

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING**

# **MINUTES**

**ORDINARY MEETING OF COUNCIL  
HELD IN THE  
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, MONDAY, 26 NOVEMBER, 2007**

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

The Mayor announced the meeting opened at 7.05 pm.

**1.1 SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE****BACKGROUND**

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

Standing Orders 12.1 and 21.5 read as follows:

**Members to Rise**

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

**Suspension of Standing Orders**

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

**OFFICER RECOMMENDATION**

Moved Cr Strzina, seconded Cr Boland

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

Carried 9/0

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

Mayor Kevin Morgan  
Cr Jay Birnbrauer  
Cr Greg Boland  
Cr Patricia Carmichael  
Cr Daniel Cunningham  
Cr Victor Strzina  
Cr John Utting  
Cr Jack Walsh  
Cr Ian Woodhill

**Officers in Attendance**

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

**Apologies**

Cr Bryan Miller

**Leave of Absence (previously approved)**

Cr Jo Dawkins

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

Nil

**4 PUBLIC QUESTION TIME**

Nil

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

Moved Cr Strzina, seconded Mayor Morgan

**That Cr Strzina's request for leave of absence from the February round of meetings be approved.**

Carried 9/0

**6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr Strzina, seconded Cr Cunningham

**The Minutes of the Ordinary Meeting of Council held on Monday, 29 October, 2007 be confirmed.**

Carried 9/0

**AMENDMENT**

Moved Cr Cunningham, seconded Cr Birnbrauer

**The Minutes of the Special Meeting of Council held on Monday, 29 October, 2007 be confirmed with the following amendment:-**

That the minutes of the Special Council Meeting held on Monday, 29 October, 2007 be adjusted to record the other candidates for the two contested positions being for the Library Development Committee and the observer Councillors for Procott. These being Crs Birnbrauer and Cunningham respectively

Carried 9/0

## **7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

The Mayor advised that no response or feedback had been received from the Minister regarding the unresolved issue of beachfront height limits and draft Town Planning Scheme No. 3. It was noted that Council is eagerly awaiting that response. Hopefully Council will find a way forward that respects the wishes of the community.

The Centenary Community Concert recently held was a successful event and we are pleased that so many community groups came and showcased their services. This type of involvement by community organisations will be incorporated into future events.

## **8 PUBLIC STATEMENT TIME**

Sue Freeth, 1 Florence Street. Item 10.1.1 General Electors Meeting – Consideration of Decisions

Mrs Freeth raised two points in relation to the meeting held last week.

Firstly, that Council investigate more effective ways of advertising the notice of public events such as this meeting and explore the use of other mediums, such as email.

Secondly, Mrs Freeth on behalf of the Friends of the Library, commended the Council for the progress being made with the development of the new library. She placed a strong emphasis on the importance the library in creating new opportunities. The role of libraries is changing in relation to life-long learning, community development and the preservation of the development and heritage of communities.

In closing Mrs Freeth stated that the Town of Cottesloe is lucky to have a Librarian of the calibre that they had and that Council should continue to support the library development proposal.

Mayor Morgan acknowledged Mrs Freeth's concerns regarding the notice given for the General Electors meeting and agreed that there was a need to find better ways of engaging the community rather than waiting to hear only when something went wrong.

Athena Iliadis, Buildwise, Parkland Avenue, Osborne Park. Item 11.1.1 No. 1 (Lot 19) Webb Street – Two Storey Dwelling, Front Fence & Gate

As a representative for the owners, Mr & Mrs McQueen, Athena Iliadis advised they had the task of designing a family home on a block with a number of challenges. The result is a passive solar design which allows the northerly sun into many of rooms and leading to the house being long in design.

The slope of the block away from the road raises issues with height. If the block was level, compliance would not have been an issue. The first design was ambitious and amendments were made for a reasonable outcome. However concerns relating to set-backs and wall height remained.

A request was made to Council to approve the development with the current wall height given that there are no adverse affects to neighbour amenity and the streetscape and to consider the application based on the overall height.

Ken Adam, Unit 11, 183 Broome Street. Item 11.1.1 No. 1 (Lot 19) Webb Street – Two Storey Dwelling, Front Fence & Gate

Mr Adam advised he has been commissioned by the McQueen's in the capacity of a professional architect and town planner, following the concerns raised from the committee meeting. Mr Adam's letter of advice has been circulated to Council.

Mr Adam highlighted the key points that compliance with set backs and overall height requirements have been addressed, including the roof which has been adjusted to comply with the 8.5m height requirement.

The wall height issue exists as the 6m is measured from the centre of the site, which is always going to be problematic due to the slope. It will be detrimental to the overall design to pull the height down and difficult to justify given that there is no adverse affect on surrounding developments.

Mr Adam requested Council to consider that the solution presented does meet the principles contained within the Residential Design Codes and ensures a reasonable and consistent streetscape. Council is requested to use its discretion when assessing the application. The design is equitable, presents no adverse impact on neighbours. The existing house on the property is actually higher than the one that is being proposed. The new house will appear lower and advice given to Mr McQueen is that the design meets Council's requirements.

Mr Paul McQueen, 2 Violet Street, Mosman Park. Item No. 11.1.1 1 (Lot 19) Webb Street – Two Storey Dwelling, Front Fence & Gate

Mr McQueen expressed concern that by choosing to build one house on a duplex block they have been disadvantaged over non-compliance with height limits. The single development is for one family home and all measures have been taken to ensure all neighbour concerns have been addressed and resolved to the satisfaction of all parties. In order to achieve a solar passive building, compliance with all requirements bar wall height has been achieved.

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Chris Wiggins, 50 John Street. SOS Cottesloe. Item 10.1.1 General Electors Meeting – Consideration of Decisions

Mr Wiggins presented his statement based on the hotel meeting he attended on Thursday.

Concern was expressed on behalf of SOS that the level of safety after 4pm on Sunday's and now on Tuesday's, is no longer acceptable. It's unsafe, noisy and the security personnel hired by the hotels have no powers except that of persuasion which is being realised by the patrons.

The source of the problem appears to be generated by the hotels and time has come to alleviate the problem. SOS believes the hotels need to change their method of operating and reflect a change of attitude to the consumption of alcohol. Mr Wiggins associated the problems to the current problems being experienced in the north of Australia and how it cannot be tolerated.

A request was put to Council as to whether any steps can be taken to exert pressure on the hotels.

Mr Wiggins acknowledged the increased presence of the local police as a step in the right direction.

Mayor Morgan advised that one of the priorities of this Council is to reduce hotel patron numbers to a sustainable level.

Karen Lang, 1A & 1B Princes Street. Item 11.1.2 Nos 1A & 1B (Lot 13) Princes Street – Two by Two-Storey Grouped Dwellings Plus Swimming Pool

Ms Lang expressed appreciation for the good hearing the application received at the committee last week and the recommendation to alleviate the neighbours concern regarding the see-through balcony. Appreciation was also extended to the Planning Department staff for their time and assistance.

## **9 PETITIONS/DEPUTATIONS/PRESENTATIONS**

Nil

**10 REPORTS OF COMMITTEES AND OFFICERS****10.1 CHIEF EXECUTIVE OFFICER****10.1.1 GENERAL ELECTORS MEETING - CONSIDERATION OF DECISIONS**

**File No:** SUB/19  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 21 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to note for the record that there were no decisions made at the General Electors Meeting held on the 21<sup>st</sup> November 2007.

**BACKGROUND**

Aside from the Mayor, Councillors and Senior Staff, three electors attended the General Electors Meeting held last Wednesday in the war Memorial Town Hall.

**STATUTORY ENVIRONMENT**

Section 5.32 of the *Local Government Act 1995* requires the CEO to "...cause minutes of the proceedings at an electors' meeting to be kept and preserved; and ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered."

A copy of the minutes of the General Electors Meeting held on the 21<sup>st</sup> November 2007 is enclosed with this agenda.

Section 5.33 of the *Local Government Act 1995* requires that all decisions made at an electors meeting are to be considered at the next ordinary Council meeting where practicable.

If Council makes a decision in response to a decision made at an electors meeting, then the reasons for the decision are to be recorded in the minutes of the Council meeting.

**CONSULTATION**

N/A

**STAFF COMMENT**

Nil

**POLICY IMPLICATIONS**

Nil

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**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

That Council note for the record that no decisions were made at the General Electors Meeting held on the 21<sup>st</sup> November 2007.

**AMENDMENT**

Moved Cr Boland, seconded Cr Utting

**That the following be added to the recommendation:**

**That the minutes be amended to reflect that Dr Frayne stated he was a nominee for a company that owned property on Forrest Street and the minutes record the full text of the questions and answers as sent to the Mayor by email.**

Carried 9/0

**10.1.1 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (1) Note for the record that no decisions were made at the General Electors Meeting held on the 21<sup>st</sup> November 2007.**
- (2) Amend the minutes to reflect that Dr Frayne stated he was a nominee for a company that owned property on Forrest Street.**
- (3) Amend the minutes to record the full text of the questions and answers as sent to the Mayor by email.**

Carried 9/0

**10.1.2 STANDING COMMITTEE MEMBERSHIP**

**File No:** SUB/108  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 21 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to appoint additional elected members to the Strategic Planning Committee.

**BACKGROUND**

Council has three standing committees namely:

- Development Services Committee;
- Works and Corporate Services Committee; and
- Strategic Planning Committee.

Each committee must be comprised of at least three elected members and can consist of as many as eleven elected members (i.e. the Council).

As a minimum, the membership of the Strategic Planning Committee is currently comprised of the Mayor, Deputy Mayor and Presiding Members of the Development Services and the Works and Corporate Services Committees.

At the Special Council meeting held on 29<sup>th</sup> October 2007 it was decided:-

1. That the Mayor, Deputy Mayor, Presiding Member of the Development Services Committee, Presiding Member of the Works and Corporate Services Committee be appointed members as members of the Strategic Planning Committee.
2. That the appointment of additional elected members and deputies to the Strategic Planning Committee be deferred until the November ordinary meeting of the Council.

Following the appointment of Cr Walsh and Cr Miller as presiding members of the Development Services Committee and the Works and Corporate Services Committee respectively and their automatic inclusion as members of the Strategic Planning Committee, a further decision is required on additional members, if any, to be appointed to the Strategic Planning Committee.

**CONSULTATION**

N/A

**STAFF COMMENT**

Nil

**POLICY IMPLICATIONS**

Nil

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**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**VOTING**

Simple Majority

**10.1.2 OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Strzina, seconded Mayor Morgan

**That Council appoint Crs Carmichael, Utting & Boland as members and Crs Birnbrauer & Woodhill as deputy members of the Strategic Planning Committee.**

Carried 9/0

**10.1.3 DESIGN ADVISORY PANEL – DEPUTY PRESIDING MEMBER**

**File No:** SUB/325  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 21 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

At last month's Special Council Meeting a decision was made to automatically appoint the Presiding Member of the Development Services Committee as the Presiding Member of the Design Advisory Panel.

Now that Cr Walsh has been appointed to the position of Presiding Member, a recommendation is made to appoint an elected member as Deputy Presiding Member of the Design Advisory Panel.

**BACKGROUND**

The Design Advisory Panel consists of six community members and one elected member of Council.

The Panel advises Council on;

- Significant or potentially contentious development proposals.
- Proposals that significantly impact on environmental values and the natural heritage.
- Precinct and major site design issues, including town centre, open space or transport proposals with urban design implications.
- Urban design guidelines for built form and the public domain.
- Amendments to the town planning scheme that have an important design component.
- The relationship of a proposal to built heritage in an urban design sense.
- The elected member appointee to the panel presides over meetings of the panel.

As is the case with all Council-sponsored meetings it is open to all elected members to attend meetings of the Design Advisory Panel.

**CONSULTATION**

N/A

**STAFF COMMENT**

It would be appropriate for a member of the Development Services Committee to be appointed to the position of Deputy Presiding Member of the Design Advisory Panel.

Members of the Development Services Committee include Cr Birnbrauer, Cr Boland, Cr Dawkins, Cr Strzina and Cr Woodhill.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**VOTING**

Absolute Majority

**10.1.2 OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, Cr Carmichael

**That Council appoint Cr Strzina as the first Deputy Presiding Member and Cr Woodhill as the second Deputy Presiding Member of the Design Advisory Panel.**

Carried 9/0

**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 19 NOVEMBER 2007**

The agenda items were dealt with in the following order:-

Item 11.1.1 then 11.1.2 en bloc.

**11.1 PLANNING****11.1.1 NO. 1 (LOT 19) WEBB STREET – TWO-STOREY DWELLING, FRONT FENCE & GATE**

<b>File No:</b>	<b>1292</b>
<b>Author:</b>	<b>Mr Lance Collison / Mr Andrew Jackson</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>9 November 2007</b>
<b>Senior Officer:</b>	<b>Mr Andrew Jackson</b>
<b>Property Owner:</b>	<b>Paul McQueen</b>
<b>Applicant:</b>	<b>Buildwise Pty Ltd.</b>
<b>Date of Application:</b>	<b>25 September 2007</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>1083m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

A two-storey dwelling, front fence and gate are proposed, to replace the existing similar residence.

The proposal has been evolved over time by the owner and designer liaising with officers and neighbours to arrive at appropriate revised plans. In particular, the revised plans noticeably reduce the height of the dwelling.

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

**PROPOSAL**

On the ground floor a double garage, bedroom, study, three stores, cellar, formal living, activity, powder, cloak, laundry and utility rooms are proposed. An open kitchen, meals and lounge area is also proposed. Externally, a porch is located at the front of the residence and an alfresco is to be located off the open living area at the rear. Underneath this alfresco, two stores, a studio and powder are proposed.

On the upper floor, 5 bedrooms, a bathroom, powder, ensuite, linen, 2 WIRs, kitchenette and family room are proposed. Staircases link both floors.

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Front fencing, an automatic sliding gate and terracing are also proposed. The swimming pool is not part of this application.

### STATUTORY ENVIRONMENT

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

### POLICY IMPLICATIONS

- Building Heights Policy No 005

### HERITAGE LISTING

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

### APPLICATION ASSESSMENT

#### AREAS OF NON-COMPLIANCE

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

Clause	Required	Provided
5.1.1 Building Height	6m wall height 8.5m building height	7.21m wall height 9.08m building height

#### Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.5m setback	1 to 1.3m	3.3.1 – P1
No 3 – Boundary Setbacks	2m setback	1.5m	3.3.1 – P1
No 3 – Boundary Setbacks	7m setback	2.5 to 4.5m	3.3.1 – P1
No 8 – Privacy	7.5m cone of vision	2.9m	3.8.1 – P1
No 8 – Privacy	7.5m cone of vision	5m	3.8.1 – P1
No 8 – Privacy	7.5m cone of vision	1.3m	3.8.1 – P1

### STRATEGIC IMPLICATIONS

N/A

### FINANCIAL IMPLICATIONS

N/A

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A.

## ADVERTISING OF PROPOSAL

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

The advertising consisted of a Letter to Adjoining Property Owners

**Submissions**

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

*Patrick Cooney of 38 Pearse Street and John Milne of 36 Pearse Street (jointly)*

- *Object to the 1.76m height variation for the roof ridge height based on a 4 corner average.*
- *Claim the block is one of the highest in the area.*
- *Comments it is unnecessary for any height concessions against the building code.*

*David & Barbara Wilcox of 54 Broome Street*

- *Concerned regarding the fill and re-contouring proposed.*
- *Believe the site has been raised previously and it is proposed again.*
- *Concerned that the house is built on the basis of the elevated relative level, the new building will have a much greater impact on the surrounding houses and on the streetscape.*
- *Opposed to the use of tree planting to provide screening from the overlooking.*
- *Retaining wall must be designed so that the foundations do not encroach onto our property.*
- *They have a mass retaining wall on their northern boundary which they are not entirely happy with.*
- *Concerned regarding construction as there is a sewer line immediately inside their boundary over which a wall should not be constructed.*

**BACKGROUND**

An existing two storey residence, pool and front fence is found on this sloping site. These will be demolished to make way for the new dwelling. The large lot over 1000sqm is capable of accommodating a substantial dwelling.

A planning approval was issued in January 2007 for retaining walls on the rear boundary and side boundaries at the rear, to create a level back yard as a precursor to a future dwelling proposal. This allowed for an RL of 31.1 at the rear of the property. This was approved in consultation with the neighbours and a renewal of this approval was issued in October 2007, in anticipation of this associated dwelling proposal.

As mentioned, the owner and designer-builder have purposefully consulted the planning officers as well as liaised with the adjoining neighbours in formulating and refining the proposal. This has been in recognition of the opportunity to improve the streetscape, the challenge of the sloping site and the desire to reasonably address amenity aspects within the framework of planning parameters.

## **PLANNING ASSESSMENT**

### **Natural Ground Level**

The land slopes from the north (street) downwards to the south (rear) with a fall of approximately 4.5 metres. This is a large influence on the design and interrelationship with the surrounds.

