excluded by regulations from the application of this section.
-

**3.59. Commercial enterprises by local governments**

(1) In this section —

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

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

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

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

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

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,

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

“major trading undertaking” means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve, expenditure by the local government of more than the amount prescribed for the purposes of this definition, except an exempt trading undertaking;

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

(2) Before it —

- (a) commences a major trading undertaking;
- (b) enters into a major land transaction; or
- (c) enters into a land transaction that is preparatory to entry into a major land transaction,

a local government is to prepare a business plan.

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

- (a) its expected effect on the provision of facilities and services by the local government;
- (b) its expected effect on other persons providing facilities and services in the district;

- (c) its expected financial effect on the local government;
  - (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56;
  - (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
  - (f) any other matter prescribed for the purposes of this subsection.
- (4) The local government is to —
- (a) give Statewide public notice stating that —
    - (i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;
    - (ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
- and
- (b) make a copy of the business plan available for public inspection in with the notice.
- (5) After the last day for submissions, the local government is to consider any submissions made and may decide\* to proceed with the undertaking or transaction as proposed or so that it is not significantly different from what was proposed.
- Absolute majority required.
- (5a) A notice under subsection (4) is also to be published and exhibited as if it were a local public notice.
- (6) If the local government wishes to commence an undertaking or transaction that is significantly different from what was proposed it can only do so after it has complied with this section in respect of its new proposal.
- (7) The local government can only commence the undertaking or enter into the transaction with the approval of the Minister if it is of a kind for which the regulations require the Minister's approval.
- (8) A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this section that apply to commencing a major trading undertaking, and for the purpose of applying this section in that case a reference in it to commencing the undertaking includes a reference to continuing the undertaking.
- (9) A local government can only enter into an agreement, or do anything else, as a result of which a land transaction would become a major land transaction if it has complied with the requirements of this section that apply to entering into a major land transaction, and for the purpose of applying this section in that case a reference in it to entering into the transaction includes a reference to doing anything that would result in the transaction becoming a major land transaction.
-

- (10) For the purposes of this section, regulations may —
- (a) prescribe any land transaction to be an exempt land transaction;
  - (b) prescribe any trading undertaking to be an exempt trading undertaking.

### **POLICY IMPLICATIONS**

Nil.

### **STRATEGIC IMPLICATIONS**

Nil.

### **FINANCIAL IMPLICATIONS**

Nil at this point in time.

### **BACKGROUND**

Since 1999 Council has looked at the redevelopment of the Station Street sump site on several occasions.

In February 2004 Council resolved to seek registrations of interest from land developers or consultants willing to manage the development of Council land in Station Street. A brief for the expressions of interest was worked up following Council's tacit endorsement of the selection criteria.

Expressions of interest were called by advertising in the West Australian's property section on two consecutive Wednesdays (April 7 and 14, 2004) and six expressions of interest were received by the closing time/date (4.00pm 8 July, 2004).

They came from:

- Nu West Property Systems Ltd
- Olympic Holdings Pty Ltd
- Property Resources Consulting
- Jamac Properties
- Edit Developments
- Australian Development Consultants

The brief for the registrations of interest specifically required that:

*Expressions of interest **must** [emphasis added] address the following selection criteria to enable Council to select a shortlist of potential tenderers:*

1. *Skills, experience and qualifications in property development.*
  2. *Demonstrated ability to potentially prepare a business plan for a commercial enterprise by a local government as required under section 3.59 of the Local Government Act.*
  3. *Ability to complete projects on time and within budget.*
  4. *Experience and track record in terms of community consultation.*
  5. *Experience and track record in collaborative commercial ventures with the public sector.*
-

6. *Experience and track record in providing public infrastructure such as off-street parking and stormwater drainage systems.*
7. *Experience and track record in constructing buildings that compliment existing streetscapes and dominant land uses.*
8. *Marketing experience and skills in terms of letting or selling commercial property at a premium.*
9. *Preliminary concept plans and financial projections.*

None of those who lodged an expression of interest went anywhere near addressing all of the selection criteria.

## **CONSULTATION**

Nil.

## **STAFF COMMENT**

At this point in time it is not appropriate for Council to be short listing any of those lodged an expression of interest (for the purposes of going to tender) as none have addressed the selection criteria in full.

If Council were to short list any of them then it would be exposed to quite valid criticism from other would be developers who would have lodged an expression of interest were it not for the fact that they were also asked to address the selection criteria in full but thought that it was all too difficult.

In other words, a level playing field is required.

Council could halt the entire process on the basis that none of the expressions of interest addressed the selection criteria in sufficient detail to allow the Council to go to tender.

Alternatively, if the selection criteria no longer applies or is considered to be no longer relevant, then Council could start the expressions of interest process all over again with revised documentation.

Another option is to request all those who have lodged an expression of interest to resubmit revised documentation that addresses the selection criteria.

This is the preferred option as it saves a great deal of energy and time.

If this option is adopted, then Council should also consider advising those who have lodged an expression of interest that the intention of Council is to reduce the number of eventual tenderers to three or less. Anything more is likely to severely tax staff resources and ultimately the Council's decision making process.

It should also be pointed out that those who do not lodge revised documentation by the due date will be deemed to have withdrawn their expression of interest.

## **VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**12.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council advise all those who have lodged an expression of interest:**

- (1) That revised documentation addressing the selection criteria in full must be lodged with the CEO by no later than Tuesday 30<sup>th</sup> November 2004;**
- (2) That it is Council's intention to reduce the field of six to three or less for the purposes of tendering; and**
- (3) That failure to lodge revised documentation by the due date will be deemed to be a withdrawal from the expressions of interest process.**

Carried 8/1

**12.1.6 SEA VIEW GOLF CLUB - REQUEST FOR APPROVAL FOR A CONCOURS D'ELEGANCE**

**File No:** E10.10  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The Sea View Golf Club has written to Council supporting a proposed *Concours d'Elegance* to be held on the golf course on 16<sup>th</sup> October 2005.

A recommendation is made to grant approval for the *Concours d'Elegance* subject to compliance with rules and regulations governing public events.

**STATUTORY ENVIRONMENT**

Part VI of the Health Act 1911 applies as it relates to approvals for public events.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

To be ascertained unless Council makes it quite clear from the outset that any costs associated with set-up and breakdown involving Town of Cottesloe resources is to be borne entirely by the event organisers.

**BACKGROUND**

The President of the Royal Automobile Club of WA and Mr Peter Briggs of the Fremantle Motor Museum have written to Council as follows:

The Royal Automobile Club of Western Australia celebrates its 100<sup>th</sup> anniversary in 2005 and has commissioned the Fremantle Motor Museum to manage a veteran, vintage and marque rally to commemorate the occasion. Our plan is to re-enact the original 1905 event on Sunday the 16<sup>th</sup> October 2005 with cars from the era, combined with those from the car clubs of Western Australia, driving from Perth to Cottesloe. The ultimate destination is the Sea View Golf Club. The original destination was the Strelitz family residence in View Street Peppermint Grove (then Cottesloe) where the RAC held its inaugural meeting.

We have had preliminary discussions with the Board of Management of the Sea View Golf Club with a view to holding a public display of the vehicles and a Concours d'Elegance on the Club's fairways. The golf club management team is enthusiastic about hosting a display of some of Australia's finest examples of motoring history. They see this as a wonderful opportunity to make their course available to the public in what will be a world class event held at a truly spectacular facility. There are very real synergies to the world renowned Pebble Beach Concours d'Elegance, held annually on the Monterey Peninsula in California, now in its 54th year. We have had a positive response from eastern states and international collectors to make their significant vehicles available for the rally and Concours.

A Perth charity will share in the proceeds of nominal public entry fees and we will auction a new car donated by one of the auto manufacturers to further enhance funds flowing to the charity.

We seek Council aid in supporting the Sea View Golf Club to enable this event to take place. Whilst planning is in the very early stages there are a number of issues that need to be resolved before public announcements can be made, the most important of which is finalization of the venue. We are aware there will be Council regulations to be met and standards of performance necessary where the public is involved. We will have a risk plan and public safety policy in place, security guards will be provided, public facilities available, food and beverages on site and the golf club will roster members to ensure their course is looked after.

We anticipate a public attendance of around 5000 with off street parking available on two playing fields adjacent to the course.

In order to assure the success of the event and the safety of all participants a Centenary Rally Advisory Committee is to be formed with representatives from the Police, Seaview Golf Club, Fremantle Motor Museum, RAC and the Town of Cottesloe all represented.

It is entirely appropriate that the Town of Cottesloe be the venue for this event as not only was it the destination for the inaugural rally but the surroundings are amongst the most picturesque in Australia.

2005 will be a big year for the Royal Automobile Club of Western Australia and a number of celebratory events are planned. The rally will undoubtedly be the most significant of these events and we are excited about the prospect of the public being invited to join us and enjoy the occasion.

Members of staff from the RAC and Fremantle Motor Museum are available to provide information to your respective committees when necessary.

We trust the Council will actively support this venture and envisage it will be a major event in the Western Australian calendar for 2005.

#### Fact Sheet

1. Date: Sunday 16<sup>th</sup> October 2005
2. Anticipated public attendance: 5000
3. Anticipated participant vehicles 1200
4. Risk plan & public safety policy in place
5. Police permit applied for
6. Organising committee with stake holders in place
7. Vehicles begin departing Langley Park at approximately 0930 hrs and begin arriving at Sea View Golf Club at approximately 1100 hrs
8. Public access to SVGC at 1200 hrs
9. Programme completed by 1800 hrs
10. Perth charity to benefit from share of entry fees and vehicle auction
11. Security personnel on site for duration of event
12. Public facilities available on site
13. Food and beverage available on site for duration of event
14. SVGC members to be rostered to help guide visitors and preserve grounds

## CONSULTATION

Nil.



**STAFF COMMENT**

The new lease, which will be in effect on the day in question, provides that:

The Lessee must use the Golf Course only for the purpose of a golf course and associated club house facilities.

It is therefore not within the power of the Sea View Golf Club to grant approval for the event. Instead the power rests with the Town of Cottesloe under the broad terms of the vesting order which provides that the land is to be used for "Park Lands" and "Recreation".

The exercise of that power by the Town of Cottesloe is in turn constrained by clause 3 of the lease agreement which provides:

Except as provided in this Lease and subject to the observance and performance of the Lessee's Covenants, the Lessee may quietly hold the Golf Course and enjoy the Lessee's Rights during the Term without any interruption or disturbance from the Lessor or any person lawfully claiming through or under the Lessor.

The use of the land for a *Concours d'Elegance* does not appear to be at odds with the vesting order.

It is felt that the event is something that should be encouraged as it increases public access to existing community assets.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**DECLARATION OF IMPARTIALITY**

Councillors Morgan, Strzina and Sheppard made declarations of impartiality in their capacity as a members of the Sea View Golf Club.

**12.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council:**

- (1) Grant approval for the proposed *Concours d'Elegance* to be held on 16<sup>th</sup> October 2005 subject to compliance with rules and regulations governing public events;**
- (2) Advise the event organisers that any costs associated with event set-up and/or breakdown involving Council works staff and/or plant and equipment is to be borne entirely by the event organisers;**
- (3) Advise the event organisers that they must satisfy any requirements imposed by the Sea View Golf Club in terms of protecting their right of quiet enjoyment of the land under clause 3 of the lease agreement; and**
- (4) Advise the event organisers that they must provide suitable public indemnity insurance for the event on the advice of Council's insurers.**

Carried 8/1

**12.1.7 HANG GLIDERS - SOUTH COTTESLOE**

**File No:** C2.1  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 13 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council the Hang Gliders Association of WA (WAASp) response to conditions of approval for the group to conduct its activities in South Cottesloe. The conditions were set by Council in 2002 and conveyed to the group at that time but no response was received. The Hang Gliders Association of WA (HGAWA) now seeks to recommence hang gliding in Cottesloe.

**STATUTORY ENVIRONMENT**

Council's Beaches and Beach Reserves Local Law (4.10) provides that it is prohibited to launch hang gliders or other like devices except from locations which are designated for such use by Council.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

At its July 2001 meeting, Council resolved to form a working party to look at the impact of hang gliders on Cottesloe dunes. The resolution required that the working party report back to the October meeting of Council with its findings. At its October 2001 meeting, Council resolved to extend the working party's reporting date to February 2002. The working party sought a further extension until April 2002 and this was granted by Council at its February 2002 meeting.

The working party met on 4 April, 2002 to review the proposal lodged by WAASp together with comments from South Cottesloe Coastcare Association (SCCC), Municipal Liability Scheme, and Council's Works Supervisor.

The working party's recommendations to Council were as follows:

- (1) That the WAASp's proposal be supported in principle.
- (2) That the WAASp's proposed "drop-gate" system for access through the dune top fence be modified to a farmer's or "cockies" gate, as suggested by Council's Works Supervisor, or a conventional gate.

That the gate way be a minimum of three metres wide and suitable strainer posts be installed. The cost of fence modifications and the manufacture and installation of the gate be at WAASp's expense.

- (3) That the proposal be modified to include an appendix that details the wording and location of signage. Signage should include one positioned either side of the gate way, that sets out conditions of operation and this signage should include a WAASp contact phone number for complainants use. Signage to be of a type and design that conforms with relevant standards and Council's policies, and as agreed by Council's CEO. All relevant signage costs to be borne by WAASp.
  - (4) That WAASp be required to make arrangements with SCCC to participate in annual site maintenance activities.
  - (5) That the option put in part two of item two of the proposal from WASSp to widen the hand rail spacing on the walkway immediately to the north of the launch site, be rejected, based on Council's Works Supervisor's comments. However consideration be given to reducing the height of any posts that extend past the top of the handrail where this could be done without affecting the integrity of the structure. Similar consideration be given to the relocation of any signage where this could be accommodated without compromising relevant standards. The cost of any substantial works undertaken in this regard to be borne by WAASp and anything of a very minor nature to be Council's responsibility.
  - (6) That, as set out in the submission and as suggested by SCCC, no improvements to the take off site are necessary at this time.
  - (7) That Council set similar conditions of approval to the Town of Mosman Park, which are as follows:
    - The Council sighting the annual renewal of the WASSp's public liability insurance policy (the policy makes reference to the Town)
    - The WASSp indemnifying Council against any loss, damage or injury due to the activities
    - All necessary approvals to use the site being obtained from the relevant Government Departments/Authorities
    - The approval being subject to review by the Council after a period of 12 months or such earlier date at the discretion of the Council.
  - (8) It was understood that licensed pilots are insured for public liability for up to \$10 million, however Council should require that:
    - (a) Council receives annual confirmation that licensed participants are automatically covered for public liability.
    - (b) Council sight the annual renewal of the WAASp, or Hang Gliding Federation of Australia (HGFA).
    - (b) The WAASp or HGFA public liability insurance policy specifically indemnifies the Town of Cottesloe.
    - (c) The WAASp and/or the HGFA indemnify the Town of Cottesloe, to the satisfaction of the Town's legal advisor, against any loss or damage due to activities of WAASp or HGFA, or its members.
    - (d) Council is protected against being sued by members of WAASp, or HGFA, in relation to their use of the site.
-

(The Working Group understands that each pilot, through his/her licence, is covered by \$10 million public liability insurance, but felt that the preceding conditions should apply and that Mr Lush would investigate the feasibility of them).

- (9) That in the event Council approves further tree planting in or near the landing zones identified in the proposal, alternative landing sites be found.
- (10) That approval be subject to an initial review after six months and annual reviews thereafter.
- (11) That Council have the option of withdrawing approval at any time at its discretion without the need for justification.
- (12) That public comment be sought prior to approval. That the submission, together with the Working Group's recommendations, be put on Council's Web site and be made available at Council's office for a month before submissions close.

At its April meeting, Council resolved to seek public comment, as recommended by the working party.

At its June 2002 meeting Council resolved as follows;

*That Council approve WAASp's application for its members to operate hang gliders and para gliders from the area of beach reserve south of Sydney Street subject to the following:*

- (1) *A gateway, of a type and construction suitable to Council, for access through the dune top fence being installed at WAASp's expense. The gate way be a minimum of three metres wide and suitable strainer posts be installed.*
- (2) *The installation of signage at WAASp's expense. The signage to include one positioned either side of the gateway, that sets out conditions of operation and a WAASp contact phone number for complainants use. Signage to be of a type and design that conforms with relevant standards and Council's policies, and as agreed by Council's CEO.*
- (3) *WAASp making arrangements with SCCC to participate in annual site maintenance activities.*
- (4) *Any substantial works in regard to beach access ways or signage to facilitate the pedestrian transportation of gliders be the subject of specific and detailed requests. That these requests be accommodated only as agreed by the CEO only where relevant standards are not compromised, and in consultation with relevant community groups, with the full cost to be borne by WAASp.*
- (5) *No improvements to the take off site being made at this time.*
- (6) *WAASp indemnifying Council against any loss, damage or injury due to the activities.*
- (7) *All necessary approvals to use the site being obtained from the relevant Government Departments/Authorities.*
- (8) *In the event Council approves further tree planting in or near the landing zones identified in the WAASp proposal, alternative landing sites be found.*

- (9) *In relation to insurance, WAASp to :*
- (a) *Supply Council with annual confirmation that licensed participants are automatically covered for public liability.*
  - (b) *Council sighting the annual renewal of WAASp's public liability insurance policy.*
  - (c) *WAASp's public liability insurance policy to make reference to the Town of Cottesloe and to specifically indemnify the Town of Cottesloe, to the satisfaction of the Town's legal advisor, against any loss or damage due to activities of WAASp or its members.*
  - (d) *Provide evidence that Council is protected against being sued by members of WAASp in relation to their use of the site.*
- (10) *Approval being subject to an initial review after six months and annual reviews thereafter.*
- (11) *Council having the option of withdrawing approval at any time at its discretion without the need for justification.*

Council's decision was conveyed to the group in writing in June 2002 and whilst representatives of the group discussed logistical aspects of the conditions of approval, such as the signage and fence modifications, with some of Council's staff the group did not convey its acceptance, or otherwise, of the approval and did not convey its ability to meet conditions 6, 7 and 9 till July 2004.

It is apparent that, as with many clubs, officials of the hang glides have changed a number of times since 2002 and the author has spoken with a number of representatives enquiring about the status of their request for approval to operate in south Cottesloe. Each time enquirers have been advised of the need to formally accept and show evidence of being able to meet the conditions set out in approval.

WAASp has now addressed the conditions of approval and have agreed to 1 to 5, 10 and 11. It has addressed the other conditions as follows:

- 6 *The Hang Gliding Association of WA indemnifies the Council against any loss, damage or injury due to the activities.*
- 7 *The Hang Gliding Association will obtain and comply with any approvals necessary from relevant Government Departments/Authorities.*
- 8 *The Association will find alternative landing sites in the event that Council should plant trees in or near the landing zones.*
- 9 *In relation to insurance:*
- a) *The Association confirms that licensed participants are automatically covered for public liability and will reconfirm this on an annual basis.*
  - b) *A copy of the insurance policy is attached.*
  - c) *The policy is held through our national body , the Hang Gliding Federation of Australia. It is not practicable to list every individual land owner and council across Australia on this policy. We request that Council waive this requirement.*
  - d) *[EVIDENCE that Council is protected from being sued by members of the Association in relation to use of the site]. Please refer to Attachment A.*

A liability indemnity, release, waiver and assumption of risk agreement form that WAASp would have members sign was attached. Also attached was a copy of part of the groups insurance policy that lists under the heading "Insured" the *Commonwealth of Australia, Australian States and Territories, Shire and City Councils, federal and State Government Bodies, owners of property or land, their respective servants and agents – arising out of or in connection with Hang Gliding activities of any of the insureds stated in (1), (2) and (3) above carried out on land owned or occupied by these named bodies.* Whilst the Town of Cottesloe is not specifically mention on the policy it appears that Council would be covered by it. The policy has a \$10 million limit of indemnity.

Council's approval was for an initial period of six months with annual reviews and as the approval conditions were not met, at least until the recent correspondence from WAASp, the matter has been brought back to Council for consideration.

Council's Coastcare Officer reports that grant funding has been approved for a dune rehabilitation project in the area that would be used by WAASp. The project involves fencing off an area of dunes from the Town's southern boundary to the vicinity of the proposed hang glider launch site. The fencing in the area of the launch site will be at the base of the dunes and consist of the standard log and wire construction to a height of 900mm. This project is scheduled for the current financial year. Council's Engineering Services is also looking at the whole of the area bounded by Marine Parade, Curtin Avenue, the southern and western town boundaries, with respect to vegetation as part of the planning process. These plans and others form Cottesloe Coastcare are expected to impact on the grassed area that would be used by HGAWA members to set up their flying equipment.

### **CONSULTATION**

Consultation leading up to Council's resolution of June 2002 included representatives from WAASp and South Cottesloe Coast Care being on a committee that set the conditions of approval and a public comment period. The author has spoken with a number of representatives from WAASp since the Council resolution.

The Author has also spoken with Council's Coastcare Officer regarding Cottesloe Coastcare projects that may impact on the proposed activities.

### **STAFF COMMENT**

Council has a number of options which range from reaffirming its June 2002 resolution to not agreeing to approve the proposed activities.

When the request for approval was looked at in detail leading up to Council's June 2002 resolution, it was noted that dune protection works and other re-vegetation projects might affect the future of hang gliding in the area. It is suggested that the planned fence for the base of the dunes might pose a danger to pilots that, for what ever reason, fail to take off at the top of the dune and end up running down the dune face. It is also noted that the excellent work done by Cottesloe Coastcare may be jeopardised by such events.

The proposed activity entails pilots going through a fence to the edge of the due and so the dune top areas will be subject to damage. These factors coupled with other vegetation plans for the area that may impact on the area available to WAASp result in the recommendation that the application not be approved.

If Council chooses to approve the application it is suggested that the conditions set in 2002 be applied with the exception of 9) c) being modified to accommodate the wording of the group's insurance policy.

### **VOTING**

Simple majority.

### **STAFF COMMENT**

The Manager Corporate Services provided a verbal report that the Coastcare Officer has checked the location of the proposed dune fencing and has reported that the fencing will not be in the area of the launch site. Therefore safety concerns, as previously stated, are no longer an issue.

### **COMMITTEE COMMENT**

Nil

### **OFFICER RECOMMENDATION**

That Council not approve the WAASp application for its members to operate hang gliders and para gliders from the area of beach reserve south of Sydney Street due to planned and proposed works in that area.

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council approve WAASp's application for its members to operate hang gliders and para gliders from the area of beach reserve south of Sydney Street subject to the following conditions:**

- (1) A gateway, of a type and construction suitable to Council, for access through the dune top fence being installed at WAASp's expense. The gate way be a minimum of three metres wide and suitable strainer posts be installed.**
  - (2) The installation of signage at WAASp's expense. The signage to include one positioned either side of the gateway, that sets out conditions of operation and a WAASp contact phone number for complainants use. Signage to be of a type and design that conforms with relevant standards and Council's policies, and as agreed by Council's CEO.**
  - (3) WAASp making arrangements with SCCC to participate in annual site maintenance activities.**
  - (4) Any substantial works in regard to beach access ways or signage to facilitate the pedestrian transportation of gliders be the subject of specific and detailed requests. That these requests be accommodated only as agreed by the CEO only where relevant standards are not compromised, and in consultation with relevant community groups, with the full cost to be borne by WAASp.**
  - (5) No improvements to the take off site being made at this time.**
  - (6) WAASp indemnifying Council against any loss, damage or injury due to the activities.**
  - (7) All necessary approvals to use the site being obtained from the relevant Government Departments/Authorities.**
  - (8) In the event Council approves further tree planting in or near the landing zones identified in the WAASp proposal, alternative landing sites be found.**
-

- (9) In relation to insurance, WAASp to:

  - (a) Supply Council with annual confirmation that licensed participants are automatically covered for public liability.
  - (b) Council sighting the annual renewal of WAASp's public liability insurance policy.
  - (c) WAASp's public liability insurance policy to provide cover to the Town of Cottesloe and to indemnify the Town of Cottesloe, to the satisfaction of the Town's legal advisor, against any loss or damage due to activities of WAASp or its members.
  - (d) Provide evidence that Council is protected against being sued by members of WAASp in relation to their use of the site.
- (10) The approval being subject to annual reviews by Council.
- (11) Council having the option of withdrawing approval at any time at its discretion without the need for justification.

Carried 8/1



**12.1.8 SALARY PACKAGE - VEHICLE PURCHASE**

**File No:** E11. 3  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 13 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council a request for a budget amendment to facilitate the purchase of a vehicle for salary packaging purposes.

