

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, 27 AUGUST, 2007**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.05 pm.

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

Elected Members In Attendance

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

Officers in Attendance

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

Apologies

- | | |
|----------------|------------------------------|
| Mr Geoff Trigg | Manager Engineering Services |
|----------------|------------------------------|

Leave of Absence (previously approved)

- Cr Jo Dawkins

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4 PUBLIC QUESTION TIME

Mr Peter Jeanes - 66 John Street – Liquor Licensing Reform

In a recent article in the Post Newspaper, the Mayor made comment that liquor licensing reform is required to address the anti-social behaviour issues resulting from the patrons of the hotels, so I ask what response have you received from Minister Ljiljanna Ravlich?

Mayor Morgan advised that the anti-social behaviour problem was discussed with Minister Ravlich and it was agreed that liquor licensing reform is required to lessen the number of hotel patrons. This could be based on the patron matrix principle as used in Victoria, Canada. At the close of the meeting Minister Ravlich left this with her responsible officer.

At an earlier meeting with the then Director of Liquor Licensing, which was also attended by the hotel owners and community groups, Council decided to request staff to prepare a strategy to lobby the State Government to bring about liquor reform. Staff are still in the process of formulating a strategy.

Dr John Salmon - 7 Federal Street – Planned Seizure of Property

Does this Council believe it has acted in an ethical manner in relation to the process of prosecution against me?

Mayor Morgan advised that the Council has acted in an ethical manner in relation to the prosecution.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Strzina, seconded Cr Walsh

That Cr Woodhill's request for leave of absence from the September meeting be granted.

Carried 10/0

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Miller

The Minutes of the Ordinary Meeting of Council held on Monday, 23 July, 2007 be confirmed.

Carried 10/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

8 PUBLIC STATEMENT TIME

Marina Greenshields, 33A Salvado Street – Item No. 10.1.9 No. 33A (Lot 2) Salvado Street – Ground and First Floor Additions, Gatehouse, Solid Fencing and Driveway Gate

As one of the owners of 33A Salvado Street and having lived there for 7 years, the request was made to Council to take into consideration the following factors when deciding to approve the application.

Salvado is an extremely busy street and the nearby intersection was a recognised black spot and recently had a roundabout installed. This results in a high level of traffic noise which adds to the traffic noise of Curtin Avenue and the bells from the railway line crossing boom gates.

It is reasonably estimated that 200 pedestrians pass the house on a daily basis due to the proximity of the railway station and the nearby shopping precinct on Stirling Highway. In the past 2 years there has been an increased level of people walking through the front yard and even peering through the windows.

The frontage is just over twelve metres, therefore over 50% of the fencing will comply with the open aspect requirement. To make use of the northern facing aspect, the solid fence section of four metres will screen the large glass frontage of the house. Creating a courtyard in the front garden will provide an area to spend time with the family and enable our dog to roam around. This will provide a level of security as well as reducing the background noises.

It is appreciated that Council has strong views on the matter but the gatehouse and walling would fit in with the streetscape.

John Barrington, 5 Jutland Parade, Dalkeith – Item 10.1.17 No. 87 Marine Parade – Cottesloe Surf Life Saving Club – Concept Design Competition for Possible Redevelopment

In the best interests of continuing the consultation with the Council and the Cottesloe Surf Life Saving Club, three points of clarification are presented after reviewing the minutes of the Development Services Committee meeting.

Firstly, we understand that having an elected member on the judging panel may be viewed as inappropriate. The invitation was extended in good faith by the club and was not an attempt to do anything untoward.

Secondly, advice from the CEO in terms of a consultation process has been taken on board.

Thirdly, in respect to the area of land to be used, the club will look closely at the submissions from the architects and community. Within that context Council will then be asked to review the use of the land.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

The agenda items were dealt with in the following order: Item 10.1.9, 10.1.17, 10.1.4, 10.1.7, 10.1.8, 10.1.10, 10.1.15 and then the balance in numerical order enbloc.

10 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 20 AUGUST 2007

10.1 PLANNING

10.1.1 NO. 6 (LOT 9) NAILSWORTH STREET – TWO, TWO STOREY SINGLE DWELLINGS

File No:	1211
Author:	Mrs Lisa Engelbrecht Mr Andrew Jackson
Attachments:	Location plan Submissions (3) Plans
Author Disclosure of Interest:	Nil
Report Date:	3 August, 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Cott Property Pty Ltd
Applicant:	TPG Town Planning and Urban Design
Date of Application:	4 July, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	1148m²
M.R.S. Reservation:	N/A

SUMMARY

The subject site is located at one of the highest points in Cottesloe, on the eastern side of Nailsworth Street. The site is characterised by extreme topography, with a drop of 11.5m from rear to front and much of the ground level changes occurring in the front one third of the property.

It is possible that the original subdivision of the area accounted for the natural topography by designing large sites to allow room for a building on the more level and higher ground at the rear of the site. However, under the R20 zoning and with the current demand for housing sites, these sites are able to be subdivided.

The proposal is for two, two storey dwellings with undercroft garages on narrow lots, to be created through clearance of a conditionally approved subdivision. The design of the homes is based on sustainability principles, including northern exposure and rainwater recycling. The development is well setback from the front boundary.

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

PROPOSAL

The proposal is for flat roofed dwellings built over three levels, which are mirror images of each other.

The undercrofts contain a cellar and parking. Access to the undercroft is from the street, up a long and undulating driveway. The ROW located at the rear of the subject site is owned by the Town of Cottesloe and is currently unsealed but trafficable.

The ground floor levels contain the main living areas and most bedrooms are located on the first floor level. The levels are linked by a lift and stairs.