For the purpose of the proposal, the natural ground level on the lot was determined taking into account the site survey provided and supplementary information. The survey does not provide levels through the centre of the site due to the existing dwelling being in the way. Therefore, a comparative four-corners-averaging technique has been used and produces an RL of 32.2m. In addition, Council's GIS data suggests a centre-of-site datum of RL 32.7.

By way of further analysis the applicant notes: *If we consider the midpoint of the block (consistent with Council's policy) and then take a horizontal line to the western boundary (which are undisturbed levels) a more accurate midpoint level of the block of approximately RL33.0 to 32.8 is achieved.*

If an average of these three readings is used the centre of the site level is determined to be RL32.633. This is seen to be a fair level from which to determine development heights.

It should be noted that the previous planning approval regarding the fill and retaining walls at the rear of the property approved in January 2007 and renewed in October 2007 has no bearing on the calculation of the natural ground level for this application. That was to create a useable back yard level irrespective of the eventual design and details of a future dwelling.

To sum up, Council has the ability to determine the natural ground level at the centre of the site in order to arrive at a reasonable and effective measure, so that a design and its assessment accordingly are not unduly prejudiced and do not generate amenity implications. In the case of this proposal, it is considered that the NGL, the design response to it and the assessment of how it performs in relation to that is acceptable.

### **Building Height**

The application is seeking some variation to wall and roof heights. TPS2 as a base standard requires:

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

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

This proposal has wall heights of (RL39.843) or 7.21m and a roof height of (RL41.713) or 9.08 metres at those highest portions of the dwelling. It should be noted that after discussion with Council officers, the applicant has reduced the original roof height. Previously the RL was 42.458 or 9.825 metres in height. The wall heights have not been altered and it is acknowledged that the floor-to-ceiling heights are not considered excessive, being 2.829m and 2.743m for the ground and first floors respectively.

Such variations may be considered under Clause 5.1.1 (c) TPS2:

- (c) *Measurement of Building Height:*  
*For the purpose of measuring 'storey' and hence 'building height', Council shall generally follow the following formula, except in particular cases where natural ground forms indicate that a variation is warranted, provided that the amenity of neighbouring areas is not unreasonably diminished.*

With this in mind, it is noted that were the site flat, the proposal would comply with the building height requirements of TPS2. This is having regard to the street elevation, where the entire wall heights are less than 6m and the roof height is less than 8.5m from the reference ground level at the front boundary. Hence an appropriate streetscape appearance is achieved despite the inflated height measures due to the topography falling away steeply, which tends to distort or penalize the design.

It should also be noted that with the existing sloping topography, the method of determining natural ground level using extrapolation and the average-of-four-corners method likewise disadvantages the proposal. This is because most of the building envelope is located on a higher ground level than the natural ground level at the centre of the site.

It would seem unreasonable to expect that the dwelling be setback further from the front boundary simply to achieve easy compliance with the height formula. The dwelling would not have any real lesser presence to the street and would be out of sync with neighbouring buildings. The streetscape presentation of the dwelling is attractive, in proportion and more than satisfies the 6m front setback requirement.

The applicant has also stepped the house down and the wall and roof heights at the rear of the residence are lower than the front portion, in order to break up the massing and ameliorate bulk and scale.

The applicant has added to the rationale for allowing the height variations. The applicant suggests that were the lot subdivided, a reference point of RL33.5 for natural ground level at the centre could be used. Council officers acknowledge that the lot could be subdivided into two green title lots based on the zoning and size. It is also acknowledged that were a battleaxe subdivision approved the natural ground level of the centre of the site for the front lot could be RL33.5.

As mentioned, the area of the house where the height variation occurs is well setback from neighbouring properties. The side setbacks for the upper floor are a minimum of 2.5m. The rear setback of the upper floor is a minimum of 18m. Hence the building bulk is positioned forward on the property to minimise the effect of built form.

This is an important appreciation of the height variations sought. Where any height variation is located to not cause direct or undue streetscape or amenity impacts, and where the extent of the variation is contained to a portion of the dwelling, then it can be supported as of no great consequence. In addition, where the degree of variation is relatively minor as an amount or proportion and in terms of not being particularly noticeable, then it can also be supported on that basis. In this instance, the increased building height is confined to the ridgeline/s of the front portion of the dwelling facing the street; yet owing to the pitched roof design and overall built form it does not appear as excessive and is located well-away from the lower rear of the property, hence is not a bulk or scale concern. The section/s of wall which exceed the basic height standard are located, setback or treated so as not to be a noticeable concern.

Furthermore, the overall building height is similar to the existing building height. The existing older residence does not comply with the Scheme's current height requirements if natural ground level is determined at the centre of the site.

It is determined that the wall and building height variations be supported due to the sloping topography of the site and as they do not cause undue impacts. The attached before-and-after drawings of the front elevation of the dwelling demonstrate the significant improvement made both physically and visually by the revised roof form and ridge height in order to achieve better height compliance and streetscape presentation.

### **Rear Undercroft**

The rear undercroft for the studio, stores and powder room at the rear is an effective use of this space which would otherwise comprise the support structure for the dwelling.

The ceiling of the undercroft at RL33.156 is only some half a metre above the NGL so easily conforms to the definition of such space, which may be up to a metre above NGL. Also, this space does not present to the street, which is the main consideration regarding undercrofts, and does not contribute to additional building height as only the alfresco area is directly above the undercroft, with the first-floor is setback being behind that.

Because the undercroft is not buried to the rear yard it can accommodate both ancillary and habitable space, the latter being a studio with a window and door access.

### **Fill and Retaining Walls**

The proposed fill at the rear of the development is not subject to this planning application and has been previously approved.

The proposed fill of up to 1.5m in the area to the west of the lounge room/ alfresco is setback 1m from the side boundary. The retaining wall is located 1m off the boundary. The applicant has noted that the area between the retaining wall and the side boundary will be at a lower level. This area will be subject to tree planting and this meets the RDC, which is a softer design solution as an alternative to a boundary retaining wall or high fixed screen to a boundary fence.

The terracing in the front setback area incorporates low retaining walls for landscaping. The amount of fill in this area is less than 500mm and is compliant with the RDC Acceptable Development standards.

### **Boundary Setbacks**

The proposal deliberately takes a conventional approach to setbacks rather than seeks to introduce boundary (parapet) walls. This respects the streetscape and surrounding properties and reflects the pattern of development in the vicinity. It also contributes to the amenity of both the proposal and the immediate neighbouring properties, and is suitable to the design-style of the dwelling. In particular, the proposal achieves Council's preferred front setback of 6m, which is to the porch, hence the actual walls and garage door are setback even further. The rear setback is comparatively generous at over 13m to the lower level and 18m to the upper level, to take account of the topography and separate the dwelling from the rears of abutting properties, in order to manage bulk and scale as well as afford privacy.

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground west wall	Utility to garage	3m	11.2m	No	1.5m	1 to 1.3m
Ground east wall	Activity to bed 6	4.2m max. 3m minimum	7.7m	Yes	2m	1.5m
Upper east wall	All	8m max, 5.7m minimum	25m	Yes	7m	2.5 to 4.5m

#### *3.3.1 – Buildings Set back from the Boundary*

*P1 Buildings set back from boundaries other than street boundaries so as to:*

- *Provide adequate direct sun and ventilation to the building*

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

This proposal is to have a 1 to 1.3m setback to the side boundary for the ground west wall. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal does not affect privacy and also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

The proposal is to have a 1.5m setback to the side boundary ground floor east wall. This is usually required to be setback 2m from the boundary. The setback is penalized by the RDC as they require the walls to be measured to the highest point from natural ground level. However, the wall meets the Performance Criteria of the RDC. The proposal ensures that ventilation is adequate and that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The staggered setback reduces the perception of bulk and is not a privacy concern.

The proposal is to have a 2.5 to 4.5m setback to the upper floor east wall. This is usually required to be setback 7m from the boundary. The setback is penalized by the RDC as they require walls to be measured to the highest point from natural ground level. In this circumstance the wall height varies 2m.

The setback generally meets the Performance Criteria of the RDC. The proposal ensures that ventilation is adequate and that direct sun to major openings to habitable rooms and outdoor living areas of the adjoining property is not restricted. The proposal does ameliorate the sense of bulk in that the long length of wall has a staggered setback. It should be noted the eastern neighbour did not object to this proposal. The proposed setback is recommended for approval.

### **Privacy**

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

<b>Room</b>	<b>Required</b>	<b>Provided</b>
Balcony (facing west)	7.5m setback	2.9m setback
Alfresco	7.5m setback	5m setback
Outdoor paving area	7.5m setback	1.3m setback

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

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

The proposal asks for a variation to the balcony's cone of vision setbacks. The proposal partially complies with the Performance Criteria of the RDC. The balcony faces the front boundary and the western and northern edges are left open. It is noted that the main aim of the balcony would be to view the ocean in a north-westerly direction and not to the neighbour. The neighbouring property has only a corner bedroom window and a sliding door on this elevation, which are screened by a carport.

The balcony is only accessed from the upper-storey family room and the western neighbour did not object to the balcony. Because the western neighbouring property is setback 4.9m from the side boundary and the cone of vision only extends to a driveway, the variation is supported.

The proposal asks for a variation to the alfresco's cone of vision when looking to the south-east. The variation is only on an acute angle when looking in a south-easterly direction. The eastern elevation is screened to a height of approximately 2m above ground level. It should also be noted no neighbours have objected to the proposal.

The proposal asks for a cone of vision variation from the outdoor paving area. It is arguable that this area will not be used as an outdoor living area due to its small dimensions. This is located at the west of the alfresco/lounge room and has a proposed level of RL 33.414 compared to a natural ground level between RL31.5 and RL33. However, it is noted the proposed area has a maximum width of 3.2m compared to the dimension of 9.4x 11.2m for the central courtyard. It is more likely to be used as a passage way between the central courtyard and the alfresco due to the larger widths of the other outdoor areas on the lot. Nevertheless, the applicant has proposed vegetative screening on the western boundary and this is to satisfy the Performance Criteria in this situation.

### **Front Fence and Gate**

The front fence and gate are in compliance with the Fencing Local Law. The front fence is solid to 700mm and open aspect above. The entire automatic sliding gate is open aspect. This is a welcome streetscape improvement from the present solid high wall.

### **Swimming Pool**

The swimming pool is not part of this planning application.

### **Other Items**

The application meets all open space and overshadowing requirements of the Residential Design Codes.



**CONCLUSION**

In summary, the proposal is assessed as a generally compliant and well-considered dwelling on a difficult site, which seeks to balance planning objectives and requirements. The streetscape and amenity outcomes are considered acceptable.

The site displays sloping topography with a substantial fall of 4.5m from the front down to the rear. To account for this, some relatively minor variations to the building and wall heights are proposed, which have little direct impact.

The dwelling has also been designed in accordance with sustainable development principles and many rooms capture northerly sun.

The design process of revised plans in response to officer feedback and neighbour comments has resulted in a conventional dwelling which fits in well with the form and character of the streetscape and locality.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Overall, the Committee expressed a preference for the proposal to more fully comply with the wall and building heights standards of the Scheme and the setback requirements of the Residential Design Codes.

The Manager Development Services responded to the aspects raised by the Committee in terms of the constraints of the site and the design solution, as well as the process followed. This included that the streetscape will not be affected by the height of the front portion of the dwelling and that this is not a concern to the adjoining neighbours. The rear setback is large and the side setbacks are assessed as acceptable on a performance assessment pursuant to the RD Codes. Officers met this afternoon with two of the neighbours at their request to clarify some details of the proposal, whereby they were satisfied and indicated general support as well as no need to attend the Committee meeting. The Manager outlined a range of possible options for a recommendation to deal with the application, and advised that a meaningful approval would have conditions to Council's satisfaction, as the two-storey dwelling proposal was essentially capable of approval and the applicant could then respond to the requirements.

The Committee moved the Officer Recommendation, with the additional condition (h) and advice note provided by the Manager Development Services:

- (h) The plans submitted for a building licence shall include full details of the levels, retaining, fencing, planting and any other treatments in respect of the outdoor areas along the western side of the dwelling, from the front boundary to the future pool area and the area the subject of the previous approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, all to the satisfaction of the Manager Development Services.*

Advice Note:

*It is advised that this approval is separate from, yet interrelated with, the approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, and it is the expectation that both approvals will be implemented as an integral overall development.*

The Committee then moved that an additional condition (i) be added to the Officer Recommendation in order to address the height and setback aspects, as appears below, together with the inclusion of the other condition and the advice note as recommended above:

- (h) The plans submitted for a building licence shall include full details of the levels, retaining, fencing, planting and any other treatments in respect of the outdoor areas along the western side of the dwelling, from the front boundary to the future pool area and the area the subject of the previous approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, all to the satisfaction of the Manager Development Services.*
- (i) The design of the dwelling shall be amended to comply with the 6m wall height standard and the 8.5m roof height standard of the Scheme and to comply with the requirements of the Residential Design Codes for side setbacks.*

Advice Note:

*It is advised that this approval is separate from, yet interrelated with, the approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, and it is the expectation that both approvals will be implemented as an integral overall development*

## **OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the Development Application for the two-storey dwelling, front fence and gate at No. 1 (Lot 19) Webb Street, Cottesloe, in accordance with the revised plans submitted on 12 November 2007 and the fence elevation plan submitted on 14 November 2007, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (e) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
  - (f) The applicant applying to the Town of Cottesloe for approval to modify the existing crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
  - (g) The swimming pool is not part of this application or approval, hence a future separate planning application and approval would be required for the pool.
- (2) Advise submitters of the decision.

#### **COMMITTEE RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the Development Application for the two-storey dwelling, front fence and gate at No. 1 (Lot 19) Webb Street, Cottesloe, in accordance with the revised plans submitted on 12 November 2007 and the fence elevation plan submitted on 14 November 2007, subject to the following conditions:
    - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
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    - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
    - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
    - (e) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted
-

shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (f) The applicant applying to the Town of Cottesloe for approval to modify the existing crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
  - (g) The swimming pool is not part of this application or approval, hence a future separate planning application and approval would be required for the pool.
  - (h) The plans submitted for a building licence shall include full details of the levels, retaining, fencing, planting and any other treatments in respect of the outdoor areas along the western side of the dwelling, from the front boundary to the future pool area and the area the subject of the previous approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, all to the satisfaction of the Manager Development Services.
  - (i) The design of the dwelling shall be amended to comply with the 6m wall height standard and the 8.5m roof height standard of the Scheme and to comply with the requirements of the Residential Design Codes for side setbacks.
- (2) Advise submitters of the decision.

Advice Note:

It is advised that this approval is separate from, yet interrelated with, the approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, and it is the expectation that both approvals will be implemented as an integral overall development.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Strzina

**That the recommendation be amended to include the following modified condition (i) as circulated by the Manager of Development Services:**

- (i) **Revised plans shall be submitted at building licence stage (in accordance with the intended changes presented to Council on 26 November 2007) showing the design of the dwelling amended to comply with the 8.5m roof height standard of the Scheme and to satisfy the requirements of the Residential Design Codes for the subject side setbacks, all to the satisfaction of the Manager Development Services.**

Carried 8/1

**11.1.1 COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Strzina

**That Council:**

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- (1) **GRANT its Approval to Commence Development for the Development Application for the two-storey dwelling, front fence and gate at No. 1 (Lot 19) Webb Street, Cottesloe, in accordance with the revised plans submitted on 12 November 2007 and the fence elevation plan submitted on 14 November 2007, subject to the following conditions:**
- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.**
  - (c) **The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
  - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
  - (e) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
  - (f) **The applicant applying to the Town of Cottesloe for approval to modify the existing crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
  - (g) **The swimming pool is not part of this application or approval, hence a future separate planning application and approval would be required for the pool.**
  - (h) **The plans submitted for a building licence shall include full details of the levels, retaining, fencing, planting and any other treatments in respect of the outdoor areas along the western side of the dwelling, from the front boundary to the future pool area and the area the subject of the previous approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, all to the satisfaction of the Manager Development Services.**
  - (i) **Revised plans shall be submitted at building licence stage (in accordance with the intended changes presented to Council on 26 November 2007) showing the design of the dwelling amended to comply with the 8.5m roof height standard of the Scheme and to satisfy the requirements of the Residential Design Codes for the**

subject side setbacks, all to the satisfaction of the Manager Development Services.

- (2) Advise submitters of the decision.