**STATUTORY ENVIRONMENT**

Section 6.8 of the Local Government Act applies. This relates to the expenditure from the municipal fund not included in the annual budget. The propose purchase will require a budget amendment and that resolution will require an absolute majority.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

No provision was made in the budget for the proposed purchase. The purchase price of the vehicle is expected to be \$20,519.

**BACKGROUND**

A number of staff remuneration arrangements include the provision of a motor vehicle and during a recent review a staff member put forward a packaging arrangement that included a motor vehicle. The salary packaging arrangement is supported by the staff members, manager and the CEO.

**CONSULTATION**

Nil, other than with the staff member and CEO.

**STAFF COMMENT**

The inclusion of motor vehicles in a salary packaging arrangement is common practice and all other staff on a similar level to the staff member in question currently have a vehicle as part of their salary arrangement.

Based on a specific four cylinder vehicle the estimated annual cost of providing the benefit (including running costs, change over cost, FBT and the notional cost of interest income foregone) is \$7,510. Against this the employee is sacrificing \$7,545 from the agreed salary (salary plus superannuation).

No provision was made in the budget for the proposed purchase and so a budget amendment is required. A number of significant planned purchases from the Plant and Machinery part of the Capital Works Programme section of the budget have been carried out and there has been a net saving (cost of new items less trade ins) against budget predictions of just over \$17,500 to date. Savings in other areas of Capital Works include saving of around \$4,000 on the purchase of the photocopier. The foregoing savings in the Capital area neutralise the impact of the proposed new expenditure.

**VOTING**

Absolute majority

**COMMITTEE COMMENT**

Nil

**COUNCIL COMMENT**

Cr Utting spoke in relation to the sustainability policy. Suggest that fleet be reviewed to fleet be changed to a car similar to what is being proposed here.

**12.1.8 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council:**

- (1) Amend the 2004/05 Budget to include provision of \$20,520 for the purchase of a passenger vehicle in the area of Administration in the Capital Works Programme; and**
- (2) Approve the purchase of an additional passenger vehicle.**

Carried 8/1

**12.1.9 DONATION - COTTESLOE SURF LIFE SAVING CLUB - LIFE SAVING EQUIPMENT**

**File No:** C7.7  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 13 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council the Cottesloe Surf Life Saving Club's request for a donation and to recommend that it be agreed to.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

The Donations Policy applies.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Provision was made in the 2004/05 budget for a \$5,000 donation to the club.

**BACKGROUND**

Prior to adoption of the 2004/05 budget the Cottesloe Surf Life Saving Club made representation regarding a donation toward the purchase life saving equipment and first aid facilities and the club now seeks the funding.

The club provides a vital community service over weekends and public holidays during the beach-going season. The club also provides some of the equipment and first aid facilities to WA Surf Life Saving for the patrol services it provides under contract to Council.

**CONSULTATION**

The author of the report has discussed the donation with a number of club officials.

**STAFF COMMENT**

Applying the Donations Policy –

**POLICY ASSESSMENT CRITERIA**

Donation requests will not be considered where:

• The applicant is a private and for profit organisation or association.	The Cottesloe Surf Life Saving club is a not for profit community service/sporting organisation.
• The applicant is an individual person.	It is an organisation.
• The application is in relation to general fundraising.	The funding is for the purchase of life saving equipment and first aid facilities.
• The application is for funding for conferences and conventions.	N/A.

Priority will be given where:

• The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or within the Western Suburbs.	The club is a not for profit organisation based in Cottesloe.
• The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.	N/A.
• The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.	All residents who use Cottesloe Beach during the summer benefit from the activities of the club.
• The funds are required for a new initiative or significant once off project.	The funds are required for new purchases and improvements to existing facilities.
• The applicant has not received a donation from Council within the previous two years.	No donation has been made to the club during the past six years.
• If the donation is for an event and entry to the event is free of charge to Cottesloe residents to attend and participate.	N/A.
• The application is made in the financial year prior to the funds being required in time for inclusion in the coming year's budget deliberations.	The submission was made in time for incorporation into the 2004/2005 budget.

It is recommended that Council agree to this donation request.

## VOTING

Simple majority

## COMMITTEE COMMENT

Nil

**DECLARATION OF IMPARTIALITY**

Cr Robertson made a declaration of impartiality in his capacity as a member of the Cottesloe Surf Life Saving Club.

**12.1.9 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council donate \$5,000 (excluding GST) to the Cottesloe Surf Life Saving Club toward the purchase life saving equipment and first aid facilities.**

Carried 9/0

**12.1.10 DONATION - SHENTON CHRISTIAN COUNCIL - SHENTON COLLEGE  
CHAPLAINCY**

**File No:** C7.7  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put before Council a donation request for part funding of Shenton College Chaplaincy with a recommendation that it be agreed to.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Council's Donations Policy applies.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Provision was made in the budget for a donation of \$1,200 (excluding GST) for this purpose.

**BACKGROUND**

In May 2004 the Shenton Christian Council put forward a submission for funding in the 2004/05 year for the Shenton College Chaplaincy and the request was incorporated into the 2004/05 budget. The Council now seeks the donation.

From the support information supplied it is noted that the chaplaincy service cost \$87,100 in 2003 and will cost \$91,300 for 2004. Funding for the service primarily comes from local community churches with the balance being made up from donations from groups such as the Shenton College P&C, City of Nedlands and the Cottesloe Golf Club. Most Shenton College students live in districts surrounding the college and 2.9% live in Cottesloe.

Council has supported the chaplaincy service for a number of years and in September 2003 Council considered a request for a donation of \$1,200 from this group. The request was received after the budget had been adopted and the provision made was not sufficient to meet the request and so Council resolved as follows :

*That Council donate \$600 to the Shenton Christian Council for the Shenton College Chaplaincy and that consideration be given to giving a larger donation when formulating the 2004/2005 budget.*

**CONSULTATION**

Nil

**STAFF COMMENT**

Applying the Donations Policy –

**POLICY ASSESSMENT CRITERIA**

Donation requests will not be considered where:

<ul style="list-style-type: none"> <li>The applicant is a private and for profit organisation or association.</li> </ul>	The Shenton Christian Council is a not for profit organisation.
<ul style="list-style-type: none"> <li>The applicant is an individual person.</li> </ul>	It is an organisation.
<ul style="list-style-type: none"> <li>The application is in relation to general fundraising.</li> </ul>	The funding is for a specified project, that is to provide Shenton College with a chaplaincy service.
<ul style="list-style-type: none"> <li>The application is for funding for conferences and conventions.</li> </ul>	N/A.

Priority will be given where:

<ul style="list-style-type: none"> <li>The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or within the Western Suburbs.</li> </ul>	The Council is a not for profit organisation.
<ul style="list-style-type: none"> <li>The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.</li> </ul>	N/A.
<ul style="list-style-type: none"> <li>The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.</li> </ul>	2.9% of Shenton College students reside in Cottesloe.
<ul style="list-style-type: none"> <li>The funds are required for a new initiative or significant once off project.</li> </ul>	The Chaplaincy is an ongoing service at the College.
<ul style="list-style-type: none"> <li>The applicant has not received a donation from Council within the previous two years.</li> </ul>	Council has made a practice of making annual donations toward this service.
<ul style="list-style-type: none"> <li>If the donation is for an event and entry to the event is free of charge to Cottesloe residents to attend and participate.</li> </ul>	N/A.
<ul style="list-style-type: none"> <li>The application is made in the financial year prior to the funds being required in time for inclusion in the coming year's budget deliberations.</li> </ul>	The submission was made in time for incorporation into the 2004/2005 budget.

Council has made a practice of making annual donations toward this service, and provision was made in the budget for this donation and it is therefore recommended that the request be granted.

**VOTING**

Simple majority

**COMMITTEE COMMENT**

Nil

**12.1.10 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowel, seconded Cr Strzina

**That Council donate \$1,200 (excluding GST) the Shenton Christian Council for the Shenton College Chaplaincy.**

Carried 9/0



**12.1.11 DONATION REQUEST - HALL HIRE FEE - CANCER SUPPORT ASSOCIATION OF WA INC**

**File No:** C4.6/C7.7  
**Author:** Mr Alan Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 12 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to put the request from Cancer Support Association of Western Australia Inc for a function to be sponsored, to the value of the hall hire fee, before Council with a recommendation that it be approved.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Council's Donations Policy applies.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

The Cancer Support Association of Western Australia Inc has a booking through Mustard Catering for the War Memorial Hall and the hire fee as set out in Council's budget, is \$310 plus a setup fee of \$20 per day. Assuming a need for one day to set the hall up, the hire fee to Mustard Catering would be \$330. No provision has been made in the budget for a donation to this organisation. However a provision of \$1,500 was made in the budget for donations to unspecified parties, \$200 of this was committed to the P&C Safety House Committee last month and so \$1,300 is still available and some of this could be applied to the request.

**BACKGROUND**

The Cancer Support Association of Western Australia Inc wrote seeking Council support by sponsorship of the hiring of the War Memorial Hall for the organisation's 20<sup>th</sup> birthday celebration, "A Night of Love" to be held in the War Memorial Hall 29 October 2004. The celebratory occasion includes a number of guest speakers, a concert of well known artists and a wellness auction to raise funds for the refurbishment of the association's premises in Cottesloe.

As there is catering involved for the function, the association has made its booking to Mustard Catering and Mustard Catering has in turn booked the hall with Council. Mustard is therefore Council's customer and the entity who would be billed the standard hire charge. The association's request was for "sponsorship of the hiring of the Civic Centre Hall (\$600)".

The Association provided the following information about itself:

*Since 1984 the Cancer Support Association of WA, the Wellness For Life Learning Centre at Cottesloe, offers unique wellness and healing services and support to the Perth and WA community. Over the past few years, through our new web site resources, we also support and empower many people across Australia and internationally in their search for wellness in the face of life-threatening illnesses such as cancer. The Wellness For Life Centre is also open to the wider community who may not have cancer but are wishing to learn prevention strategies and learn to cope with the demands of modern day stresses and disease. CSA is a community service and relies solely on community support and generosity to continue its distinctive services of holistic and inclusive health care.*

## CONSULTATION

The Cancer Support Association of Western Australia Inc was contacted to clarify the donation request, whether they sought a donation of \$600 (apparently Mustard Catering's charge to them for venue hire) or the hire fee that Council would be charging Mustard Catering. It was established that the latter was sought.

## STAFF COMMENT

If Council wishes to donate the hall hire fee it is recommended that this be done via a cash donation rather than a waiver of the fee. Because Mustard Catering are the hirer they would be the beneficiary of the fee waiver and whilst there is no doubt that they would pass this on in full it is suggested that a direct donation would be clearer.

Applying the Donations Policy –

## POLICY ASSESSMENT CRITERIA

Donation requests will not be considered where:

<ul style="list-style-type: none"> <li>The applicant is a private and for profit organisation or association.</li> </ul>	The Cancer Support Association is a non-profit benevolent organisation that relies solely on public donations and community support
<ul style="list-style-type: none"> <li>The applicant is an individual person.</li> </ul>	It is an organisation.
<ul style="list-style-type: none"> <li>The application is in relation to general fundraising.</li> </ul>	The funding is for a specified thing.
<ul style="list-style-type: none"> <li>The application is for funding for conferences and conventions.</li> </ul>	The application is for a celebratory occasion and has been categorised by Mustard Catering as a cocktail party for hall hire fee purposes.

Priority will be given where:

<ul style="list-style-type: none"> <li>The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or within the Western Suburbs.</li> </ul>	The association is a non-profit organisation and is located in Railway Street Cottesloe.
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<ul style="list-style-type: none"> <li>The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.</li> </ul>	N/A.
<ul style="list-style-type: none"> <li>The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.</li> </ul>	The function is in part a fundraiser for the refurbishment of the association's premises in Railway Street.
<ul style="list-style-type: none"> <li>The funds are required for a new initiative or significant once off project.</li> </ul>	The celebratory function is a once off event.
<ul style="list-style-type: none"> <li>The applicant has not received a donation from Council within the previous two years.</li> </ul>	No donation has been made to the association within the past two years.
<ul style="list-style-type: none"> <li>If the donation is for an event and entry to the event is free of charge to Cottesloe residents to attend and participate.</li> </ul>	N/A.
<ul style="list-style-type: none"> <li>The application is made in the financial year prior to the funds being required in time for inclusion in the coming year's budget deliberations.</li> </ul>	The application is for funding in the same year it was made.

Based on the function being, at least in part, a fundraising event, it is recommended that Council resolve to donate \$330 to the association.

### VOTING

Simple majority

### COMMITTEE COMMENT

Nil

### 12.1.11 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Rowell, seconded Cr Strzina

**That Council donate \$330 to the Cancer Support Association of Western Australia Inc toward to cost of a function to be held at the Cottesloe Civic centre in October 2004.**

Carried 9/0

## 12.2 ENGINEERING

### 12.2.1 2005/2006 METROPOLITAN REGIONAL ROADS PROGRAM

**File No:** X 8.14  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 5 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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#### SUMMARY

Applications were made in April 2004 for three projects to be funded through the Main Roads Local Roads Program in 2005/2006. Only one of those projects has achieved the point score for funding. This report proposes ways to attempt to increase funds from this source.

#### STATUTORY ENVIRONMENT

All roads covered under these grants are arterial roads listed in the road hierarchy as District Distributors 'A' and 'B' and Local Distributors. Metropolitan Regional Road Group (MRRG) Local Road grants are provided only for this status of roads.

All such roads are vested in Council and, barring income from grant sources, Council is responsible for their maintenance and eventual reconstruction.

State Government budgets to provide a level of funds for these roads under either 'Rehabilitation' or 'Improvement' headings.

Main Roads WA controls the MRRG system which distributes these grants, under a point scoring system.

#### POLICY IMPLICATIONS

Council adopted a new policy in May 2004 "Long Term Engineering Programs". The increase or decrease of MRRG funds per year will have an impact on the five year program for urban arterial roadworks.

#### STRATEGIC IMPLICATIONS

Within Council's Strategic Plan, under the heading District Development – Asset Management, the sub-heading 'Appropriate Planning' provides for the objective: produce and implement a realistic five year plan for the maintenance of all major assets.

Council's most valuable asset is its road network. Reduced income from grant sources reduces Council's capacity to "implement a realistic five year plan" dealing with urban arterial roads.

#### FINANCIAL IMPLICATIONS

Council's five year program for urban arterial roads, based on all available information in May 2004, proposed three projects in 2005/2006, with a total value of \$398,500, with a Council proportion being \$132,800 funding.

Initial MRWA estimates have Cottesloe receiving a \$65,667 grant, to which \$32,833 funds would be added by Council. This means a \$200,000 reduction in grant income and a \$100,000 reduction in Council contribution to this area.

## BACKGROUND

The State Government has reduced local road funding by \$24m in two years. This has affected the availability of funds for MRRG Local Road Rehabilitation grants to the extent that the highest scores for successful submissions are approaching 8,000 with the lowest successful levels being cut off at 3,334 points.

Less than five years ago, a score of 2,500 would be sufficient to achieve grant approval.

In April, 2004 submissions were lodged, for the Town of Cottesloe, for three projects:

<i>Project</i>		<i>Total</i>	<i>Audited</i>
<i>Total Project</i>			
	<i>Score</i>	<i>Cost Es. \$</i>	
1. Railway St: Grant St to Parry St	2917	\$160,000	
2. Curtin Ave: Southern Bdy to Victoria St	3468	\$ 98,500	
3. Marine Pde: Jarrad St to Napier St	2546	\$140,000	

Only Curtin Avenue, from the Southern Boundary to Victoria Street is proposed for approval by the Minister.

## CONSULTATION

No local resident consultation has occurred on this matter.

## STAFF COMMENT

If future grant submissions are made on the same basis as previous years, then the only chance for improvement regarding Council's success rate with road grants is an increase in the total funding level made available by the State Government.

Staff will arrange a series of traffic counts on all of the road sections proposed for future submissions, to maximise the portion of the score relating to volume, use by buses and the percentage of truck use.

It is proposed to modify future submissions by listing short sections of the worst condition rather than including these sections in much greater lengths. This will mean a larger number of sections submitted but the conditions will include a much higher level of surface failure, therefore lifting the scores per section.

One further approach is to remove all non-surface replacement parts of the job ie kerbing, extra drainage pits, reinstatement of crossovers, verge improvement and traffic control devices. Including these works increases the project cost and therefore the cost per square metre to replace the road surface. A lower cost/m<sup>2</sup> allows an increased efficiency of expenditure, hence a higher points score for the project cost.

Such 'side' works would still be required and could only be funded from Council resources. However, any successful grant income saves Council expenditure on its own road network.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council:**

- (1) Use all possible methods to increase the Metropolitan Regional Road Grants for the rehabilitation of local roads, with actions to increase the audit scores on such submissions to include:
  - (a) increase traffic counting on all applicable roads;
  - (b) reduced lengths of roads covered in the submissions to concentrate on sections in the worst condition;
  - (c) submissions to concentrate on the road surface replacement, with non-pavement surface work to be funded separate to grant projects; and
- (2) Re-allocate funds originally included in the five year programs for urban arterial roadworks to cover Council's one third contribution, (which will not be required due to a reduced level of grant success) to road rehabilitation for local residential streets.

Carried 9/0

**12.2.2 MUDERUP ROCKS - PUBLIC SAFETY**

**File No:** E 2.11  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 5 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

Council resolved at its August 2004 meeting to employ Gordon Geological Consultants to carry out a geological inspection of Muderup Rocks and North Cottesloe limestone cliff hazards. That report is completed and presented in this agenda.

The recommendation is for immediate improvement of signage, brushing and fencing plus consultation with the Aboriginal community regarding other recommended site works to maximise public safety.

**STATUTORY ENVIRONMENT**

The area concerned is part of 'A' Class reserve 6896, vested in the Town of Cottesloe for 'recreation'. Muderup (Moonderup) is also a listed Aboriginal heritage site of significance.

**POLICY IMPLICATIONS**

There are no existing policies affected by this report, other than the 'Beach' policy. This policy only makes general comments to the Muderup Rocks cliff area: *"Safety is always a factor that should be considered in natural environments such as the beach."*

One of the policy's primary objectives is the maintenance and restoration of *"the remnant dunes bordering the Marine Parade road pavement – stabilised and protected using native vegetation as far as possible."*

A secondary objective is:

- (b) *To maintain the native features and ensure protection of the remnant dune system or any rehabilitated area on all other parts of the beach reserves from erosion by wind, stormwater run-off or pedestrian traffic.*

One applicable note, under Strategies – Conservation:

- (vi) *Prior to undertaking any work that may have an impact on the natural environment of the beach reserve the Town of Cottesloe will seek advice from suitably qualified experts.*

**STRATEGIC IMPLICATIONS**

This matter is covered in Council's Strategic Plan in the following areas:

- Governance – Long Term Vision – Decisions are made based on the best available advice in the long term interests of the whole community.

- District Development – Environment – Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation.
- District Development – Beach Precinct – A clean, safe beach precinct which is sustainably managed with no new developments west of Marine Parade and proactive conservation of the dune and marine environs.

### **FINANCIAL IMPLICATIONS**

The major concern is the financial implications if nothing is done to address any public safety issues and an accident does occur. The area is vested in Council for proper control and maintenance. The site is immediately adjacent to one of the most popular beaches in the State. The chances of an accident at this site are high, if only because of the beach's popularity.

The costs of implementing the recommendations of the geotechnical report are not high and can be funded through maintenance allocations.

Immediate costs would relate to increasing safety provisions on site with improved signage, brushing and fencing.

The rest of the Muderup Rocks work can only occur if successful negotiations are completed with the Aboriginal community. These would also be funded through general maintenance allocations.

### **BACKGROUND**

The consultant has visited Muderup Rocks and a section of limestone rock of concern at North Cottesloe. The consultant's report provides observations and recommendations for the safe guarding of public safety at both sites.

### **CONSULTATION**

No formal community consultation has occurred on this matter. The report does not recommend any works or machinery use above the cliff area which includes areas worked on by Coastcare.

General improvements to brushing, signage and fencing are normal maintenance works, requiring no consultation.

The actions recommended regarding making the cliffs safer by the use of crowbars and manually relocating fallen rocks, plus possible minor use of jackhammers requires full and open discussions with the Aboriginal community to establish what is possible in regards to this site.

### **STAFF COMMENT**

All limestone cliffs, particularly those close to the sea, with people climbing over them and lighting fires under them, are affected by continuous erosion in an uneven manner. This means that certain sites quickly erode, crack off or undermine faster than other limestone sites.



The study deals with what currently exists on site and the practical ways of dealing with those threats to public safety. In several instances, the recommendation is for monitoring in two years time.

Other works involve additional brushing, better signage and improved fencing. These will be handled through the normal beach maintenance budget allocations.

Several locations within the site exhibit cracks, undermining or the strong potential to collapse or roll away from the main limestone body. Recommendations for treatment of these sites range from the use of crow bars or backhoes to further under-pinning, relocation of rocks to make it difficult for the public to access these sites or additional concreting on existing concreted rock walls to improve support for overhangs.

Work of this nature should be attempted only when discussions with the Aboriginal community have been undertaken. Alternatives may become obvious during those discussions. However, these sites should not be 'unresolved' for a long period of time due to public safety concerns.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Nil

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

#### **That Council:**

Moved Mayor Rowell, seconded Cr Strzina

- (1) Accept the geotechnical report dealing with the Muderup Rocks and North Cottesloe limestone hazards from Gordon Geological Consultants;
- (2) Note that staff will arrange the placement of additional brushing, improved signage and improved fencing at Muderup Rocks, as per the report recommendations;
- (3) Agree to the extension of the wooden walkway at North Cottesloe Beach; and
- (4) Resolve to have staff contact the relevant spokespeople within the Aboriginal community to undertake consultation and discussions regarding possible works at Muderup Rocks to improve public safety around the more extreme safety concerns requiring possible small rock movements on site.

Carried 9/0

**12.2.3 RETICULATED AREAS AND GROUNDWATER BORES - FORWARD PLANNING**

**File No:** E11. 2  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 11 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

This subject has been before Council in April, 2003 and December, 2003.

The resolutions of Council from 23 April, 2003 are:

*That Cottesloe Town Council:*

- (1) Receive the Hydro-Plan report of March, 2003 and distribute copies to the Sea View Golf Club, Cottesloe Tennis Club, Town of Mosman Park, Shire of Peppermint Grove, Town of Claremont, City of Fremantle, City of Nedlands, City of Subiaco and WESROC (Stormwater Quality Management Strategy);*
- (2) Invite technical officers from each organisation to meet and discuss areas, common concerns and current watering practices;*
- (3) Review the suitability of bore locations in Cottesloe, the current rate extraction and volume drawn from existing groundwater resources;*
- (4) Give consideration to the need to provide for interconnectivity between bores in order to provide temporary water supplies in the event of mechanical failure;*
- (5) Give consideration to fitting soil moisture sensors at two major locations on a trial basis; document all lawn areas currently irrigated, recreational usage;*
- (6) Prepare a draft for the modification or reduction of existing lawn areas and the progressive introduction of more sustainable species; and*
- (7) Investigate, in consultation with Mr Jack Walsh, obtaining hydrological or hydrogeological studies in connection with sustainable groundwater usage in Cottesloe, and report back on those investigations at next month's Council meeting.*

On 15 December, 2003 Council resolved:

- (1) That Council approach the Water and Rivers Commission, with a view to reporting back to Council at its April, 2004 meeting on the implementation of a sustainable groundwater management plan for the Cottesloe peninsular and the town of Cottesloe in particular.*
- (2) That Mr John Davis be informed of Council's decision.*
- (3) That Claire and Brian Nockolds be advised that Council has adopted a precautionary approach to the extension of reticulated verges and that it must therefore defer consideration of their request for the time being.*

This report deals with the content of these previous resolutions, provides an update on progress and proposes a five year program for the rationalisation of the Town's reticulated areas and groundwater bores and wells.

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**STATUTORY ENVIRONMENT**

Section 3 of the Local Government Act provides, in part, as follows:

**3.1 General function**

- (1) The general function of a local government is to provide for the good government of persons in its district.
- (2) The scope of the general function of a local government is to be construed in the context of its other functions under this Act or any other written law and any constraints imposed by this Act or any other written law on the performance of its functions.
- (3) A liberal approach is to be taken to the construction of the scope of the general function of a local government.