URBAN DESIGN APPRECIATION**Overall Situation**

- The Clarendon Street/Nailsworth Street locality is a secluded part of the district with narrow, winding roads rather than wide, straight thoroughfares, yet has a prominent knoll and a number of grand residences.
- The unusual subdivision pattern includes several large lots, which can accommodate more substantial dwellings.
- Clarendon Street is well-established with relatively cohesive architecture, notably involving Mediterranean styles and Cottesloe-limestone colours.
- Over the past several years Nailsworth Street has been undergoing considerable subdivision and redevelopment. The lower lots to the western and southern sectors have tended to attract restrained architecture with natural materials and finishes essentially nestling into the enclave setting. The higher lots to the north-eastern sector have tended to attract bolder, individualistic dwellings taking advantage of the dramatic topography for views and design (ie undercrofts, balconies, etc).
- The emerging pattern of this elevated side of the street is altering the streetscape by the introduction of large, multi-level dwellings (typically occupying more of the lot area and significantly engineering the sites), loss of trees from these private properties (including landmark Norfolk Pines), and diverse architectural expressions. The prominence of the knoll from around the district means that this is also a change to the urban landscape.
- On the one hand, compliance with, and consistency of, basic development parameters such as setbacks and height mean that a degree of unity of built form is achieved. On the other hand, the transformation from single storey and more modest older dwellings to high-end contemporary dwellings is more difficult to manage in the absence of prescriptive design guidelines.
- In this respect, it is important that the design of each new dwelling is approached having regard to the site and surrounds. At the same time it is acknowledged that each site varies in terms of relief, orientation, outlook, accessibility, interrelationship with neighbouring properties, and so on.
- The existing dwelling sits high on the rear of the site, setback in line with the similarly-positioned dwellings either side. The majority of the front yard slopes naturally upwards, is densely-planted with young trees with a private bush-like environment and has a steep, winding driveway. At the dwelling end of the site there is major limestone retaining walls and brick-build up. The property to the north-west has a similar partially-terraced front yard, while the property to

the south-east has a gentler sloping lawn. To the subject property, a double-garage occupies the front boundary to the street and is built into the slope, and this would be removed by the proposal which would be a gain for the streetscape.

Subject Proposal

- The architects have created the design of the dwellings taking into account a range of factors as elaborated in their application letter attached.
- Some salient points from this and observations by Planning Officers are:
 - A generous front setback preserves the arrangement of the existing property to the streetscape, with the built part to the hill and an extensive front yard to the street.
 - This also affords ample on-site parking for the residents of each dwelling (basement garage for four cars) as well as visitor parking (two dedicated bays plus long driveways), especially as the narrow, winding and sloping street is not conducive to parking.
 - Developing on the predominant elevated rear halves of the lots rather than at the very rear (where two-storeys would have a greater impact on surrounding properties), which allows for some cut and fill, undercrofts and the large front yards, as well as respects the setbacks of neighbouring dwellings. This also ameliorates the effect of bulk and scale, as the built form becomes recessive in perspective and against the backdrop of the hill and other dwellings. It is noted that the alternative of a stepped or split-level dwelling design tumbling along each lot with the topography would actually spread-out and accentuate mass.
 - The central joint parapet wall allows for side and rear setbacks to neighbours, while the basement walls to the boundary are underground. The elongated side elevations contain spacious indented courtyards and articulated facades, rather than presenting continuous two-storey solid walls with only small windows and little relief or interest.
 - This footprint configuration, together with the modulated roof planes, extensive glazing and attention to architectural details and materials, means that the dwellings will have a permeable, lighter-weight and slightly differentiated profile, instead of than a heavier, monolithic look.
 - The concept of a hard-edged built landscape to the front yards, however, comprising walls, planter beds, paving and so on, while making sense of the topography, is assessed as likely to represent overbuilding of the site (it is elective, not essential), to detract from the streetscape, and to add to the bulk and scale impression of the dwellings – working against the gain of the extra setbacks provided. A simpler, softer design and landscaping treatment of the front setbacks is considered preferable.

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
House 1		
Clause 5.1.1 – Building Height	7.0m flat roof height (RL 43.98)	7.55m (RL 44.529) 8.1m (RL 45.092) to chimney
House 2		
Clause 5.1.1 – Building Height	Undercroft height RL 35.99	RL 36.043
Clause 5.1.1 – Building Height	7.0m flat roof height (RL 42.99)	7.68m (RL 43.667)

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
House 1			
No.3 – Boundary Setbacks	2.5m setback to western ground floor balcony, living & alfresco wall	1.3m	Clause 3.3.1 – P1
No.3 – Boundary Setbacks	1.7m setback to western first floor WIR & void wall	1.3-1.7m	Clause 3.3.1 – P1
No.8 – Privacy	4.5m setback to first floor bedroom 3 window	3.0m	Clause 3.8.1 – P1
House 2			
No.3 – Boundary Setbacks	1.5m setback to eastern undercroft garage & store wall	1.4m	Clause 3.3.1 – P1
No.3 – Boundary Setbacks	3.8m setback to eastern ground floor living, meals & alfresco wall	1.4m	Clause 3.3.1 – P1
No.3 – Boundary Setbacks	3.0m setback to eastern first floor master bed, void & bed 4 wall	1.4-1.6m	Clause 3.3.1 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No.3 – Boundary Setbacks	1.3m setback to bed 3 & WIR wall	1.2m	Clause 3.3.1 – P1
No.6 – Site Works	0.5m maximum fill	1.7m	Clause 3.6.1 – P1
No.8 – Privacy	4.5m setback to first floor bedroom 3 window	3.0m	Clause 3.8.1 – P1
No.9 – Design for Climate	25% maximum overshadowing of adjoining property to the south	28.5%	Clause 3.9.1 – 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 Letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. Submissions were received as follows:

4 Nailsworth Street (south-east of the subject site):

- *Seek assurance that excavation will be done to minimise disruption;*
- *Request for dividing fence to be a minimum of 1.8m and be constructed in brick;*
- *Request for screening of first floor bedroom window (after consultation with architect);*
- *Request for building management plan to address construction issues; and*
- *Request for temporary fencing during construction.*

8 Nailsworth Street (north-west of the site):

- *Side setback variations to ground and first floor wall – concerns with aesthetics and loss of amenity;*
- *Happy with front and rear setbacks;*
- *Demolition of house and existing retaining – concerned with damage to water, gas and sewer lines, restricted access to their property, damage to garden;*
- *Request for developers to provide a comprehensive construction management plan;*
- *Building height – concern that additional building height will impact on existing views; and*
- *Overlooking – concern about privacy intrusion from a first floor bedroom window, which will look into an existing bedroom window.*

5 Clarendon Street (north-east, rear of the site)

- *Acknowledgement of rational approach to calculation of building height;*
- *Seek a similar approach in relation to any future development of 5 Clarendon.*

Many of these matters are covered under the building licence process and are not relevant to planning, however, this can be communicated at this stage and it is apparent that a comprehensive construction management plan is called for. In this respect it is reassuring that the architect is part of a large and well-established multi-disciplinary firm with full engineering and environmental capabilities to assist in this more complex development site and sophisticated design. It is thought that the first floor bedroom window with overlooking issues relates to bedroom 3, which can be conditioned to comply on an approval.

Generally, Council does not get involved in dividing fences issues, which are not controlled by the Scheme or R Codes. However, the dividing fence will act as a screen on the boundary to major openings, and in the case of heavily-engineered sites or extreme topography solid wall fencing can be important.

BACKGROUND

The site currently has a valid green title conditional subdivision approval and conditional survey-strata approval, which are yet to be cleared. Both applications will require demolition of the existing residence, and divide the property into two long, narrow lots with 10.76m frontages to Nailsworth Street. As there is no common property proposed for the survey-strata application, both forms of subdivision will result in development of single houses.

The current development application follows the form of the subdivision. While the subdivisions of the site have not been cleared, individual assessments of each house have been done.

House 1 is located on the northern side of the site and House 2 on the south.

STAFF COMMENTBuilding Height

The subject site is characterised by extreme topography, which should be taken into account when assessing building height. The calculation of building height stems from Council's determination of natural ground level. Individual assessments of NGL have been done for each house, in accordance with the definition of minimum site area under the Codes. Because of the topography, the following three calculations of natural ground level were made:

	House 1	House 2
Extrapolated between contours provided on the site survey	RL 36.00	RL 35.00
Average of building envelope	(35.84+35.98+36.64+39.47) RL 36.98	(36.13+33.50+37.69+36.64) RL 35.99
Average of four site corners	(29.03+28.21+39.11+39.47) RL 33.96	(28.21+27.44+37.96+39.11) RL 33.18

With the existing topography, it is considered unreasonable to use the levels at the centre of the sites (extrapolation and average of four corners). This is because a flat area suitable for building occurs at the rear, which is the location of the existing residence, the proposed location of the two new residences and the location of adjoining residences. Furthermore, the levels at the front of the properties reduce dramatically, making the average of the building envelope the most reasonable calculation to apply.

The current Town Planning Scheme determines that walls cannot exceed 6.0m above the central natural ground level and roof ridges must be a maximum of 8.5m. This limit envisages a pitched roof envelope and does not cater for modern roof designs such as flat, skillion, mansard etc. It is generally accepted that a reasonable height limit for modern roof designs is 7.0m, as per the RDC standard.

A 7.0m standard has been applied to the current flat roof designed homes. Both dwellings exceed the height limit by 0.55m and 0.68m respectively. House 2 also proposes a minor variation to the undercroft height requirements. TPS2 contains particular areas where discretion may be applied to building height variations:

- Number of storeys – the development proposes two storeys, House 1 complies with the undercroft requirement, House 2 is technically three storeys by a fractional amount as the undercroft does not wholly comply, as elaborated on further below, however, this can be conditioned and the design easily adjusted to comply as two-storey;
- Topography – where natural ground levels indicate a variation is warranted, provided that the amenity of neighbouring areas is not unreasonably diminished, which is directly relevant in this case with such a steeply-sloping site; and
- Calculation of natural ground level – to be determined by Council in terms of the height measure or point, and as explained it is considered that in this instance averaging levels within the building envelope is reasonable, based on topographical variations.

The site slopes downwards on the southern side so the natural levels relevant to House 2 are lower than those for House 1. Both residences propose variations to the height requirements, even with a modified calculation of natural ground level. The modified NGL calculation has given the sites approximately 3.0m additional height from the central calculation, so further discretion is not considered to be warranted.

House 1 has been calculated at 0.55m over the 7.0m flat roof limit. House 2 proposes a marginal variation to the undercroft requirements of 0.05m and a 0.68m variation to the flat roof height.

In relation to the undercroft height limits, Clause 5.1.1 of the Scheme provides the following two options for calculation:

“...not higher than 1 metre above the footpath level measured at the centre of the site along the boundary to which the space has frontage or where that space is below the natural ground level measured at the centre of the site as determined by Council.”

Due to the topography and distance of the proposed garages from the front boundary, it is considered that the second calculation option is preferable as the undercrofts are divorced from the footpath method. The average of the building envelope is recommended as a reasonable indication of natural ground level (RL 35.99), so the interpretation of the Scheme requires the garage space to be located beneath that level to be considered as an undercroft. A minor variation of 0.05m is proposed and can be conditioned to comply and easily designed-out as part of the construction.

House 1 proposes a chimney above the roof profile, which can be considered as a minor projection. The Codes contain a definition for Minor Projections, which provides the following examples in relation to the height of a building: *“a chimney, vent pipe, aerial or other appurtenance of like scale”*. The Codes do not specify a limit to height minor projections, and in this instance is considered to be acceptable.