**Advice Note:**

It is advised that this approval is separate from, yet interrelated with, the approval dated 15 October 2007 for retaining walls and fencing for the rear portion of the property, and it is the expectation that both approvals will be implemented as an integral overall development

Carried 8/1

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**11.1.2 NOS 1A & 1B (LOT 13) PRINCES STREET – TWO BY TWO-STOREY GROUPED DWELLINGS PLUS SWIMMING POOL**

<b>File No:</b>	<b>1291</b>
<b>Author:</b>	<b>Mr Lance Collison / Mr Andrew Jackson</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>6 November 2007</b>
<b>Senior Officer:</b>	<b>Mr Andrew Jackson</b>
<b>Property Owner:</b>	<b>Ms Karen Richards Lang</b>
<b>Applicant:</b>	<b>Mr Blane Brackenridge, Architect</b>
<b>Date of Application:</b>	<b>3 October 2007</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R30</b>
<b>Lot Area:</b>	<b>835m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

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**SUMMARY**

Two by two storey grouped dwellings and a lap swimming pool are proposed. The lot size and density coding permits two grouped dwellings, which will replace those existing.

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

**PROPOSAL**

The two grouped dwellings are located in a battleaxe format. The rear residence sits higher than the front residence due to the sloping natural ground levels. The two residences share a common basement area, but there are no common walls for the ground and upper floors.

In the basement, the front residence has four allocated car bays and a store. The rear residence has three car bays, a store and cellar.

The front residence on the ground floor comprises of 2 bedrooms, 2 bathrooms, a laundry, study and family room. Externally, a lap swimming pool, pool enclosure, alfresco and drying area are proposed. A new retaining wall/ front fence will provide for an elevated front setback area.

The upper floor of the front residence has 2 bedrooms, a study, bath, WC, WIR, kitchen/dining/living open area and two terraces.

The rear residence on the ground floor has 2 bedrooms, a study, family, 2 bathrooms, a laundry, WC and lobby. Externally, a terrace is proposed. The upper floor has a kitchen, dining, living, 2 bedrooms, 2 bathrooms, WIR and terrace.

Each residence has a lift and staircases to link all floors.

### **URBAN DESIGN APPRECIATION**

This section is intended to explain how the urban design approach and associated planning parameters perform in relation to the technical assessment and consideration of submissions set out below in the report, so as to assist appreciation of the concept and the choices of development standards or variations applied, as well as their implications.

#### Streetscape Context

- This section of Princes Street exhibits a mixture of dwelling types and styles.
- They are typically established, older buildings exposed to the coastal elements; hence a recent trend of redevelopment.
- The southern side of the street, containing the subject site, is characterised by a number of dwellings with flat or skillion roofs and simple lines, which creates an essentially low-set, streamlined pattern of development.
- The northern side of the street tends to reflect bulkier buildings with more traditional pitched roofs.
- The existence of medium-density grouped dwellings (home units / townhouses) and multiple dwellings (flats / apartments) means that there is a greater distribution of dwellings and building mass, resulting in closer interfaces between properties.
- The subject site, for example, is an elongated lot capable of accommodating the two existing and proposed dwellings, which has more neighbours than is usual. This is due to the four lots flanking the western side, the three townhouses on the eastern side and the two rear-battlaxe lot dwellings behind.
- The existing duplex pair is positioned down the site and is a contiguous building occupying most of the length of the lot. It presents to the street as a two-storey structure set into the site and sloping topography of the street.
- It has a square, modernist aesthetic of solid surfaces comprising mainly masonry elements in the neo-Mediterranean vernacular of its era fairly common to south Cottesloe.

#### Response by Proposal

- The architect has adopted the above-described built form and appearance of dwellings to replace the existing development with a similar-shaped and looking development.
- This respects the predominant theme of the streetscape as it evolves sympathetically with effectively low-lying, streamlined designs; rather than bigger, bulkier buildings which would be more obvious and obtrusive.
- In particular, it is consistent with the recently-approved contemporary make-over of the townhouse immediately to the east addressing the street, and the newly-completed flat-roofed dwelling nearby on the SW corner of Princes Street / Marine Parade, as well as the like dwelling approved adjacent to that site at 56A Marine Parade. In addition, the concept design for the intervening western lot fronting Princes Street is also an uncomplicated, lineal dwelling.
- This ultimate combination of dwellings is harmonious and cohesive, with controlled height, modulation, stepping of buildings up the rise of the street and terracing treatments to the sloping front yards.



- There is a general sharing of opportunities for ocean views, to varying extents past or across other dwellings and especially down the common view corridor afforded by the street. Hence the design bias is for the orientation of windows, balconies and so on to wherever possible capture westerly and northerly outlooks. However, virtually any new two-storey element proposed to be introduced into the urban landscape will have a bearing on built form, the availability of views and other development aspects. In this regard a benefit of the proposal is the provision of a gap between the two dwellings, for a vista, dispersed mass and breathing space.

#### Detailed Design Approach

- As indicated, the proposal seeks to insert a relatively low-profile, planar building which echoes the present structure and fits in with the surrounds.
- An apparent improvement over the existing dwelling is the greater permeability of the replacement building – it is more visually accessible by way of outdoor spaces, openings and materiality; in a sense a more street-friendly and legible façade.
- The system of walls, windows, cantilevered front terrace and balcony, planter boxes, horizontal awnings and vertical plus angled privacy screens generates a restrained and subtle image of built form.
- This together, with the contained height, creates a floating effect and even a nautical reference, which usefully serves to counter-balance the footprint of the two dwellings and manage the privacy regime in relation to the reduced setbacks.

#### **STATUTORY ENVIRONMENT**

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

#### **POLICY IMPLICATIONS**

- Building Heights Policy No 005

#### **HERITAGE LISTING**

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

#### **APPLICATION ASSESSMENT**

##### AREAS OF NON-COMPLIANCE

**Town of Cottesloe Council Resolution**

<b>Resolution</b>	<b>Required</b>	<b>Provided</b>
TPA 128A -2002	6m front setback for residential development, which does not include averaging	3.5m front setback to upper floor terrace (balcony), 6m to main wall of the residence

**Residential Design Codes**

<b>Design Element</b>	<b>Acceptable Standards</b>	<b>Provided</b>	<b>Performance Criteria Clause</b>
Element 3 – Boundary Setbacks	2.3m – 1 <sup>st</sup> floor (front residence)	1.2 to 3.2m upper east setback	3.3.1 – P1
Element 3 – Boundary Setbacks	1.5m – ground floor rear residence	1.2 to 5.3 m	3.3.1 – P1
Element 3 – Boundary Setbacks	2.2m – 1 <sup>st</sup> floor rear residence	1.2 to 4.4 m	3.3.1 – P1
Element 6 – Site Works	Filling between the street alignment and the building not exceeding 0.5m	Up to 1.39m of additional fill	3.6.1 – P1
Element 8 – Privacy	Front Terrace (front dwelling) 7.5m setback	2.5m looking west 1.2m looking east	3.8.1 – P1
Element 8 – Privacy	Front Terrace (rear dwelling) 7.5m setback	6m looking north west	3.8.1 – P1

**Town of Cottesloe Local Law**

<b>Local Law</b>	<b>Required</b>	<b>Provided</b>
Fencing Local Law	Front fencing solid to a maximum of 900mm and open aspect to 1800mm in height.	The front fence/ retaining wall is up to 2.7m high from footpath level. It is only approx. 900mm high from the current courtyard level.

**Town of Cottesloe Town Planning Scheme No.2**

<b>Clause</b>	<b>Required</b>	<b>Provided</b>
Clause 5.1.4 Height of Retaining Walls	Shall not exceed 1.8m above natural ground level as determined by Council.	The retaining wall for the lap swimming pool is up to 2.7m high from footpath level. It is only approx. 900mm high from the current courtyard level.

**STRATEGIC IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**CONSULTATION**

REFERRAL

**Internal**

- Building
- Engineering

**External**

N/A

ADVERTISING OF PROPOSAL

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

The advertising consisted of a Letter to Adjoining Property Owners

**Submissions**

There were 11 letters sent out. There were 6 submissions received, of which 6 were objections but one was subsequently withdrawn. Details of the submissions received are set out below:

*Lloyd Phillips of 2a Beach Street*

- *My house is at the rear and the property is just 1200mm from our fencing line.*
- *This is obtrusive and as property is north facing it will block out a large portion of sunlight especially in winter.*
- *Will have to look at massive brick wall with glass frosted panels.*
- *Questions the starting point of the building in regards to height and questions the accuracy of the survey provided.*

*Amanda Frazer & Peter Sprivulis of 54B Marine Parade*

- *Concerned with the lack of detail regarding the appearance, size and composition of the proposed privacy screens.*
- *The proposed privacy screen for the rear house is only 30cm from the boundary.*
- *This is very close to our boundary and is a significant detriment to our amenity with respect to appearance and overshadowing.*
- *This will reduce access to morning sun in our outdoor entertaining area.*

*Greg Hanson & Fiona Martin of 6a Beach Street*

- *Object to the development of the above property as it will severely affect our view and our property valuation.*

- *Regulations require a 1.8 metre setback and 1.2m setback is proposed for the southern boundary of this property.*
- *This is unreasonable.*
- *We ask that council regulations are enforced.*

*Ron & Anna- Maree Farris of 1A Princes Street*

- *This objection has since been withdrawn following further consideration of the (revised) proposal with the owner and architect.*

*John & Kay Leever of 4A Beach Street*

- *Object to the sever impairment of view from the kitchen.*
- *Object to the probable reduction in sunlight and airflow to the rear courtyard of the property.*
- *Acknowledge the right of the owners to redevelop their property.*
- *They believe they will lose 100% of their view from the kitchen and retain 10% of the view from their rear balcony.*
- *Request that the 1.8m side boundary setback on the southern boundary be enforced.*

*Simon Rodrigues Architect on behalf of John Bond of 3A Princes Street*

- *Does not object to the development but requests some changes.*
- *The proposed dwelling at the front of the lot has a wall projection which encroaches within the 6m metre setback.*
- *This reduces a view corridor enjoyed by the adjoining owner.*
- *They request the projection is removed so that the face of the dwelling is at a 6 metre setback.*
- *The proposed dwelling at the front of the lot has an upper floor balcony terrace for the full width of the dwelling which is setback 3.5 metres from the street boundary and with a planter reduces the view corridor of his client.*
- *They request this balcony terrace be removed.*

## **BACKGROUND**

The existing two single-storey grouped-dwellings with an undercroft were approved and constructed in the early 1980s. The locality has since experienced some subdivision and redevelopment. Several new dwellings or major renovations have occurred or are proposed / approved in the vicinity. The subject owner is now also seeking to redevelop, in order to achieve two contemporary dwellings at today's standards designed with modern facilities and lifestyle flexibility in mind.

Following the advertising period for this application, the applicant has increased the western side setback of the proposed rear dwelling by 500mm and amended the southern elevation of the rear residence, in response to submissions and discussions with officers.

## PLANNING ASSESSMENT

### Building Heights

The centre of the site was determined at RL12.4 for the front unit and RL 13.5 for the rear unit which is based upon the contours provided by the applicant in a site survey as well as a comparison to Council's GIS information. The lot slopes upwards towards the rear by approximately 3m.

The maximum building height is RL 18.87 or 6.47m for the front unit and RL 19.77 or 6.27m for the rear unit. The residence has been designed with a concealed roof and because the Town Planning Scheme is not specific regarding these types of houses the RDC are referred to.

The RDC allow a maximum height for houses with concealed roofs of 7m. The two proposed residences meet this requirement.

It is also noted that the ceiling of the basement is below the centre of the site as determined by Council and therefore is not considered a storey. The residences are identified as two storeys and this meets the Scheme requirement.

### Privacy

#### Angled Screens

The applicant is proposing privacy screening from several locations. Below is a list of rooms/areas where angled screens are proposed in comparison with the setbacks usually required. These locations are on the west elevations of both residences.

Room	Required	Provided
Living (Front Dwelling)	6m setback	2.5m setback
Terrace (Front Dwelling)	7.5m setback	2.5m setback
Bedroom (Front Dwelling)	4.5m setback	2.5m setback
Terrace (Rear Dwelling)	7.5m setback	2m setback
Living (Rear Dwelling)	6m setback	5.6m setback
Bedroom (Rear Dwelling)	4.5m setback	2m setback

However, the above are not variations due to a 21m long angled screen for the front dwelling and a 19.5m long angled screen for the rear dwelling. The angled screens will be made of compressed cement sheeting. The applicant has also noted that the fixing will be minimal to give an impression of a floating appearance and also noted that *"they will provide privacy by breaking the line of sight into neighbouring backyards to the west, yet still allowing any light and possible views through to the ocean"*

The applicant suggests that the proposed angle of the privacy screen which is 18 degrees off horizontal should prevent a line of sight into each of the western neighbouring properties' ground floor levels at a distance of 25m. This is based on a

RL of 10.5 at a (line of sight –not horizontal distance) of 25 metres from the windows on the western elevation of the 1<sup>st</sup> floor. Council's GIS contours suggest this RL of 10.5 is a fair level.

This line of sight of 25 metres requirement is explained in the section of the Residential Design Codes as below:

*3.8.1 A1 Major openings to active habitable spaces or their equivalent which have a floor level more than 0.5m above natural ground level and positioned so as to overlook any part of any other residential property behind its street setback line, to comply with at least one of the following:*

*i. are set back, in direct line of sight within the cone of vision, from the boundary a minimum of:*

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

*ii. are provided with permanent vertical screening to restrict views within the cone of vision from any major opening of an active habitable space; or*

*iii. are provided with permanent horizontal screening or equivalent, preventing direct line of sight within the cone of vision to ground level of the adjoining property if closer than 25m to the opening or equivalent.*

It is recommended that the screens satisfy Clause 3.8.1A1 of the RDC. However, the applicant has not indicated whether these two screens will be perforated. The RDC requires these screens to not have a perforation of greater than 20%. This is proposed to be part of a condition of approval.

#### Vertical Screens

On the east elevation of both dwellings and the southern elevation of the rear dwelling vertical screening is proposed. This is in some cases proposed directly abutting the window or as a floating element setback from the walls of the residence as well as the side boundary.

The applicant notes that the privacy screens will be made of fixed panels of compressed cement sheeting which will allow light to filter through but will prevent overlooking to neighbouring properties. They will be fixed to the horizontal structural beams at the first floor and roof levels.

It should be noted this is acceptable under the Residential Design Codes and has been used in several other Cottlesloe residences. The proposed vertical screen solution on the eastern and southern elevations is supported.

#### Privacy Variations to the Residential Design Codes

These openings can be assessed against the following privacy (cone of vision) setbacks and seek variation from the Acceptable Development standards of the Codes:

Area	Required	Provided
Front Terrace (front dwelling)	7.5m setback	2.5m looking west 1.2m looking east
Front Terrace (rear dwelling)	7.5m setback	6m looking north west

As the proposed privacy setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.8.1 of the RDC states the following:

- P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:*
- *The positioning of windows to habitable rooms on the development site and the adjoining property.*
  - *The provision of effective screening.*
  - *The lesser need to prevent overlooking of extensive back gardens, front gardens or*
  - *Areas visible from the street.*

The front terrace is partially screened on both the eastern and western sides. To the west, the area able to be overlooked is presently vacant land, but due to the screen this will be limited to only the front yard of a future dwelling. To the east, overlooking is possible only to a driveway. As the driveway is open to the street / public view and is not a private outdoor area this overlooking is allowable. These variations are considered acceptable.

The 1<sup>st</sup> floor terrace for the rear residence overlooks the adjoining property in a north-westerly direction. Due to the proposed angled screen the size of this variation is small and is on acute angle. The screen which projects beyond the terrace, limits this overlooking and is effective. No increase in the amount of screen is recommended and it should be noted that a view corridor may be enjoyed from the residence to the east between the two proposed residences.

### **Front Setback**

The proposal is for a street setback of 6m to the main wall of the front dwelling and 3.5m to the upper-level terrace (balcony). It is noted that the reduced front setback relates only to this cantilevered balcony element, which is a suspended structure designed to have a lightweight, floating appearance so as to not present as massive or as an insensitive protrusion. The curved profile of the leading edge of the balcony structure and the potential for clear-glazed side balustrades also limits its impact.

At its meeting of 28 October 2002 Council resolved:

- “(1) When assessing applications for Development Approval, Council will:*
- (a) Generally insist on:*
    - (i) A 6.0m setback for residential developments in the District, which does not include averaging.”*

Acceptable Development Standard 3.2.1 A1 of the Residential Design Codes, however, prescribes a minimum 4.0m front setback in an R30 coded area, essentially the “as of right” setback. In addition, Acceptable Development Standard 3.2.2 A2 of the Residential Design Codes allows for a minor incursion to project into the front setback by up to one metre, provided that the projection does not exceed 20% of the frontage of the lot. This typically applies to balconies awnings and so on.

The Council resolution regarding street setback is not a Council policy or scheme provision. As the Acceptable Development provisions of the Codes allow a minimum setback of 2.0m and an average setback of 4.0m the proposed development is compliant with those provisions.