**3.2 Relationship to State Government**

The scope of the general function of a local government in relation to its district is not limited by reason only that the Government of the State performs or may perform functions of a like nature.

**3.18 Performing executive functions**

- (1) A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.
- (2) In performing its executive functions, a local government may provide services and facilities.
- (3) A local government is to satisfy itself that services and facilities that it provides –
  - (a) integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body;
  - (b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and
  - (c) are managed efficiently and effectively.

Within Part 3 of the Waters and Rivers Commission Act 1995 the following powers and functions are granted to the Waters and Rivers Commission.

**10. Functions**

- (2) In addition the Commission has the functions of
  - (a) advising the Minister on all aspects of policy in relation to water resources;
  - (b) assessing water resources, and carrying out works under Part 4;
  - (c) planning for the use of water resources;
  - (d) promoting the efficient use of water resources;
  - (e) undertaking, coordinating, managing and providing practical and financial assistance to, activities and projects for the conservation, management or use of water resources;
  - (f) developing plans for and providing advice on flood management;
  - (g) carrying out, collaborating in or procuring research or investigations relating to water resources; and
  - (h) publishing information and material relating to water resources.

**11. Powers**

- (1) The Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
  - (2) Without limiting subsection (1) or the other powers conferred on the Commission by this Act or any other written law the Commission may, subject to section 12 -
    - (a) acquire, hold, manage, improve, develop, dispose of and otherwise deal in real and personal property; and
    - (b) act in conjunction with –
      - (i) any person or firm, or a public or local authority; or
      - (ii) any department of the Public Service or any agency of the State or the Commonwealth.
-

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

The town of Cottesloe's mission is "To preserve and improve the unique village character of Cottesloe by using sustainable strategies in consultation with the community."

An environmental objective for the Council is "... to promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservation."

**FINANCIAL IMPLICATIONS**

Reduction of numbers of bores, pumps and area reticulated will reduce costs of running these systems and the water volume used.

The five year program will involve commitment to the restoration of these systems to a high efficiency level, but at an annual cost for capital works.

**BACKGROUND**

The Town of Cottesloe has a number of reticulation systems, most of which are fed by groundwater supplies, of which the majority are bores. A number of small areas are connected to the Water Corporation scheme supply. Areas reticulated range from active recreation grounds through to small neighbourhood parks, landscaping around Council owned buildings and carparks, plus several large areas of road verge.

Water is also used for several street tree systems and for establishing juvenile street trees planted as replacements or as an extension to the existing stock of mature, non-reticulated verge trees.

The Town's use of irrigation water comes under close scrutiny from local residents and visitors alike. All watering carried out by the Town is in accordance with the statutory requirements set out by the Department of Environment and the Water Corporation. Groundwater irrigation is considered the most environmentally responsible method of irrigating the Town's parks and reserves. The current focus on water scheme water use, and reduced water availability provides opportunities to review the Town's use of scheme water for irrigation of landscapes.

An equally pressing need in the Cottesloe peninsula area is to address the growing concern regarding the growth of bores being installed to access the limited groundwater supply. The Town of Cottesloe's practical response is the minimisation of the number of bores and the areas reticulated. These actions, however, do not address the need for controls and monitoring regarding private reticulation bores.

The Town's reticulation and bore systems have been installed over time by external contractors, to various specifications. This has led to a great variation in infrastructure quality and effectiveness.

The variety of sprinkler pipelines, sprinkler design and layout has led to the past practice of maintenance, repair or replacement on an 'as required' basis.

Previous methods of installation, the varying nature of groundwater in the Cottesloe area and the absence of planned replacement has led to a situation today where reticulation failure compromises the capacity of the irrigation system to maintain landscape quality.

The Town's reticulation systems are heavily used over the drier months from October to April. Reticulation failure during periods of heavy use compromises the longevity of landscapes, utilisation of open space by user groups and budget control. Planned replacement programs for reticulation infrastructure on the basis of a 10 year life cycle is an industry standard. Reactive repair and or replacement of infrastructure is not considered appropriate when that infrastructure needs to be relied on to provide a critical service.

With regards to the Town's groundwater bore systems, where groundwater quality is good and is non-corrosive the average useful life expectancy of a groundwater bore is 20 years. A groundwater bore may typically require air or chemical re-development after 10 years of use. It is not unusual for a bore to require development annually as it approaches the end of its useful life. This requirement is a reliable indication that collapse may be imminent and where possible this situation should be avoided.

Due to the below ground location of this infrastructure, problems can go undetected and failure is often sudden. The resulting down time can be considerable when bore infrastructure requires removal to allow investigation to identify the cause of the problem.

Reactive repair and/or replacement of a bore or bore infrastructure compromises the longevity of landscapes, utilisation of open space by user groups and budget control.

To identify potential problems, and to program replacement or repairs on a priority basis, bores and pumps need to be assessed on an annual basis. Typical problems encountered include:

- faulty or damaged pumps,
- faulty or damaged bore column,
- bores requiring redevelopment due to collapse or contamination.

If the problem is pump related the pump is required to be dismantled and detailed investigation of the problem undertaken.

Where a bore fails completely and requires replacing, the Town is required to apply to the Department of Environment (formally Waters and Rivers Commission) for a licence to install a new bore. Such applications can take in excess of two months to resolve. Two months without irrigation would have a large impact on any of the Town's recreation grounds and parks. Proactive management of the Town's assets requires recognition of useful life expectancy and the planned replacement of such assets to manage the community's resources in the best long term interest of all.

The proposed five year program takes into consideration the age and condition of the Town's bores, pumps, wells and reticulation systems, their useful life expectancy, known problems, the need to rationalise on the areas under reticulation and the water used for the highest value areas available to the community.

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**CONSULTATION**

The use of groundwater for reticulation and the 'pros' and 'cons' of the use of this resource is well known in the region, with a variety of local press articles covering various presentations from local interest groups and residents in recent years, particularly involving the Sea View Golf Club use of bore water.

No consultation on this five year program has, so far, taken place. Under Council's draft Consultation Policy, a proposed five year forward plan on this matter would require a newspaper advert, inclusion on the web page and a newspaper article as a 'must', plus probable letters to ratepayer and focus groups. This is proposed to be undertaken.

**STAFF COMMENT**

The Town of Cottesloe has consultant reports regarding protection of the groundwater resource and systems rationalisation going back over 20 years. Salt levels for most of the bores and wells have been recorded up to 22 years ago.

Several consultants reports are available over this time period, with the following list of subjects being the main concerns:

- (a) Limited groundwater resource.
- (b) Reduced recharge from rainfall/reduced rainfall.
- (c) Unsustainable draw in certain areas.
- (d) Rising salinity in certain areas.
- (e) Increased demand.

The following list of proposed changes to practice were recommended by a report in 2003:

- (1) Soil moisture driven irrigation.
- (2) Rationalisation of Council bore locations.
- (3) Reduced extraction rates over longer periods.
- (4) Implementation of a storage and distribution network.
- (5) Reduction of irrigation areas.
- (6) Responsible use by large users such as golf courses.
- (7) Monitoring of salinity and flows.
- (8) Reduction of uncontrolled residential use.
- (9) Education of stakeholders and regular policy review.
- (10) Increased efforts to recharge stormwater.
- (11) Drought tolerant plantings with low volume irrigation.

Many of these changes to practice are incorporated in the resolutions from the 23 April, 2003 Council agenda item. The following comments relate to these items regarding movement, on these resolutions or possible practice changes.

1. Staff have undertaken investigations regarding the use of soil moisture sensors controlling large reticulation systems on reticulated reserves. Those Councils contacted have had problems with their use and have moved to other systems such as small weather stations linked to controllers. These are expensive and need a much higher technical support.

2. The locations of Council's groundwater bores are not proposed to change immediately, however details included further into this report propose the creation of a new bore close to the intersection of Napier Street and Curtin Avenue. This is close to the centre of the freshwater 'lens' and would deliver water to the Civic Centre and tennis courts. This would allow the closure of the old and failing (with a high saline level) Civic Centre bore and the dangerous, very old, deteriorated tennis courts open well.

Future relocation of bores would be considered as replacements are needed, with the main aim being the removal of groundwater bores from the edge of the 'lens' and the replacements being located at or near the thickest part of the 'lens' near the railway reserve.

Council currently obtains reticulation water from the North Cottesloe Primary School bore, for which it has no extraction licence. This water is only used to water fair to poor quality lawns on the Eric Street road reserve from Stirling Highway to Railway Street. The Primary School does not use this bore and Council appears to be the only user, however, no licence for its use seems to exist. The Department of Education and Training plus the school Principal were asked in writing for permission for Council to take over this water source in October, 2003. No answers have yet been received to this request.

Council reticulates no other residential street verges. The aim of some form of entry statement when entering the Town of Cottesloe from Stirling Highway needs to be fulfilled. An improved statement could be achieved with native vegetation species being planted on both verges of Eric Street as a display, between the highway and Mann Street. This could initially be reticulated by trickle pipe to establish these plantings and the rest of the reticulation sprinkler system turned off and the bore shut down. The sprinkler system could be connected to private systems/water sources if residents support this idea, or aid could be given to replace lawn areas with native species, for future resident maintenance.

Council currently has a 'peppercorn' rental on the Flour Mill reserve on the South West corner of the Curtin Avenue/Eric Street intersection. The reserve is vested in the Department of Planning and Infrastructure and may eventually be used for future roadworks relating to Curtin Avenue. All maintenance costs on this area, including maintenance on the local bore and reticulation sprinklers are funded by Council. Council has no licence to operate a bore at this site.

This reserve could be planted with a variety of native trees and shrubs, sprinkled in year 1, trickle irrigated in years 2 and 3, water turned off after that. The area will eventually receive some form of major earthworks, and Council's use of bore water at this site could be terminated within 2 years.

Apart from these sites, no rationalisation of bore sites is proposed in the five year program.

3. Reduced extraction rates over longer periods:  
It is proposed that with the bore replacement proposed for the Civic Centre and Tennis Court systems, the old disused concrete storage tank under the rear lawn

area behind the Civic Centre buildings would be refurbished and used for water storage, with reticulation from that tank rather than direct from the new bore site.

It is also proposed that storage tanks (probably 2 x 90 kilolitres or 20,000 gallons) be installed at the Cottesloe Oval and Harvey Field complex, to receive bore water from the two bores at that site. This would allow storage capacity in case of a bore being repaired or in-operative plus allow both bores to be run at a lower pump rate.

This in turn is expected to take pressure off the aquifer and reduce the salt content. Both of these bores have shown an increasing salinity trend in recent years. Both bores would extract water at a slower rate, into the storage tanks, for reticulation from the tank storage. Both tanks would be inter-linked. The tanks could be above or below ground.

4. Implementation of a storage and distribution network:  
The comments regarding storage tanks at the Civic Centre and the Cottesloe Oval/Harvey Field complex apply to this heading.

With regards to a distribution network, this is of great advantage for a bore breakdown, sudden salt intrusion or damage to a delivery pipeline, with an alternative water delivery in place. Under the proposed improved network, Council would have the existing bore at the Pearce Street/Curtin Avenue site, a new bore in Napier Street near Curtin Avenue and the Golf Club would have its bore in Forrest Street near Curtin Avenue. All three bores would have, or have, delivery pipelines up to Broome Street. These three lines could be connected along Broome Street, with the three bores at Harvey Field, Cottesloe Oval and the new Golf Club bore also being interconnected.

The Pearce Street bore pipeline already runs through to Marine Parade, as does the Napier Street pipeline. The reticulation system on the west side of Marine Parade runs south of Pearce Street, but also north to a point north of John Street. The pipeline down Napier Street to Marine Parade runs south to just north of Overton Gardens. If these two systems were connected, there would be a complete pipeline connecting the Napier Street pipeline to the Pearce Street pipeline.

These changes would create a substantial storage and distribution network between the main bore sources. Coupled with the new bore in Napier Street, the three main areas, for salinity concerns (Civic Centre, Cottesloe Oval and Harvey Field) will have been addressed.

5. Reduction of Irrigation areas:  
The Town of Cottesloe has irrigation systems in a range of different areas. The following categories are listed, from high priority to low priority, in terms of community impact if the system failed or could not be renewed:

(a) Active Recreation reserves:

- Cottesloe Oval
- Harvey Field
- Tennis Courts.



## (b) Passive Recreation reserves and major presentation sites:

- Jasper Green
- Grant Marine Park
- Eric Street foreshore
- General foreshore area, Grant Street to beach Street
- Andrews Park
- Lawn terraces on both sides of Indiana Tea House.

## (c) Road verges and minor reticulated areas:

- Cottesloe Flour Mill Reserve
- Eric Street road verges – Stirling Highway to Railway Street
- Tennis Courts – Broome Street and Napier Street verge frontages
- Napier Street, south side verge fronting Civic Centre
- Railway reserve land, NW corner of Railway Street/Claremont Rail Bridge
- Vlamingh Memorial Park
- Forrest Street median island, Railway Street to Stirling Highway
- Napier Street carpark, corner Marine Parade and Napier Street.

No changes are proposed to cut back the reticulated areas of categories (a) and (b) – Active Recreation reserves, Passive Recreation areas and major presentation sites.

The following changes are proposed for category (c):

- (1) *Cottesloe Flour Mill Reserve.* Over two years convert to native vegetation with minimal mowing. Stop use of bore water after two years.
- (2) *Eric Street road verges.* Establish quality native vegetation entry statement off Stirling Highway. End the use of bore water after two years. Close down bore. Aid property owners to take over sections of old Council reticulation system or convert to native vegetation.
- (3) *Tennis Courts road verge frontages on Broome Street and Napier Street.* These verge frontages are heavily reticulated and used only for parking during tennis games. It is proposed to construct asphalt parking areas on both verges, properly kerbed with native vegetation landscaping, watered by trickle pipe. The reticulation would then be removed from this area. The parking areas would then be of use for major functions at the Civic Centre, Tennis Courts and by any other public use.
- (4) *Napier Street - South side frontage to Civic Centre.* This is reticulated from the Civic Centre bore. The proposal is to replace the embankment lawn with trickle pipe watered native vegetation, installed over two years.
- (5) *Railway Reserve land/park on the south side of the rail reserve, to the west of the Claremont Railway Bridge* - This area is on rail reserve land and is watered from the water main. Water use could be greatly reduced with native vegetation rather than lawn.
- (6) *Vlamingh Memorial Park.* This park is a Buffalo grass lawn, reticulated from bore water pumped from the Pearce Street bore, along Pearce Street to Marine Parade, then down to the site. Approximately 900m of pipeline is needed to pump water to this site, beyond the last reticulated lawn area at Beach Street. The lawn at this site receives considerable effort to water, edge, fertilise and mow. Little to no public use is made of the lawn area.

The proposal is to redevelop this site as an unwatered native vegetation area, with water supply to be closed off at Beach Street after the shrubs have been properly established.

- (7) *Forrest Street median island, east of Railway Street.* This area is watered from the main, with manual relocation of surface sprinklers. A small portion would be useful for a shaded lawn area, for local workers at lunchtime etc, but the whole area being reticulated and edged/fertilised/mowed seems a waste. The rest could be replanted with native vegetation.
- (8) *Napier Street carpark, south west corner of carpark.* This is reticulated from the Civic Centre bore. A conversion to native vegetation, initially watered by trickle pipe, would be a more effective use of water and labour.

6. Responsible use by large users such as golf courses:  
Golf courses and other large users are now required to be fully involved with Department of Environment, with monitoring of salinity, volume used etc, and by the use of Management Plans.

As a group, by far the largest users are private property owners. Previous estimates suggest over 100 new bores are installed in the peninsula annually, with no requirements of monitoring or State Government control. This matter requires formal discussion and action by the affected State and Local Government Authorities, including WESROC.

7. Monitoring of salinity and flows:  
This has been occurring since 1980 (possibly before) for salinity and more recently for volume/flow. Graphs will be available for Council information at the October meetings.
8. Reduction of un-controlled residential use:  
See point # 6. Also, a new Verge policy proposes Council efforts to convince local residents and bore owners to consider replacement of reticulated lawns with native vegetation.
9. Education of stakeholders and regular policy review:  
This is occurring regarding new policy issues (Residential Verges, proposed policies on related issues), annual reconsideration of existing policies, and the requirements of the (draft) Consultation policy.

The WESROC ongoing Water Quality Management Strategy Implementation Committee's work includes a large Education Strategy for water saving and related matters.

10. Increased efforts to recharge stormwater:  
This is the central effort of Council's Five Year Drainage Program, with approximately 20+ soakage pits being stalled on town streets per year. Ocean outfall drains are also being progressively converted to recharge/soak pits.
11. Drought tolerant plantings with low volume irrigation:

This matter is covered under point # 5, with the creation of three demonstration sites this year for the use of low water-use plants, and is also a main feature of the (draft) new Residential Verge policy.

The details previously supplied cover the recommendations put to Council in a previous report in April, 2003. That report was based on a Hydro-Plan report from March, 2003. Copyright rules are being examined to determine if this same report can be supplied to other major stakeholders in the peninsula, with the next intention of a joint meeting to discuss areas of common concerns, reticulation practices and the need for a regional management plan. A letter has been sent to the Water Corporation on the need for such a regional approach.

A five year plan is now proposed, to include all works/actions proposed within this report, for Council and public consideration. If implemented, the five year program would provide for an integrated pipeline network for relocation of bore water, storage tanks and reticulation systems operating from those tanks, the removal of all of the Town's salinity problem water sites, the reduction of bore water used, bore sites operated and area reticulated, plus sprinkler systems on all reserves being brought up to modern standards.

#### **VOTING**

Simple Majority

#### **COMMITTEE COMMENT**

Nil

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

Moved Mayor Rowell, seconded Cr Strzina

#### **That Council:**

- (1) Advertise, for public consideration, the draft Five Year Plan for Bore and Reticulation Improvement, plus its support details; and
- (2) Consider the final Five Year Plan for Bore and Reticulation Improvement, including any changes proposed from the public consultation program, in the December, 2004 meeting.

Carried 8/1

**12.2.4 RIGHTS OF WAY AND LANEWAYS POLICY**

**File No:** E13. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 7 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

At its meeting in August 2004, Council resolved to request the Manager Engineering Services to prepare a draft policy, for Council consideration, dealing with all aspects of the administration of all rights of way and laneways in the Town of Cottesloe.

That policy is now provided for Council consideration.

**STATUTORY ENVIRONMENT**

Relevant legislation for roads and laneways:

- *Local Government Act 1995*
- *Land Administration Act 1997*
- *Main Roads Act 1930*
- *Public Works Act 1902*
- *Transfer of Land Act 1893*
- *Town Planning and Development Act 1928*

The Acts of most significance to this report are:

The *Local Government Act 1960* which was, until 1 January 1996, the State's primary legislation dealing with creation, management and closure of roads. On 1 January 1996, the 1960 Act was mostly replaced by the *Local Government Act 1995*, with some of its road sections being incorporated into the *Land Administration Act 1997* instead.

The *Land Administration Act 1997* (LAA) is the State's primary legislation providing for the disposition and management of Crown land. This Act is administered by the Minister for Lands and the Department of Land Information (DLI) a body formerly known as Department of Land Administration (DOLA).

The *Main Roads Act 1930* also contains provisions in relation to roads, in particular highways, main roads and secondary roads. This Act gives the Commissioner of Main Roads similar powers as a local government in relation to the primary road network.

## Definitions

(a) *Public Laneway*

A laneway is a narrow road located along the rear and/or side of a property boundary. Laneways are generally not the primary street from which a property may access the local road network. Laneways are typically used in more dense residential areas when smaller lot layouts justify rear garaging, and where alternative vehicular access is needed for lots fronting busy streets.

In all other respects laneways conforms to the definition of a public road.

(b) *Public Road*

A road consists of the entire road reserve or "casement" between abutting property boundaries that define the legal limits of the road corridor. Roads may vary in width, may or may not be surveyed, and may or may not be constructed.

In general terms, a road or road reserve includes the constructed road, kerbing and verge areas (eg street lawns in urban areas, roadside vegetation in rural areas) up to the boundaries of abutting land holdings.

Most roads are dedicated by order of the Minister for Lands or by approval of a plan of subdivision. Such dedicated roads are termed public roads, and as such the entire road reserve is vested in the Crown. Public roads are controlled and managed by the local authority or the Main Roads WA. A public road can also be referred to as a dedicated or gazetted road or street.

There are a number of different definitions of a public road, including the following:

- **The *Local Government Act 1960*** defines a "road" to have the same meaning as a "street", which was then defined to include "a highway; and a thoroughfare; which the public are allowed to use; and including every part of the highway or thoroughfare, and other things including bridges and culverts, appurtenant to it".
- **The *Local Government Act 1997*** dispenses with "roads", "streets" and "highways", using instead the term "thoroughfare", which is defined as "a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end".
- **The *Land Administration Act 1997*** defines a road to mean "land reserved, declared or otherwise dedicated under this Act as an alley, bridge, court, lane, road, street, thoroughfare or yard for the passage of pedestrians or vehicles or both".

- **The *Main Roads Act 1930*** defines:  
“Road” to mean any thoroughfare, highway or road that the public is entitled to use and any part thereof and all bridges (including any bridge over or under which a road passes), viaducts, tunnels, culvert, grids, approaches and other things appurtenant thereto or used in connection with a road;

“Declared Road” to mean a road declared to be a highway, main road or a secondary road under this Act, and including any part of any such road.

(c) *Private Laneway or Road*

The definition of a Private road is a roadway on privately held or freehold land, which is generally restricted in use to certain abutting landowners. Further, it means an alley, court, lane, road, street, thoroughfare or yard on alienated land which is shown on a Plan or Diagram of Survey deposited with the Registrar of Title and which:

- a) is not dedicated, whether under law or a common law, for use by the public;
- b) forms a common access to the land or premises, separately occupied; or
- c) is accessible to an alley, court, lane, road, street, thoroughfare or yard or public place that is dedicated, whether under a written law or at common law, to use as such by the public (Section 3 of the *Land Administration Act*).

In addition, Section 3.49 of the *Local Government Act 1995* defines a “private thoroughfare” as a thoroughfare that is not dedicated to use by the public and that connects lands, or premises, separately occupied to a thoroughfare or place that is dedicated to use by public.

Most private streets were created by subdivision of freehold land prior to 1962, with the land remaining in the ownership of the sub-divider. In many cases such owners are long-since deceased, or are defunct companies. Such streets are usually subject to easements or rights of carriageway created by instruments registered under the provisions of the *Transfer of Land Act 1893*.

In 1967 the *Town Planning and Development Act 1928* was amended by insertion of section 20A, providing for rights-of-way and pedestrian access-ways to be vested directly in the Crown, upon approval of a plan of subdivision creating such ways. These ways are not subject to easements in favour of adjoining landowners. The Crown is the owner of land in such ways.

A private road not otherwise vested in or owned by the Council or the Crown is rateable land within the provisions of the *Local Government Act 1995*.

(d) *Other*

The Department of Land Information (DLI) identifies the following definitions in their ‘Land Lingo’ document. These definitions are provided for further clarification of the terms used throughout this report:

Land	All land within the limits of the State, including coastal waters and seabed.
Crown Land	<p>Defined in the Land Administration Act as all land, except alienated (freehold) land, that includes:</p> <ul style="list-style-type: none"> <li>• All land within the limits of the State,</li> <li>• All marine and other waters within the limits of the State,</li> <li>• All coastal waters of the State, including the seabed and all islands.</li> </ul> <p>Around 93% of the State's area of 2,527,620 square kilometres (above high water mark) comprise Crown estate, the remaining 7% consisting of freehold land. The major categories of tenure within the Crown estate comprise;</p> <p>33% Unallocated Crown land,  16% Reserved land,  34% Pastoral Lease,  3% Other leases (LAA and War Service Land Settlement Scheme Act).</p>
Alienated Land	Land held in Freehold or fee simple land.
Dedication	<p>The acquisition as crown land or any alienated land or private land which has been used by the public, following a request from a local government to the Minister of Lands under Section 56 of the <i>Land Administration Act 1997</i>.</p> <p>Dedication as applied to a public road reserve is the "setting apart" or registration of a portion of land for a public road. It has the effect of vesting freehold land in the Crown.</p> <p>A dedicated road is one that has been created by lawful process, whether by approval of a plan creating the road, or by publication in the Government Gazette or State newspaper of a notice of dedication, or (as now required by the LAA in certain cases) by registration against a Crown Land Title (CLT) of an order declaring that the land has been set aside for such purpose. A road may also be declared a highway, main road or control of access under the <i>Main Roads Act 1930</i>.</p> <p>The manner of dedication depends on the requirements of the relevant legislation in force at the time the road was created.</p>
Road	A route trafficable by motor vehicles; in law, the public right of way between boundaries of adjoining properties.