The applicant has justified the additional height by pointing out the excavation that is proposed as the rear of the site and the ensuing minimisation of building bulk.

The adjoining owners to the north-west have objected to the height variation proposed for House 1, based on impact on views. General amenity Clause 5.1.2 of the Scheme requires Council to have regard of the following when considering a proposed development: *the need for limitation of height or location of buildings to preserve or enhance views.*

While this is considered generally relevant in this case, the effect of the height/design on views in this instance is not so great given the rear positioning of the dwellings and would be ameliorated by the recommended reduction in height, hence no other major design changes are recommended, and it is apparent that all of these high dwellings share extensive views.

Retaining Wall Height and Site Works

The Scheme and Codes address the amount by which ground levels can be modified during development. The Codes are more restrictive than the Scheme and are exceeded in this proposal.

Clause 5.1.4 of the Scheme allows for retaining of up to 1.8m and the proposal complies with that requirement. The Codes require any filling and retaining walls over 0.5m to be setback from the boundary. The Codes also state the following in relation to existing retaining:

“Retaining walls that are provided as part of subdivisional development, or part of a previous dwelling, to establish base levels for lots, are excluded from these requirements. For the purposes of the Codes, such walls are regarded as natural features.”

The elevation plans indicate three different ground levels relating to both the subject site and the adjoining properties. With consideration to the Code description above, it is considered that the levels of fill be calculated from the “existing natural ground level at the boundary”, which accounts for existing retaining on the site.

On this basis, House 1 proposes fill of up to 0.5m and therefore does not vary the Code requirements. House 2 proposes fill of up to 1.7m at the alfresco area, which complies with the Scheme, but is in excess of the Codes.

The proposal incorporates cutting and filling on both external boundaries and the general form of the development follows the natural slope of the land. The adjoining neighbour to the south-east has not objected to the amount of fill proposed for House 2 and has actually requested higher fencing along the boundary. The adjoining owners to the north-west have concerns about the amount of fill proposed.

The use of retaining walls to create a terraced effect is proposed at the front of the site. From the plans, it is difficult to ascertain whether the proposal meets the requirements of the open aspect fencing policy and as mentioned it is considered that this aspect should be conditioned to be handled separately.

Overshadowing

The subject site is oriented on south-west, north-east orientation and therefore produces overshadowing affecting the adjoining property at No. 4 Nailsworth Street. There is a requirement for developments in the R20 zone to overshadow a maximum of 25% of the adjoining site.

The proposed development overshadows 28.5% of No. 4, so consideration is required under the following Performance Criteria:

Development designed with regard for solar access for neighbouring properties taking into account the potential to overshadow:

- Outdoor living areas;
- Major openings to habitable rooms;
- Solar heating devices; or
- Balconies or verandahs.

Because the orientation of the lots is not directly east - west, the shadow thrown by the proposed development mainly affects the front garden area of No.4. Most of the private rear garden of No.4 has access to northern light. Some windows are affected, although the house at No. 4 does not appear to have a solar hot water system.

The owner of No. 4 has not objected to the amount of overshadowing proposed. Should Council require the building height to comply, the amount of overshadowing will be reduced.

Side Setbacks

The following side setbacks propose variations to the Acceptable Development standards of the R Codes. The setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1), which is listed below:

Wall ID	Required	Proposed
House 1		
Setback to western ground floor balcony, living & alfresco wall – height 3.8m, length 12.4m, with major openings	2.5m	1.3m
Setback to western first floor WIR & void wall – height 8.5m, length 10.8m, no major openings	1.7m	1.3-1.7m
House 2		
Setback to eastern undercroft garage & store wall – height 3.0m, length 18.5m, no major openings	1.5m	1.4m
Setback to eastern ground floor living, meals & alfresco wall – height 6.5m, length 12.8m, with major openings	3.8m	1.4m
Setback to eastern first floor master bed, void & bed 4 wall – height 10.5m, length 12.7m, no major openings	3.0m	1.4-1.6m
Setback to eastern first floor bed 3 & WIR wall – height 7.5m, length 6.7m, no major openings	1.3m	1.2m

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.*

The development proposes setback variations for both houses. However, it is noted that a number of the variations are minor, relating to a variation distance of 0.4m or less, or where only a portion of the wall is non-compliant, so that the degree of variation is relatively marginal and of no major consequence.

The variations for both houses are considered to meet the Performance Criteria of the Codes as they enable the homes to access sunlight and ventilation, while not restricting access of those elements to the adjoining residences.

The ground floor variations include major openings to the living room, however, a dividing fence on the boundary will ensure the windows are effectively screened and

minimal overlooking will occur. The adjoining owner at No. 8 has objected to the proposal and the owner of No. 4 has requested fencing to screen any overlooking.

Privacy

Application of the visual privacy cone has identified variations from the first floor bedroom 3 windows of both houses, affecting the adjoining properties at No.8 and No.4 Nailsworth Street.

The windows face the front of the building, so the views into the neighbouring properties are angled and not direct. However, the windows are located such that overlooking occurs at the rear of the neighbouring properties. It is considered that these windows can be modified to comply with the visual privacy requirements, which appears to have been suggested by the architect to the owner of No.4.

House 2 uses aluminium louvres on the east facing major openings (ground floor living and meals and first floor master bedroom). To ensure the louvres comply with the R Codes and create minor openings, it is recommended a condition be placed on the approval.

CONCLUSION

In summary, the proposal is assessed as a generally superior design for two dwellings on such a problematic site, which seeks to balance planning, architectural, engineering and sustainability objectives and requirements. The streetscape and amenity outcomes are considered acceptable. Compliance with development standards is difficult and has been substantially achieved but is capable of being improved-upon, and some conditions are recommended accordingly.