As Council’s 6.0m front setback preference is not a statutory requirement; there is discretion to relax this. Other reduced setbacks recently supported by Council were at Unit 1/23 Salvado Street, 12 Salvado Street and 14-18 Overton Gardens and nearby at 56A Marine Parade and 1/3 Princes Street. All these examples are similar medium density coded lots and are designed to use the front setback areas effectively for outdoor living.

In this regard the setback objective of the Residential Design Codes offers guidance:

*“To contribute towards attractive streetscapes and security for occupants and passers by, ensure adequate privacy and open space for occupants, and provide an attractive setting for buildings.”*

The proposed balcony terrace setback complies with this objective of the Codes.

It should also be noted that this proposed front setback would not be detrimental to the streetscape. The setbacks at the neighbouring properties show an increasing staggered setback and this proposal will be in line with that. The newly-constructed residence (to the west) at 56 Marine Parade has a 1.5m setback to Princes Street (which is its secondary street). The concept design for 1 Princes Street which is currently vacant has a 2-3m setback. While to the east, Council approved a 3.97m setback to the terrace and 7.35m setback to the main wall of the residence at 1/3 Princes Street.

Therefore, the proposal achieves Council’s preferred chief front setback and the first-floor balcony setback would be consistent with both the RDC as well as the emerging arrangement of setbacks here. Furthermore, design-wise the balcony component forms part of the overall aesthetic of the dwelling and is a conscious part of its function – providing outdoor space, shade/shelter and balance to the built form (ie stepped façade treatment and horizontal elements to the front and sides).

Notwithstanding, were the balcony, which occupies the width of the dwelling, considered to be an unnecessary or undesirable extension forward of the 4m setback line, it would still be possible to have an effective and aesthetic balcony starting at that point (leaving a minimum 3m depth for usable space); although it is assessed that to do so would not make a dramatic difference to the wide westerly and northerly view shed available from the street-front of each property arranged up the hill.



### **Front Fence / Retaining Wall**

The design of the proposed front retaining wall (ie front fence) does not readily meet the Fencing Local Law as the site constraints influence the approach to fencing/walling and terracing for useable open space. In this non-standard situation the variation warrants consideration.

Currently a courtyard abuts the front boundary and was filled many years ago to an RL of approximately 11.6, while the levels at the footpath range from RL 9.76 to RL 10.94. There is an existing boundary/retaining wall along the western half of the Princes Street frontage ranging from approximately 2.2m to 2.7m high above the footpath (ie up to RL 12.5). As the architect has explained, this is proposed to be rebuilt up to the same height for a longer length of the frontage.

At the same time it is a tapered design in being deliberately cut-away or chamfered backwards at the base in order to reduce the verticality of the wall and the extent of its face presenting to the street, as well as to evoke the floating effect of the overhead balcony and contribute to the overall design theme of a development sunk into or growing out of the site.

The Fencing Local Law includes that Council may consider exercising discretion having regard to whether a fence would provide for the:

- *safe or convenient use of land:*
- *safety or convenience of any person and:*
- *impact of the fence on the streetscape:*

The proposed front fence would assist the safe or convenient use of land. This is because it would provide a barrier against unwanted visitors. The solid fence also provides some additional privacy as the front dwelling does not have a practical back yard. The fence/retaining wall also allows for a level outdoor living area which would capture ocean views. The alternative of benching the front yard to lower the ground levels and thereby the walling (depending on the design) would not necessarily mean a better outcome functionally or visually. This is because dedicated outdoor open space is a requirement of the RDC and medium density grouped dwellings are usually designed with formal terraces, courtyards and alfresco areas as opposed to rambling yards or large gardens. The flow from inside to outside is most convenient at the one level and is a more intelligent use of space and design execution.

It is assessed the streetscape would be enhanced by creating a more attractive wall and terrace that is less of a solid wall barrier and more of a structured transition between the public domain and private open space, and which has improved sociability and passive-surveillance than the present “exclusive” privacy wall.

In comparison, the eastern adjacent property has recently been approved with a solid front fence/retaining wall to approximately 1.9m high with open-aspect fencing on top of that; ie a similar approach as proposed taking into account topographical factors. It is noted that the streetscape has gradually altered over the past few years and that further changes are proposed by other new development.

On this basis, it is assessed that the proposed front fencing/retaining wall is acceptable and will read logically and legibly as an intentional design solution to the opportunities and constraints of the site. As indicated, the design balances the front setback with the terrace treatment; that is, a full 6m front setback rather than the 4m standard is opted for, which also allows space for the front terrace and the articulated design to achieve acceptable built form and visual appeal.

The curved wing-wall on the eastern elevation forms a side-return fence and edge to the driveway ramp down into the basement. It starts behind the 6m setback line and ranges in height relative to the ground level from 2m as part of the dwelling slanting down to 1m at the front boundary. It is assessed that this would present reasonably against the backdrop of the lower-level terrace and as component of the design.

### **Site Works**

The front yard east of the pool is proposed to be filled up to 1390mm, starting from RL11.11 and increasing to RL12.5. This is 890mm more than ordinarily allowed under the RDC threshold of 500mm, however, some of this area is already filled to RL11.6 by virtue of the existing wall and courtyard as referred to above, and there is a relatively high side boundary retaining wall between this property and the land to the west.

Clause 3.6.1 A1.1 of the RDC requires excavation or filling within a front setback area to be an ideal maximum of 0.5m, in order to retain the visual impression of the natural level of the site. As the proposed site works do not comply with this Acceptable Development standards, consideration under the Performance Criteria is required. Performance Criteria Clauses 3.6.1 and 3.6.2 of the RDC state the following:

- P1 Development that retains the visual impression of the natural level of a site, as seen from the street, other public place or from an adjoining property.*
- P2 Retaining walls designed or set back to minimize the impact on adjoining property.*

These performance criteria reflect the broad objective of the site works element of the RDC to preserve the sense of natural topography to protect streetscape and amenity.

The proposal may also be considered in relation to Clause 5.1.4 of the Scheme regarding retaining, which states:

*“The height of boundary retaining walls or retaining walls which in Council’s opinion are near a common boundary with an adjoining lot, shall not exceed 1.8m above natural ground level as determined by Council.”*

As previously assessed, the direct relevance of this clause to redevelopment sites pre-dating the scheme, and the efficacy of the standard given the present-day RDC performance criteria method, is questionable given modern dwelling designs and the utilisation of outdoor open spaces. In other words, the shortcoming of the Scheme standard is that it is not giving guidance or responsive to differing circumstances, other than being open to interpretation for Council to determine the outcome in each case.

The proposal has been carefully considered in connection with this site works framework, including review with the Architect, and the conclusion is that the design treatment of the front setback area of the dwelling does address the aim of the RDC to balance topography, streetscape and amenity. That is, the slope of the site and street is designed to and revealed by the proposal, including a true basement, a lower building than normal, and an almost recessive visual impression as a result of the horizontality and floating-effect of the conception.

It is also noted that the fencing will need to meet the requirement of the Australian Standard for a swimming pool safety barrier with a well-designed and considered front fence.

### **Swimming Pool**

A lap swimming pool is proposed on the western side boundary for the front residence. Swimming pools are not subject to setbacks; however, the neighbour has concerns regarding the earthworks. The neighbour has concerns regarding the possible removal of the boundary fence and the footings required.

In this regard, Council has received numerous applications for below ground structures against a side boundary. A dilapidation report and other normal construction requirements would be involved in the building licence process to address these aspects. It is also indicated that all costs relating to any new western boundary fencing (if required) will be borne by the applicant. An advice note explains this.

### **Side Boundary Setbacks**

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
1 <sup>st</sup> floor East Wall	All (except balcony (front residence))	6.5m	20m	No	2.3 metres	1.2 to 3 metres
Ground East Wall	All (rear residence)	2.5m	15.5m	Yes	1.5m	1.2 to 5.3 metres
1 <sup>st</sup> floor East wall	All (rear residence)	6.5m	19m	No due to screening	2.2 metres	1.2 to 4.4 metres

#### *“3.3.1 – Buildings Set back from the Boundary*

*P1 Buildings set back from boundaries other than street boundaries so as to:*

- *Provide adequate direct sun and ventilation to the building*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*

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

The 1<sup>st</sup> floor east wall for the front residence has a boundary setback of 1.2 to 3m where 2.3 metres is usually required. It has a wall height at its highest point of 6.5m above ground level and is as low as 5m in height at the boundary. This wall is penalized by the RDC as they require walls to be measured to the highest point. The wall continues to provide adequate direct sun and ventilation to the building and neighbouring properties. The staggered setback ameliorates bulk and screening removes most privacy concerns. A driveway is located on the eastern neighbouring property abutting this boundary. On balance, it is considered that the proposed 1<sup>st</sup> floor east side boundary setback variation satisfies the above Performance Criteria of the RDC.

This proposal is to have a 1.2 to 5.3m setback to the side boundary for the ground east wall. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space. It can be argued the wall does not have an adverse effect on the amenity of the adjoining property. This is partly due to the driveway being located adjacent.

The proposal also ensures that direct sun and ventilation to outdoor living areas of adjoining properties is adequate. The proposal does meet all privacy requirements and the side boundary setback variation satisfies the above Performance Criteria of the RDC.

The 1<sup>st</sup> floor east wall of the rear residence has a boundary setback of 1.2 to 4.4m where 2.2m is usually required. It has a wall height at its highest point of 6.5m above ground level and is as low as 5.5m in height at the boundary. This wall is penalized by the RDC as they require walls to be measured to the highest point. The wall continues to provide adequate direct sun and ventilation to the building and neighbouring properties. The staggered setback ameliorates bulk and the screening removes all privacy concerns. A driveway is located on the eastern neighbouring property abutting this boundary. On balance, it is considered that the proposed 1<sup>st</sup> floor east side boundary setback variation satisfies the above Performance Criteria of the RDC.

It should be noted the two proposed angled screens and sunshades on the western elevation are not subject to setback calculations. They cannot be considered as walls. The RDC define walls as *“the vertical external face of a constructed building comprising solid building material and including enclosures to verandahs and balconies”*. However it is noted these are structures nearer to the boundary than the main setback which arguably add to the visual impression of bulk.

In this regard the RDC do make allowance for minor projections or incursions into setback areas, such as chimney nib walls, awnings and other such design features or construction techniques, in the following manner: 3.3.1 A1 iv – *Minor projections such*

*as a chimney, other architectural feature or an eaves overhang not projecting more than 0.75m into a setback area and to be no closer than 0.75m to a boundary.*

In comparison, for the rear dwelling, the proposed upper screen awning occupies an airspace distance of 0.8m and is 1.2m from the boundary, while the lower screen awning occupies an airspace distance of 1.2m and is 0.8m from the boundary. For the front dwelling, the screens are setback an additional 500mm from these figures. As the screen awnings are not solid volumes (ie walls to rooms), are likely to be up to 20% perforated, are at angles, and are thin wings with only a tip point near the boundary, their impact both physically and visually is largely ameliorated. At the same time, their length and the volume of airspace they occupy at an angle means that they would have a visible presence, albeit an apparently elegant solution integral to the design. Overall, given that the objective of the boundary setbacks element of the RDC embraces sunlight, ventilation, bulk and privacy as factors to be taken into account, a case can be seen to support the proposed screen awnings.

Also, Council has received objections regarding the southern elevation setback being required to be 1.8m. The revised plans dated 7 November 2007 now meet Figure 2D of the Residential Design Codes which allow two small sections to be setback 1.2m from the southern boundary provided the distance between these two sections is 4m. This is based on a wall height of approximately 5.5m at the southern boundary. This wall elevation meets the Acceptable Development provisions for its boundary setback. Whilst the Scheme and RDC do refer to views as a general consideration, there is no specific guidance in this regard, and it is noted that views per se are not directly addressed in the boundary setback element of the RDC; however, views are considered below.

### **Views**

Both the Scheme and the RDC identify views as a general consideration and the notion of sharing views, yet there are no detailed provisions or guidelines in this regard. As observed, in south Cottesloe the rising topography and predominant east-west orientation of streets affords view corridors down these streets to the ocean, whereby the fronts of dwellings can be designed accordingly.

By stepping dwellings up the street with compatible heights and front setbacks, views can be obtained on a fairly equitable basis from this public domain interface. The situation in relation to the sides and rears of properties is more constrained, in that the many design and development variables involved cannot guarantee access to views or that views will not be lost as a locality develops over time. What occurs for rear dwellings, which are already in confined positions with limited outlooks, is that the introduction of new built volume, typically at today's norm of two-storey, is likely to impinge on any partial vistas between or across the existing buildings in the vicinity.

The subject proposal is sensitive to these circumstances, in that it contains height, creates an intermediate view-line between the two dwellings, and is a minimalist-style.

**Open Space**

The application easily complies with open space requirements for R30 coded lots. The property has 61% open space; hence in this respect the setback can be supported.

**Overshadowing**

The proposal complies with overshadowing acceptable development requirements. This shadow area of 98sqm is approximately 20% of 2A Beach Street, the southern neighbour, which is much less than the maximum permissible 35% under the RDC for R30 density-coded lots. In other words, although it is desirable to minimise the extent of shadow, where this is no more than the amount allowable and in fact significantly less, then the proposal is able to be supported.

**CONCLUSION**

The proposed development is recommended for approval, subject to conditions. There are areas where the proposal exceeds the requirements of the Scheme and RDCodes, however, in many instances; it is considered that the Performance Criteria are satisfied.

The building heights of the proposal are in compliance with the RDC and are well-below the maximum height allowed under the Scheme. It is assessed that privacy is largely controlled and that the angled screens are satisfactory.

With regard to the front setback, the proposed lower-level terrace with fence/retaining wall and the upper-floor balcony are considered acceptable in the context of the setbacks of neighbouring properties and the overall built form of the locality, as well as the resultant general availability of views.

The side and rear boundary setbacks meet either or both the Acceptable Development Standards and Performance Criteria of the Residential Design Codes and no changes to these setbacks are recommended.

The application easily meets open space and overshadowing requirements.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

The Committee broadly discussed the design parameters of the proposal including setbacks and the front terrace and balcony. The Manager Development Services confirmed the height compliance of the proposal, as well elaborated on the approach to the design and assessment of the dwellings in the context of the site and streetscape. The Committee considered that the upper level balcony would be more acceptable with see-through side sections to ameliorate any sense of mass were the setback to be as intended, hence the Committee moved that an additional condition be added accordingly.

- (n) *For House 1 fronting Princes Street, to the upper-level balcony, the balustrades to the western and eastern side shall be of a visually-permeable design and material/s, and this shall be shown and specified in the plans and documentation submitted for a building licence, all to the satisfaction of the Manager Development Services.*

**OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the Two x Two Storey Grouped Dwellings and Swimming Pool at No. 1A &1B (Lot 13) Princes Street, Cottesloe, in accordance with the revised plans submitted on 7 November 2007 and the further revised plans submitted on 12 November 2007 (for the west-facing privacy screen and revised first floor layout of the rear dwelling (House 2), subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.
  - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the relevant local law.
  - (f) The existing redundant crossover in Princes Street being removed, and the verge, kerb and all surfaces made good, at the applicant's expense to the satisfaction of the Manager Engineering Services.
  - (g) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees (February 2000) where development requires the removal, replacement, protection or pruning of street trees.
  - (h) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
  - (i) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to

noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.

- (j) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.
- (k) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (l) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (m) Revised plans shall be submitted at building licence stage to the satisfaction of the Manager Development Services, showing full details, including construction, materials, finishes and colours, of the angled screens to the western elevation; which shall have a solid-to-perforated surface ratio of minimum 80% solid and maximum 20% perforated (evenly distributed).

Advice Notes:

- 1. Construction of the earthworks, basement, pool, retaining walls, boundary walls, dwelling and in-ground services will be required to follow all necessary building applications, approvals and procedures in order to ensure structural integrity and protect the interests of adjacent properties.
  - 2. The design of the front and side fences/retaining walls will also be required to comply with Australian Standard 1926.1 for swimming pool barriers.
- (2) Advise the submitters of this decision.

### 11.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

**That Council:**

- (1) **GRANT its Approval to Commence Development for the Two x Two Storey Grouped Dwellings and Swimming Pool at No. 1A &1B (Lot 13) Princes Street, Cottesloe, in accordance with the revised plans submitted on 7 November 2007 and the further revised plans submitted on 12 November 2007 (for the west-facing privacy screen and revised first floor layout of the rear dwelling (House 2), subject to the following conditions:**
  - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way**



or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the relevant local law.
- (f) The existing redundant crossover in Princes Street being removed, and the verge, kerb and all surfaces made good, at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees (February 2000) where development requires the removal, replacement, protection or pruning of street trees.
- (h) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property and disposed of into adequate soakwells.
- (k) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (l) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (m) Revised plans shall be submitted at building licence stage to the satisfaction of the Manager Development Services, showing full details, including construction, materials, finishes and colours, of

the angled screens to the western elevation; which shall have a solid-to-perforated surface ratio of minimum 80% solid and maximum 20% perforated (evenly distributed).