Closed Road	A public road closed by legal processes. The land involved is usually disposed of to the owners of adjoining properties.
Main Road	Main Road means a road declared by proclamation to be a main road for the purpose of the <i>Main Roads Act 1930</i> .
Highway	Highway means a road declared by proclamation to be a highway for the purpose of the <i>Main Roads Act 1930</i> .
Road Reserve	The entire right of way devoted to public travel including footpath, verges and carriageways, ie the whole width between adjacent property in a road reserve.
Public Road	A public place that has been provided for use by the public for traffic movement and has been declared or proclaimed, notified or dedicated.
Public Access Route	Tracks across Crown land providing public access to coastal recreation areas, where formal declaration as a road is not appropriate.
Right of Way	A right of way is a strip of land available either for use by the general public, or a restricted section of the community, and may be created by subdivision, specific transfer, or continued use over a period.
Public Right of Way	Land vested in the crown as a condition of subdivision.
Private Right of Way	A narrow strip of land generally in a private subdivision and legally available only to owners of blocks in the subdivision.
Road Reserve, Road Casement	Property boundary to property boundary.
Pedestrian Access Way (PAW)	Land acquired by the Crown for use as a footway.
Underwidth Road	A purely descriptive term for a road or laneway which is of a lesser width than normal. The standard road reserve is generally 20.12m.
Easement	An easement is a grant of rights over land by the property owner in favour of another person, to enter onto land for the purpose of installing and maintaining facilities such as cables, pipelines etc. An easement may also be to grant the right to cross over land in order to gain access to another parcel of land. In the case of Crown lands, section 144 of the LAA allows for the Minister of Lands to grant easements over Crown land to any person for any purpose.

### POLICY IMPLICATIONS

Council has no policy on rights of way and laneways. This report proposes a new policy on this subject.



## **STRATEGIC IMPLICATIONS**

The increase of land values, the growing complexity of development applications, the increase in legal cases relating to injuries or damages suffered on roads, streets and laneways all impact on laneways. The need to clearly define Council's future requirements and attitudes regarding these routes or accesses all push towards much greater control and definition of the Town of Cottesloe's requirements and obligations in this matter, in a strategic and forward planning sense.

## **FINANCIAL IMPLICATIONS**

Council currently funds the maintenance of laneway surfaces and the control of vegetation in these areas. There is little definition as to whether private sections of laneways should be maintained, the level at which heavy maintenance should become construction and included in a 'Capital Works' budget, and what liabilities Council takes on by general maintenance of private laneways used by the general public.

This report seeks to establish a financial framework to deal with these issues, as well as to determine if a five year programme for laneway upgrading is necessary.

## **BACKGROUND**

Rear laneways or public rights-of-way (referred to as laneways in this document) were generally created in subdivisions around the turn of the century to facilitate night soil collection from the rear of properties. With the change in waste management practice (ie the use of leach drains or reticulated sewerage), laneways were no longer of use for this specific purpose.

The majority of laneways are public Crown Land decreed to be in the town's care, control and management or owned by the Town of Cottesloe in 'free simple'; however, a small number of them remain under private ownership. These 'private' laneways are typically attached to a single lot; with right-of-carriageway assigned to the other lots created under the subdivisional approval. The reasons for these private laneways not being transferred to the Crown are various and as a consequence the town should not expend municipal funds on their maintenance.

There are considerable advantages to a property owner/occupier in the availability of a laneway alternative access – even when not fully constructed. Although contribution towards the construction cost of a laneway may be onerous, most property owner/occupiers – even if they are not currently utilising the facility – are not prepared to relinquish the right of this alternative access.

The use of laneways is not decreasing. The town approves their use for vehicle access to on-site parking for both residential and commercial developments. However, a number of lanes are less than three metres wide, which makes car access difficult. This is compounded by 'T'-junctions or 90-degree bends within the network.

### **Benefits Associated with Laneways**

- Improved property values.
- Rear access to properties; which allows an alternative to primary street access.
- Non-intrusive alternative accesses to commercial and private properties.
- Rear storage for vehicles, boats and caravans; which consequentially improves the primary streetscape.

- The availability for use of the laneway as a drainage easement or similar; which generally provides a considerable cost saving and is more convenient than other alternatives.
- The possible use of the laneway for waste collection; as it is preferable to the street positioning of rubbish bins under certain circumstances.
- Use by Service Authorities for installation of sewers, water supply, power lines and communication cables.

### **Problems Associated with Laneways**

The problems associated with laneways are numerous and complex. Indeed there are competing views amongst residents abutting these laneways. Some of the abutting residents want the laneways to be open for vehicle or pedestrian access, whilst others do not. Some residents would like the laneways to be closed and incorporated with adjoining properties, others do not. When closure is proposed there is often dissension over how the land contained in the laneway will be distributed.

Individuals have in the past complained about dust, accumulated rubbish, traffic speed, noise, vibration, vermin, fire risks, drainage problems, fence damage, prowlers and obstruction by vehicles.

Piecemeal construction by individual owners – whether in conjunction with others or not – unless in accordance with an overall design, fixing longitudinal and cross section grades and levels, often creates problems.

The continued development of abutting properties which may result in increasing vehicular and pedestrian use of these laneways, can only exacerbate these problems and generate more complaints and/or dissatisfaction.

These issues suggest that there is no easy solution to the problem. It is however evident that the easy option of leaving the present situation as is and ignoring resident complaints and requests cannot be recommended as a long term solution.

The status of Crown land laneways is well defined, with Council charged with all care, control and maintenance functions.

With the many sections of laneway owned in 'fee simple' by Council, used by the general public for many years and maintained by staff using allocated maintenance funding, the legal status is less clear.

With the smaller sections of privately owned laneways (owned by various private individuals), the legal status is even less defined, with a growing trend in this litigious society, that the private owners may be responsible for any injuries or accidents occurring in these privately owned sections.

Over past years, with little direction from Council as to a clear definition of legal restrictions or policy attitudes on these laneways, staff have maintained weed growth, laneway surfaces and drainage issues to the best of their abilities, trying to provide solutions to the ongoing maintenance complaints received on a deteriorating asset.

The total length of laneways in the Town of Cottesloe, from records held, is 13.26km, of which 2.80km is Crown Land, 7.53km owned in 'fee simple' by Council and 2.93km by individual private owners.

Of this 13.26km length, with the results of a recent full inspection process completed, the construction and quality status of laneways in the Town of Cottesloe are as follows:

CONSTRUCTION STATUS	LENGTH Metres	POOR QUALITY		FAIR QUALITY		GOOD QUALITY	
		%	Metres	%	Metres	%	Metres
Unbuilt/Sand	6883.0	21	1415.3	73	5076.2	6	391.5
Bitumen	4847.2	3	138.3	23	1134.1	74	3574.7
Brick Paved	1076.9	0	0	21	228.10	79	848.8
Concrete	457.5	0	0	7	32.7	93	424.9
<b>Total</b>	<b>13264.6</b>		<b>1553.6</b>		<b>6471.1</b>		<b>5239.9</b>

With regards to current expenditure on laneways, as a maintenance function, the past five years experience has been an ongoing commitment of between \$12,000 and \$56,000 per budget.

Council currently receives in excess of \$7,000 from rating on privately owned laneway sections, with minimal works undertaken on such laneway sections in return.

Normal maintenance undertaken involves the pruning or removal of vegetation growing over fencelines, spraying or slashing of weed growth, maintenance of drainage pits and soak pits, plus the filling of pot holes or levelling of the unsealed laneway surfacing.

Various signs, posts and bollards are maintained, and issues occur regarding the connection of these laneways onto public streets and the maintenance of these connections.

### Planning Issues

As mentioned, the existence of laneways within the Town of Cottesloe was a result of progressive subdivision of originally larger lots. Initially, laneways were designed for access by horsedrawn carts for nightsoil collection, prior to the mass use of motor vehicles. As subdivisions continued, and motor vehicles became dominant, laneway design and construction changed to suite the greater widths required by motor vehicles, where new developments have involved laneway use.

With the increasing development drive to consolidate urban areas, greater importance is being placed on the design of high-density living in new or redeveloped areas.

The use of existing laneways has been important to the success of small lot development. Further, the use of laneways is considered to provide a superior living environment compared to battle-axe developments; as it is considered preferable for houses to face streets and laneways rather than be enclosed in backyards.

One key benefit with laneway access is that it assists in the development of attractive streetscapes. This is due to the reduction in the visibility of cars and parking structures when a development is viewed from its primary street. Such a benefit is suited to the Town of Cottesloe, as many of the early dwellings were not constructed with the provision for carports or garages, and are not suitably located for construction of carport additions from the primary street.

Vehicular access is the primary consideration in the use and design of laneways, with the key issues being the provision of adequate turning room and manoeuvring space. These issues, as well as the more general urban design principals, are discussed in more detail below.

### **Laneway Width**

The Western Australian Planning Commission (WAPC) provides policies for the development of laneways in new subdivisions as well as guidelines for existing laneways. For new, or 'greenfield' developments WAPC provides its Policy No. DC 2.6 as well as the Livable Neighbourhoods: Community Design Code. The Livable Neighbourhoods: Community Design Code outlines six (6) metres as the minimum requirement for the width of a laneway. This is based on the minimum space required to manoeuvre a car into or out of a garage at right angles to the laneway. It further adds that:

*"Lesser reserves and road pavement widths may be applied over limited lengths where performances can be justified, such as at entrances."*

For established laneways, WAPC policy is outlined in its Planning Bulletin No. 33 (Rights-of-Way or Laneways in Established Areas – Guidelines). This guideline states that existing laneways will require widening to a minimum width of five (5) metres. Where this is not possible it adds the following:

*"Where particular constraints preclude the widening of a right-of-way for residential developments, the following alternative design solutions may be acceptable:*

- 1. one-way traffic operation on a right-of-way less than five (5) metres wide;*
- 2. on-site parking bays constructed immediately adjacent and parallel to the right-of-way (not within the right-of-way);*
- 3. narrow one-lane sections of right-of-way with wider sections for vehicles to pass at appropriate locations, and other similar approaches."*

### **Laneway Tenure**

Laneways in the Town of Cottesloe tend to be public road reserve that is ultimately owned by the Crown, sections of privately owned laneway, or 'fee simple' land owned by the Town of Cottesloe. The *Land Administration Act 1997* and *Local Government Act 1995* gives the Town of Cottesloe the power to care, control and manage all public road reserves, within its municipal boundary. The town is responsible for the maintenance of its privately owned laneways, particularly if open for public use.

The LAA and the LGA enable the town, in relation to road reserves, to:

- Construct or rehabilitate an existing public road or laneway;
- Remove an erection or obstruction which reduces the proper width of a laneway at the expense of abutting owners;
- Exclude vehicular access from all or part of a laneway;
- Create a public road reserve from private or Crown land;
- Close a public laneway vehicle access;
- Close a public laneway and dispose of road reserve.

A small number of laneways within the town remain under private ownership and are typically attached to a single lot, with right-of-carriageway assigned to the other lots created under the subdivisional approval. These private laneways continue to be rateable property.

It is desirable for the town to have control of the private laneways if these are used by the general public, as this enables the town to expend funds on their maintenance and management. However, some of those private laneways (eg those accessing a small development) are infrequently used by the public and, as such, the ownership and maintenance of such could not be justified. Often, these laneways are maintained satisfactorily by their strata management or similar, anyway.

### **Naming of Laneways**

A few laneways in the Town of Cottesloe are currently named eg Rockett Lane, Pennefather Lane.

When named, laneways are easier to find and easier to describe, to direct visitors or discuss a particular problem on a laneway.

The problems with naming such routes include the promotion of the use of emergency vehicles, postal services, refuse collection and street numbering.

Other 'feelings' regarding such naming is that it will promote heavier use and the demand for built paths and lighting on laneways. No such demands or requests (for paths and lights) have been experienced by the writer of this report.

One compromise is for the labelling of each laneway with a short sign at each end giving only the laneway number. This method would require less than 200 short sign plates, with many being attached to existing poles or walls.

This would greatly improve the capacity for visitors to find a laneway without giving any aid to a greater use of such routes.

### **Illegal Closure or Takeover of Laneways**

All laneways were physically inspected to obtain information on condition, obstructions, quality of surfacing etc.

Also noted were a number of significant encroachments onto the laneway width, with fences being located into the laneway, various sheds and even parts of houses being illegally built over the property boundary into the laneway. Now that these issues are known, individual problems of this type need to be worked through to legalise each property or building location.

In a number of instances, the laneway is owned by the Town of Cottesloe and therefore sale of the encroached area by the town to the property owner may be possible. Removal of buildings and relocation of fencing back onto private property is obviously the other main option.

**CONSULTATION**

No community consultation has occurred on this item. Discussions have been held with staff of other local governments regarding their attitudes to laneways. It is proposed that the attitude of the proposed draft consultation policy be applied to this matter, once Council has resolved its response ie advertise in a locally available paper, display the policy on the web page, cover the item in any applicable newsletter and send copies to applicable ratepayer and focus groups for comment.

**STAFF COMMENT**

As per Background.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**OFFICER & COMMITTEE RECOMMENDATION**

That Council:

- (1) Invite public submissions on the draft Rights of Way and Laneways policy, closing at 4.00pm on Friday, 19 November, 2004; and
- (2) Follow up all instances of obvious encroachment onto laneways owned by the Crown or the Town of Cottesloe where private fencing and/or buildings have illegally taken over part or all of these sections of laneway width, for the purpose of legally resolving each issue of encroachment or illegal closure.

**AMENDMENT**

Moved Cr Jeanes, seconded Cr Strzina

That the public submission period closing date be changed to Friday, 26 November, 2004.

Carried 9/0

**AMENDMENT**

Moved Cr Jeanes, seconded Cr Strzina

That part (2) of the officer and committee recommendation be deleted.

Lost 8/1

**12.2.4 COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council:**

- (1) Invite public submissions on the draft Rights of Way and Laneways policy, closing at 4.00pm on Friday, 26 November, 2004; and

- (2) Follow up all instances of obvious encroachment onto laneways owned by the Crown or the Town of Cottesloe where private fencing and/or buildings have illegally taken over part or all of these sections of laneway width, for the purpose of legally resolving each issue of encroachment or illegal closure.

Carried 9/0

**12.2.5 SUSTAINABLE ROAD PAVEMENT MANAGEMENT**

**File No:** E17. 1  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 6 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The Town of Cottesloe has expended a similar amount on road reconstruction and resurfacing per year, for many years. The expenditure levels appear to have been based on what funds were available if the rates levels were kept below a particular level.

With the continuing cut back of funds for roadworks made available by the State Government and the continuing deterioration of the road asset in the town, a comparison is needed between the 'normal' funding level and the funding level required to retain or reach a sustainable funding level for the long term management of road pavements within the Town of Cottesloe.

This report provides details regarding Council's past performance in road funding and recommends a future reconsideration of road funding to ensure a future Council is not faced with major demands due to large scale road surfacing failures.

**STATUTORY ENVIRONMENT**

There is no specific legislation relevant to this report.

**POLICY IMPLICATIONS**

There are no existing Council policies relating to this matter.

**STRATEGIC IMPLICATIONS**

The Town of Cottesloe's Strategic Plan covers this matter in the following areas.

- Mission – To preserve and improve the unique village and coastal character of Cottesloe by using sustainable strategies in consultation with the community.
- Under 'Governance' the sub-heading 'Long Term Vision' applies: Decisions are made based on the best available advice in the long term interests of the whole community.  
The sub-heading 'Financial Management' also applies: Council makes responsible financial decisions based on the values and objectives of this long term plan for the community.
- Under 'District Development' the sub-heading 'Asset Management' applies: Council will prepare and implement an asset management plan for the district incorporating a database, appropriate financial reserves and acknowledging disability issues.  
The sub-heading 'Environment' also applies: Council will promote community awareness of issues affecting the whole environment in relation to sustainability, cleanliness, greening, community safety and conservations.



- Under 'Asset Management' the sub-heading 'Appropriate Planning' applies: Produce and implement a realistic 5 year plan for the maintenance of all major assets.  
The sub-heading 'Financial Reserves' also applies: Create financial reserves associated with each major asset to provide for long-term maintenance and replacement.

## FINANCIAL IMPLICATIONS

Road construction and maintenance occupy large areas of budget discussions and provisions. Reduce road improvement inevitably leads to increased need for road surface maintenance. Council needs to be aware of the funding level needed to build and maintain a quality road system because this asset is Council's most valuable, estimated by WALGA and the Grants Commission to have an 'as new' value of \$21,533,375 (2001/02 figures), with a 'written down' value of \$14,087,487.

As the asset depreciates, the cost increases to both catch up from past under expenditure and bring the asset back to good condition, capable of sustainable long term management.

The financial implications are therefore of major significance.

## BACKGROUND

The Town is responsible for 47.5km of roads and streets. Asphalt road surfacing is expected, on the average, to have a 'life' of 20 years, if properly maintained and not subjected to heavy traffic use, high water table, damage from service authority installations or poor quality original construction. The major limiting factor on this 'life' period is aging caused by UV light on the bitumen surface. This oxidises the bitumen content and causes the surface to become increasingly brittle and subject to cracking, rutting, deformation and water intrusion.

The purpose of this report is to identify the asset management requirements of the Town's roads, provide options for extending the typical life cycle cost of maintaining roads, and define a sustainable level of expenditure that maintains the Town's roads in a sound condition for the future.

### Detail

The Town of Cottesloe, along with the majority of local governments, is not considered to be funding a sustainable road rehabilitation effort. This is resulting in the arterial roads and local streets network deteriorating at a rate greater than the road rehabilitation rate considered desirable.

In every WALGA annual report on *Local Government Road Assets and Expenditure*, funding shortfalls are reported in the need for roadworks versus the funds made available from all three levels of government.

In the 2000/2001 report, the value of local government roads in WA had a replacement value of \$10.9 billion. This had a written down value of \$7.1 billion, equivalent to 65% of the replacement value.

MRWA have advised that this figure for a well managed road network is approximately 75%.

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Comparisons between Local Government Authorities on their road management efforts vary greatly, with metropolitan authorities having much better quality networks compared to country areas, mainly due to capacity to fund these from a larger rates base. Country councils normally have large lengths of unsealed roads through sparsely populated areas and a variety of other funding demands.

Typically, roads in the western suburbs normally have fully sealed and kerbed road networks but with a large proportion of these roads aging and approaching their 'use by date'.

In the 1960's and 1970's, large lengths of unsealed roads were sealed, kerbed and pipe drained, with construction costs being relatively low. Much of this work was not designed to carry the volume and weight of modern vehicles.

Bitumen sealed and asphalt road surfaces have a 'life' of approximately 20 years. This means that the major road sealing of the 60's and 70's is now in need of resurfacing or reconstruction unless already undertaken. In general, even in the metropolitan area, funding has not kept pace with road rehabilitation needs and most local governments currently own an aging road network with less annual funding, from all sources, being put towards road surface rehabilitation than that required for a sustainable road network.

#### *The Town of Cottesloe's Road Network – Degeneration versus Reinstatement*

A comparison of recent history, and next year, in regards to the Town road resurfacing programs is useful in determining previous efforts and comparing this to the objective of developing an ongoing, sustainable annual resurfacing and replacement program.

The following list of road resurfacing works over the past five years, 2004/05 and proposed for 2005/06 shows a resurfacing total less than the desired 5% per annum (2.38km). These did not include formation material replacement (ie the full depth construction including replacement of limestone and road base layers below the asphalt level):

<u>1999/2000</u>		<u>2000/2001</u>	
Eric St	0.25km	Barsden St	0.32km
John St	0.30km	Marine Pde	0.32km
Other local streets	<u>0.50km</u>	Avonmore Tce	0.36km
	<u>1.05km</u>	Salvado St	<u>0.19km</u>
	(2.2% of network)		<u>1.21km</u>
			(2.55% of network)
<u>2001/2002</u>		<u>2002/2003</u>	
Broome St	0.77km	Broome St	0.49km
Marine Pde	0.76km	Station St	0.20km
Local streets – various	<u>0.30km</u>	Forrest St	0.25km
	<u>1.83km</u>	Andrews Pl	0.17km
	(3.85% of network)	William St	<u>0.23km</u>
			<u>1.34km</u>
			(2.82% of network)
<u>2003/2004</u>		<u>2004/2005</u>	
Railway St	0.61km	McArthur St	0.11km
Grant St	0.26km	Brixton St	0.09km
Salvado St	0.17km	Bird St	0.18km

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Curtin St (service road)	0.29km	Parry St	0.26km
John St	<u>0.34km</u>	Mann St	0.35km
	<u>1.67km</u>	Broome St	0.70km
(3.52% of network)		Curtin Ave	<u>0.45km</u>
			<u>2.14km</u>
			(4.5% of network)

Proposed 2005/2006

Pearse St	0.34km
Burt St	0.29km
Wentworth St	0.04km
Princes St	0.20km
Nailsworth St	0.28km
Curtin Ave	<u>0.58km</u>
	<u>1.73km</u>
	(3.64% of network)

Technical testing on typical pavements similar to the Town's residential streets and major roads has shown that cold planing (removal of an asphalt layer) 30 to 80mm depth and the replacement of this depth with one or two layers of new asphalt is sufficient to provide a 'life' extension of at least 20 years.

Tests on older roads, ie on roads allowed to degenerate beyond the asphalt overlay stage, normally show the need for full depth reconstruction at a much higher cost per metre length.

In Cottesloe, the typical residential street is comprised of two different foundation types. The original central strip would have been a gravel track with open vee drains on the side. This would have been bitumen sealed and then eventually widened and kerbed.

Subsequent widening would have been in limestone and/or road base and the entire width then asphalt overlaid.

This now shows as a central heavily cracked section with two side strips in better condition. This is a result of the original gravel section expanding and contracting due to moisture ingress and the side limestone widening being in better condition because of a greater depth, with a much greater tolerance to moisture and therefore less movement in the wet winter months. Another major reason for a cracked asphalt surface is the intrusion of tree roots underneath the road, with a progressive growth of these roots causing damage.

While a road surface may last, on the average, 20 years in the Perth area, the safe useful life of road assets may be maintained for over 40 years before total full depth reconstruction is required. This is because a road surface, if treated before total failure occurs, can be overlaid with a 25mm layer of asphalt to achieve a 'life' extension of 20 years, or can be milled or cold planed to remove a thickness of oxidised old asphalt to allow replacement with new asphalt. An asphalt overlay, if the existing surface is in fair condition, is the lowest cost treatment. If the condition of a road is allowed to further deteriorate, then cold planing of an extra depth is required, at an increased cost per square metre. If the road surface is allowed to continue to deteriorate then full depth reconstruction is required, at up to four times the cost of an asphalt overlay.

The Town of Cottesloe has three main categories of vehicle access:

- Arterial Roads (eg Curtin Ave, Marine Pde).
- Local Roads (eg Lyons St, Deane St).
- Laneways.

Laneways are not discussed in this report. All figures relate to public roads on standard road reserves.

The following table represents the extent of the two main road categories, the average cost/km to rehabilitate, the desired resurfacing life cycle of each category and the annual cost of sustainable road funding considered desirable.

Road Type	Total km's	Total Reconstruction Cost/km	Resurfacing Cost/km	Expected Resurfacing Life Cycle (years)	Est. Annual Cost for Sustainable Program of Rehabilitation Surfacing
Arterial Roads	18.35	\$900,000	\$350,000	15	\$430,300
Local Streets	29.15	\$450,000	\$200,000	20	\$291,500
	<b>47.50</b>				<b>\$721,800</b>

The following table shows grant funding types and applicability for each road asset category.

Road Type	Available Grant Funds	Max. Value (\$)	Town of Cottesloe	Comments
Arterial roads	Metropolitan Regional Road Grants	\$500,000 (\$144,300 in 04/05)	\$250,000 max (\$2:\$1 contribution) (\$72,150 in 2004/05)	Reduction in grant funds continuing depends on road conditions.
Local roads	Roads to Recovery MRWA Direct Grant Federal/Grants Commission	\$49,200 \$13,000 \$198,800 (not tied to roads)	\$ Nil in 2004/05 \$13,000 in 2004/05 Not tied to roads	Major changes in 2006. Static level of funding. Not tied to roads.