The subject sites are to be created as a result of conditional subdivision approval, resulting in the development of two single houses. The site displays extreme topography with a fall of over 11.0m from the rear down to the front. The proposed developments have been designed in accordance with sustainable development principles.

There are a number of variations to the Scheme and Codes proposed, however, it is considered that those issues which affect the locality can be conditioned to comply on an approval.

It is considered that a condition is required to make building heights compliant with the requirements. To account for the topographical variation, a non-standard calculation of natural ground level is recommended. Building heights are recommended to be conditioned to comply with the requirements above the revised natural ground level.

A condition regarding the first floor bedroom 3 windows of both houses is also proposed, to confirm the discussions between the applicant and the owner of No.4 Nailsworth. A condition on the proposed louvres for House 2 will ensure compliance with the definition of minor openings under the Codes and prevent overlooking.

It is considered that Council should approve the overshadowing, retaining and side setback variations under the Performance Criteria of the Codes. Compliance with

building height will reduce the overall bulk of the building and will result in lesser amounts of overshadowing and lesser side setback variations.

Council can require a construction management plan at Building Licence stage due to the amount of retaining and level changes proposed.

Revision of the proposed design of the large front yards is also recommended.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee supported the Officer recommendation but noticed that the standard condition for air-conditioning needed to be added.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two, two storey single houses at No 6 (Lot 9) Nailsworth Street, Cottesloe, in accordance with the plans submitted on 4 July 2007, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.
 - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the relevant local law.
 - (e) A comprehensive construction management plan shall be submitted at Building Licence stage, to the satisfaction of the Town, including details on the effect on any services outside the property or to adjacent properties, and the protection and repair of any damage caused to fencing or adjacent properties, involving the dilapidation report and assessment process.
 - (f) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) the undercroft height of House 1 being modified to comply with the height requirement of Clause 5.1.1 of Town Planning

- Scheme No. 2 in that the ceiling height shall be reduced to a level not above RL 35.99;
- (ii) the flat roof height of Houses 1 and 2 being modified to comply with the 7.0m height requirement of the Residential Design Codes, in that they shall be reduced to levels not above RL 43.98 and RL 42.99 respectively;
 - (iii) the first floor Bedroom 3 windows of Houses 1 and 2 being modified to prevent overlooking into the adjoining property, by either:
 - (a) having opening sill heights of not less than 1650mm above the finished floor level, or
 - (b) being constructed of fixed and obscure glazing or screening to a height of at least 1650mm above the finished floor level, or
 - (c) being deleted;
 - (iv) the first floor eastern Master Bedroom window of House 2 being modified to prevent overlooking into the adjoining property by being constructed of fixed and obscure glazing;
 - (v) details of the proposed louvres for House 2, to the southern corners of the ground floor Living and first floor Master Bed rooms, and to the south-eastern elevation of the ground room and Alfresco area, complying with the Residential Design Code requirements for screening from overlooking; and
 - (vi) in consultation with the Manager Development Services, revision of the proposed design of the entire front yards forward of the dwellings, including all fencing/walling to the front boundary, side boundaries or internal to the site, and all terracing, steps, paving, features, landscaping or other elements, having regard to Council's Fencing Local Law for an open-aspect design and to streetscape considerations.
- (2) Advise the submitters of this decision.

10.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council:

- (1) **GRANT its Approval to Commence Development for the Two, two storey single houses at No 6 (Lot 9) Nailsworth Street, Cottlesloe, in accordance with the plans submitted on 4 July 2007, subject to the following conditions:**
 - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**

- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the relevant local law.
- (e) A comprehensive construction management plan shall be submitted at Building Licence stage, to the satisfaction of the Town, including details on the effect on any services outside the property or to adjacent properties, and the protection and repair of any damage caused to fencing or adjacent properties, involving the dilapidation report and assessment process.
- (f) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) the undercroft height of House 1 being modified to comply with the height requirement of Clause 5.1.1 of Town Planning Scheme No. 2 in that the ceiling height shall be reduced to a level not above RL 35.99;
 - (ii) the flat roof height of Houses 1 and 2 being modified to comply with the 7.0m height requirement of the Residential Design Codes, in that they shall be reduced to levels not above RL 43.98 and RL 42.99 respectively;
 - (iii) the first floor Bedroom 3 windows of Houses 1 and 2 being modified to prevent overlooking into the adjoining property, by either:
 - (a) having opening sill heights of not less than 1650mm above the finished floor level, or
 - (b) being constructed of fixed and obscure glazing or screening to a height of at least 1650mm above the finished floor level, or
 - (c) being deleted;
 - (iv) the first floor eastern Master Bedroom window of House 2 being modified to prevent overlooking into the adjoining property by being constructed of fixed and obscure glazing;
 - (v) details of the proposed louvres for House 2, to the southern corners of the ground floor Living and first floor Master Bed rooms, and to the south-eastern elevation of the ground room and Alfresco area, complying with the Residential

Design Code requirements for screening from overlooking;
and

- (vi) in consultation with the Manager Development Services, revision of the proposed design of the entire front yards forward of the dwellings, including all fencing/walling to the front boundary, side boundaries or internal to the site, and all terracing, steps, paving, features, landscaping or other elements, having regard to Council's Fencing Local Law for an open-aspect design and to streetscape considerations.
 - (g) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (2) Advise the submitters of this decision.