- (n) For House 1 fronting Princes Street, to the upper-level balcony, the balustrades to the western and eastern side shall be of a visually-permeable design and material/s, and this shall be shown and specified in the plans and documentation submitted for a building licence, all to the satisfaction of the Manager Development Services.

**Advice Notes:**

1. Construction of the earthworks, basement, pool, retaining walls, boundary walls, dwelling and in-ground services will be required to follow all necessary building applications, approvals and procedures in order to ensure structural integrity and protect the interests of adjacent properties.
  2. The design of the front and side fences/retaining walls will also be required to comply with Australian Standard 1926.1 for swimming pool barriers.
- (2) Advise the submitters of this decision.

Carried 9/0

*Mr Andrew Jackson left the meeting at 7.42 pm and did not return.*

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 20 NOVEMBER 2007**

The agenda items were dealt with in the following order: Item 12.1.1, 12.1.2, 12.1.3, 12.1.4, 12.1.5, 12.2.1, 12.2.2, 12.2.3, 12.4.2 and then the balance in numerical order en bloc.

**12.1 ADMINISTRATION****12.1.1 STATION STREET- PROPOSED REDEVELOPMENT OF COUNCIL LAND**

**File No:** SUB/227  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 15 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to form a Station Street Redevelopment Working Group comprised of Council's nominated representatives to Procott, the East Ward Councillors and two members of Procott.

The Working Group is to make recommendations to Council on:

- Planning objectives and outcomes for the two Council-owned sites in Station Street,
- Selection criteria for the expressions of interest process,
- A shortlist of preferred tenderers following the close of the registrations of interest process,
- Selection criteria for the preferred tenderers prior to calling tenders for the redevelopment of land in Station Street,
- A recommended tenderer.
- The development of a business plan as and when required under Section 3.59 of the Local Government Act 1995.

**STATUTORY ENVIRONMENT****Local Government Act 1995**

Sections 3.57 to 3.59 have particular application and are reproduced 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 goods or services.

(2) Regulations may make provision about tenders.

**3.58. Disposing of property**

(1) In this section —

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

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“**property**” includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to—

- (a) the highest bidder at public auction; or
- (b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

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

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

and

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

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

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

(5) This section does not apply to —

- (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
- (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
- (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
- (d) any other disposition that is excluded by regulations from the application of this section.

**3.59. Commercial enterprises by local governments**

(1) In this section —

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

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

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

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

(b) develop land;

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

(a) the consideration under the transaction; and

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

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

**“major trading undertaking”** means a trading undertaking that —

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

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

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

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

(2) Before it —

(a) commences a major trading undertaking;

(b) enters into a major land transaction; or

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

a local government is to prepare a business plan.

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

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

(4) The local government is to —

(a) give Statewide public notice stating that —

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

and

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

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

*\* Absolute majority required.*

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

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

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

(8) A local government can only continue carrying on a trading undertaking after it has become a major trading undertaking if it has complied with the requirements of this

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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**

One of the stated objectives of the *Future Plan* is to “Develop an integrated Town Centre plan to improve all aspects of the infrastructure of the Town Centre.” This objective has been identified as a priority for 2007/2008.

### **FINANCIAL IMPLICATIONS**

Nil

### **BACKGROUND**

Since 1999, Council has looked at the potential redevelopment of Council-owned land in Station Street on several occasions.

In more recent times (July 2003) Council decided to defer a decision to invite comment on a design concept for a two level 115 bay car park over the drainage basin in Station Street and the potential sale of the existing 46 bay car park to fund the project until other development options had been explored.

The decision followed a presentation at an earlier Works and Corporate Services Committee meeting which was made by representatives of Australian Property Systems Limited (APSL).

They indicated that they had the expertise to present a solution for the development of vacant Council land in Station Street which would satisfy both the needs of the Town of Cottesloe and BP Australia and maximise the return to both parties.

A further presentation by APSL resulted in a request being made to them to document their solution and put a formal submission to Council.

Their subsequent submission was considered by Council and in February 2004 Council decided 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 and six expressions of interest were received by the closing date. However none of those who lodged an expression of interest went anywhere near addressing all of the selection criteria and expressions of interest were subsequently recalled.

Revised documentation addressing the selection criteria was received from the following five companies.

- Australian Development Consultants;
- Edit Developments;
- Jamac Properties;
- Olympic Holdings;
- Property Resources Consulting.

Following an analysis of the documentation, a staff recommendation was made to seek tenders from Property Resources Consulting Pty Ltd and Australian Development Consultants for the redevelopment of Council land in Station Street, Cottesloe.

The Committee recommendation to Council was that:

- (1) Council form a reference group, composed of the Mayor and the East Ward Councillors, to assist with the preparation of tender documentation and report back to Council; and
- (2) Property Resources Consulting Pty Ltd and Australian Development Consultants be preliminarily selected as tenderers for the redevelopment of Council land in Station Street, Cottesloe.

However at Council level there was considerable uncertainty as to what Council actually wanted for the two sites and concerns were expressed about the tender process.

It was therefore decided that a community consultation process be initiated before any further work was carried out.

## **CONSULTATION**

Community consultation on the Town Centre was undertaken in late 2005 as a part of Town Planning Scheme review process. The results of the consultation process (*Town Centre Consultation Report* and *Town Centre Concept Plan*) have been published and can be found on Council's website at: [www.cottesloe.wa.gov.au/?p=544](http://www.cottesloe.wa.gov.au/?p=544)

The feedback from the consultation process was that:

- Council needed to address the alignment of Curtin Avenue with the Department of Planning and Infrastructure as soon as possible.
-



- Curtin Avenue and the railway to be aligned.
- Agreement on utilising the open space west of the railway line – potential for small/high density residential interspersed with public open space.
- Increase practicality of the east/west links – consider over/under passes and better use of Jarrad and Forrest Street.
- Maintain Napoleon Street character.
- Consider height to same as “Vivians Corner”
- Create better access to an from the Grove Shopping Centre
- Review parking issues within the town.
- Create some visual amenity.

As a result *Draft Town Planning Scheme No.3* potentially permits three-storey mixed-use development in Station Street while Napoleon Street retains its essential two-storey retail/office character subject to the minimisation of amenity impacts.

Parking has been identified as a problem in the Town Centre.

Short-term parking has been freed up in Napoleon Street with the better management of parking through the use of Meter-Eye technology. The Town of Cottesloe has received positive feedback in this regard – mainly from residents of the Town.

However the enforcement of parking restrictions has highlighted the plight of long-term parkers (mainly town centre workers) who are averse to parking on the western side of the railway line and rely on the carpark at the corner of Station Street and Railway Street for all-day parking.

For many years now, parking restrictions have not been enforced in the Council carpark at the corner of Station Street and Railway Street simply because it has become a de facto all-day carpark in the absence of any practical alternative.

This custom and practice means that short-term parkers (i.e. the very clients of the businesses in the town centre) find it difficult to park.

As a result, plans have been developed for the provision of replacement all-day parking off Railway Street and Forrest Street.

Two private developers continue to make enquiries of the CEO and the Manager of Development Services regarding the potential development of the Council-owned land either in partnership or by outright purchase.

It was suggested at the March 2007 meeting of Council that now that Council has had the benefit of community feedback regarding the town centre it would be appropriate to revisit the development of Council-owned land in Station Street.

Council staff were requested to prepare a further report on a process to be followed in developing Council land in Station Street for mixed use and public parking purposes.

**STAFF COMMENT**

The CEO and Manager of Planning Services met with representatives of Procott on the 23<sup>rd</sup> October 2007 where there was strong support for plans for the provision of all-day parking off Forrest Street and Railway Street.

On the basis that plans for additional parking would come to fruition, members of Procott expressed the view that any redevelopment of existing and potential parking sites in Station Street could contemplate the provision of paid parking given the perceived benefits of secure undercover parking.

Procott also indicated that is an emergent sense of community within the business fraternity in the Town Centre. That community is very keen to enhance the appearance of “the village” without necessarily turning the Town Centre into an unroofed Morley Galleria as it were. Procott wants to be actively involved in any decision that affects the amenity of the Town Centre.

Turning to the proposed redevelopment of land in Station Street, the process that was used in 2004 of firstly inviting expressions of interest from developers and then inviting preferred tenderers (from within the pool of those who had expressed an interest) worked well – at least in terms of identifying those who were the most experienced and capable of developing Council land in Station Street land.

However the process came unstuck at the last moment when questions were raised at Council level as to what was actually wanted for the two sites. Concerns were also expressed about the tender process.

The lack of ‘buy-in’ at Council and community level suggests that in any new development process, Councillors and representatives of Procott should be involved from the outset by assisting with;

- The development of planning objectives and outcomes for the two sites,
- The development of selection criteria for the expressions of interest process,
- The assessment and recommendation of a shortlist of preferred tenderers to Council,
- The development of selection criteria for the preferred tenderers,
- The assessment and recommendation of a tender to Council
- The development of a business plan as and when required.

**VOTING**

Simple Majority.

**OFFICER RECOMMENDATION**

That Council form a Station Street Redevelopment Working Group comprised of Council’s nominated representatives to Procott, the East Ward Councillors and two members of Procott to make recommendations to Council on:

- (1) Planning objectives and outcomes for the two Council-owned sites in Station Street.
-

- (2) Selection criteria for the expressions of interest process.
- (3) A shortlist of preferred tenderers following the close of the registrations of interest process.
- (4) Selection criteria for the preferred tenderers prior to calling tenders for the redevelopment of land in Station Street.
- (5) A recommended tenderer.
- (6) The development of a business plan as and when required under Section 3.59 of the *Local Government Act 1995*.

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

Moved Mayor Morgan, seconded Cr Strzina

**That Council form a Station Street Redevelopment Working Group comprised of Council's nominated representatives to Procott, Cr Birnbrauer and Cr Dawkins; the East Ward Councillors, Cr Cunningham and Cr Miller and two members of Procott to make recommendations by June 2008 to Council on:**

- (1) Planning objectives and outcomes for the two Council-owned sites in Station Street.**
- (2) Selection criteria for the expressions of interest process.**
- (3) A shortlist of preferred tenderers following the close of the registrations of interest process.**
- (4) Selection criteria for the preferred tenderers prior to calling tenders for the redevelopment of land in Station Street.**
- (5) A recommended tenderer.**
- (6) The development of a business plan as and when required under Section 3.59 of the *Local Government Act 1995*.**

**Note: Upon completion of items (1) & (2) by the working group, the matter is to be referred back to Council for further consideration.**

Carried 8/1

**12.1.2 COMMUNITY CONSULTATION - BEACHFRONT CAR PARKING**

**File No:** SUB/582  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Report Date:** 15 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

Recommendations are made to:

1. Agree to the extension of existing time limits for the 21 car bays on the western side of the Marine Parade road reserve to one hour between the Forrest Street and the Napier Street intersections.
2. Request the Manager of Engineering Services to prepare plans and cost estimates for off-street parking on the northern side of the Napier Street road reserve between Broome Street and Marine Parade and that Council give further consideration to the matter during 2008/2009 budget deliberations.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

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

Council was subsequently advised that any analysis of long term parking requirements should not be undertaken in isolation from medium and short term parking requirements. As Council staff had neither the expertise nor the time to prepare a comprehensive report on parking requirements and solutions for the town centre, it was recommended that the work be contracted out so that a meaningful report could be brought back to Council.

Details of the parking study brief for a consultant were provided to the June meeting and extended to include the proposed Meter-Eye rollout for all metered parking spaces within the town rather than just confining it to the town centre.

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Council considered the results of the parking study at its September 2007 meeting and amongst a number of other recommendations; it was agreed to undertake community consultation on two specific recommendations of the study, namely;

- Consider converting the informal verge parking north of Napier Street into formal parking.
- The mix of parking on Marine Parade should be changed to provide 30 minutes and 1 hour parking. The current parking mix provides 37, thirty-minute bays and 1 five-minute bay, the duration of stay in the 30 minute bays is 45 minutes at the 85th percentile (i.e. 85% of people stay for less than 45 minutes).

### **CONSULTATION**

Advertisements seeking submissions on the proposed rollout of Meter-Eye and changes to beachfront parking were placed on the Council and Library notice boards for the whole of October and up until the closing date of Monday 12<sup>th</sup> November 2007.

Advertisements were also placed in the Saturday 13<sup>th</sup> and 27<sup>th</sup> October 2007 editions of the *Post* newspaper.

The Council's webpage also invited submissions and committee members of SOS were informed of the invitation for submissions by way of email notification on the 28<sup>th</sup> September 2007.

No submissions were received.

### **STAFF COMMENT**

Given that there is no opposition or support for the proposals, Council is encouraged to support the recommendations of the parking consultant. Their recommendations are based on survey data and identified parking demand.

### **VOTING**

Simple Majority

### **OFFICER RECOMMENDATION**

That Council:

- (1) Agree to the extension of existing time limits for the 21 car bays on the western side of the Marine Parade road reserve between the Forrest Street and the Napier Street intersections, to one hour.
- (2) Request the Manager of Engineering Services to prepare plans and cost estimates for off-street parking on the Northern side of the Napier Street road reserve between Broome Street and Marine Parade and that Council give further consideration to the matter during 2008/2009 budget deliberations.

**COMMITTEE RECOMMENDATION**

- (1) That Council agree to the extension of existing time limits for the 21 car bays on the western side of the Marine Parade road reserve between the Forrest Street and the Napier Street intersections, to one hour.
- (2) That Council request the Manager of Engineering Services to prepare plans and cost estimates for off-street parking including an ACROD parking bay on the Northern side of the Napier Street road reserve between Broome Street and the westernmost fence of the Cottesloe Tennis Club and that Council give further consideration to the matter during 2008/2009 budget deliberations.

**DECLARATION OF INTEREST**

*Mayor Morgan declared an interest of impartiality as a patron of the Cottesloe Tennis Club.*

*Cr Boland declared an interest of impartiality as a member of the Cottesloe Tennis Club.*

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Birnbrauer

That in part (2) after the words 'Cottesloe Tennis Club' the words 'excluding areas that already contain lawn that is not degraded' be inserted.

Lost 2/7

The recommendation was dealt with in two parts.

**12.1.2 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

- (1) That Council agree to the extension of existing time limits for the 21 car bays on the western side of the Marine Parade road reserve between the Forrest Street and the Napier Street intersections, to one hour.**

Carried 9/0

Moved Mayor Morgan, seconded Cr Strzina

- (2) That Council request the Manager of Engineering Services to prepare plans and cost estimates for off-street parking including an ACROD parking bay on the Northern side of the Napier Street road reserve between Broome Street and the westernmost fence of the Cottesloe Tennis Club and that Council give further consideration to the matter during 2008/2009 budget deliberations.**

Lost 1/8

**12.1.3 COMMUNITY CONSULTATION - ROLLOUT OF METER EYE**

**File No:** SUB/582  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

At the September meeting of Council it was agreed in principle to install Meter Eye equipment throughout monitored parking areas on the beachfront as provided for in the 2007/08 budget subject to community consultation.

Community consultation has been undertaken and a recommendation is made to defer the installation of Meter Eye in monitored parking areas on the beachfront pending the receipt of further legal advice.

**STATUTORY ENVIRONMENT**

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

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

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

(2) Regulations may make provision about tenders.

Regulation 11 of the *Local Government (Functions and General) Regulations 1996* provides the following:-

**11. Tenders to be invited for certain contracts**

(1) Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100 000 unless subregulation (2) states otherwise.

(2) Tenders do not have to be publicly invited according to the requirements of this Division if -

(a) the supply of the goods or services is to be obtained from expenditure authorised in an emergency under section 6.8(1)(c) of the Act;

(b) the supply of the goods or services is to be obtained through the Council Purchasing Service of WALGA;

(ba) the local government intends to enter into a contract arrangement for the supply of goods or services where —

(i) the supplier is either —

(I) an individual whose last employer was the local government; or

(II) a group, partnership or company comprising at least 75% of persons whose last employer was that local government;

(ii) the contract -

(I) is the first contract of that nature with that individual or group; and

(II) is not to operate for more than 3 years;

and

(iii) the goods or services are —

(I) goods or services of a type; or

(II) (in the opinion of the local government) substantially similar to, or closely related to, goods or services of a type,

that were provided by the individual (or persons) whilst employed by the local government;

(c) within the last 6 months —

(i) the local government has, according to the requirements of this Division, publicly invited tenders for the supply of the goods or services but no tender was submitted that met the tender specifications; or

(ii) the local government has, under regulation 21(1), sought expressions of interest with respect to the supply of the goods or services but no person was, as a result, listed as an acceptable tenderer;

(d) the contract is to be entered into by auction after being expressly authorised by a resolution of the council of the local government;

(e) the goods or services are to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government;

(ea) the goods or services are to be supplied —

(i) in respect of an area of land that has been incorporated in a district as a result of an order made under section 2.1 of the Act changing the boundaries of the district; and

(ii) by a person who, on the commencement of the order referred to in subparagraph (i), has a contract to supply the same kind of goods or services to the local government of the district referred to in that subparagraph;

(f) the local government has good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier; or

(g) the goods to be supplied under the contract are —

(i) petrol or oil; or

(ii) any other liquid, or any gas, used for internal combustion engines.