Note: Roads to Recovery funds are NIL in 2004/05. The new Roads to Recovery grants recommence in 2005/06.

The road surface age as recorded in the town's Road Asset Management system (ROMAN) determines the need for resurfacing (from the surface age). Other factors eg tree root damage, abnormal vehicle damage and poor initial sealing, has caused a number of 'younger' roads to be in need of an early resurfacing.

Roads, laneways and footpaths are currently depreciated on a straight-line basis, from new condition to a full write-off, over 40 years. This assumes normal maintenance practices. The life of the full depth road may be prolonged, if the wearing surface is replaced at 20 year intervals, by an overlay or a cold plane and overlay treatment.

On average, asphalt surface replacement should be programmed every 20 years. On this basis, 5% of the total surface inventory of roads should be programmed for rehabilitation each year. Failure to achieve this rate of resurfacing or reconstruction results in the road network deteriorating beyond the capacity to intervene with road resurfacing, with an eventual need to increase expenditure to 'catch-up'.

Various means have been employed to extend the life of the road network, including the use of new types of asphalt, quality patch replacement of small road sections, reducing asphalt depth on streets where the original depth was inappropriate to use and the application of available road grants towards road surface replacement rather than other purposes.

#### *Past Performance with Road Surface Replacement*

The town's 47.5km of road network is composed of major roads such as Curtin Avenue, Marine Parade and Railway Street and a variety of different capacity residential streets.

On the basis of 5% of the total road surface asset being replaced each year, or a resurface life of 20 years, this equates to 2.4km out of the network length of 47.5km required to be rehabilitated, or resurfaced annually. Historically, the town has resurfaced between 1-2 km of roads per year.

A total of 2.14km is programmed in 2004/05 for resurfacing, including two MRRG funding projects (portions of Broome Street and Curtin Avenue), plus five residential streets. This extra effort has been made possible by two successful MRRG projects plus the funding of all residential street drainage components from the drainage improvement program, to maximise availability of limited funds for road resurfacing.

Historically, from the limited data available, it appears that the town has never reached a resurfacing rate of 2.4km per year. Apart from 2004/05, the lengths have varied from 1.0 to 1.8km per year.

Residential and minor access streets have received varying levels of funding from Council and grant sources. The major arterial and distributor roads have generally received funding from two sources – the Metropolitan Region Road Grant funding program, which provides two thirds of funds plus the Town's one third of cost. In earlier years, before this program, Main Roads WA had a similarly funded Specific Grants program.

With the current State Government's disinterest in road funding, Council's expected future income of grant funding for roadworks is a reduction.

Initial statements through Main Roads WA for the 2005/2006 Regional Road Group grants is that only one project will be funded – a section of Curtin Avenue, at the southern end of the Town area. This is for a grant of \$65,667, with Council to contribute \$32,833.

Two other projects – Railway Street from Mann Street to Parry Street and Marine Parade from Jarrad Street to Napier Street – appear not to have recorded sufficient scores to justify funding within the further reduced State Government Road Grant budget.

Scores for successful submissions for MRRG are now approaching 8,000, when 2,500 to 3,000 would normally mean success three to four years ago. Curtin Avenue achieved a score of 3,468. Railway Street and Marine Parade were both below 3,000.

This means that MRRG will fund two thirds of the cost to resurface 0.58km in 2005/06, compared with 1.15km in 2004/05 and 1.04km in 2003/04.

### **CONSULTATION**

No local resident consultation has occurred on this matter.

### **STAFF COMMENT**

There is a backlog of arterial roads and residential streets requiring resurfacing. The longer this continues the larger the problem. The lowest cost treatment (overlays) requires an original surface in fair condition. If left, the surface becomes too deteriorated and resurfacing at a higher cost is needed. Additional aging eventually results in full depth reconstruction being required.

Council's new five year Local Road Rehabilitation Program lifts the Council expenditure on Local Roads from \$100,000 to \$200,000 over the five year period. This doubles the expected resurfacing length to approximately 2km per year. If the funds are created in each budget then this program will partially address the long term problem.

However, there is still the under-funding history which has resulted in many streets now being in only a poor to fair condition. In 2005/06 the Federal Government's Roads to Recovery Mark 2 Program (R2R2) will commence. If income from this source, approximately \$33,000, can be added to the eventual five year program target of \$200,000 then part of the backlog problem is further addressed.

The major source of road funds, from government grants, is the Metropolitan Regional Road Grant. With reduced funding being put into this system by the State Government, improved 'tactics' are required to maximise Council's income from this fund.

Two changes are suggested to submissions for these projects.

1. The project estimate should not include non-surfacing items. This means that new kerbing, drainage, crossover and verge improvements and traffic control features etc would be funded by Council. This gives a much better 'efficiency' of grant submission ie inclusion of many non-surface issues increases the cost per m<sup>2</sup> of the project. This then reduces the comparative point score. This has the effect of increasing Council's contribution for such works but it also increases the chances of successfully gaining grant funds for a Council controlled asset.
2. Reduce the length of each project and concentrate on shorter lengths of poor quality surfacing. Submissions in the past have been 300m to 800 m in length, with various patches of cracking, rutting, shoving, potholing in those sections. There are also reasonable-condition sections in those lengths that reduce the point score.

Short lengths (approx. 100m) of failed surfacing would have a higher score per section, with the chance of submitting a larger number of projects.

All of the previously mentioned options would, combined, address the need for a sustainable road pavement management policy, while not dramatically increasing the need for rate increases or loans in any financial year, above decisions already made with the five year Local Road Rehabilitation program.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

**12.2.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council**

- (1) Recognise the need to budget, annually, for a sustainable road pavement replacement effort, with a minimum of 2.4km of the town's road surface length being replaced annually;**
- (2) Include the aim of the existing Five Year Local Road Rehabilitation program to achieve at least 2.0km of road surface replacement, within five years, for local roads and streets as part of Council's commitment to a sustainable road network;**
- (3) Agree that funds received from the Federal Government Roads to Recovery Mark 2 Program for four years, starting 2005/2006 be additional to the projects to be funded through the Five Year Local Road Rehabilitation program; and**
- (4) Ensure that submissions made for MRRG works concentrate on shorter lengths of the lowest condition arterial roads in the network, and that these submissions not include allowance for non-road surface works, with such non-surface works eg drainage, kerbs, verge and crossovers, being funded separately by Council.**

Carried 9/0

**12.2.6 NORTH STREET CONSTRUCTION WORKS - CITY OF NEDLANDS**

**File No:** E17.10.71  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 19 October, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

Council resolved in June 2004, to offer the City of Nedlands \$14,000, or 50% of the original invoice to settle a disputed debt regarding works undertaken in North Street, in the 2001/2002 financial year.

The City of Nedlands rejected the offer and has continued to request the full payment.

A meeting of Mayor's and senior officers from both municipalities was recently held and it was agreed that both Councils would consider the employment of a neutral consultant engineer, experienced in Local Government operations, to investigate the financial history of this project to determine why the costs of construction increased and if this increase was justifiable.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

\$14,000 remains available in the current budget for the resolution of this account. Any additional extension of this payment would require Council approval and a budget modification. The consultant engineer should cost each Council less than \$1,000 each.

**BACKGROUND**

The background on this matter has not changed since Council's resolution in June 2004, other than the City of Nedlands formally considering and rejecting the Town of Cottesloe's offer of \$14,000 as a full and total payment to resolve the issue.

**CONSULTATION**

A recent meeting to discuss this matter involved both Mayors, the CEO of Cottesloe and Acting CEO of Nedlands, plus both senior Engineers.

**STAFF COMMENT**

At the meeting to discuss this matter representatives from both municipalities agreed to place this proposal before both Councils and provide support for its acceptance.



**VOTING**

Absolute Majority

**COMMITTEE COMMENT**

Nil

**12.2.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council agree with the City of Nedlands to:**

- (1) Share the cost of a consulting engineer to determine why road works costs in North Street increased greatly above the original estimates;**
- (2) Seek a ruling from the consulting engineer as to whether the increase was justifiable based on good engineering practice; and**
- (3) Abide by the ruling with any payment by the Town of Cottesloe to the City of Nedlands being limited to a maximum of the original invoiced amount of \$27,946.**

Carried 8/1

**12.3 FINANCE****12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 30 SEPTEMBER, 2004**

**File No:** C 7.14  
**Author:** Mr Wayne Richards  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 September, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 September, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The Financial Statements are presented monthly.

**CONSULTATION**

Nil

**STAFF COMMENT**

It will be noted from the Operating Statement on page 3 that operating revenue is ahead of the year to date budgeted figures by an amount of \$63,916.

Depreciation has now been run, and this has brought actual expenditure within seven per cent of the year to date budget. Factors contributing to this under spend are timing and accruals. Although overall expenditure is \$119,114 less than the year to date budget, Recreation & Culture shows a balance of \$56,096 more than year to date budget. This is due to the prepayment of Council's quarterly contribution towards the Combined Library which was scheduled for October.

**VOTING**

Simple Majority

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**COMMITTEE COMMENT**

Nil

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 September, 2004, as submitted to the 19 October 2004 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 30 SEPTEMBER, 2004**

**File No:** C 7.14  
**Author:** Mr Wayne Richards  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 September, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 30 September, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

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

**CONSULTATION**

Nil

**STAFF COMMENT**

The Schedule of Investments on Page 36 of the Financial Statements shows that \$3,690,025.00 was invested as at 30 September 2004. Of this, \$545,737.01 was reserved and so restricted funds. Approximately fifty six per cent of the funds were invested with the National Bank, thirty eight per cent with Home Building Society, and six per cent with Bankwest.

The Schedule of Loans on Page 37 shows a balance of \$275,133.00 as at 30 September 2004. Of this, an amount of \$49,609.30 represents a current liability to Council.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council receive the Schedule of Investments and Schedule of Loans for the period ending 30 September, 2004, as submitted to the 19 October 2004 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.3 ACCOUNTS FOR THE PERIOD ENDING 30 SEPTEMBER, 2004**

**File No:** C 7. 8  
**Author:** Mr Wayne Richards  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 September, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the List of Accounts for the period ending 30 September, 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The List of Accounts is presented monthly.

**CONSULTATION**

Nil

**STAFF COMMENT**

Significant payments included in the list of accounts commencing on page 27 of the Financial Statements, brought to Council's attention include:

- \$10,686.93 to West Australian Local Government Superannuation Plan being for employer contributions to the plan.
  - \$28,705.19 to the Town of Mosman Park being for progress payments for roadwork's at Grant Street.
  - \$12,586.88 to the Australian Taxation Office being for the August Business Activity Statement
  - \$28'211.69 to Wasteless being for domestic and commercial waste collection services for the month of August 2004.
  - \$27,798.10 to the Municipal Property Scheme being the second fifty per cent contribution towards Council's property insurance for the financial year 2004-05.
  - \$13,190.00 to Ocean IT being for contracted support for the period August/Sept 2004, along with other services and materials such as ADSL connections for senior staff & councillors.
  - \$10,821.45 to Rentworks Ltd for ongoing computer rental for the quarter ended 31-12-04.
-

- \$11,039.96 to the Western Metropolitan Regional Council being for transfer station tipping fees for August 2004.
- \$49,960.36 & \$50,305.19 for September payroll.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council receive the List of Accounts for the period ending 30 September, 2004, as submitted to the 19 October 2004 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD ENDING  
30 SEPTEMBER, 2004**

**File No:** C 7. 9  
**Author:** Mr Wayne Richards  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 30 September 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 30 September 2004, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The Property and Sundry Debtors Reports are presented monthly.

**CONSULTATION**

Nil

**STAFF COMMENT**

The Sundry Debtors Report on pages 32 to 35 of the Financial Statements shows a balance of \$63,386.10 of which \$54,940.13 relates to the current month. The majority of the current month debtors relates to the commercial waste collection charges for the quarter ended 30 September, 2004. An amount of \$1,927.28 relates to sundry debtors older than 90 days, however of this, \$218.32 has since been paid. The balance relates primarily to waste collection services for two debtors. Where appropriate, their waste service has been removed, and these amounts will be sent to a recovery agent for collection.

The Property Debtors Report on page 31 of the Financial Statements shows a balance of \$2,075,981.36. Of this amount, \$1,224,969.56 relates to ratepayers who have opted to pay via instalments, their second instalment being due on 28 October, 2004.

**VOTING**

Simple Majority

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**COMMITTEE COMMENT**

Nil

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

Moved Mayor Rowell, seconded Cr Strzina

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the period ending 30 September 2004; and**
- (2) Receive the Sundry Debtors Report for the period ending 30 September 2004.**

Carried 9/0

**12.3.5 COTTESLOE TENNIS CLUB - SELF SUPPORTING LOAN**

**File No:** C 7.13 & E10.11  
**Author:** Mr A Lamb  
**Author Disclosure of Interest:** Nil  
**Report Date:** 18 October, 2004  
**Senior Officer:** Mr S Tindale

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**SUMMARY**

The purpose of this report is to put before Council the attached draft loan agreement between Council and the Cottesloe Tennis Club with the recommendation that the Mayor and the CEO be authorised to sign and seal the loan agreement document.

**STATUTORY ENVIRONMENT**

Council's power to borrow money is provided for in Section 6.20 of the Local Government Act. This section also provides that unless the proposal to borrow funds is provided for in the annual budget Council must give one month's local public notice of the proposal, and that the resolution to exercise the power to borrow is carried by an absolute majority. This section also sets requirements that tie the credit or loan funds to the purpose for which they were borrowed unless one month's local notice is given of the proposed change of purpose (absolute majority required).

Section 6.21 provides for the State Treasurer to give directions to a local government or local governments generally with respect to the exercise of borrowing powers. Some years ago the Treasurer required that all local governments are to obtain three quotes for borrowing requirements and that one of these must be the Treasury Corporation.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

Provision was made in the 2004/05 Budget for the raising of a self-supporting loan of \$200,000 on behalf of the Cottesloe Tennis Club.

**BACKGROUND**

The Cottesloe Tennis Club is undertaking substantial renovations to its aging clubhouse and the works are being part funded via a Department of Sport and Recreation grant.

Earlier this year the Club sought Council agreement to the raising of a self-supporting loan of \$200,000 and at its March meeting Council resolved as follows:

- 1) *Include provision in its 2004/05 budget to borrow \$200,000 for the Cottesloe Tennis Club's clubhouse renovation project with the Club meeting the full annual cost of servicing the loan;*
  - 2) *Instruct its Lawyers to draw up a suitable legal document setting out the respective obligations on each party with respect to the self-supporting loan arrangement; and*
-

- 
- (3) *Consider during its 2004/05 budget deliberations the donation of part of the annual interest cost on the loan repayment to the Cottesloe Tennis Club and consider ongoing assistance to the Club.*

Council's Lawyers have drawn up the attached loan agreement. A copy of the agreement was forwarded to the Tennis Club and they have advised of their acceptance of it.

The prescribed loan raising process was followed with quotations being requested from the Treasury Corporation, National Australia Bank, Commonwealth Bank and Bankwest. The Treasury Corporation's quote of 5.85% was the lowest and so accepted (note the rate quoted was 5.75% plus a Department of Treasury and Finance "Guarantee Fee" which is currently levied at 0.1%. This fee is subject to change according to government policy but has not changed in the ten years since its inception). The Corporation's loan repayment schedule is included in the attached draft loan agreement.

### **CONSULTATION**

Consultation was conducted with the Tennis Club's representatives, representatives of State Treasury, Treasury Corporation and the other lending institutions listed above.

### **STAFF COMMENT**

The Tennis Club would have difficulty in raising a loan in its own right and so has asked Council to do this. This is a common function for local governments and enables local clubs to embark on significant projects. Council takes out a loan and enters into an agreement with the club that it repays the loan to Council at the same rate that Council pays the lender and so there is no net cost to the Council.

Past agreements with clubs in respect of self-supporting loans have taken the form of a Deed of Loan where the land is under the control and management of Council and a Mortgage where the land is under the control and management of the club. The Tennis Club occupies Reserve land that is under the control and management of Council and so it was recommended that a suitable Deed, or other such document as recommended by Council's lawyers, be drawn up with respect to this proposed loan.

Council's Lawyers have drawn up a suitable document that meets with the approval of the Tennis Club. The loan raising process has been conducted and funds cannot be made available to the club until the agreement is signed by both parties. It is recommended that approval be given to the signing of the attached draft agreement.

### **VOTING**

Simple majority

### **COMMITTEE COMMENT**

Nil

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**COUNCIL COMMENT**

It was raised that the Tennis Club's lease is due for renewal in 2005, and possibly shouldn't have a loan agreement without a long term lease being in place.

The Mayor advised that the Works & Corporate Services Committee is aware that the lease is due for renewal in 2005 and has instructed the Manager Corporate Services to open discussions with the club in relation to the lease.

**12.3.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Rowell, seconded Cr Strzina

**That Council authorise the Mayor and the CEO to sign and seal the loan agreement document between the Town of Cottesloe and the Cottesloe Tennis Club.**

Carried 7/2

Councillors Strzina and Morgan asked that they be recorded as voting against the motion.

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**13 STRATEGIC PLANNING COMMITTEE MEETING HELD ON 6 OCTOBER 2004****13.1 GENERAL****13.1.1 MUNICIPAL INVENTORY**

<b>File No:</b>	<b>D3.4</b>
<b>Author:</b>	<b>Mr Stephen Tindale</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>28 September, 2004</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**SUMMARY**

A recommendation is made to finalise and adopt the Municipal Inventory as reviewed by McDougall & Vines in 2002.

The finalisation is seen as critical in allowing Council to move on and deal with the issue of a heritage list within the context of draft Town Planning Scheme No.3.

**BACKGROUND**

Section 45 of the *Heritage of Western Australia Act 1990* reads as follows:

**Local government inventories**

- (1) A local government shall compile and maintain an inventory of buildings within its district which in its opinion are, or may become, of cultural heritage significance.
- (2) The inventory required by subsection (1) shall be compiled no later than 4 years from the commencement of this Act and shall be —
  - (a) updated annually; and
  - (b) reviewed every 4 years after compilation.
- (3) A local government shall provide the [Heritage] Council with a copy of the inventory compiled pursuant to this section.
- (4) A local government shall ensure that the inventory required by this section is compiled with proper public consultation.

Council records indicate that work in earnest on the Town of Cottesloe's inventory (hereafter referred to as the Municipal Inventory) began in late 1993.

In September 1994 Erickson & Taylor (together with Philip Griffiths) were engaged to prepare the first Municipal Inventory for the Town of Cottesloe.

In September 1995 Council adopted "...the draft Municipal Inventory as the substantive document."

The 1995 Municipal Inventory has the following categories:

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Category	Description	Number or Properties or Places
1	Possible Inclusion On State Register	23
2	Important To The District	69
3	Important As An Individual Building	162
4	Heritage Site Or Significant Vegetation	31
5	Significant In Contributing To Local Character	24
6	Future Heritage Or Recycled Building	22

The Municipal Inventory was forwarded to the State Heritage Council together with a recommendation that 23 buildings (all those in Category 1) be considered for inclusion in the State Heritage Register.

In June 2002 McDougall & Vines finalised their review of the 1995 Municipal Inventory.

The study area for the review specifically excluded those buildings within the proposed John Street and Claremont Hill heritage areas. A copy of the review is attached to this report.

The review recommended the addition of 28 buildings and changes to the classification of 26 other properties.

Nine properties were recommended for removal from the Municipal Inventory on the basis that they were not worthy enough.

The report noted that 30 properties that had either been demolished (23) or removed from the Municipal Inventory (7) with Council approval.

In September 2002 Council was asked to consider the matter of public consultation on the proposed changes to the Municipal Inventory.

The officer's report to Council noted that the Heritage Act did not set out a process for the review of a Municipal Inventory. With the benefit of hindsight, the Heritage Act only requires public consultation where an inventory is being *compiled* - not where it is being *updated* or *reviewed*.

Nonetheless Council resolved to:

- (1) *Write to those property owners that have been included on the draft 2002 Municipal Inventory or had their classification changed and request their comments on the inclusion or change on the Municipal Inventory;*
- (2) *Display the draft 2002 Municipal Inventory:*
  - (a) *at the Council offices;*
  - (b) *at Council's Library; and*
  - (c) *on Council's website.*

- (3) *Allow a 12 week submission period;*
- (4) *Following the close of the submission period, review the submissions and finalise the 2002 Municipal Inventory;*
- (5) *Advise the submitters of Council's decision; and*
- (6) *Refer a copy of the revised Municipal Inventory to the Heritage Council.*

The review of the Municipal Inventory was advertised between January and April 2003.

Fifty-four letters were sent out to those property owners that had been added to the Municipal Inventory or had their classification changed.

Twenty four submissions for 19 buildings were received and they are summarised in the following table.

None of the submissions supported the listing of their properties in a Municipal Inventory.

No	Correspondent	Property	Category (Change)	Summary of submission
1	K. Zilko	16 Albion	3 (new)	Strongly objects to listing - previous renovations render house unoriginal - house has no heritage value
2	F. LeClezio	15a Barsden	3 (none)	Objects to listing - building has no historical value - previous additions render house unoriginal - unfair financial burden on owner
3	D.K. Gallagher	38 Boreham	5 (new)	Objects to listing
3A	Margaret Gallagher			Strongly objects to listing.
3B	Molly Gallagher-Sellinger			Strongly objects to listing.
3C	B. & J. Gallagher			Objects to listing - unfair financial burden on owner - previous additions render house unoriginal - house should be demolished.
3D	P.M. Kenny			Strongly opposed to Heritage
4	P. South	231 Broome	2 (upgrade)	Objects to listing: -house is deteriorating, unviable to maintain -negative impacts on value and ability to improve or change
5	I. Hennessy & L. Harvey	1A Clarendon	2 (new)	Object to listing - previous renovations render the house completely unoriginal
6	M.S. Dontre	82 Eric	3 (new)	Will owners receive financial help for maintenance? Impacts on vacant land at rear of the houses?
7	Department for Planning and Infrastructure	84 Eric	3 (new)	Property is affected by slip road requirements (western Suburbs Highway) Property should not be in Municipal Inventory
8	N. Edgar	86 Eric	3 (upgrade)	Strongly objects to listing - negative impact on value.
9	J. & A. Hewitt	119 Eric	3 (new)	Object to listing - house has been completely renovated and recent extensions built in a contemporary design not the original cottage style - consultant's assessment not valid - revised MI "fuels the fire of the anti heritage lobby"
10	D.& V. Rivalland	121 Eric	3 (downgrade)	Property has been extensively altered and should be removed from listing. Unfair financial burden on owner to maintain.
11	A.M. Pierce	61 Hawkstone	3 (new)	Objects to listing
12	R. & M. Atkins	301 Marmion	3 (new)	Object to listing



				<ul style="list-style-type: none"> <li>- house has been completely renovated and altered from the original</li> <li>- assessment inaccurate.</li> </ul>
12A	F. & R Torre			<ul style="list-style-type: none"> <li>Strongly objects to listing</li> <li>- previous renovations render house completely unoriginal</li> <li>- assessment inaccurate.</li> </ul>
13	St Phillips Anglican Church	63 Napier	2 (downgrade)	<ul style="list-style-type: none"> <li>Objects to listing</li> <li>- building has no historical value nor does it establish an architectural trend</li> <li>- site restrictions could impact on funding and provision of facilities</li> </ul>
14	A. & M. Artelaris	38 Napoleon	5 (downgrade)	<ul style="list-style-type: none"> <li>Object to listing</li> <li>- negative impact on value.</li> </ul>
15	J. Armanasco	40-44 Napoleon	5 (downgrade)	<ul style="list-style-type: none"> <li>Objects to listing.</li> </ul>
16	K. & P. Jordan	29 Pearse	3 (new)	<ul style="list-style-type: none"> <li>Object to listing:</li> <li>-adverse effect on saleability</li> <li>-classification should be by owner consent</li> <li>-assessment seems arbitrary</li> <li>-house is impractical for modern living</li> <li>-house is not solar passive and freezing in winter</li> <li>-previous additions render the house unoriginal</li> <li>-house is surrounded by modern homes, leaving it out of character with the surrounds</li> </ul>
17	A.J. Hope	27 Pearse	3 (new)	<ul style="list-style-type: none"> <li>Objects to listing:</li> <li>-house is energy inefficient</li> <li>-object to “arbiters of good taste” imposing judgement and selectively locking us into a style or period</li> <li>-negative impact on value</li> <li>-community should pay for heritage conservation.</li> </ul>
18	P. & P. Heagney	35 Pearse	3 (new)	<ul style="list-style-type: none"> <li>Object to listing</li> <li>- assessment seems arbitrary</li> <li>- negative impact on value and saleability</li> <li>- previous additions render house unoriginal</li> <li>- classification jeopardises potential future modifications</li> </ul>
19	D. Cullen	16 Webb	3 (new)	<ul style="list-style-type: none"> <li>Assessment is inaccurate</li> <li>-original roofline, ceilings, verandah and fencing have been changed</li> <li>- house was not built in 1915</li> </ul>

## CONSULTATION

Nil.