Carried 10/0

10.1.2 NO. 22 (LOT 15) GIBNEY STREET – TWO, TWO STOREY SINGLE HOUSES

File No:	1102
Author:	Mrs Lisa Engelbrecht Mr Andrew Jackson
Attachments:	Location plan Submissions from neighbours (3) Correspondence from applicant Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	27 July, 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Mr I & Mrs H Muir
Applicant:	Oldfield Knott Architects Pty Ltd
Date of Application:	27 July, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	683m²
M.R.S. Reservation:	N/A

SUMMARY

The proposal is for two, two storey dwellings with undercroft garages on narrow lots, to be created through clearance of a conditionally approved subdivision. The design of the homes has evolved due to liaison between officers, neighbours and the applicant, which has resulted in improved compliance.

The original proposal was considered to be too extreme, occupying the full width of the property at two storeys, seeking several significant variations, dominating the streetscape and involving substantial site engineering and unusual (indeed unnecessary) building design with front basement garages and pedestrian bridges, for a very built-up appearance. The revised proposal is less ambitious and generally more complying, although it still assumes a degree of dominance and makes a strong statement, as well as raises a number of amenity considerations.

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

PROPOSAL

The proposal is for flat roofed dwellings built over three levels, which are mirror images of each other.

The undercrofts contain a store, cellar, bathroom, workshop, resident parking and visitor parking. Access to the undercroft is from the Right-of-Way (ROW) at the rear

of the site. The ROW behind the subject site is owned by the Town of Cottesloe and is currently unsealed.

The ground floor levels contain the main living areas and most bedrooms are located on the first floor level. The levels are linked by a lift and stairs.

URBAN DESIGN APPRECIATION

The creation of long, narrow lots by subdivision, while meeting basic lot size standards, is an increasing trend and presents a design challenge as follows:

- The elongated shape forces a longitudinal dwelling design, which may exacerbate shadow, introduce more side windows with potential privacy implications, generate more mass and hence presence down a lot to adjacent dwellings and their outdoor areas, and restrict the provision of open spaces for the subject dwelling.
- The narrow lots force reduced side setbacks, often seeking boundary walls at one or two storeys, or central common parapet walls, and even reduced front or rear setbacks to compensate for the layout limitations.
- Vehicular and pedestrian access compete for the decreased lot width, producing a more dominant double-garage effect and less open space/landscaping relief. Such side-by-side dwellings generate dual garages and driveways/crossovers (sometimes shared), compounding this streetscape impact.
- Loss of trees and significant vegetation on-site to building and formalised open spaces and sometimes loss of street trees to crossovers.
- The design-deprivation of the lot shape causes a space-hungry design to the side boundaries and street, the outcome of which is the modern equivalent of the traditional terrace house, with joint parapet walls, side boundary walls, and mirror-image or pigeon-pair repetitive designs.
- This design solution to the constrained situation limits architectural diversity, can stultify sustainability (due to poor orientation, solar/shadow deficiencies, ventilation, and so on), and increases building bulk to the streetscape – often fitting two family dwellings on a former single lot amounts to a bigger footprint, greater floorspace, less open space and more building bulk overall than before.
- Economy of design/construction can lead to less attractive built form and detract from established streetscape patterns, with a harsher, man-made character devoid of the spatial and vegetative qualities of traditional suburban environments, and even resort-style looking developments.
- Whereas ten or more metre-wide lots can be relatively easily designed, very narrow lots such as the 7.5m in this instance are much more complex propositions. Yet separate dwellings with individual designs can still be managed, as in the case of 37 and 37A Pearse Street recently dealt with by Council.

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	7.0m maximum flat roof requirement	7.9m (RL 34.77) for both houses

Council Resolution

Policy	Required	Provided
Council Resolution 28 October 2002	6.0m front setback	4.0m to balconies 5.0m to porches 5.1m to FF study walls

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
House 1			
No3 – Boundary Setbacks	1.5m setback to western undercroft wall	Nil	Clause 3.3.2 P2
No3 – Boundary Setbacks	2.3m setback to western ground floor wall	Nil	Clause 3.3.2 P2
No3 – Boundary Setbacks	3.1m setback to western first floor wall	1.5m	Clause 3.3.1 P1
No8 – Visual Privacy	7.5m setback to rear first floor balcony	2.3m	Clause 3.8.1 P1
House 2			
No3 – Boundary Setbacks	1.5m setback to eastern undercroft wall	Nil	Clause 3.3.2 P2
No3 – Boundary Setbacks	2.3m setback to eastern ground floor wall	Nil	Clause 3.3.2 P2

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No3 – Boundary Setbacks	3.3m setback to eastern first floor wall	1.45m	Clause 3.3.1 P1
No8 – Visual Privacy	7.5m setback to rear first floor balcony	2.3m	Clause 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. The advertising consisted of letters to the adjoining property owners.

Submissions

Five letters were sent out in two rounds of advertising – one for the original proposal and again following revisions to the design. There were 3 submissions received to the initial round of advertising, all of which were objections. Officers also identified several issues.

The applicant revised the plans substantially, so the proposal was re-advertised to the neighbours. One objection and one confirmation submission were received to the re-advertising. Details of those submissions are set out below:

Thomas and Vivien Gee of 20 Gibney Street

- Concern regarding excavation on the boundary, subsidence of their property and potential damage to their home;
- Concerned with height and length of undercroft boundary walls;
- Concerned with setback non-compliances;
- Believe the development will result in a serious loss of amenity by way of:
 - Loss of winter morning sunlight into the home and reduction in solar properties;
 - Reduced sunlight into the rear garden;

- Reduced daylight into all rooms on east side of house;
- Building bulk from excessive wall height and length;
- Loss in property value.

Peter South of 24 Gibney Street

- Does not object to proposal;
- Has negotiated with applicant to obscure glaze the first floor eastern rear bedroom window;
- Requests Council to condition the approval and make the agreement formal.