## **POLICY IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

Nil

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**FINANCIAL IMPLICATIONS**

An amount of \$300,000 has been set aside in the 2007/08 budget for the installation of Meter-Eye equipment. Additional income of approximately \$220,000 was anticipated from the installation of Meter-Eye to offset these costs but this is unlikely to be realised this financial year due to the unavoidable lateness of installation.

**BACKGROUND**

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

Council was subsequently advised that any analysis of long term parking requirements should not be undertaken in isolation from medium and short term parking requirements. As Council staff had neither the expertise nor the time to prepare a comprehensive report on parking requirements and solutions for the town centre, it was recommended that the work be contracted out so that a meaningful report could be brought back to Council.

Details of the parking study brief for a consultant were provided to the June meeting and extended to include the proposed Meter-Eye rollout for all metered parking spaces within the town rather than just confining it to the town centre.

Council considered the results of the parking study at its September 2007 meeting and amongst a number of other recommendations; it was agreed in principle to install Meter-Eye equipment throughout monitored parking areas on the beachfront as provided for in the 2007/08 budget subject to community consultation.

As the proposed expenditure is in excess of \$100,000 tenders would ordinarily have to be called. However the product is unique in that it is the only known parking system that integrates the data transmitted from the Meter Eye unit into the ticket issuing machine thereby eliminating the duplication of data and reducing the likelihood of data entry errors and resulting in the write-off of incorrectly issued tickets. With only one hand held unit, the Meter-Eye system enables the Ranger to detect and interrogate the overstay signal, populate the infringement fields on the infringement notice and print the infringement notice.

Faulty parking bay units can be easily repaired or replaced without digging up the road surface. The units can also be reprogrammed by the Rangers for different time limits without relying on Wilson Technology Solutions to undertake the work.

The real-time illuminated street signage is also product specific.

It would seem therefore, that Council has "...good reason to believe that, because of the unique nature of the goods or services required or for any other reason, it is unlikely that there is more than one potential supplier" that is capable of meeting the specific requirements of the Town of Cottesloe in requiring a system that eliminates duplication of data entry and provides illuminated signage.

In other words, the Town of Cottesloe can purchase the equipment without calling tenders.

The only other comparative product (PODS or Parking Overstay Detection System) does not have the technological advantages of the Meter-Eye system. As an aside, PODS has received adverse reports in relation to trials undertaken by the City of Moonee Valley and the City of Whitehorse in Victoria. However other local governments appear to be using the system without trouble (Maribyrnong City Council, Manningham City Council and the Town of Victoria Park).

### **CONSULTATION**

Advertisements seeking submissions on the proposed rollout of Meter Eye were placed on the Council and Library notice boards for the whole of October and up until the closing date of Monday 12<sup>th</sup> November 2007.

A news item on Meter Eye was published in the October edition of *Cottesloe Council News* and published in the *Post* newspaper on Saturday 6<sup>th</sup> October, 2007.

Advertisements were also placed in the Saturday 13<sup>th</sup> and 27<sup>th</sup> October 2007 editions of the *Post* newspaper.

The Council's webpage also invited submissions and committee members of SOS were informed of the invitation for submissions by way of email notification on the 28<sup>th</sup> September 2007.

No submissions were received.

### **STAFF COMMENT**

The Meter-Eye parking management system has been on trial in Napoleon Street since January of this year. Currently if there a number of over-stays in the street while a Ranger is driving through the area, the Ranger is alerted and has the option of stopping and writing infringement notices.

However, the key advantage with the Meter-Eye system is that Rangers can undertake other priority tasks while at the same time monitoring parking in busy areas. For example, a Ranger working in the Council office can be kept informed of the current status of parking throughout the Town through a live computer feed. The computer feed can then be used to inform other people of the extent of parking overstays and a phone call can then be made to other Rangers in the immediate area if a particular parking problem has been identified.

The Meter-Eye system also collects data on all vehicle movements within the monitored bays. This data is very useful in analysing current parking trends and assisting with improved parking strategies. The signals from the hand held units are matching vehicle movements perfectly. The attachment to the report shows sample reports for vehicle stays in Napoleon Street.

The real time data can also be used to show drivers how many bays are available in particular areas using illuminated information signs in prominent locations.

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The Meter-Eye trial in Napoleon Street has not been without its problems however. A number of 'head' replacements for the individual units have been made throughout the year in an attempt to prevent the entry of water into the units.

The entry of water has resulted in circuit board failures and has resulted in a few 'false positive' signals. Initially it was agreed by all parties that the standard of workmanship in attaching the heads to the bases was the likely cause of the problem. However recent evidence suggests that a combination of factors is likely to be the cause of water infiltration.

The original bases were identified as having slightly imperfect surfaces where they connect to the heads which was the result of a coarse grinding method used during their manufacture. In addition, the immersion of the bases in hot tar during installation in the road surface may have caused distortions in the casing and thus contributed to the sealing problem

In October, it was decided to remove and replace all the bases. The new bases are have significantly improved seals. The installation process now uses a two part adhesive, rather than hot tar, to bond the bases to the road surface.

The Rangers have been heavily testing and monitoring the new units. This has included the use of a water truck to inundate the heads with water. Continued testing of the units has shown an absence of water entering the units.

It is proposed that the following equipment will be purchased from Wilson Technology Solutions for a period.

550	Meter-Eye VDS units
2	VDS Handheld/Programmer units
19	Slave units
10	Street Signs
1	Dedicated computer and software

The proposed locations are:-

Number One Carpark	134 bays
Number Two Carpark	354 bays
Marine Parade between Forrest St and Napier Street	38 bays
Forrest Street	16 bays
John Street	44 bays
<b>Total</b>	<b>586 bays</b>

Contract documentation for the purchase and maintenance of the Meter-Eye system is due shortly but needs to be reviewed by Council's legal advisers to ensure that the interests of the Town of Cottesloe are protected.

We are also awaiting legal advice on what, if any, changes need to be made to Council's local laws relating to parking.

It would also be useful to obtain confirmation from our legal advisers that tenders need not be called for the purchase of the system from Wilson Technology Solutions.

A further factor delaying the installation of the Meter-Eye system is the uncertainty surrounding the proposal to turn the Number 2 carpark into a 3 hour parking station. Community submissions on this proposal do not close until the 10<sup>th</sup> December 2007.

### **VOTING**

Simple Majority

### **OFFICER RECOMMENDATION**

That Council:

- (1) Receive this status report on Meter-Eye.
- (2) Note the lack of any opposition or support for the rollout of the Meter-Eye parking system for the timed parking areas on the Cottesloe Beachfront.
- (3) Reconsider the rollout of Meter-Eye after the receipt of legal advice relating to contract documentation, local laws relating to parking and the legal requirement to call tender.

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

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (1) Receive this status report on Meter-Eye.**
- (2) Note the lack of any opposition or support for the rollout of the Meter-Eye parking system for the timed parking areas on the Cottesloe Beachfront.**
- (3) Proceed with the rollout of Meter-Eye subject to the CEO being satisfied with legal advice relating to contract documentation, local laws relating to parking and the legal requirement to call tender.**

Carried 8/1

**12.1.4 BOAT PERMITS FOR VERGES**

**File No:** SUB/200  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Report Date:** 15 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A recommendation is made to not allow permits for the parking of unattached boat trailers on road verges.

**STATUTORY ENVIRONMENT**

There are two sections of Council's *Parking Local Law* that are relevant.

**4.9 No parking of vehicles exposed for sale and in other circumstances**

A person shall not park a vehicle on any portion of a thoroughfare:

- (a) for the purpose of exposing it for sale;
- (b) if that vehicle is not licensed under the Road Traffic Act;
- (c) if that vehicle is a trailer or a caravan unattached to a motor vehicle; or
- (d) for the purpose of effecting repairs to it, other than the minimum repairs necessary to enable the vehicle to be moved to a place other than a thoroughfare.

**8.1 Residential parking permit**

- (1) A person may apply for a permit to park a vehicle on a thoroughfare if the person is:
  - (a) an occupier of a lot fronting the thoroughfare;
  - (b) the holder of the requisite vehicle licence under the Road Traffic Act for the vehicle; and
  - (c) subject to subclause (2), described on the vehicle licence as residing at the lot.
- (2) An applicant for a permit who is not described in accordance with subclause (1)(c), may apply for a temporary permit by stating (by way of statutory declaration) on an application for such that he or she resides at that lot.
- (3) An application for a permit shall be made in the form determined by the local government.
- (4) The local government may in respect of an application for a permit for the purpose of subclause (1) or (2):
  - (a) approve it;
  - (b) approve it subject to such conditions as the local government considers appropriate; or
  - (c) refuse to approve it.

- (5) Where the local government makes a decision under subclauses (4)(a) or (b), it shall issue a permit in the form determined by it to the person who applied for the permit.
- (6) A temporary permit issued for the purpose of subclause (2):
  - (a) will expire 3 months after it is issued; and
  - (b) is not renewable.
- (7) A permit issued for the purpose of subclause (1) may be either:
  - (a) an annual permit, issued for a period not exceeding one year and expiring on 31 December in the year of issue; or
  - (b) a temporary permit, issued for a period not exceeding 6 months from the date of issue.
- (8) Every permit issued for the purpose of subclause (1) is to specify:
  - (a) a permit number;
  - (b) the registration number of the vehicle;
  - (c) the name of the thoroughfare to which the exemption granted by clause 8.2 applies; and
  - (d) the date on which it expires.

### **8.2 Conditions of exemption for residential parking permits**

Where parking of a vehicle on any part of a thoroughfare within the district is prohibited for more than a specified time, or without an unexpired parking ticket being displayed within the vehicle, the holder of a permit issued under clause 8.1 is exempted from such prohibitions if:

- (a) the vehicle is parked on a thoroughfare specified in the permit, but not adjacent to retail premises where the parking of all vehicles is subject to a time restriction;
- (b) the permit is affixed to the windscreen of the vehicle in a prominent position;
- (c) the period in respect of which the permit was issued has not expired; and
- (d) if the holder of the permit at the time of parking the vehicle still resides at the lot in respect of which the permit was issued.

### **8.3 Removal and cancellation of residential parking permit**

The holder of a permit issued under clause 8.1 who changes residence shall remove the permit from the vehicle to which it is affixed, and the permit shall be deemed to be cancelled on and from the date the holder changes residence.

## **POLICY IMPLICATIONS**

Nil

## **STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

Several years ago Council decided that it was unacceptable for unattached boats, caravans and trailers to be parked on road verges. Following a number of complaints over a period of more than a year, in June this year the rangers began enforcing the local law preventing the practice of parking unattached trailers on road verges. Initial contact was made with visits to residents who were breaching the local law and requesting that the trailers be moved. Most residents have complied with the local law however there has been some resistance from a small number of boat owners. A South Cottesloe resident has now applied to the Council for a parking permit for a boat trailer as provided for under Council's Parking local law.

**CONSULTATION**

Nil

**STAFF COMMENT**

The Manager for Corporate Services has discussed this issue with the Senior Ranger.

The Senior Ranger believes that the residential permit system was not intended to be used in this way. Rather that it was intended to permit residents in apartments in Overton Gardens and similar areas to park for lengthy periods without being fined for breaching sign-posted time limits on the street.

Currently there is no fee associated with the issue of a parking permit.

There would appear to be three options open to Council in dealing with the current application for a permit to park a boat trailer on the road verge.

The first is to grant the permit.

The second is to refuse the permit.

The third is to defer approval or refusal of a permit pending the development of a policy which would set out the circumstances in which the Town of Cottesloe would grant or refuse approval. The policy would require community consultation before it could be adopted which means that the earliest application of the policy could not occur until May of next year given that community consultation over the Christmas period is not encouraged.

A policy should address the following areas of concern at a minimum:-

- size and proximity of the verge to the adjoining boat owners property,
- public liability, duty of care and third party insurance,
- maintenance, upkeep and appearance of the boat and trailer,

- minimum and maximum size,
- streetscape and public amenity considerations,
- neighbour objections/approvals, and
- appeal rights to the State Administrative Tribunal

Obviously the development and adoption of such a policy will require considerable administrative effort. The application and enforcement of the policy will also require additional staff resources.

Staff are of the view that the community generally supports the local law restricting the parking of unattached trailers on road verges and that aside from several disaffected boat owners, the issue has blown over.

For the above reasons, staff believe that no further encouragement should be given to the notion of permitting the parking of boat trailers on road verges and recommend that as a matter of policy, no permit be issued.

#### **VOTING**

Simple majority

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

That as a matter of policy, the Town of Cottesloe refuses the issue of parking permits for unattached boat trailers on road verges.

#### **AMENDMENT**

Moved Cr Strzina, seconded Cr Walsh

That Council defer approval or refusal of a permit pending the development of a policy which would set out the circumstances in which the Town of Cottesloe would grant or refuse approval.

Lost 4/5

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

Moved Mayor Morgan, seconded Cr Birnbrauer

**That as a matter of policy, the Town of Cottesloe refuses the issue of parking permits for unattached boat trailers on road verges.**

Carried 6/3



**12.1.5 MEETING DATES FOR 2008**

**File No:** SUB/383  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

A resolution setting out the ordinary Council meeting dates for 2008 is required.

**STATUTORY ENVIRONMENT**

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

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

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

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

In certain years, as is the case for 2008, Easter can also have an impact on meeting dates.

**CONSULTATION**

Nil

**STAFF COMMENT**

The proposed changes to the Easter meeting dates means that Council business can be attended prior to Easter rather than being interrupted by Easter.

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Cunningham

**That Council:**

- (1) **Observe a recess in January 2008, with no ordinary meeting of Council to be held;**
- (2) **Advertise the ordinary Council meeting dates for 2008 as the fourth Monday in the month commencing at 7.00 pm with the exception of March when the meeting is to be advanced to 17<sup>th</sup> March and December when the meeting is to be advanced to 15<sup>th</sup> December;**
- (3) **Advertise the Development Services Committee meeting dates for 2008 as the third Monday in the month commencing at 6.00 pm with the exception of March when the meeting is to be advanced to 10<sup>th</sup> March and December when the meeting is to be advanced to 8<sup>th</sup> December;**
- (4) **Advertise the Works & Corporate Services Committee meeting dates for 2008 as being held on the day after the Development Services Committee meeting commencing at 7.00 pm; and**
- (5) **Advertise the Strategic Planning Committee meeting dates for 2008 as being held on the day after the Works & Corporate Services Committee meeting in the months of March, June, September & December commencing at 6.00 pm.**

Carried 9/0

## 12.2 ENGINEERING

### 12.2.1 BUSINESS PLAN - SALE OF 25 MARGARET STREET

**File No:** PRO/2245  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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#### SUMMARY

At its meeting in September 2007, Council resolved to advertise the Business Plan for the sale of No. 25 (Lot 43) Margaret Street, Cottesloe and seek a report from a suitably qualified consultant to advise on the long term sustainability of the proposed Margaret Street drainage catchment and existing sump site.

This report provides details of the completed community consultation process and further advice on the consultant's study as to the capacity of the replacement drainage system as compared to the capacity of the existing open sump at 25 Margaret Street.

Recommendations are made to proceed with the sale of 25 Margaret Street, Cottesloe and to complete the installation of all soak pits and other required works prior to the filling and preparation of 25 Margaret Street for sale.

#### STATUTORY ENVIRONMENT

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

##### **3.58. Disposing of property**

(1) In this section —

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

**“property”** includes the whole or any part of the interest of a local government in property, but does not include money.

(2) Except as stated in this section, a local government can only dispose of property to —

(a) the highest bidder at public auction; or

(b) the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.

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

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

(i) describing the property concerned;

(ii) giving details of the proposed disposition; and

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

and

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

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

(a) the names of all other parties concerned;

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

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

(5) This section does not apply to —

(a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;

(b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;

(c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or

(d) any other disposition that is excluded by regulations from the application of this section.

### **3.59. Commercial enterprises by local governments**

(1) In this section —

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

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

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

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

(b) develop land;

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

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

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

**“major trading undertaking”** means a trading undertaking that —

- (a) in the last completed financial year, involved; or
- (b) in the current financial year or the financial year after the current financial year, is likely to involve,

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

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

(2) Before it —

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

a local government is to prepare a business plan.

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

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

(4) The local government is to —

(a) give Statewide public notice stating that —

(i) the local government proposes to commence the major trading undertaking or enter into the major land transaction described in the notice or into a land transaction that is preparatory to that major land transaction;

(ii) a copy of the business plan may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

and

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

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

*\* Absolute majority required.*

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

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

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

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

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

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

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

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

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

#### **POLICY IMPLICATIONS**

Nil

#### **STRATEGIC IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Council has budgeted to receive \$1.44m income from the sale of this property nett of GST. These funds are to be applied towards the provision of enhanced facilities at the Cottesloe Civic Centre.