## STAFF COMMENT

The *Heritage of Western Australia Act 1990* is completely silent on the use of local government heritage inventories as a tool for town planning decisions. In the absence of specific direction, it is fair to say that local governments have muddled their way through matters relating to heritage. This has led to a great deal of confusion and has served to obscure the original purpose of local government heritage inventories.

The Municipal Inventory (Cottesloe's local government heritage inventory) is first and foremost a tool that is used to discover places that might be suitable for inclusion on the State Register of Heritage Places. Of the 23 buildings identified in the original Municipal Inventory as Category 1 buildings, 14 have since found their way on to the State Heritage Register. Another two from Category 2 have also been added to the State Heritage Register together with one from Category 5.

With varying degrees of success, local governments have attempted to follow the State Government's lead in using local government heritage inventories as a tool to discover heritage places of **local** significance so that they can be protected through the operation of **local** town planning controls.

The Model Scheme Text provisions, which provide the framework for the preparation of a proposed Town Planning Scheme, requires the Council to have regard to the MI for the compilation of a Heritage List in the development of a new Town Planning Scheme.

### **Muddling Through**

It is also fair to say that the Town of Cottesloe has muddled its way through the heritage issue. At the present time the Municipal Inventory is being used as a "stop-gap" measure to check the demolition of heritage buildings. Any request for demolition for a building that appears on the Municipal Inventory (regardless of category) must currently be referred through to Council for development approval.

A recommendation is therefore made to change the current practice for certain categories as it only reinforces community views that the Municipal Inventory is a stumbling block for development proposals.

A significant problem has now arisen in that the use of the Municipal Inventory for this purpose is now so deeply entrenched - both within Council and the community - that in many quarters the Municipal Inventory is now seen as being part of a town planning problem rather than a solution. In other words the Municipal Inventory is seen as an end in itself rather than a means to determining a heritage list.

In the Western Suburbs local government heritage inventories have been criticised for their lack of rigorous examination of heritage places and cavalier use for town planning purposes. This criticism is understandable and in some cases justifiable.

The ferocity of the debate and heightened sensitivities means that at the present time the Town of Cottesloe is working with an outdated (1995) Municipal Inventory. Assuming that Council wants to protect heritage places in its new Town Planning

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Scheme, Council must now settle the Municipal Inventory so that it can then move on and develop a potential heritage list for inclusion in draft Town Planning Scheme No.3.

### **Town Planning Scheme No.3**

It would appear from Council decisions made to date, that Category 1 and Category 2 buildings in the Municipal Inventory should form the basis of a **potential** list of heritage buildings for inclusion in draft Town Planning Scheme No.3.

However there are real doubts as to whether some of the Category 2 buildings are worthy enough candidates for inclusion in the proposed heritage list.

A casual examination of the Category 2 buildings suggests that the criticism is justified. In fact it is the author's view that the assessment criteria used for the Municipal Inventory is not sufficient for the purposes of establishing a defensible heritage list under the proposed Town Planning Scheme.

### **Available Options**

If that view is shared by Council then two options would seem to present themselves if Council is to move forward.

Option 1 is to compile a **new** Municipal Inventory based on **new** assessment criteria capable of being defended at both the community level and at a town planning appeal level. From the new Municipal Inventory Council would then determine which categories should form the heritage list to be attached to Town Planning Scheme No.3

Option 2 is to use the **existing** Municipal Inventory as a basis for **further** assessment of **potential** buildings for inclusion in a heritage list to be attached to Town Planning Scheme No.3

Option 1 represents a huge waste of money and resources. It will take an inordinate amount of time and debate to settle a new Municipal Inventory. It does not get Council over the hurdle of having to review and update its current Municipal Inventory as required by law. It does little to assist the Heritage Council in ascertaining which buildings might properly be considered for inclusion in the State Register (notwithstanding that they have already largely identified those places).

Option 1 also reinforces the mistaken and widespread belief that the Municipal Inventory is a town planning control.

Option 2 is by far the preferred option. It dramatically narrows the range of buildings to be considered for inclusion on a heritage list and therefore saves time, money and resources.

Another agenda item for this meeting seeks to give effect to Option 2.

### **Submissions on the 2002 Review**

If the Municipal Inventory is settled on the basis of adopting the 2002 review, then from the above submissions it can be seen that there are only two buildings (231 Broome St and 1A Clarendon St) that may potentially find their way on to the heritage list to be attached to draft Town Planning Scheme No.3.

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Quite obviously this would be against the wishes of the owners but it is felt that this issue can be better addressed at the time of considering a heritage list.

It is therefore recommended that the two owners be advised that the buildings will be listed as Category 2 and that the buildings **may** find themselves listed for protection under Town Planning Scheme 3 however that prior to any decision to enter the buildings on the heritage list, Council will actively seek out their views and the views of all other owners.

There is little likelihood of those with a Category 3 or 5 listing making the proposed heritage list and they should also be advised of this.

### **John Street and Claremont Hill Heritage Areas**

It should be noted that the 2002 review did not review those buildings within the John Street and Claremont Hill Heritage Areas. At the time it was believed that these buildings would be caught, as it were, by the gazettal of heritage areas. That has not come to pass and is not likely to if heritage areas are excluded from Town Planning Scheme No.3.

The fact that these areas have not been subject to review should not be a huge sticking point. The areas can quite easily be reviewed with the next review of the Municipal Inventory, presumably in 2006.

### **Changes to the Municipal Inventory since 2002**

Since the preparation of the review a number of buildings have been removed from the Municipal Inventory. These have been "stockpiled" by staff in a new Category 7 as a means of tracking changes to the Municipal Inventory.

It is recommended that those buildings that were formerly Category 1 or 2 buildings, (and that are still intact) be listed as Category 3 buildings (on the understanding that a Category 3 listing is not sufficient for the purposes of listing under Town Planning Scheme No 3).

This will avoid the significant inconsistency of these buildings being deemed to be of lesser worth than existing Category 3 and 5 buildings.

Category 7 would then simply become a record of demolished buildings that, at one time or another, were considered to have some heritage value to Cottesloe.

### **Category 1 Buildings**

There are several Category 1 buildings that do not appear as if they will make the State Heritage Register. On that basis it is recommended that they be downgraded to Category 2.

### **POLICY IMPLICATIONS**

Nil.

### **STRATEGIC IMPLICATIONS**

The Town Of Cottesloe's strategic plan has a heritage objective which seeks the "preservation of nominated properties on the Municipal Inventory, verges, trees and the foreshore and dune systems."

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**FINANCIAL IMPLICATIONS**

Nil.

**VOTING**

Absolute Majority required for the second recommendation.

**COMMITTEE COMMENT**

Nil.

**OFFICER RECOMMENDATION**

- (1) That Council adopt the changes to the Municipal Inventory recommended by the 2002 review of the 1995 Municipal Inventory subject to:
  - (a) those buildings that were formerly Category 1 or 2 buildings and that are still intact being listed as Category 3.
  - (b) a new Category 7 being created to track heritage buildings and places that are demolished.
  - (c) those Category 1 buildings not appearing on the State Heritage Register being downgraded to Category 2.
  - (d) the submitters being advised of Council's decision and the likely implications.
  
- (2) That Council:
  - (a) agrees to amend its delegated powers to the Manager of Development Services to allow him to deal and permit the demolition of Category 3 and 5 buildings without referral to Council; and
  - (b) amends the delegation adopted by Council at its June 2004 meeting (Item 11.1.12) by:
    - (A) Amending (2)(1)(c)(iii) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".
    - (B) Amending (3)(1)(d) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".
    - (C) Amending (3)(3)(b)(v)(C) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".

**DISCLOSURE OF INTEREST**

Cr Morgan declared an interest insofar as he owns a strata unit at No. 1 Pearse Street, which is classed as Category 3 on the Municipal Inventory and left the meeting at 7.48pm prior to consideration of the matter.

**13.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Sheppard, seconded Cr Furlong

- (1) **That Council adopt the changes to the Municipal Inventory recommended by the 2002 review of the 1995 Municipal Inventory subject to:**
  - (a) **those buildings that were formerly Category 1 or 2 buildings and that are still intact being listed as Category 3.**

- (b) a new Category 7 being created to track heritage buildings and places that are demolished.
  - (c) those Category 1 buildings not appearing on the State Heritage Register being downgraded to Category 2.
  - (d) the submitters being advised of Council's decision, the likely implications and the process involved.
- (2) That Council:
- (a) agrees to amend its delegated powers to the Manager of Development Services to allow him to deal and permit the demolition of Category 3 and 5 buildings without referral to Council; and
  - (b) amends the delegation adopted by Council at its June 2004 meeting (Item 11.1.12) by:
    - (A) Amending (2)(1)(c)(iii) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".
    - (B) Amending (3)(1)(d) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".
    - (C) Amending (3)(3)(b)(v)(C) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".

Carried 5/3

The vote was recorded:

<i>For</i>	<i>Against</i>
Mayor Rowell	Cr Strzina
Cr Furlong	Cr Utting
Cr Jeanes	Cr Walsh
Cr Robertson	
Cr Sheppard	

Cr Morgan returned to the meeting at 7.59pm.

**13.1.2 TOWN PLANNING SCHEME NO.3 - HERITAGE LIST**

**File No:** D2.5  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 30 September, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to engage Hocking Planning & Architecture to undertake:

- a review of the Category 2 buildings on the Municipal Inventory for inclusion in a heritage list for Town Planning Scheme No.3
- the development of objective assessment criteria to determine conservation, adaptation or demolition of heritage places

**BACKGROUND**

A previous agenda item relating to the Municipal Inventory provides much of the background to this agenda item.

**CONSULTATION**

Nil.

**STAFF COMMENT****Review of Category 2 Buildings**

Assuming that a review of the Category 2 buildings is a necessary prerequisite for the preparation of a heritage list for Town Planning Scheme No.3, the appointment of a heritage consultant to undertake the review is recommended.

The alternative is to rely on Council staff and Council itself to determine “what’s a fair thing”. If the do-it-yourself approach is taken then obviously it will be much harder for the Town of Cottesloe to avoid criticisms of leniency or bias in determining the heritage list to be attached to Town Planning Scheme No.3

A copy of the proposal from Hocking Planning & Architecture is attached.

**Heritage Assessment Criteria**

In addition to undertaking a review of the Category 2 buildings in the Municipal Inventory, it is self evident that Council and staff need objective assessment criteria by which the Town of Cottesloe can decide whether requests for the demolition or redevelopment of heritage listed buildings should be approved or not.

Currently the debate surrounding the demolition of buildings on the Municipal Inventory tends to focus one or two issues such as affordability or structural condition. This is dangerous and open to challenge.

There are many other considerations that should be taken into account before decisions relating to heritage places are made. As an indicator of what those considerations might be, a copy of the evaluation criteria used by the City of Auckland is attached.

One of the real difficulties that Cottesloe residents currently face in questioning an individual heritage listing is an inability to come to grips with the thematic assessment criteria used by the Town's heritage consultants to categorise heritage buildings.

The thematic assessment criteria currently in use for the vast majority of buildings simply runs to a one or two paragraph description of the place and one or two lines regarding the historical and social significance of the building.

The simplicity of the assessment and the fact that it has been made by independent heritage experts is difficult to challenge - at least at the layman's level. It is therefore not surprising that the heritage argument is often reduced to a basic questioning of the right of local governments to "infringe property rights and values".

The reality is that local governments can list heritage places for protection under various town planning schemes for a greater public good and there is no precedent for providing "compensation" in this regard for any perceived or real financial loss.

However there are many precedents for providing heritage incentives in order to make heritage listing more palatable as it were. These must be the subject of further consideration of Council before it adopts a heritage listing.

But first Council has to determine a fair and equitable heritage list.

### **Westward Ho**

Council would be aware that a refusal by Council to issue a demolition license for the building at 45 Broome Street (Westward Ho) was successfully challenged by the owners on appeal to the Town Planning Tribunal.

The Municipal Inventory's vernacular description of the building, its structural integrity, its history of use and its context within the streetscape were all examined in much greater detail than provided for by the description in the Municipal Inventory. These issues were critical to the tribunal in determining whether the demolition of the place should be allowed or not.

It is therefore obvious that the criteria by which a demolition is allowed should also be the same criteria by which the building finds its way on to the heritage list in the first place. If it's not, then it follows that every refusal to allow the demolition of a heritage listed building will be subject to appeal. This will involve Council in unnecessary expense and ultimately defeat the town planning scheme's heritage objectives.

To put it simply, the Town of Cottesloe needs clearer and more contestable evaluation criteria for its heritage buildings. This will provide greater certainty to owners, Council staff, Council itself and the appeals tribunal.

### **Heritage Council**

As an aside, the Heritage Council is not caught by the same rights of appeal when it comes to buildings listed on the State Register of Heritage Places. The Heritage Council is not enmeshed in local politics and in a sense, is less accountable for the decisions it makes.



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Nevertheless the Heritage Council has recognised the difficulties faced by local governments and through a *Local Government Heritage Working Party* is looking at common standards for local heritage protection in terms of:

1. local identification and assessment
2. town planning controls
3. heritage incentives

The Town of Cottesloe could wait for the outcomes of the deliberations of the *Local Government Heritage Working Party* but the results may be a long time in coming.

It is felt that the Town of Cottesloe has to take a lead in the matter if Town Planning Scheme No. 3 is to proceed in a timely manner.

Part 2 of the proposal from Hocking Planning & Architecture (see attached) relates.

### **Heritage Precincts versus Character Areas**

Heritage precincts and character areas have two very different meanings in town planning practice.

Buildings within heritage precincts may receive far more lenient treatment in terms of plot ratios and car parking arrangements (as examples) if Council considers concessions are necessary in order to protect the fabric of a heritage precinct.

Character areas rely more on the application of design guidelines to reinforce the character of area. It is understood that Council prefers character areas to heritage precincts. Unfortunately the Residential Design Codes (in their current form – which is under review) can act against the creation of character areas.

Parts 3 and 4 of the proposal from Hocking Planning & Architecture speak to potential differences in approach to the establishment of heritage precincts and character areas.

The Committee's advice on whether a workshop with Hocking Planning & Architecture would be useful is sought.

### **POLICY IMPLICATIONS**

Nil.

### **STRATEGIC IMPLICATIONS**

The Town Of Cottesloe's strategic plan has a heritage objective which seeks the "preservation of nominated properties on the Municipal Inventory, verges, trees and the foreshore and dune systems."

### **FINANCIAL IMPLICATIONS**

The review of Category 2 buildings has been estimated at \$15,950.

The development of objective assessment criteria is estimated at \$7,288.

**VOTING**

Absolute Majority

**COMMITTEE COMMENT**

Nil.

**COUNCIL COMMENT**

Cr Morgan drew to Council's attention that the review of the Municipal Inventory did not take into account the additional properties in John Street and Claremont Hill area.

The CEO advised that the report states that these areas have been omitted from the most recent review, and it is not likely that there will be a significant number of additional category 2 buildings. Additional properties will be picked up when the Municipal Inventory is reviewed in 2006 and it will not be difficult to adjust the schedule attached to the Town Planning Scheme to reflect these additional properties.

**13.1.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Sheppard, seconded Cr Furlong

**That Council**

- (1) Engage the services of Hocking Planning & Architecture to undertake:**
  - (a) a review of the Category 2 buildings on the Municipal Inventory for inclusion in a heritage list for Town Planning Scheme No.3; and**
  - (b) the development of objective assessment criteria to determine conservation, adaptation or demolition of heritage places.**
- (2) Request staff to develop recommendations for Council's consideration on a range of incentives that may support the owners of heritage listed properties under Town Planning Scheme No.3.**

Carried by Absolute Majority 6/3

The vote was recorded:

<i>For</i>	<i>Against</i>
Mayor Rowell	Cr Morgan
Cr Furlong	Cr Utting
Cr Jeanes	Cr Walsh
Cr Robertson	
Cr Sheppard	
Cr Strzina	

**13.1.3 TOWN PLANNING SCHEME NO. 3 – COMMUNITY CONSULTATION**

**File No:** D2.4  
**Author:** Ms Ruth Levett  
**Author Disclosure of Interest:** Nil  
**Report Date:** 20 September, 2004  
**Senior Officer:** Mr Steve Tindale

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**SUMMARY**

A recommendation is made to engage Estill & Associates to undertake community consultation on draft Town Planning Scheme No.3 on a precinct basis commencing in October 2004 and finishing in March 2005.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Council's Strategic Plan has the following objective:

*Finalise new TPS to incorporate all major strategies in relation to Heritage, sustainability, densities and redevelopment.*

**FINANCIAL IMPLICATIONS**

\$28,805 plus GST

**BACKGROUND**

At the Council meeting of 28 June, 2004, it was resolved as follows:

*That Council:*

- (1) Notes the timeframe for the adoption of the draft Town Planning Scheme; and*
- (2) Authorises the Chief Executive Officer to expend funds to help resource the work to narrow the time frame.*

Council has undertaken some initial community consultation when it commenced the review of the TPS in 1994. A consultant, Simon Bain, was engaged to undertake community consultation on a precinct basis and community leaders were elected to assist with the process. The results of the surveys from this period are contained within the current Draft Local Planning Strategy 2002. In 1997 consultants, Chaffer Planning Consultants, were engaged to continue with the review and prepare a draft Town Planning Scheme. Additional consultation was undertaken more recently in 2004 in relation to the Beachfront Objectives and Strategic Planning process.

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The timeframe showed community consultation being undertaken in March, April and May, 2005. The staff have endeavoured to reduce the timeframe and it was suggested that consultation could occur in November and December, 2004. However, a number of key issues remain unresolved and it is therefore not possible to achieve the reduced timeframe. The unresolved issues are:

- Heritage
- Ocean Beach Hotel site
- Cottesloe Beach Hotel site
- Residential density codes for those lots fronting Marine Parade that are located within the Foreshore Centre Zone, as defined in the current Town Planning Scheme
- Residential density codes for lots facing Marine Parade
- Council depot site
- Parking Strategy
- Town Centre (not part of this review)

### **CONSULTATION**

To be undertaken in accordance with the proposal submitted by Estill & Associates attached to this report.

### **STAFF COMMENT**

A Community Consultation Proposal from Estill & Associates is attached. Estill & Associates were chosen due to their expertise in public consultation as demonstrated on projects such as the Leighton Beach Redevelopment, Scarborough Beach Foreshore, Port Kennedy Development and Claremont Station Precinct.

A key factor in recommending Estill & Associates is that they are not planning consultants as such. While they have had significant experience with planning issues and understand the key principles, they also have a broad range of expertise which will focus on encouraging community comment on the draft Town Planning Scheme.

Estill will be required to present the community views in a presentation and report to Council.

The proposal outlines the proposed project methodology that suggests a four-stage process. The staged process consists of:

#### Stage 1.

Detailed project planning with the Town of Cottesloe including workshops with Councillors and Council staff.

#### Stage 2.

Raising awareness and understanding of the project in the community through public displays, invitation to comment, advertising and a webpage.

#### Stage 3.

Coordinating the creation and facilitation of community workshops in each precinct (excluding the town centre) participation in stakeholder meetings and documented outcomes.

**Stage 4.**

Development of community-endorsed principles for the TPS presentation of the scheme to the community to ensure that the community understands the scheme. A final report and briefing to Council will be provided.

It is proposed to distribute the Scheme Map and a summary of the changes and any matters of significance to all property owners and occupiers, both residential and commercial, prior to commencing the community consultation process. The detail of the summaries will be determined in the workshops with elected members, staff and stakeholders and will include the most recent decisions of Council in relation to residential densities and zones.

Precinct based community consultation is proposed to ensure there is consistency with the initial consultation that was undertaken. It will also allow those people situated within a precinct who have a greater understanding of the issues, to make comment on the matters that directly affect them and their area.

Precinct consultation is proposed to be undertaken in February and March, 2005. Comments as a result of this consultation will be assessed by Estill & Associates and presented to Council for consideration. Where community feedback suggests that changes are required, it may be recommended to make changes to the draft documents. Where the changes are considered major, further community consultation will be undertaken before the final draft of the Town Planning Scheme documents is put to Council for adoption.

The final draft of Town Planning Scheme No. 3 will then be forwarded to the Western Australian Planning Commission for assessment. If supported by Commission, Council will then be granted formal consent to advertise the scheme documents for three months, giving the community further opportunity to comment.

Any community comment received and Council's responses to those submissions will be referred to the Western Australian Planning Commission for consideration, including the adopted final version of the draft Town Planning Scheme.

**VOTING**

Absolute Majority

**COMMITTEE COMMENT**

Nil.

**13.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Sheppard, seconded Cr Furlong

**That Council engage the services of Estill & Associates to undertake the community consultation process in relation to Town Planning Scheme No.3.**

Carried by Absolute Majority 8/1

The vote was recorded:

<i>For</i>	<i>Against</i>
Mayor Rowell	Cr Walsh
Cr Furlong	
Cr Jeanes	
Cr Morgan	
Cr Robertson	
Cr Sheppard	
Cr Strzina	
Cr Utting	

**13.1.4 TOWN PLANNING SCHEME NO. 3 – DRAFT SCHEME MAP**

**File No:** D2.4  
**Authors:** Ms Ruth Levett/Daniel Heymans/Mr Stephen Sullivan  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 September, 2004  
**Senior Officer:** Mr Steve Tindale

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**SUMMARY**

The purpose of this report is to present the draft Scheme Map with amendments as resolved by Council at the Special Meeting of Council on 6 September, 2004. It is recommended that Council endorse the draft Scheme Map so that there can be no misunderstanding as to what is proposed.

**STATUTORY ENVIRONMENT**

- Town Planning and Development Act 1928
- Town Planning Amendment Regulations 1999 (Model Scheme Text)
- Town Planning Scheme No. 2
- Residential Design Codes (statutory and Statement of Planning Policy)

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Council's Strategic Plan has the following objective:

*Finalise new TPS to incorporate all major strategies in relation to Heritage, sustainability, densities and redevelopment.*

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

At the Special Meeting of Council on 6 September, 2004 a number of amendments for residential densities and zones and reserves were proposed to the draft Scheme Map as presented by the staff. A list of these amendments is presented in this report and the corresponding changes are reflected on the enclosed map. The draft Scheme Map is represented to confirm the amendments and clarify any ambiguities.

There were some inconsistencies between the draft Scheme Map as originally presented and the associated reports and these are resubmitted for further consideration by Council.

**CONSULTATION**

Once confirmed, the draft Scheme Map will be the base map for circulation to the community. The draft Scheme Map is subject to the finalisation of:

- Heritage;
  - Ocean Beach Hotel site;
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- Cottesloe Beach Hotel site;
- Residential density codes for those lots fronting Marine Parade that are located within the Foreshore Centre Zone, as defined in the current Town Planning Scheme;
- Council depot site;
- Parking Strategy
- Town Centre (not part of this review)

Community consultation will be undertaken in accordance with the proposal submitted by Estill & Associates.

### **STAFF COMMENT**

The draft Scheme Map will be delivered to each property owner and occupier in Cottesloe prior to the public consultation period to be conducted in February and March, 2005. It is therefore critical that the draft Scheme Map is an accurate record of what is proposed.