BACKGROUND

A subdivision of the property was conditionally approved by the WA Planning Commission on 17 May 2007, however, is yet to be cleared and have Titles issued. The subdivision was approved subject to:

- Removal of the existing verge crossover and reinstatement of the verge;
- All buildings being demolished;
- Widening of the rear ROW by 0.82m;
- Paving and draining of the ROW;
- Filling and draining of the site as necessary;
- Other conditions relating to Water Corporation or Western Power requirements.

The development application follows the form of the subdivision. While the subdivision of the site has not been cleared, individual assessments of each house have been done.

STAFF COMMENT

Building Height

The subject site is elongated and slopes downwards from the south-east corner to the north-west corner. Individual assessments of the natural ground level at the centre of the site have been calculated, by extrapolating between the site survey contours. The resultant natural ground levels are RL 26.852 (west) and RL 26.875 (east).

The current Town Planning Scheme, gazetted in 1988, determines that walls cannot exceed 6.0m above the central natural ground level and roof ridges must be a maximum of 8.5m. This restriction envisages a pitched roof envelope and does not cater for modern roof designs such as flat, skillion, mansard etc. It is generally accepted that a reasonable height restriction for modern roofs is 7.0m, as per the RDC standard.

A 7.0m restriction has been applied to the current flat roof designed homes. Both dwellings exceed the height restriction by 0.9m, which is a substantial amount. TPS2 contains particular areas where discretion may be applied to building height variations:

- Number of storeys – the development proposes two storeys with compliant undercrofts so is satisfactory in this regard;

- Topography – where natural ground levels indicate a variation is warranted, provided that the amenity of neighbouring areas is not unreasonably diminished, which in this case does not apply; and
- Calculation of natural ground level – to be determined by Council in terms of the height measure or point, and in this case the calculated levels are considered reasonable.

The topography of the site is not considered to be extreme, so as to warrant a variation to the height restriction under the Scheme. The slope across the entire site is only 2.1m in 47.6m, which equates to a gradient of 1:22. In comparison, the gradient required for disabled access is only 1:14.

The applicant has justified the additional height by stating that the proposed developments will not adversely overshadow the adjoining properties and that the homes are of a similar scale to neighbouring development.

There is scope to reduce the floor to ceiling heights and the parapet height to achieve a compliant development. The parapet height is proposed to hide the lift overrun, however, it increases the overall bulk of the building unnecessarily.

The Codes contain a definition for Minor Projections, which provides the following examples in relation to the height of a building: “*a chimney, vent pipe, aerial or other appurtenance of like scale*”. The Codes do not specify a limit to height for minor projections and the lift overrun is similar to a chimney and could be considered as such.

The lift overrun is located approximately 4.0m from the side boundary, towards the internal boundaries of the sites and away from the external neighbours. The structure is 2.2m long and 1.9m wide, occupying approximately 4.2m² of the roof area. If building height is required to comply and this is done by lowering the building, it is expected that the lift overrun will lower respectively.

Front Setback

The applicant proposes front boundary setbacks of 5.1m to the main part of the dwelling and 4.0m to the front balconies.

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. There is also provision for averaging, to a minimum of 2.0m.

In addition, Acceptable Development Standard 3.2.2 A2 of the Residential Design Codes allows for a minor incursion such as a verandah 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.

The proposal has been designed similar to the Acceptable Development standards of the Codes in this respect, rather than Council's general 6.0m front setback preference, which has been made clear to the applicant. Council's 6.0m front setback preference is not a statutory Scheme requirement, therefore, there is discretion to relax this.

However, all the homes in that portion of Gibney Street are compliant with the 6.0m setback, including Nos 28 and 30 that have resulted from subdivision in accordance with the R30 density coding. A 4.0m setback would be inconsistent with the surrounding development and would interrupt the rhythm of the open character of Gibney Street. In addition, the lots are deep enough to provide this setback and a multi-level design can deliver ample floorspace.

Side Setbacks

The following setback variations from the Acceptable Development Standards of the Codes are being sought:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
House 1 - Undercroft West	Whole	1.2m	21.5m	No	1.5m	Nil
House 2 - Undercroft East	Whole	1.2m	21.5m	No	1.5m	Nil
House 1 - Ground Floor West	Whole	4.5m	28.5m	No	2.3m	Nil
House 2 - Ground Floor East	Whole	4.5m	28.5m	No	2.3m	Nil
House 1 - First Floor West	Whole	8.2m	26.0m	No	3.1m	1.5m
House 2 - First Floor East	Whole	8.4m	26.0m	No	3.3m	1.45m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. The relevant Code Performance Criteria from Clause 3.3.1 states:

"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 ground and first floor setback variations (excluding boundary walls) are considered to satisfy Performance Criteria. The walls do not contain major openings and will not overlook the adjoining properties. The orientation of the lots ensures that the reduced setback will not impact on the neighbour’s access to northern light. Furthermore, the setback provided will enable ventilation between the buildings.

Boundary walls are controlled under Clause 3.3.2 of the Codes. The applicant has utilised the Acceptable Development provisions of Clause 3.3.2 for the central boundary walls, where the two homes abut one another. Therefore, any walls located on the external boundaries are non-compliant and are to be considered under the following Performance Criteria:

“P2 – Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development; and*
- *Not have any significant adverse effect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.”*

Non-compliant boundary walls are proposed at both the undercroft and ground floor levels. The undercroft boundary walls are mostly underground and will have minimal building bulk impacts. The walls do not contain any openings, so will not produce overlooking and the orientation of the lots ensures that the walls will not obscure the neighbour’s access to northern sunlight.

The ground floor boundary walls have more impact as they are above the natural ground level. There are two walls on the boundary, per side – one to the building entry and the other to a bathroom and dining room.

The proposed boundary walls do not contain openings and will not produce overlooking of the adjoining properties. The walls will impact on eastern and western sunlight to Nos 20 and 24 Gibney Street, however, this is not considered to be unreasonable, as the R Codes are concerned with northern sunlight.