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

Two and a half years have still to run on expenditure for street soak pits to be installed as part of the National Water Initiative project. Any extra soak pits that are required in the Margaret Street catchment will be funded through the National Water Initiative project.

#### **BACKGROUND**

The proposed sale of 25 Margaret Street is the last of three freehold open sump properties owned by Council to be sold.

The proceeds of the sale are to be directed towards the refurbishment of the Civic Centre.

In order to sell this property, Section 3.59 of the *Local Government Act 1995* requires a business plan to be prepared and put out for public comment. This is because the income from the sale is likely to be in excess of 10% of the annual operating expenditure of the Town of Cottesloe.

The business plan was prepared and accepted by Council at its September 2007 meeting. The required period for comment on this proposal ends on the 16 November, 2007. At the time of this report being written, no submissions have been received.

In the September resolution, a requirement for a report from a consultant was included, to advise on the long term sustainability of the proposed Margaret Street drainage catchment and existing sump site.

Porter Consulting have been engaged to undertake this study and have been provided with data and details on the catchment, the existing Margaret Street sump and the soak pits already installed within the catchment. The report has yet to be completed. It has been arranged for tests to be made on the catchment to obtain more accurate readings of the permeability of the soil to allow more accurate estimates of the volume of water required to be removed by the total number of installed soak pits in the catchment.

### **CONSULTATION**

Consultation regarding the sale of 25 Margaret Street has been undertaken in a state-side newspaper, on Council's web page and on Councils' Notice Boards.

### **STAFF COMMENT**

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

The drainage pipelines directing water into this sump have now been closed off. A substantial number of side entry soak pits have been installed in the catchment area as a replacement for the open drainage sump.

The process of equipping the catchment area with sufficient soak pits to replace the storage volume and soakage capacity is still underway but will be completed prior to the proposed sale of the property.

The consultant will deliver a report comparing the capacity of the sump at 25 Margaret Street to store, and dispose of by soakage, drainage water falling on the road system of the catchment area with the proposed multiple installation of kerbside soak pits.

The 'bottom line' of the report will be the identification of a specific number of soak pits required to duplicate, or improve on, the existing functionality of the open drainage sump at 25 Margaret Street. Whatever the identified number is, the provision of that number of soak pits can be achieved from within the remaining 2 ½ years of funding available under the National Water Initiative. If the consultant's report identifies that additional pits are required over and above the works already approved by Council, the required number of soak pits can be installed prior to the sale of 25 Margaret Street.

If Council resolves to proceed with the sale of 25 Margaret Street by way of public auction, a real estate agent will have to be appointed. In 2006, a large number of agents were contacted regarding the proposed sale of 45 Lyons Street, with eleven firms submitting sales proposals. Council resolved to appoint Mack Hall & Associates to undertake the sales process by public auction. The sales result for that property was considered to be very satisfactory and has not been challenged as was the case with a previous auction.



A similar contractual arrangement with Mack Hall & Associates for the sale of 25 Margaret Street is recommended to Council conditional upon the Mayor and CEO being jointly satisfied with the auction proposal that is provided by or negotiated with Mack Hall & Associates.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

That Council:

- (1) Proceed with the sale of 25 Margaret Street, Cottesloe by public auction.
- (2) Engage Mack Hall & Associates as the auctioneer conditional upon the Mayor and CEO being jointly satisfied with the auction proposal that is provided by or negotiated with Mack Hall & Associates
- (3) Authorise the CEO and Mayor to set a reserve price in consultation with the auctioneer at the time of auction;
- (4) Complete the installation of all soak pits and other works recommended by the drainage consultant's report prior to the filling and final preparation of 25 Margaret Street for sale.

**12.2.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Birnbrauer

**That Council:**

- (1) Proceed with the sale of 25 Margaret Street, Cottesloe by public auction.**
- (2) Appoint an auctioneer conditional upon the Mayor and CEO being jointly satisfied with the auction proposal that is provided by or negotiated with the auctioneer.**
- (3) Authorise the CEO and Mayor to set a reserve price in consultation with the auctioneer at the time of auction.**
- (4) Complete the installation of all soak pits and other works recommended by the drainage consultant's report prior to the filling and final preparation of 25 Margaret Street for sale.**

Carried 8/1

Cr Utting requested that the votes be recorded:

For: Mayor Morgan, Cr Woodhill, Cr Walsh, Cr Carmichael, Cr Cunningham,  
Cr Birnbrauer, Cr Boland, Cr Strzina

Against: Cr Utting

**12.2.2 PARRY STREET - PROPOSED PLAYGROUND ON MEDIAN STRIP**

**File No:** SUB/489  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

At its July 2007 meeting, Council resolved:

That the Town of Cottesloe inform the Town of Claremont that support for the installation of a playground on the Parry Street median strip, near the Hillside Avenue intersection is withheld until the outcomes of a safety audit to be undertaken by the Town of Cottesloe in collaboration with the Town of Claremont to address safety concerns are known.

Porter Consulting has completed a Safety Audit of Parry Street, plus a further study regarding the proposed playground location.

The Town of Claremont is funding 50% of this cost, has received the reports and has provided comment on the proposed future of the project.

This report recommends that Council inform the Town of Claremont that it will support the installation of a playground on the Parry Street intersection, near the Hillside Avenue intersection, if changes are made to comply with the findings of the consultant letter dated 6 November, 2007, particularly on Australian Standard sight distances and frangibility of all construction within the clear zone plus isolation fencing and gates to protect small children.

**STATUTORY ENVIRONMENT**

Parry Street is on a 40 metre wide road reserve, with the Claremont/Cottesloe local government boundary running down the centre.

Therefore, the western carriageway, the most western verge area and half the median strip/island is vested in the Town of Cottesloe.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

The original Town of Claremont cost estimate for the playground and associated improvements was \$548,629. This figure included a request for Cottesloe to provide \$187,197 of this total cost; a portion of which was for road resurfacing on the Cottesloe side and similar works already included in the Town of Cottesloe five year programs.

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The Town of Cottesloe has not committed to any expenditure for this total project other than the previous cost of a letter drop to residents in the area plus 50% of the completed consultant safety audit of the street and playground site.

### **BACKGROUND**

This matter was first considered by Council at its February 2007 meeting.

At that meeting, Council resolved to inform the Town of Claremont:

- (1) That in the absence of demonstrated community demand from Cottesloe residents, the proposed Parry Street playground and median strip upgrade is not seen by the Town of Cottesloe as a priority project requiring contributory funding in 2006/07 or 2007/08.
- (2) That the Town of Cottesloe is prepared to discuss the provision of a one-off grant at some later date subject to demonstrated community demand from Cottesloe residents and a written ongoing maintenance agreement.
- (3) That in the interim the Town of Cottesloe is not averse to the Town of Claremont carrying the full cost of construction and maintenance provided full community consultation is undertaken prior to construction.

The Town of Claremont then went ahead with a letter-drop to residents on both sides of Parry Street. The letter-drop resulted in a petition being served on the Town of Cottesloe objecting to the median strip playground proposal.

Council then requested broader community consultation.

That further consultation involved a letter drop to all Cottesloe properties within 400m of Parry Street. A total of 460 letters were distributed both to the east and west of Parry Street.

88 residents replied, with 46 letters of support from Claremont plus 7 rejections. The Town of Cottesloe residents provided 24 support letters and 11 rejections.

The main issues of concern were the danger of speeding vehicles in Parry Street, particularly northward moving vehicles on the Cottesloe side over a vertical crest and parking requirements near the playground.

After Council's resolution in July, Porter Consulting were engaged to complete a road safety audit of the western laneway of Parry Street. The Town of Claremont was informed and agreed that both sides of the street should be audited, with each Council funding 50% of the audit cost.

The resultant audit report is included in attachments. In addition, a statement was requested of Porter Consulting concentrating on the proposed playground side and the impact on road safety of the playground.

The Town of Claremont has received copies of the safety audit report and the letter dated 17 October 2007. In addition, Claremont has had an evaluation of sight lines undertaken by Porter Consulting based on applicable Australian Standards. The

result was a recommended relocation of a pedestrian crossing point 10 metres to the north in order to achieve a recommended sight distance of 86 metres for motorists.

The Town of Claremont therefore seeks the Town of Cottesloe's endorsement to install the playground in the original position but with it being fully fenced, an access gate being installed at the northern end plus the installation of additional fencing and signs directing pedestrians to cross the western lane of Parry Street further to the north.

### **CONSULTATION**

Consultation, apart from between staff members of both Councils, has included a letter drop to all properties within 400 metres of both sides of Parry Street, plus a number of phone discussions with residents.

### **STAFF COMMENT**

The Safety Audit report deals with all perceived safety issues in the street, including paths, lighting, the road itself, delineation involving signs and line marking and other issues.

The one page letter/statement (dated 17 October, 2007) from the consultant considers the proposed playground location and recommends the following.

- (1) Relocate the playground further north, to improve safety by increasing sight clearance.
- (2) If this movement north is objected to by residents near Stirling Highway, then create a second playground in that area.
- (3) Install isolation fencing (similar to swimming pools) around the playground to ensure adults take very young children to the site. All such fencing should be frangible i.e. should easily collapse if hit by a car with low vehicle damage.

The Town of Claremont's further request to Porter Consulting for Australian Standards requirements appears to be based on the minimum requirements to reach the sight distance for a location where pedestrian would be seen by drivers travelling at the 85 percentile speed.

It is proposed that modifications to the footpath, direction signs, an extended fence length and fencing around the playground site would improve the proposal to an extent that the proposed site might be approved.

The Town of Claremont has now installed all bollards, internal pathways, seating, vegetation planting and access gates to this median strip, as shown on the original design plan. Kerbing, drainage and road resurfacing on the east side of the street has also been undertaken.

The only installation left for completion is the playground. Fencing and play equipment has not yet been ordered. It is proposed that the playground equipment, if ordered, would be of muted colours to reduce the visual impact.

**VOTING**

Simple Majority

**OFFICER & COMMITTEE RECOMMENDATION**

That Council inform the Town of Claremont that it will support the installation of a playground on the Parry Street intersection, near the Hillside Avenue intersection, if changes are made to comply with the findings of the consultant's letter dated 6 November 2007, particularly on Australian Standards sight distances and frangibility of all construction within the clear zone, plus isolation fencing and gates to protect small children.

**AMENDMENT**

Moved Cr Carmichael, seconded Cr Strzina

**That a second item be inserted that Council apply to Main Roads Western Australia for the installation of 40kph speed signs.**

Carried 8/1

**12.2.2 COUNCIL MOTION**

Moved Mayor Morgan, seconded Cr Strzina

That Council:

- (1) Inform the Town of Claremont that it will support the installation of a playground on the Parry Street intersection, near the Hillside Avenue intersection, if changes are made to comply with the findings of the consultant's letter dated 6 November 2007, particularly on Australian Standards sight distances and frangibility of all construction within the clear zone, plus isolation fencing and gates to protect small children.
- (2) Apply to Main Roads Western Australia for the installation of 40kph speed signs.

Lost 2/7

**12.2.2 COUNCIL RESOLUTION**

Moved Cr Cunningham, seconded Cr Strzina

**That Council inform the Town of Claremont that it will not support the installation of the playground because of the following:**

- (1) **Concerns regarding the safety of such an installation on a traffic island which will necessitate children crossing the road to access the playground.**
- (2) **It is contrary to the Town of Cottesloe's Policy for keeping verges free of equipment.**
- (3) **Support of the installation is contrary to the findings of the audit report.**
- (4) **The requirement of a frangible fence surrounding the playground is paradoxical.**
- (5) **There is an existing viable option at Jasper Green.**

**(6) There are better alternative locations in the Town of Claremont**

Carried 8/1

Mayor Morgan requested that it be recorded that he cast the dissenting vote.

**12.2.3 COTTESLOE PLAYGROUP PLAYGROUND - SAFETY AUDIT**

**File No:** SUB/240  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 15 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

At its meeting in July, 2007, Council resolved to:

- Agree to engage the services of Mr Richardson of Recreation Safety Australia (or equivalent consultant) to conduct a safety audit of the site and equipment.
- Request staff to prepare a report on the upgrading, development and maintenance of the site, and endeavour to provide that report by the October 2007 meeting.
- Request staff to prepare a report on the implications and issues of tenure of the site, and endeavour to provide that report by the October 2007 meeting.

This report presents the results of a Playground Safety Audit for this playground and recommends that Council:

- Provide the Cottesloe Playgroup Inc. with a copy of the Recreation Safety Australia Playground Safety Audit and a copy of Council's Donations Policy.
- Inform the Cottesloe Playgroup Inc. that it will provide tree removal and pruning help as required but any financial aid is likely to be in the form of a donation under Council's Donation Policy.
- Inform the Cottesloe Playgroup Inc. that it will give favourable consideration for a donation in the next (2008/09) budget if a submission is made for playground equipment or site upgrading.

**STATUTORY ENVIRONMENT**

The site of the Cottesloe Playgroup playground is a Crown Reserve on the north side of the North Cottesloe Primary School. The land is not vested under Council's control. Works or materials provided for this site could be arranged via Council's Donations provisions.

**POLICY IMPLICATIONS**

Council's Donation Policy applies to this matter.

**DONATIONS**

- (1) **OBJECTIVE**  
Encourage independence and self reliance within the community.
  - (2) **PRINCIPLE**  
Council recognises the value of charitable organisations within our community to assist in the development of appropriate services suited to the community's needs. Council is committed to a positive approach as a corporate citizen and will provide aid to those organisations as is possible within budgetary constraints.
-

**(3) ISSUES**

A range of organisations and individuals seek financial assistance from Council annually. Council is not in a position to provide substantial assistance to all requests. Requests are received from organisations which may not be registered charities and from organisations about whom little is known. Requests are received from organisations which may provide limited assistance or be of little relevance to the Cottesloe community.

**(4) POLICY**

- 4.1 All applications to be in the form as set out in the attached Schedule.
- 4.2 All applications will be assessed by the CEO in accordance with the criteria set out below.
- 4.3 The CEO may refer applications that meet the criteria set out below to Council.
- 4.4 Donations will be made by Council at its absolute discretion and Council may be guided by the following criteria.

**(5) ASSESSMENT CRITERIA**

- Donation requests will not be considered where;
- The applicant is a private and for profit organisation or association.
- The applicant is an individual person.
- The application is in relation to general fundraising.
- The application is for funding for conferences and conventions.
- Priority will be given where ;
- The applicant is a registered not for profit organisation and has a base or visible presence in Cottesloe or with in the Western Suburbs;
- The applicant is a community group based in Cottesloe or has a visible presence within Cottesloe or has significant impact on residents of Cottesloe.
- The applicant can demonstrate that the funds will provide some benefit to Cottesloe residents.
- The funds are required for a new initiative or significant once off project.
- The applicant has not received a donation from Council within the previous two years.
- If the donation is for an event entry to the event is free of charge to Cottesloe residents to attend and participate.
- 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.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Council has funded the Safety Audit report. The recommended works to achieve at least minimum site safety are extensive and open ended in terms of how far and to

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what quality the upgrading and changes need to be completed to. In addition, a number of existing playground units are targeted for replacement with modern units.

The works and playground unit replacements have a value well in excess of \$50,000, and will require ongoing maintenance.

### **BACKGROUND**

This playground is a long, narrow construction on several levels, close to the private laneway on the east side of Reserve 44581 and is under control of the Department of Planning and Infrastructure. The area is separate to but immediately north of, the North Cottesloe Primary School.

The Cottesloe Playgroup Inc presented a submission to Council in July 2007, which noted that substantial works were required to make the playground on this site safe. (see attachments for a copy of the submission). This included the removal of old equipment, the provision of new equipment and heavy site maintenance and upgrading.

The playgroups budget was not capable of covering these expenses and help was requested to fund a safety audit of the site.

A consultant was employed and the audit has been completed. The consultant was not requested to suggest new styles of play equipment or costs for such equipment.

### **CONSULTATION**

Apart from the Playgroup submission to Council and discussions with the consultant, no consultation has taken place.

### **STAFF COMMENT**

The audit report provides a long list of hazards and site problems. The multi level nature of the site creates problems regarding the nature of the different embankment level changes. Many of the play items have various entrapments, sharp/rough surfaces, protrusions, potential collapse, high wear factors and other issues which build up as equipment ages and proper maintenance is not carried out.

Old tyres, drainage pipes and timber posts were fine in the 1980's but no longer meet modern playground standards.

A number of the play items could be more easily fixed by a total replacement than repairs, if funds are available.

Modern playgrounds have soft fall rubber rather than sand and grass under play items. This removes the potential for broken glass and syringes to be buried accidentally or on purpose near equipment. This material is expensive and large areas are normally needed in an average playground.