The following is a list of the changes to the Town Planning Scheme No. 2 Scheme Map as resolved by Council on 6 September, 2004, for residential densities and zones and reserves:

#### **(1) RESIDENTIAL DENSITIES**

##### **(a) Lots in the vicinity of but not fronting onto Marine Parade**

The density coding in this area changes from R50 to R60 and affects the following lots:

- No. 1 Eileen Street;
  - No. 3 Eileen Street;
  - No. 5 Eileen Street;
  - No. 7 Eileen Street;
  - No. 7A Eileen Street;
  - No. 9 Eileen Street;
  - No. 1 Gadsdon Street;
  - No. 1A Gadsdon Street;
  - No. 3A Napier Street;
  - No. 3B Napier Street;
  - No. 3C Napier Street;
  - No. 3D Napier Street;
  - No. 3E Napier Street;
  - No. 5A Overton Gardens;
  - No. 5B Overton Gardens;
  - No. 5C Overton Gardens;
  - No. 5D Overton Gardens;
  - No. 5E Overton Gardens;
  - No. 7 Overton Gardens;
  - No. 7A Overton Gardens;
  - No. 2 Overton Gardens;
  - No. 4 Overton Gardens;
  - No. 6 Overton Gardens;
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- No. 8 Overton Gardens;
- No. 4 Warnham Road;
- No. 6 Warnham Road;
- No. 8 Warnham Road;
- No. 9 Warnham Road;
- No. 11 Warnham Road;
- No. 6 John Street;
- No. 10 John Street;
- No. 12 John Street – refer below\*

**(b) Lots between Napier Street & Warnham Road**

The density coding for the lots between Napier Street & Warnham Road changes from R40 to R60. The changes affect the following lots:

- No. 5 Napier Street;
- No. 7 Napier Street;
- No. 9 Napier Street;
- No. 9 Overton Gardens;
- No. 13 Overton Gardens;
- No. 15 Overton Gardens;
- No. 17 Overton Gardens;
- No. 19 Overton Gardens;
- No. 10 Overton Gardens;
- No. 14 Overton Gardens;
- No. 16 Overton Gardens;
- No. 18 Overton Gardens;
- No. 20 Overton Gardens;
- No. 10 Warnham Road;
- No. 12 Warnham Road;
- No. 14 Warnham Road;
- No. 18A Warnham Road;
- No. 18B Warnham Road;
- No. 20 Warnham Road;
- No. 1 De Bernales Walk;

**(c) R-20 Areas**

Lots bounded by Wentworth Street, Lane Street, Napier Street and Railway Street;

The density coding for this area changes from R20 to R35.

**(2) ZONES AND RESERVES**

**(a) Special Industrial Zone**

The zoning of this area to be changed from “Special Industrial Zone” to “Residential Zone” and the “Special Industrial Zone” to be deleted from the Scheme Map and the Scheme Text.

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**(b) Local Centre Zone****(i) Change to name of Business Zone**

Change the “Business Zone” to “Local Centre Zone”.

**(ii) Local Centre Zone Density**

The density coding for the Eric Street shops changes from “R20” to “R50” and increases the density coding of the garden centre from “R20” to “R50”

**(c) Foreshore Centre Zone****(i) Lots Changing to “Residential” from “Foreshore Centre Zone”**

- lots fronting onto Napier Street & Overton Gardens
- the two lots located between Warnham Road and John Street and next to the Cottesloe Beach Chalets;
- the two lots fronting onto John Street; and
- lots fronting onto Eileen Street.

**(ii) Lots changing to Restricted Foreshore Centre Zone**

The sites listed below change from “Foreshore Centre Zone” to “Restricted Foreshore Centre Zone”:

- No. 150 Marine Parade;
- No. 152 Marine Parade;
- No. 6 Eric Street;
- No. 4 Warnham Road;
- No. 6 Warnham Road;
- No. 6 John Street;
- No. 1 John Street;
- No. 3 John Street;
- No. 5 John Street;
- No. 7 John Street;

**(iii) Lots along Marine Parade remaining in the Foreshore Centre Zone**

The following lots along Marine Parade remain in the “Foreshore Centre Zone”:

No. 88 Marine Parade  
No. 94 Marine Parade  
No. 112 Marine Parade  
No. 116 Marine Parade  
No. 118 Marine Parade  
No. 120 Marine Parade  
No. 122 Marine Parade  
No. 134 Marine Parade

**(d) Commonwealth Government Reserve (Cnr Clive Road & McNamara Way)**

The site of the Commonwealth Government Chemical Laboratories in Clive Road/McNamara Way changes from the "Public Purpose – Commonwealth Government" Reserve to the "Residential Zone" with a density coding of R60".

**(e) Town Centre Zone**

Extension of the "Town Centre Zone" over those lots between Brixton Street, Jarrad Street and Stirling Highway.

**(f) Residential Zone****(i) Changes to the boundary of the Residential Zone**

The boundary of the Residential Zone is to be extended to cover those areas identified in the report above including:

- Foreshore Centre Zone; and
- Special Industrial Zone.

**(ii) Non conforming Uses in the Residential Zone**

Introduce a restricted use for those sites outlined below which is in keeping with the existing use:

- John Street Café;
- North Street Deli;
- Curtin Avenue Deli;
- 2 shops on the corner of Marmion Street and Grant Street;
- Florist Shop on the corner of Forrest Street and Marmion Street; and
- Liquor Store on Railway Street.

**(g) Sites Reserved for Public Purposes**

The sites identified below are to be included in "Special Development Zone B":

- Wearne Hostel;
- School for Hearing Impaired;
- McCall Centre (refer to further comments below).

**(3) FURTHER INVESTIGATION**

It was resolved that further investigation be undertaken of the following issues:

**(a) Foreshore Centre Zone Density**

Council supported in Item 8.2.2 of its Special September meeting the retention of the density coding (R50) for those lots located within the Foreshore Centre Zone that fronted onto Marine Parade (minutes from the Strategic Planning Committee

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held on the 2 August, 2004 relate). It was then recommended to undertake further investigation of the density coding of the "Foreshore Centre Zone" in Item 8.3.5 of that same meeting, subject to further assessment by architects (minutes from the Strategic Planning Committee held on the 19 August, 2004 relate).

**(b) Tukurua & Le Fanu**

These sites will be reviewed when the report detailing Heritage/Character areas is undertaken.

**(c) Hotel Zone**

A further review of the "Hotel Zone" is to be undertaken.

**(4) MATTERS FOR FURTHER CONSIDERATION**

The following additional matters are submitted for consideration:

**(a) Numbers 1 to 11a John Street**

The seven lots east of the Seapines development were shown on the proposed residential densities map as R60. These seven lots are within the Foreshore Centre Zone and have a density of R30. It was resolved that the zoning of numbers 1, 3, 5 and 7 John Street be changed to the Restricted Foreshore Zone. These lots and the adjoining three lots, being Nos. 9, 11 and 11a John Street were not mentioned in the density report. Numbers 9, 11 and 11a John Street are proposed to be removed from the Foreshore Centre Zone and included in the Residential Zone. It was the intention of staff to recommend that the residential density for these lots (Nos 1 – 11a John Street) to be increased from R30 to R60.

Numbers 5 and 7 John Street are currently developed to a density of R80 and 9 John St is developed to R160. Amendment 32, which was gazetted in October 2003, changed the density coding of Nos 1 -3 John Street from R30 to R50.

Recommended:

- (i) that the residential density coding of Numbers 1, 3, 5, 7, 9, 11 and 11a John Street, be changed from R30 to R60.
- (ii) that the zoning of Numbers 9, 11 and 11a John Street, be changed from the "Foreshore Centre Zone" to the "Residential Zone".

**COMMITTEE RECOMMENDATION**

- (i) that the residential density coding of Numbers 5, 7, 9, 11 and 11a John Street, be changed from R30 to R60.
- (ii) that the residential density coding of Numbers 1 & 3 be changed from R50 to R60.

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- (ii) that the zoning of Numbers 9, 11 and 11a John Street, be changed from the “Foreshore Centre Zone” to the “Residential Zone”.

**(b) Number 103 Broome Street**

The property at No. 103 Broome Street, which directly abuts the south side of the Civic Centre, currently has a density coding of R30, was shown as R60 on the map, but was not mentioned in the report. The existing built density is R50. The proposed change in density coding to R60 will rationalise the densities in this area to a uniform R60 and be consistent with the existing built densities that range from R20 to R160. Council has agreed to the increase in density to R60 for the adjoining lot to the west and lots in Warnham Road and Overton Gardens.

**Recommended:**

**That the residential density of the lot located at 103 Broome Street be changed from R30 to R60.**

**COMMITTEE RECOMMENDATION**

**That the residential density of the lot located at 103 Broome Street remain at R30.**

**(c) Number 12 John Street**

The second lot east of the Cottesloe Beach Chalets – No. 12 John Street, was not clearly identified on the density map. A closer look at the map reveals it was shown as R30 but should have been R60. The existing built density is R60. It is currently within the Foreshore Centre Zone and has a density of R50. It is proposed that this lot be excluded from the Foreshore Centre Zone and included in the Residential Zone.

The change will rationalise the densities in this area to a uniform R60 and be consistent with the existing built densities that range from R20 to R160. Council has agreed to the increase in density to R60 for the adjoining lot to the west and lots in Warnham Road and Overton Gardens.

**COMMITTEE RECOMMENDATION**

- (i) that the residential density coding of No. 12 John Street be increased from R30 to R60; and

- (ii) that the zoning of Number 12 John Street be changed from the “Foreshore Centre Zone” to the “Residential Zone”.

**(d) Proposed Metropolitan Region Scheme Amendment – McCall Centre and surrounding land – proposed Special Development Zone B**

The Western Australian Planning Commission is in the process of amending the Metropolitan Region Scheme, which relates to the Fremantle Regional Strategy and the Leighton Beach proposals. The amendment is currently being advertised for public comment with the submission period closing on the 3 December 2004.

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A small portion of the amendment affects the southern most portion of the Town of Cottesloe. The changes mainly relate to the rationalisation of the “Important Regional Road Reserve” and the extension of the “Parks & Recreation Reserve” over areas previously zoned as “Urban”.

In addition, it is proposed to change the McCall Centre from an “Urban Zone” to a “Public Purposes Reserve – Special Use” under the Metropolitan Region Scheme (MRS). Council’s scheme is required to conform with the MRS and therefore the map has been changed to reflect the changes proposed by the Western Australian Planning Commission.

This will require the removal of the proposed “Special Development Zone B” over the McCall centre under the proposed Town Planning Scheme No. 3 to the “Public Purposes Reserve – Special Use”.

### **COMMITTEE RECOMMENDATION**

**That the draft No. 3 Town Planning Scheme map be amended to reflect the zoning/reserve changes affecting the Town of Cottesloe as proposed in Amendment No. 11074/33 to the Metropolitan Region Scheme.**

#### **(e) Numbers 1a, 1b, 3, 5 and 7 Gadsdon Street**

Council previously resolved that those properties that are within the Foreshore Centre Zone and that front onto Eileen Street be excluded from that zone and be included in the Residential Zone. The currently density code is R50 and it was resolved to change the density to R60.

This has left four small lots Nos. 1a, 1b, 3, 5, and 7 Gadsdon Street (one has two dwellings on it) within the Foreshore Centre Zone. This would be inconsistent with Council’s intent. These lots should also be excluded from the Foreshore Zone and included within the Residential Zone and the density code changed to R60.

### **COMMITTEE RECOMMENDATION**

**That Nos. 1a, 1b, 3, 5 and 7 Gadsdon Street be excluded from the Foreshore Centre Zone and included within the Residential Zone and that the density coding be changed from R50 to R60.**

#### **(f) No. 15 Eric Street (southeast corner Gadsdon Street)**

This site currently has a density coding of R50 under Town Planning Scheme No 2. The surrounding sites have a density coding of R30.

The draft Town Planning Scheme map presented to September meeting of Council shows that this site was proposed to be R60. The report did not mention this change.

The site currently has an existing density of R206 and has land that has been developed to R30 abutting it. There are 27 dwellings on this site and the size of

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these dwellings vary in size from 32m<sup>2</sup> to 48m<sup>2</sup> with one of the 27 dwellings at 79m<sup>2</sup>.

Having regard to

- the isolated nature of the site,
- the fact that the site has been strata titled,
- the extremely small unit sizes,
- the units satisfying a demand for this type of accommodation,
- the low density of development that has occurred abutting the site,

a case can be made for recommending that the density coding remain at R50.

However the existing draft Town Planning Scheme has a provision that allows the re-development of sites like this. Some concern has been expressed at the implications of this clause and the potential impact of the clause should be considered in light of the recommendation.

### **COMMITTEE RECOMMENDATION**

**That the density coding of No. 15 Eric Street remain at R50.**

#### **(g) Nos. 2 to 14 Gadsdon Street, 1a Geraldine Street and 19 Eric Street**

These sites currently have a density coding of R30 under the existing Town Planning Scheme, except for 15 Eric Street which has a density coding of R50. The draft Town Planning Scheme map presented to special September meeting of Council shows that these sites were proposed to be R60. The report did not mention this change.

There are two options for this section of the street and these are outlined below:

#### **(i) Option A – Increase density coding from R30 to R60**

An assessment of all of these lots has highlighted the following:

- 2 Gadsdon St is developed to a density of “R60”;
- 15 Eric Street is developed to a density of “R206”, but is currently coded R50;
- There are two other existing strata developments at No 4 and 12 Gadsdon St which are developed to a density of “R94” and “R30” respectively;
- There is one new strata development built to a density of “R30” at No. 19 Eric Street;
- The remainder of lots (6) are developed to a density of “R30”.
- 5 of the lots contain multiple dwellings and the remainder are single residential lots.

An assessment of the surrounding areas has highlighted the following:

- These lots are surrounded by “R30” & “R20” development to the east;
- The other side of the Gadsdon Street is currently coded “R50”, and is proposed to be changed to “R60” under TPS 3;

- 
- A number of these lots face directly onto the OBH Site which currently has a density of “R50”;
  - The area is considered to separate from the surrounding residential areas as they are predominantly single residential areas, whereas this area has an equal mix of multiple dwellings and single residential dwellings.

As a result of this assessment it is believed that the density coding of this area be changed from “R30” and “R50” to “R60” for the following reasons:

- The properties on the western side of Gadsdon Street have a proposed density coding of “R60”;
- This would result in a uniform density coding in the same street;
- Three of the properties in this area already have a density coding of “R60” or above;
- A density coding of “R60” would result in the same development standards being imposed for the whole street;
- The area is quite different from other predominantly single residential areas in that it is adjacent to the OBH Special Development Site, is adjacent to an existing Foreshore Centre Zoned Area with a density coding of R50, has an equal mix of multiple dwellings and single residential lots;
- 30% of all households are lone person households, which is anticipated to increase with the ageing of the population;

A change in density from “R30” and “R50” to “R60” would result in the following:

- Would permit the development of multiple dwellings with a minimum lot size of 166m<sup>2</sup>, whereas currently the “R30” coding does not have any development standards for multiple dwellings;
- Would reduce the minimum lot size for single residential dwellings from 270m<sup>2</sup> to 160M<sup>2</sup>;
- Would result in the same development standards being imposed as the properties located on the western side of Gadsdon Street;
- May result in the redevelopment of a number of older buildings in the area;
- May result in amalgamations of some lots to increase development potential;
- Amalgamation of lots may result in some additional sites gaining access to Geraldine Street as is currently available to No. 1A Geraldine Street and No. 8 Gadsdon Street;
- May result in an increase or decrease of the existing number of residential dwellings in the street, depending upon the number and size of the new units developed and what sites are redeveloped, taking into account that many existing units are under 100m<sup>2</sup> in size and most new units in Cottlesloe have a floor area well above 100m<sup>2</sup>;
- Amenity development standards relating to privacy, side setbacks, heights and overshadowing are the same whether they be R30 or R60;
- An R60 coding limits the size of multiple dwellings by imposing a plot ratio control of 0.65 and an open space requirement of 50%, whereas there are development standards for multiple dwellings in areas coded R30 currently.

**(ii) Option B – retention of existing R30 density coding**



These sites currently have a density coding of R30 under the existing Town Planning Scheme. Four of these sites have been developed to a density coding of R30.

The other properties at No. 2 and 4 Gadsdon Street, which are within the R30 density coding under the existing Town Planning Scheme, have an actual built density coding of R60 and R106 respectively. These dwellings have a unit area of approximately 70/80m<sup>2</sup> and 36/44m<sup>2</sup> respectively. Development of these sites with dwellings of a similar size as those at No 1 Gadsdon Street would result in at least a halving or quartering of the actual existing density.

The land to the east contains properties that front onto Geraldine Street, which have a density coding of R20, although the actual density of development is about R15. The land to the north of the Geraldine Street properties front onto Eric Street and they have a density coding of R30. Council has resolved not to change the density coding of these areas.

If the density coding of the land was increased to R60, then the development potential of lots through amalgamation would be markedly increased. This is shown below:

<b>Lots</b>	<b>Total Land Area</b>	<b>R30 Potential</b>	<b>R60 Potential (Multiple Dwellings)</b>
8 Gadsdon and 1a Geraldine Street (single house and vacant lot)	1165	3	7
1a Geraldine and 4 Gadsdon Street (vacant lot and 12 units)	1680	5	10
8 Gadsdon Street, 1a Geraldine street and 4 Gadsdon Street (single house, vacant lot and 12 units)	2292	7	13

It is considered that:

- (a) the retention of the existing R30 density coding:
  - (i) reflects the general existing density of development on the eastern side of Gadsdon Street;
  - (ii) provides a reasonable transition from the proposed R60 density coding in Eileen Street through to the existing R20 density coding in Geraldine Street; and
  - (ii) provides for the protection of the high level of amenity currently enjoyed by the Geraldine Street property owners.
- (b) the increase in density coding from R30 to R60:
  - (i) is too severe a jump in the density coding as it abuts the existing R20 density coding (actual density of R15) in Geraldine Street; and

- 
- (ii) through the amalgamation of two or more lots, the subsequent development would result in an adverse and detrimental impact on the single residential nature of Geraldine Street in terms of traffic, streetscape and building bulk.

**Recommended:**

**That Numbers 2 to 14 Gadsdon Street and 1a Geraldine Street and 19 Eric Street be allocated a density coding of:**

**R60 (Option A) OR**

**R30 (Option B)**

**COMMITTEE RECOMMENDATION**

- (i) **Numbers 2 to 14 Gadsdon Street and 1a Geraldine Street be allocated a density coding of R40.**
- (ii) **Number 19 Eric Street remain at a density coding of R30.**

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Nil.

**OFFICER RECOMMENDATION**

That Council:

- (1) Make the following changes to the draft No. 3 Town Planning Scheme map:
- (a) Nos. 1 to 11a John Street
- (i) change the residential density coding of Numbers 1, 3, 5, 7, 9, 11 and 11a John Street from R30 to R60.
- (ii) change the zoning of Numbers 9, 11 and 11a John Street from the "Foreshore Centre Zone" to the "Residential Zone".
- (b) Number 103 Broome Street
- Change the residential density of Number 103 Broome Street from R30 to R60.
- (c) Number 12 John Street
- Change the:
- (i) residential density of Number 12 John Street from R30 to R60; and

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(ii) zoning of Number 12 John Street from "Foreshore Centre Zone" to the "Residential Zone".

- (d) Metropolitan Region Scheme – McCall Centre and surrounding land – proposed Special Development Zone B

Change the draft No. 3 Town Planning Scheme map to reflect the zoning/reserve changes affecting the Town of Cottesloe as proposed in Amendment No. 11074/33 to the Metropolitan Region Scheme.

- (e) Numbers 1a, 1b, 3, 5 and 7 Gadsdon Street

Change Numbers 1a, 1b, 3, 5 and 7 Gadsdon Street from the Foreshore Centre Zone and be include them within the Residential Zone with the density coding being increased from R50 to R60.

- (f) No. 15 Eric Street (southeast corner Gadsdon Street)

No change.

- (g) Numbers 2 to 14 Gadsdon Street, 1a Geraldine Street and No. 19 Eric Street

Numbers 2 to 14 Gadsdon Street and 1a Geraldine Street and 19 Eric Street be allocated a density coding of:

R60 (Option A) OR

R30 (Option B)

- (2) Endorses the attached draft No. 3 Town Planning Scheme Map, Version 1, with the changes identified in (1) above for the purpose of community consultation, subject to the review and finalisation of the following matters:

- (a) Heritage;
- (b) Ocean Beach Hotel site;
- (c) Cottesloe Beach Hotel site;
- (d) Residential density codes for those lots fronting Marine Parade that are located within the Foreshore Centre Zone, as defined in the current Town Planning Scheme
- (e) Council depot site; and
- (f) Parking Strategy.

### COMMITTEE RECOMMENDATION

That Council:

- (1) Make the following changes to the draft No. 3 Town Planning Scheme map:

- (a) Nos. 1 to 11a John Street

- (i) change the residential density coding of Numbers 5, 7, 9, 11 and 11a John Street from R30 to R60.

- (ii) that the residential density coding of Numbers 1 & 3 be changed from R50 to R60.
  - (iii) change the zoning of Numbers 9, 11 and 11a John Street from the "Foreshore Centre Zone" to the "Residential Zone".
  - (b) Number 103 Broome Street  
That the residential density of the lot located at 103 Broome Street remain at R30.
  - (c) Number 12 John Street  
Change the:
    - (i) residential density of Number 12 John Street from R30 to R60; and
    - (ii) zoning of Number 12 John Street from "Foreshore Centre Zone" to the "Residential Zone".
  - (d) Metropolitan Region Scheme – McCall Centre and surrounding land – proposed Special Development Zone B  
Change the draft No. 3 Town Planning Scheme map to reflect the zoning/reserve changes affecting the Town of Cottesloe as proposed in Amendment No. 11074/33 to the Metropolitan Region Scheme.
  - (e) Numbers 1a, 1b, 3, 5 and 7 Gadsdon Street  
Change Numbers 1a, 1b, 3, 5 and 7 Gadsdon Street from the Foreshore Centre Zone and be include them within the Residential Zone with the density coding being increased from R50 to R60.
  - (f) No. 15 Eric Street (southeast corner Gadsdon Street)  
That the density coding of No. 15 Eric Street remain at R50.
  - (g) Numbers 2 to 14 Gadsdon Street, 1a Geraldine Street  
That:
    - (i) Numbers 2 to 14 Gadsdon Street and 1a Geraldine Street be allocated a density coding of R40.
    - (ii) Number 19 Eric Street to remain at density coding of R30.
- (2) Endorses the attached draft No. 3 Town Planning Scheme Map, Version 1, with the changes identified in (1) above for the purpose of community consultation, subject to the review and finalisation of the following matters:
- (a) Heritage;
  - (b) Ocean Beach Hotel site;
  - (c) Cottesloe Beach Hotel site;
  - (d) Residential density codes for those lots fronting Marine Parade that are located within the Foreshore Centre Zone, as defined in the current Town Planning Scheme;
  - (e) Council depot site; and
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- 
- (f) Parking Strategy.

## AMENDMENT

Moved Cr Walsh, seconded Cr Morgan

That recommendation (2)(c) be amended to read as "Hotel zone".

Carried 8/1

### 13.1.4 COUNCIL RESOLUTION

Moved Cr Sheppard, seconded Cr Furlong

**That Council:**

**(1) Make the following changes to the draft No. 3 Town Planning Scheme map:**

**(a) Nos. 1 to 11a John Street**

- (i) change the residential density coding of Numbers 5, 7, 9, 11 and 11a John Street from R30 to R60.**
- (ii) that the residential density coding of Numbers 1 & 3 be changed from R50 to R60.**
- (iii) change the zoning of Numbers 9, 11 and 11a John Street from the "Foreshore Centre Zone" to the "Residential Zone".**

**(b) Number 103 Broome Street**

**That the residential density of the lot located at 103 Broome Street remain at R30.**

**(c) Number 12 John Street**

**Change the:**

- (i) residential density of Number 12 John Street from R30 to R60; and**
- (ii) zoning of Number 12 John Street from "Foreshore Centre Zone" to the "Residential Zone".**

**(d) Metropolitan Region Scheme – McCall Centre and surrounding land – proposed Special Development Zone B**

**Change the draft No. 3 Town Planning Scheme map to reflect the zoning/reserve changes affecting the Town of Cottesloe as proposed in Amendment No. 11074/33 to the Metropolitan Region Scheme.**

**(e) Numbers 1a, 1b, 3, 5 and 7 Gadsdon Street**

**Change Numbers 1a, 1b, 3, 5 and 7 Gadsdon Street from the Foreshore Centre Zone and be include them within the Residential Zone with the density coding being increased from R50 to R60.**

**(f) No. 15 Eric Street (southeast corner Gadsdon Street)**

**That the density coding of No. 15 Eric Street remain at R50.**

**(g) Numbers 2 to 14 Gadsdon Street, 1a Geraldine Street****That:**

- (i) Numbers 2 to 14 Gadsdon Street and 1a Geraldine Street be allocated a density coding of R40.**
  - (ii) Number 19 Eric Street to remain at density coding of R30.**
- (2) Endorses the attached draft No. 3 Town Planning Scheme Map, Version 1, with the changes identified in (1) above for the purpose of community consultation, subject to the review and finalisation of the following matters:**
- (a) Heritage;**
  - (b) Ocean Beach Hotel site;**
  - (c) Hotel zone;**
  - (d) Residential density codes for those lots fronting Marine Parade that are located within the Foreshore Centre Zone, as defined in the current Town Planning Scheme**
  - (e) Council depot site; and**
  - (f) Parking Strategy.**

Carried 5/4

The vote was recorded:

<i>For</i>	<i>Against</i>
Mayor Rowell	Cr Morgan
Cr Furlong	Cr Strzina
Cr Jeanes	Cr Utting
Cr Robertson	Cr Walsh
Cr Sheppard	

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**12.4 13.1.5 TIMEFRAME FOR DRAFT TOWN PLANNING SCHEME NO. 3**

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**File No:** D2.5.2  
**Author:** Ms Ruth Levett  
**Author Disclosure of Interest:** Nil  
**Attachments:** Revised Time Frame for Adoption of TPS No. 3  
**Report Date:** 23 September, 2004  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The timeframe for the development of draft Town Planning Scheme No. 3 has been reviewed. It is recommended that Council adopt a revised timeframe.

**STATUTORY ENVIRONMENT**

Town Planning and Development Act 1928

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Council's Strategic Plan has the following objective:

*Finalise new TPS to incorporate all major strategies in relation to Heritage, sustainability, densities and redevelopment.*

**FINANCIAL IMPLICATIONS**

The process adopted by Council to achieve adoption of the Draft Town Planning Scheme No. 3 within the suggested timeframe will incur additional costs. The cost of the review and preparation of documents is directly related to the decisions of Council and the amount of additional review and assessment required.

**BACKGROUND**

At the June, 2004 meeting of Council the draft timeframe for adoption of Draft Town Planning Scheme No. 3 was considered and it was resolved as follows:

*That Council:*

- 1. Notes the timeframe for the adoption of the draft Town Planning Scheme; and*
- 2. Authorises the Chief Executive Officer to expend funds to help resource the work to narrow the time frame.*

At the Special Meeting of Council held on 6 September, 2004, Council considered a recommendation to narrow the timeframe.

It was resolved:

*That Council defer the adoption of the Revised Timeframe of Town Planning Scheme No. 3 until the next meeting of Council.*

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A number of reports addressing matters that had not been finalised in the preparation of draft Town Planning Scheme No. 3, or required further assessment, were considered by Council in September, 2004. As a result of the resolutions of Council, a report outlining a *Schedule of Works* has been prepared for consideration of this meeting.

It is evident that there are a number of matters yet to be finalised by Council before draft Town Planning Scheme No. 3 can be presented to the community for comment. These matters are:

- Heritage
- Ocean Beach Hotel site
- Cottesloe Beach Hotel site
- Residential density codes for lots facing Marine Parade
- Council depot site
- Parking Strategy
- Town Centre (not part of this review)

### **STAFF COMMENT**

Further assessment or studies of the list of outstanding matters will be undertaken by staff or consultants and the recommendations will be put to council for consideration.

Upon completion of the matters listed, the draft Scheme Map will be finalised and the information for the precinct based community consultation scheduled to commence in February, 2005, will be prepared.

It must be noted that the proposed revised timeframe is achievable only if there is support by Council for the recommendations of the Strategic Planning Committee.

Minor amendments to the recommendations can be accommodated, however, changes to the proposed recommendations that require further investigation and reports, will require the support of Council before proceeding with the final amendments to draft Town Planning Scheme No. 3. Continuing support for additional funds to complete assessments and documentation will also be required for the finalisation of the Draft Town Planning Scheme No. 3.

### **VOTING**

Simple Majority

### **OFFICER RECOMMENDATION**

That Council adopt the attached revised timeframe for the development of draft Town Planning Scheme No. 3.

### **AMENDMENT**

That the box 'Council Decision' be removed from February 2005.



**13.1.5 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION****That Council:**

Moved Cr Sheppard, seconded Cr Furlong

- (1) Amend the timeframe by removing the 'Council Decision' box from February 2005; and**
- (2) Adopt the revised timeframe for the development of draft Town Planning Scheme No. 3.**

Carried 5/4

The vote was recorded:

<i>For</i>	<i>Against</i>
Mayor Rowell	Cr Morgan
Cr Furlong	Cr Strzina
Cr Jeanes	Cr Utting
Cr Robertson	Cr Walsh
Cr Sheppard	

**13.1.6 TOWN PLANNING SCHEME NO. 3 – REVIEW OF PROCESS AND RESOURCES**

**File No:** D2.4  
**Author:** Ms Ruth Levett  
**Author Disclosure of Interest:** Nil  
**Report Date:** 20 September, 2004  
**Senior Officer:** Mr Steve Tindale

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**SUMMARY**

The purpose of this report is to highlight the areas where further assessment or preparation of documents is required in order to complete the draft Town Planning Scheme No. 3.

It is recommended that Council note and endorse the attached schedule of requirements.

**STATUTORY ENVIRONMENT**

- Town Planning and Development Act 1928
- Town Planning Amendment Regulations 1999 (Model Scheme Text)

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Council's Strategic Plan has the following objective:

*Finalise new TPS to incorporate all major strategies in relation to Heritage, sustainability, densities and redevelopment.*

**FINANCIAL IMPLICATIONS**

The cost of the review and preparation of documents is directly related to the decisions of Council and the amount of additional review and assessment required.

**BACKGROUND**

At the Council meeting of 28 June, 2004, it was resolved as follows:

*That Council:*

- (1) *Notes the timeframe for the adoption of the draft Town Planning Scheme; and*
- (2) *Authorises the Chief Executive Officer to expend funds to help resource the work to narrow the time frame.*

The draft timetable submitted to Council with the report outlined areas requiring further assessment however it did not contain any level of detail in relation to items to be addressed during the second phase of the development of Town Planning Scheme No.3. These items are now outlined on the attached Schedule of Works.

All items are part of the standard process of developing a new Town Planning Scheme.

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**CONSULTATION**

To be undertaken in accordance with the proposal submitted by Estill & Associates.

**STAFF COMMENT**

The draft documents prepared by Cheryl Chaffer Planning Consultants will be used as the basis for the preparation of draft Town Planning Scheme No.3.

Changes to be made to the documents are listed in the Schedule.

Due to the volume of work and the limited resources within the Planning Department, it may be necessary for the majority of the works to be outsourced to consultants with expertise in the relevant field.

**VOTING**

Simple Majority

**13.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Sheppard, seconded Cr Furlong

**That Council note and endorse the attached Schedule of Works.**

Carried 6/3

The vote was recorded:

<i>For</i>	<i>Against</i>
Mayor Rowell	Cr Morgan
Cr Furlong	Cr Utting
Cr Jeanes	Cr Walsh
Cr Robertson	
Cr Sheppard	
Cr Strzina	

**13.1.7 TOWN PLANNING SCHEME NO. 3 – PARKING STRATEGY**

**File No:** D2.4  
**Author:** Ms Ruth Levett  
**Author Disclosure of Interest:** Nil  
**Report Date:** 30 September, 2004  
**Senior Officer:** Mr Steve Tindale

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**SUMMARY**

A proposal is presented for a parking study of the Foreshore Centre and Business areas.

It is recommended that Council engage Sinclair Knight Merz (SKM) to prepare a parking strategy with specified outcomes for inclusion in draft Town Planning Scheme No. 3.

**STATUTORY ENVIRONMENT**

- Town Planning and Development Act 1928
- Town Planning Amendment Regulations 1999 (Model Scheme Text)

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Council's Strategic Plan has the following objective:

*Finalise new TPS to incorporate all major strategies in relation to Heritage, sustainability, densities and redevelopment.*

**FINANCIAL IMPLICATIONS**

The cost of the Parking Strategy proposed by SKM is \$17,417 plus GST.

The cost was not included in the 2004/2005 budget.

**BACKGROUND**

At the Special Council meeting of 6 September, 2004, it was resolved to:

*Request the Engineer to prepare a brief to carry out a study of current and future demand for parking along the beachfront, with options to address those findings.*

A brief was prepared and three suitably qualified companies with experience in this field were invited to make a submission. The companies were:

- (1) Sinclair Knight Merz
- (2) Whelans
- (3) CCD Australia

Only one of the three companies selected have submitted a proposal, namely Sinclair Knight Merz. One company uses the services of another of the companies selected and therefore could not make a submission without their involvement.

It is understood that the third company could not meet the time frame specified.

A Parking Strategy is required to complete the draft Town Planning Scheme No. 3. It must be demonstrated that parking provisions have been assessed as a basis to determining parking requirements for the Foreshore Centre and Business areas. These provisions are to be included in the Parking Table within the Scheme Text.

### **CONSULTATION**

To be undertaken in accordance with the proposal submitted by Estill & Associates.

### **STAFF COMMENT**

The attached parking strategy proposal outlines the scope of the project:

Stage 1 – Investigate existing parking provision practices in TPS No. 2.

Stage 2 – Determine future parking demand

Stage 3 – Develop Parking Strategy and Parking Table for inclusion in draft TPS No. 3.

In summary the outcome of the Parking Strategy will include:

- A strategic vision for parking in the Foreshore Centre Area;
- Identification and illustration of opportunities and constraints;
- Recommended future public parking sites (including a conceptual plan for Council presentation showing the location of proposed parking areas), operating strategies and preliminary costings;
- Recommended provisions for draft Town Planning Scheme No. 3 for the Foreshore Centre area and the two Business areas; and
- A Parking Table for inclusion in draft Town Planning Scheme No. 3 for the Foreshore Centre and the two Business areas.

Sinclair Knight Merz are well qualified to undertake the study. They have been engaged by staff on previous occasions for traffic management studies in Cottesloe and the standard of their work is most satisfactory. SKM are also able to provide a final report within the timeframe specified. A preliminary report will be provided in December, 2004 with the final report to be provided following the completion of the survey, in February, 2005.

It is therefore recommended that the proposal submitted by SKM be supported and that the Chief Executive Officer be authorised to proceed with this study immediately.

### **VOTING**

Absolute Majority

### **OFFICER & COMMITTEE RECOMMENDATION**

That Council engage Sinclair Knight Merz to prepare a Parking Strategy with specified outcomes for inclusion in Draft Town Planning Scheme No. 3.

**AMENDMENT**

Moved Cr Morgan, seconded Cr Sheppard

That the following wording be added to the end of the current recommendation:

and for consideration for use under the current Town Planning Scheme.

Carried 8/1

**AMENDMENT**

Moved Cr Utting, seconded Cr Walsh

That the consultants be advised that parking will not be permitted west of Marine Parade and on John Black Park.

Lost 2/7

**13.1.7 COUNCIL RESOLUTION**

Moved Cr Sheppard, seconded Cr Furlong

**That Council engage Sinclair Knight Merz to prepare a Parking Strategy with specified outcomes for inclusion in Draft Town Planning Scheme No. 3 and for consideration for use under the current Town Planning Scheme.**

Carried by Absolute Majority 9/0

**13.1.8 TOWN PLANNING SCHEME NO. 3 – SPECIAL DEVELOPMENT ZONE “A”**

**File No:** D2.4  
**Author:** Ms Ruth Levett/Daniel Heymans  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 September, 2004  
**Senior Officer:** Mr Steve Tindale

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**SUMMARY**

The purpose of this report is to determine indicative heights for Special Development Zone “A”, the Ocean Beach Hotel site. It is recommended that Option 1 be supported subject to further assessment being undertaken to determine overshadowing, plot ratio, open space, setbacks, parking requirements and any additional development standards for the site.

**STATUTORY ENVIRONMENT**

- Town Planning and Development Act 1928
- Town Planning Amendment Regulations 1999 (Model Scheme Text)
- Town Planning Scheme No. 2
- Residential Design Codes (statutory and Statement of Planning Policy)

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Council’s Strategic Plan has the following objective:

*Finalise new TPS to incorporate all major strategies in relation to Heritage, sustainability, densities and redevelopment.*

**FINANCIAL IMPLICATIONS**

It is estimated that the cost of engaging a contractor to complete the assessment of this zone will be in the vicinity of \$2,000. Sufficient funds are available in the current Development Services budget.

**BACKGROUND**

The recommendation of the Strategic Planning Committee of 19 August, 2004 was not supported by Council, however, it was noted that while a mixture of heights was supported the actual height limits need further examination.

**CONSULTATION**

To be undertaken in accordance with the proposal submitted by Estill & Associates.

**STAFF COMMENT**

Two options are presented for consideration:

- (1) the original assessment of Special Development Zone A;

- 
- (2) a variation to the original model that shows reduced heights to 12 metres, with increased heights at setbacks of 10 metres, along Marine Parade and Eric Street.

Option 1 – (Resubmitted)

An assessment of the heights on the site and in the surrounding area revealed the following:

- The 6 storey high tower block on the OBH site (chocolate box) is approximately 22.81m above footpath level on Marine Parade;
- The highest point of the existing hotel roof is approximately 14.4m above footpath level on Marine Parade;
- The highest point of the existing hotel is approximately 10.3m above footpath level on Eric Street;
- The development on the northern side of Eric Street (Century Cove) is approximately 14.5m above footpath level on Eric Street;
- The development on the northern corner of Marine Parade and Eric Street is approximately 12.0m above footpath level on Marine Parade; and
- The development on the corner of Gadsdon and Eric Street is approximately 11.5m above footpath level at the corner of Eric Street and Gadsdon Street.

The boundaries of the heights and the actual heights shown with Option 1 are indicative only and should not be seen as set, until further assessment of the site, including an overshadowing assessment, has been carried out to determine the affect on adjoining properties and the beach.

The heights have been established to provide articulation in the facades of any new development and to move away from box style development. It is also encouraged to allow additional height at the corners, through the use of tower elements, parapets or similar features to help give prominence to any new buildings.

It is important to understand that there is a 12.0m difference in levels from the rear of the property, along Gadsdon Street, to the front of the property, along Marine Parade. The difference in levels will also ensure that there is considerable break up of building height over the site.

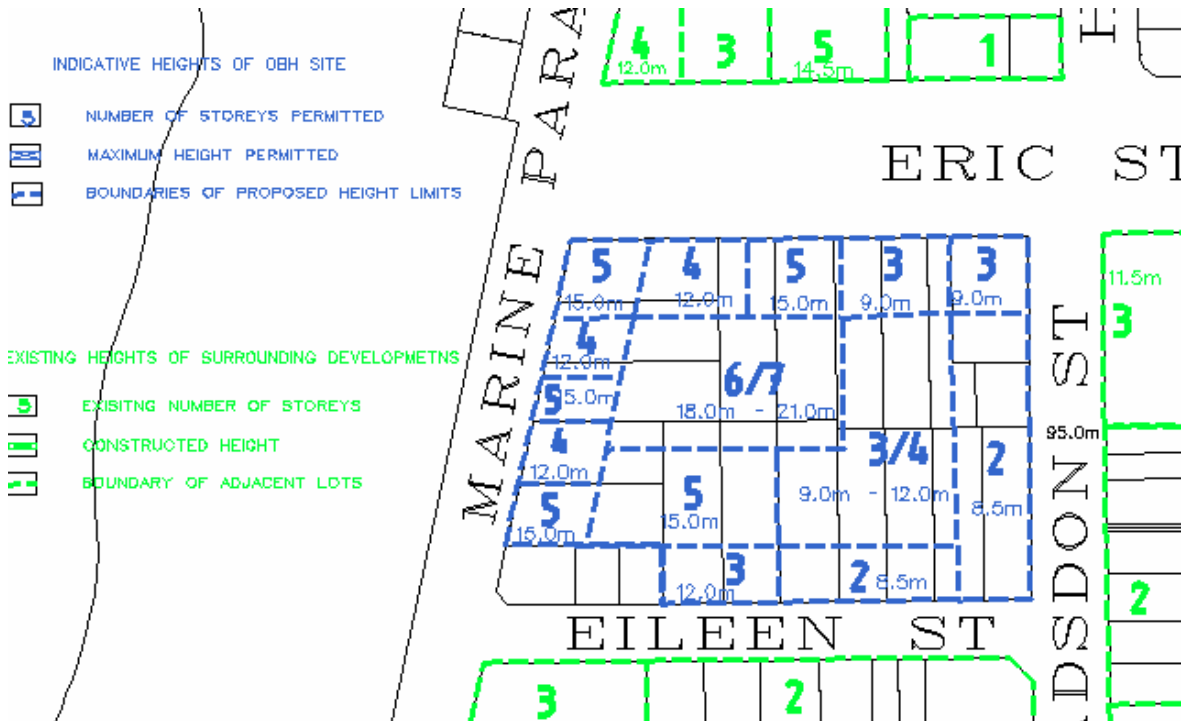
The heights of adjoining developments have been taken into consideration when setting the indicative heights. For example most development along Gadsdon Street is 2 storeys in height and therefore the proposed indicative heights, along Gadsdon Street, have been set at 2 storeys in height to reflect this.

Similarly the Century Cove development on the northern side of Eric Street is 5 storeys in height and it is considered that a similar height, directly opposite, be permitted on the OBH site to reflect this.

The indicative heights nominated along Marine Parade have been developed by taking into consideration the height of the development on the northern corner of Eric Street and Marine Parade, which is 12.0m in height, and the existing 6 storey (22.81m) tower on the OBH site, whilst enabling the construction of an articulated façade with additional heights at the corners.



The 6 to 7 storey height limit, located approximately in the centre of the site, has been proposed taking into consideration the natural ground levels of the site. A building of 7 storeys in this location would only read as a 3 storey building along Gadsdon Street given the difference in levels. The final setback of this height limit and the actual height needs to be established through an overshadowing assessment.

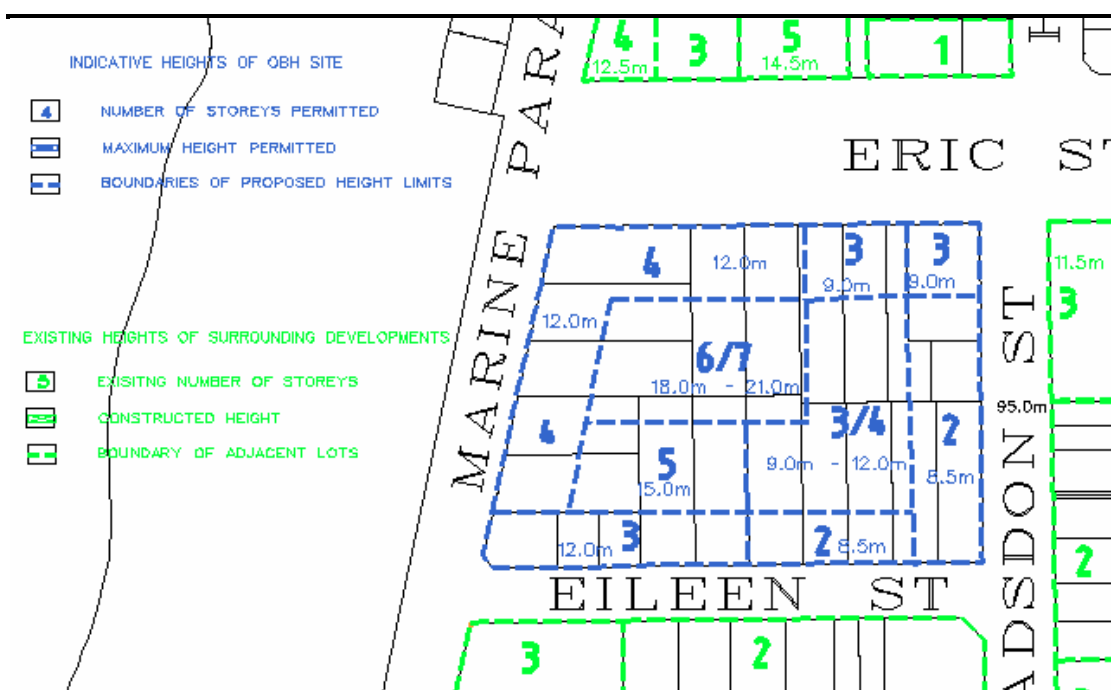


Option 1 – Indicative Heights of OBH Site & Existing Heights of Surrounding Lots

No change to the boundaries of the “Special Development Zone” has been proposed. The name of the zone is required to be changed from “Special Development Zone” to “Special Development Zone A” as a result of additional sites being zoned “Special Development Zone B”.

Option 2. – Reduced heights to Marine Parade and Eric Streets

This option uses the same method of assessment as outlined above with additional consideration given to comments of elected members in relation to the impact of building heights on Marine Parade and Eric Street.



**Option 2 – Indicative Heights of OBH Site & Existing Heights of Surrounding Lots with Reduced Heights on Marine Parade and Eric Street.**

Whilst the heights on Marine Parade and Eric Street were proposed to reflect the existing building heights on Eric Street and those existing on the site, it was felt by the elected members that 5 storeys or 15.0m, at the corner of Eric Street and Marine Parade and in the middle of the Eric Street and Marine Parade frontages, would not be in keeping with community expectations for this site, namely that it was over 12.0m in height.

Therefore, apart from the changes of the 5 storey building envelopes to 4 storey building envelopes along Marine Parade and Eric Street, Option 2 is identical in all other respects to Option 1.

In addition the height map area has been extended to include the three lots on the corner of Marine Parade and Eileen Street, which were left out of the original Option 1 map.

**Comment**

It is believed that Option 2 will result in a relatively bland façade, particularly along Marine Parade which is relatively level, as a blanket height limit of 12.0m will not allow any massing or tower elements on the corners of the development.

Good urban design practice suggests that it is important that tower elements on corners be permitted above the normal height limits in order to break up of the façade and create landmark features.

Legibility of buildings is important in the urban environment as it provides pedestrians and motorists with landmark features that create a visual map when navigating around the urban environment.

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The Indiana Tea House is one such example that has tower elements in its design and thus is an easily recognisable building in Cottesloe. In contrast, the building on the northern corner of Eric Street and Marine Parade does not contain any massing or tower elements, even though it is in a landmark position, this has resulted in a building that is nondescript and is not easily recognisable to the community.

It is therefore recommended that Option 1 be supported as it enables tower elements, massing and articulation of the facade along Marine Parade and Eric Street which will result in a high level of legibility.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Nil.

### **OFFICER & COMMITTEE RECOMMENDATION**

That Council:

- (1) Supports the indicative heights highlighted in Option 1 subject to:
  - (a) further assessment to determine overshadowing;
  - (b) plot ratio;
  - (c) open space;
  - (d) setbacks;
  - (e) parking requirements; and
  - (f) any additional development standards for the site.
- (2) Supports the name of the zone being changed from “*Special Development Zone*” to “*Special Development Zone A*”; and
- (3) Requests staff to present a further report with the outcomes of the assessment referred to in (1) for consideration of the Strategic Planning Committee.

### **COUNCIL COMMENT**

Cr Morgan questioned whether this item had already been debated and voted on and lost at the Special Council Meeting held on 6 September, 2004

It was subsequently confirmed that the matter had been voted on and lost at the Council meeting held on 6 September, 2004.

Council’s Standing Orders provide that:

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

The officer and committee recommendation therefore lapsed for want of a mover.

**14 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**15 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**

**ITEM 13.1.1 MUNICIPAL INVENTORY**

The CEO advised that part (2) of the motion passed earlier in the meeting relating to delegated powers to the Manager of Development Services had no effect as it had not been passed by an absolute majority.

Cr Morgan declared an interest as an owner of a building on the Municipal Inventory and left the meeting at 10.05pm.

On a show of hands it was agreed to put a motion to rescind part (2) of the decision and put the matter again in order to obtain an absolute majority.

**13.1.1 COUNCIL RESOLUTION**

Moved Cr Sheppard, seconded Cr Furlong

**That Council:**

- (1) Rescind part (2) of Item 13.1.1 relating to the Municipal Inventory.**

Carried by Absolute Majority 7/1

- (2) That Council:**

- (a) Agrees to amend its delegated powers to the Manager of Development Services to allow him to deal and permit the demolition of Category 3 and 5 buildings without referral to Council; and**
- (b) amends the delegation adopted by Council at its June 2004 meeting (Item 11.1.12) by:**
  - (A) Amending (2)(1)(c)(iii) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".**
  - (B) Amending (3)(1)(d) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".**
  - (C) Amending (3)(3)(b)(v)(C) by deleting "to Category 5 buildings" and replacing it with "and 2 buildings".**

Carried by Absolute Majority 7/1

Cr Morgan returned to the meeting at 10.07pm.

**16 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 10.07pm.

CONFIRMED: MAYOR ..... DATE: ...../...../.....