In regards to the design of the playground with more modern equipment, most companies selling play items will provide free designs featuring their equipment, with additional free expertise in layout and installation.

Site maintenance, in regards to tree pruning etc is possible using depot staff. The general raking of leaves falling on the play site, ensuring the surround sand is levelled and free from glass etc should be undertaken by the playgroup, to ensure further requests do not result from other schools and kindergartens for similar works.

Ongoing liability for negligence can also become an issue if such commitments are made and not perfectly carried out.

Maintenance to an adequate level of Council owned facilities (playgrounds, verges, footpaths, beaches etc) is an ongoing problem because of the shortage of adequately trained and experienced staff.

Raking up of leaves etc for private groups on land not vested in Council could be expanded to many other areas, again not under Council Control, e.g. schools, old age centres, kindergartens, which are not included in normal local government budgets.

The expenditure required to bring this playground up to Australian Standards, in terms of safety of playground items, provision of rubber soft fall, adequacy of level-change embankment provision and removal of a variety of dangerous objects on the site is substantial.

There is no current provision for expenditure on this site this financial year. Normally, any expenditure on land not under Council control would be by way of a donation, for which a policy has been created.

No request from this group was received in time for consideration of a donation in the 2007/08 budget.

### **VOTING**

Simple Majority

### **OFFICER RECOMMENDATION**

That Council:

- (1) Provide the Cottesloe Playgroup Inc. with a copy of the Recreation Safety Australia Playground Safety Audit and a copy of Council's Donations Policy.
- (2) Inform the Cottesloe Playgroup Inc. that it will provide tree removal and pruning help as required but any financial aid is likely to be in the form of a donation under Council's Donation Policy.
- (3) Inform the Cottesloe Playgroup Inc. that it will give favourable consideration for a donation in the next (2008/09) budget if a submission is made for playground equipment or site upgrading.

### **COMMITTEE RECOMMENDATION**

That Council:

- (1) Provide the Cottesloe Playgroup Inc. with a copy of the Recreation Safety Australia Playground Safety Audit and a copy of Council's Donations Policy.
- (2) Inform the Cottesloe Playgroup Inc. that it will provide tree removal and pruning help as required but any financial aid is likely to be in the form of a donation under Council's Donation Policy.
- (3) Inform the Cottesloe Playgroup Inc. that it will give favourable consideration for a donation in the next (2008/09) budget if a submission is made for playground equipment or site upgrading subject to confirmation of the length of tenure beyond December 2008.

#### **DECLARATION OF INTEREST**

*Mayor Morgan declared an interest of impartiality as a potential member of the Cottesloe Playgroup Inc.*

#### **AMENDMENT**

Moved Mayor Morgan, seconded Cr Strzina

**That the following items be inserted into the recommendation.**

- (4) **Write to Department for Planning & Infrastructure and:**
  - (i) **Seek confirmation that the site has been checked and found to be free of asbestos contamination.**
  - (ii) **Clarify the proposed tenure of the playgroup site.**
- (5) **Write to State and Federal agencies to ascertain if funding is available to upgrade the equipment.**

Carried 8/1

#### **12.2.3 COUNCIL RESOLUTION**

Moved Cr Woodhill, seconded Cr Walsh

**That Council:**

- (1) **Provide the Cottesloe Playgroup Inc. with a copy of the Recreation Safety Australia Playground Safety Audit and a copy of Council's Donations Policy.**
- (2) **Inform the Cottesloe Playgroup Inc. that it will provide tree removal and pruning help as required but any financial aid is likely to be in the form of a donation under Council's Donation Policy.**
- (3) **Inform the Cottesloe Playgroup Inc. that it will give favourable consideration for a donation in the next (2008/09) budget if a submission is made for playground equipment or site upgrading subject to confirmation of the length of tenure beyond December 2008.**
- (4) **Write to Department for Planning & Infrastructure and:**
  - (i) **Seek confirmation that the site has been checked and found to be free of asbestos contamination.**

- (ii) Clarify the proposed tenure of the playgroup site.
- (5) Write to State and Federal agencies to ascertain if funding is available to upgrade the equipment.

Carried 9/0

**12.2.4 NOISE COMPLAINT - CURTIN AVENUE / MARINE PARADE  
ROUNABOUT, COTTESLOE**

**File No:** SUB/440  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 November, 2007  
**Senior Officer:** Mr Stephen Tindale

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**SUMMARY**

The new roundabout at the intersection of Curtin Avenue and Marine Parade was completed early in 2007.

A complaint has been received from the owner of the closest house to the roundabout that the change to the intersection and the resultant changes in vehicle noise, particularly trucks, requires urgent attention in order to reduce the noise levels for his property back to original levels.

This report recommends that Council offer the owner of 1 Curtin Avenue the sum of \$3,875 as a contribution towards the sound proofing of the existing house and/or the erection of a new surrounding fence.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

No funding has been included in the 2007/08 budget for any sound study or works to reduce sound in any Council controlled site.

One quote of \$3,875 for a sound study at this area of Curtin Avenue has been received. Installation of sound reduction walls on the Curtin Avenue road verge would be a substantial cost that is as yet, unknown.

**BACKGROUND**

Prior to the new roundabout at the intersection of Curtin Avenue and Marine Parade being constructed, all traffic would proceed along Curtin Avenue with entering Marine Parade traffic having to wait at a 'stop' sign to turn left or right onto Curtin Avenue when appropriate and safe.

The new roundabout, like all roundabouts, has been installed to slow traffic to a safe speed and grant equal status to all entering vehicles, with all giving way to the right, resulting in a smooth and fair traffic flow and reducing the risk of traffic accidents.

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This has meant that all vehicles approaching the roundabout, from the north or south, have to slow down and be prepared to stop. In the case of large trucks, the noise of brake systems plus the need to gear down when approaching and gear up when leaving the roundabout has increased overall noise levels.

Complaints from the owner of 1 Curtin Avenue have been received regarding this noise, particularly on the northern side of the roundabout.

The house is of a weatherboard construction with an old timber surround fence. It is likely that the sound insulation properties of the house and the fence are minimal when compared to the more modern construction standards of neighbouring properties.

No other comments have been received from the owners or occupants of other properties between Victoria Street and the roundabout. Since the initial noise complaint was received, a steel crash barrier has been installed on the south and south eastern side of the house.

The main sound source is reported to be coming from trucks travelling south down the slope towards the roundabout and using their exhaust brakes to gear down for a potential stop at the intersection. The steel crash barrier would have a negligible dampening effect on this reported noise source.

In the interests of establishing the exact magnitude of the increase in noise, a quote of \$3,875 has been received for a full noise monitoring study. Another lower but verbal cost quote has also been received

### **CONSULTATION**

No general public consultation has taken place on this matter. Several discussions have occurred with the resident concerned.

### **STAFF COMMENT**

If a noise monitoring study is undertaken there will be no 'before' noise figures available for comparison with current noise readings other than to sample ambient noise at some distance away from the intersection on Curtin Avenue.

There is also no 'case to answer' regarding the increased noise levels. Increased noise levels are fairly typical of many traffic interventions designed to slow traffic in the interests of public safety. In other words the satisfaction of private need is often compromised by the satisfaction of public needs.

The house at 1 Curtin Avenue, is probably the oldest house in the street, with the oldest timber boundary fence. It is likely that it has the lowest sound insulation properties compared with modern forms of house construction.

The request has been made for a large brick or concrete wall to shield the house from road noise. Such a wall would need an extensive length to cut off noise from a longer section of the road as opposed to that immediately adjoining the property frontage. It would present a poor aesthetic outlook for vehicles on Curtin Avenue and

would require major construction works on the narrow, sloping western verge of Curtin Avenue, particularly to ensure any large wall is securely anchored to resist strong winds and storms. The cost of such a wall would be very high and could not be guaranteed to meet the requirements of the complainant.

Arrangements have been made for a sign to be installed on the eastern verge of Curtin Avenue, south of Victoria Street, requesting the non-use of vehicle air brakes because of the residential area's proximity.

One final issue is the status of heavy truck traffic on Curtin Avenue. All public roads can legally carry maximum loads up to 42.5 tonnes. This could be achieved on a large semi trailer or an 'eight wheeler and dog trailer'. Road trains and 'B' Double trucks require special approvals to travel on any public road. This has not been given by Council for Curtin Avenue but the Commissioner for Main Roads can over rule any Council on such matters, for the good of the State.

Therefore, a certain portion of noise coming from truck movements on this section of Curtin Avenue would be from very heavy trucks approved by Main Roads WA regardless of Council attitudes.

Given that a noise study may well show that the noise problem is not beyond normal expectations for a roundabout and given that an expensive wall construction may not solve the noise problem and that the subject house and boundary fence are not up to prevailing construction and sound proofing standards, a compromise offer may be required in the interests of maintaining the peace.

Rather than expend \$3,875 on a noise study of dubious value, the amount could be paid to the complainant (without prejudice and as a show of good faith) as a contribution towards the sound proofing of the house and/or the erection of a new surrounding fence.

Alternatively Council could advise the owner that it regrets the increase in noise levels but that they are necessary and unavoidable consequence of improved traffic safety. Further that Council is wary of setting a precedent for other property owners who are unintentionally affected by Council works and that it is therefore unable to contribute any funds towards the alleviation of the noise problem.

## **VOTING**

Simple Majority

## **OFFICER RECOMMENDATION**

That Council offer the owner of 1 Curtin Avenue the sum of \$3,875 (without prejudice and as a show of good faith) as a contribution towards the sound proofing of the existing house and/or the erection of a new surrounding fence.

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

Moved Mayor Morgan, seconded Cr Cunningham

That Council advise the owner that it regrets the increase in noise levels but that they are necessary and unavoidable consequence of improved traffic safety. Further that Council is wary of setting a precedent for other property owners who are unintentionally affected by Council works and that it is therefore unable to contribute any funds towards the alleviation of the noise problem.

Carried 9/0



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

<b>File No:</b>	<b>SUB/137</b>
<b>Author:</b>	<b>Mr Graham Pattrick</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Period Ending:</b>	<b>31 October, 2007</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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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 31 October, 2007, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The Financial Statements are presented monthly.

**CONSULTATION**

Nil

**STAFF COMMENT**

The Operating Statement on page 3 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$350,980 as at 31 October 2007. Operating Revenue is behind budget by \$207,996 (3.2%). Operating Expenditure is \$558,976 (19.5%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 October 2007 is shown on pages 7-8.

The main cause of the lower than anticipated expenditure is: DEPRECIATION – the depreciation process has not yet been run in the new software. This means that there is no charge against the budgeted \$400,790 for the YTD depreciation estimate. The focus of the accounting team at the moment is to transfer the assets from the old system into Civica. This is anticipated to be finalised in December. Employee costs

are also \$110,211 under budget mainly due to staff shortages at the depot and in planning.

The main cause for the lower than expected revenue is a journal posting error with the emergency services levy (\$235,154). This has been corrected in November.

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Cunningham

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2007, as submitted to the 20 November, 2007 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 OCTOBER, 2007.**

**File No:** SUB/150 & SUB/151  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 October, 2007  
**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 31 October, 2007, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

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

**CONSULTATION**

Nil

**STAFF COMMENT**

The Schedule of Investments on page 13 of the Financial Statements shows that \$4,554,972.50 was invested as at 31 October, 2007

Reserve Funds make up \$1,236,322.34 of the total invested and are restricted funds. Approximately 50% of the funds are invested with the National Australia Bank, 18% with Home Building Society and 32% with BankWest.

The Schedule of Loans on page 14 shows a balance of \$277,234.02 as at 31 October, 2007. There is \$151,392.23 included in this balance that relates to self supporting loans to other entities.

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Cunningham

**That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2007, as submitted to the 20 November, 2007 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 OCTOBER, 2007**

**File No:** SUB/144  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 October, 2007  
**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 31 October, 2007, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The List of Accounts is presented monthly.

**CONSULTATION**

Nil

**STAFF COMMENT**

The following significant payments are brought to your attention that are included in the list of accounts commencing on page 9 of the Financial Statements:

- \$16,108.87 to LGIS for Municipal Property Insurance
- \$37,471.45 to Osborne Park Volkswagen for new vehicle
- \$235,154.40 to FESA for 1<sup>st</sup> quarter ESL levy
- \$93,944.95 to Shire of Peppermint Grove for Library contribution
- \$11,769.27 to Rinker Australia for soak wells
- \$35,295.36 to Trum for waste collection
- \$12,016.73 to B & N Waste for Green Waste collection
- \$22,707.17 to WMRC for disposal and tipping fees
- \$13,290.40 to Spotless for catering for Centenary function
- \$10,365.92 to Rinker Australia for soak wells
- \$27,461.50 to LGIS for instalment on Insurance premium
- \$36,789.00 to LGIS for Workers Compensation Insurance
- \$72,336.60 to ProCott Inc for specified area levy rebate

- \$10,187.82 to Flexi Staff for temporary depot staff
- \$21,485.20 to Coastal Zone Management for EMA local grant project
- \$13,345.45 to WA Treasury for Loan 104 repayment
- \$37,451.51 to Osborne Park Volkswagen for new vehicle
- \$13,557.50 to Turf Care WA for work on Cott Oval & Harvey Field
- \$15,122.64 to Flexi Staff for temporary depot staff
- \$11,296.85 to WALGA for Marketforce advertising in September 2007
- \$13,373.70 to WA Local Govt Super Fund for staff deductions
- \$29,800.03 to BCITF for payment of levies collected
- \$10,000.00 to John Investments for refund of overpayment of rates
- \$13,705.69 to WA Local Govt Super Fund for staff deductions
- \$55,260.58, \$54,546.62 and \$55,200.83 for staff payroll

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Cunningham

**That Council receive the List of Accounts for the period ending 31 October, 2007, as submitted to the 20 November, 2007 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD  
ENDING 31 OCTOBER, 2007**

**File No:** SUB/145  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 October, 2007  
**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 31 October, 2007, to Council.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The Property and Sundry Debtors Reports are presented monthly.

**CONSULTATION**

Nil

**STAFF COMMENT**

The Sundry Debtors Report on pages 15 to 16 of the Financial Statements shows a balance of \$164,945.88. The balance of aged debt greater than 30 days stood at \$177,327.91 of which \$90,038.01 relates to pensioner rebates that are being reconciled by the Senior Finance Officer. There is an anomaly included in the current month from the Australian Taxation Office of \$43,041 that will be corrected next month.

The new look Property Debtors Report is on page 17 of the Financial Statements and shows a balance of \$1,557,274.44. This report shows that we have collected (\$4,938,460.65) or rebated (\$368,780.79) 76.67% of the total of the outstanding rates from last year (\$361,449.74) and the new rates (\$6,560,590.46) from the current financial year.

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Cunningham

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the period ending 31 October, 2007; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 October, 2007.**

Carried 9/0



**12.4 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING****12.4.1 COUNCIL PROPERTIES – MAINTENANCE - COTTESLOE BEACH BINS**

**File No:** SUB/207  
**Author:** Mr Stephen Tindale

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**SUMMARY**

At the Works and Corporate Services meeting held on the 20<sup>th</sup> November, 2007 Cr Utting raised his concerns over the insufficient number and/or the infrequent emptying of bins on Cottesloe Beach over the weekends.

**VOTING**

Simple Majority

**12.4.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Cunningham

**That Council:**

- (1) Authorise the purchase of additional bins and stainless steel bin surrounds for Cottesloe Beach,**
- (2) Increase the frequency of collections on a Sunday to two and that a further report on the frequency of collections be provided to Council by administration.**

Carried 9/0

**12.4.2 COUNCIL PROPERTIES – MAINTENANCE – COTTESLOE BEACH SIGNS**

**File No:** SUB/207  
**Author:** Mr Stephen Tindale

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**SUMMARY**

At the Works and Corporate Services meeting held on the 20<sup>th</sup> November, 2007 Cr Utting raised his concerns over the lack of signage prohibiting the consumption of alcohol on Cottesloe Beach.

**VOTING**

Simple Majority

**12.4.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Cunningham

**That Council refer the matter of signage prohibiting the consumption of alcohol on Cottesloe Beach to the Crime Prevention and Community Safety Committee.**

Carried 9/0

**13 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**

**14.1 WALGA – CENTRAL METROPOLITAN ZONE**

**14.1.1 APPOINTMENT OF REPLACEMENT DELEGATE**

**File No: SUB/101**  
**Author: Mr Stephen Tindale**

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**SUMMARY**

Mayor Morgan requested a nominee to replace his delegation to the Central Metropolitan Zone committee.

**VOTING**

Simple Majority

**12.4.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Boland

**That Cr Boland replace Mayor Morgan as delegate to the Central Metropolitan Zone committee.**

Carried 9/0

**15 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 9.05 pm.

CONFIRMED: MAYOR ..... DATE: ...../...../.....