The proposed boundary walls for the dining rooms allow the development to make effective use of space for a habitable room, given that the approved lots are only 7.5m wide.

However, the overall building bulk of the development is considered excessive. Dividing fencing between the boundary walls is level with the height of the boundary walls and therefore gives the impression of a continuous length, stretching for 24.3m. The addition of screens for air-conditioning units on top of the dining room boundary wall further increases massing and building bulk.

The entry to the dwelling is not habitable and the additional space created by the proposed boundary walls for that purpose, are not considered necessary. Requiring

the entry boundary walls to be setback will not produce overlooking of the neighbours, as there are no major openings involved. These walls also emphasise the smaller setbacks.

A setback to the entry will allow standard height dividing fences to be applied to the front 19.01m of the sites, significantly reducing building bulk and maintaining the amenity of the adjoining properties. The removal of the entry boundary wall will also reduce the bulk impact of the development on the streetscape.

It is noted that the owner of No. 24 Gibney Street has not objected to the development, however, it is considered that excessive building bulk from the entry boundary wall affects his site and the streetscape.

Visual Privacy

Application of the visual privacy cone has identified variations from the rear first floor balconies of both the proposed residences. The variations affect the adjoining properties to the west and east.

Screening has been used on the sides of the balconies to prevent direct overlooking into the neighbouring sites. The visual cone indicates that both the adjoining properties have outbuildings at the rear – there is a garage to the west and a shed to the east. These outbuildings are affected by the visual cone, are non-habitable and single storey, so the view from the balcony will have little impact on private rear outdoor areas.

CONCLUSION

The subject sites are to be created as a result of conditional subdivision approval. They are narrow at only 7.5m wide and therefore attention is required to ensure the form of development meets not only the needs of the residents, but also the streetscape and adjoining neighbours.

There are a number of variations to the Scheme and Codes proposed, however, it is considered that those issues which affect the locality can be conditioned to comply on an approval. It is considered that conditions are required to make the front setback, building height and entry boundary wall compliant with the requirements.

A condition regarding the first floor eastern master bedroom window is also proposed, to confirm an agreement between the applicant and the owner of No. 24 Gibney Street. A condition is also recommended to require air-conditioning units to be located in the undercrofts, to reduce building bulk, preserve visual amenity and prevent noise pollution.

It is considered that Council should approve the visual privacy variations from the first floor rear balconies; the undercroft boundary wall; and the ground floor dining room boundary wall under the Performance Criteria of the Codes.

There are recessed gate areas and internal front fencing which may not comply with Council's open-aspect fencing local law. A condition of approval requiring compliance with the fencing local law is recommended.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee expressed shared concerns about the bulk and scale of the proposal including the setbacks, and while noting the front setback was particularly concerned about the effects of the outer side setbacks, in relation to the property itself, adjacent properties and the streetscape. On balance, Committee concluded that condition (i)(i) could be deleted, therefore allowing the front setback as proposed, and replaced with a condition to improve the subject side setbacks, ideally to comply with the Acceptable Development Standards (ADS) under the RD Codes; however, Committee agreed to the advice of the Manager Development Services that the ADS may be difficult to achieve on such narrow lots but that the setbacks should be revised and any variations justified on a Performance Assessment approach.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two, Two Storey Single Houses at No 22 (Lot 15) Gibney Street, Cottesloe, in accordance with the plans submitted on 27 July, 2007, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The 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 right of way located at the rear being paved and drained in accordance with Council's Rights of Way/Laneways Policy, to the satisfaction of the Manager Engineering Services, with details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.
 - (g) The finish and colour of the boundary walls facing the neighbours being to the satisfaction of the Manager Development Services.
 - (h) Any proposed fencing to the site within the approved front setback area, including to the front boundary, side returns or internal to the site, being of an open-aspect design in accordance with Council's Fencing Local Law and the subject of a separate application to Council, and the applicant shall liaise with Council staff in this regard.

-
- (i) Revised plans being submitted for approval by the Manager Development Services, showing:
 - (i) the front setbacks to Houses 1 and 2 being a minimum of 6.0m;
 - (ii) the entry wall to House 1 located on the western side boundary being set back a minimum of 1.5m from the boundary in accordance with the Performance Criteria provisions of the Residential Planning Codes;
 - (iii) the entry wall to House 2 located on the eastern side boundary being set back a minimum of 1.5m from the boundary in accordance with the Performance Criteria provisions of the Residential Planning Codes;
 - (iv) the flat roof height of Houses 1 and 2 being modified to comply with the 7.0m requirement of the Residential Design Codes, to be reduced to levels RL 33.852 and RL 33.875 respectively, and the height of the lift overrun being correspondingly reduced;
 - (v) the proposed air-conditioning units for Houses 1 and 2 being located in the undercroft; and
 - (vi) the first floor eastern master bedroom window of House 2 being modified to prevent overlooking into the adjoining property by being constructed of fixed and obscure glazing.
 - (2) Advise the submitters of this decision.

10.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council:

- (1) **GRANT its Approval to Commence Development for the Two, Two Storey Single Houses at No 22 (Lot 15) Gibney Street, Cottesloe, in accordance with the plans submitted on 27 July, 2007, subject to the following conditions:**
 - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.**
 - (c) **The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) **The 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.**
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- (f) The right of way located at the rear being paved and drained in accordance with Council's Rights of Way/Laneways Policy, to the satisfaction of the Manager Engineering Services, with details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.
 - (g) The finish and colour of the boundary walls facing the neighbours being to the satisfaction of the Manager Development Services.
 - (h) Any proposed fencing to the site within the approved front setback area, including to the front boundary, side returns or internal to the site, being of an open-aspect design in accordance with Council's Fencing Local Law and the subject of a separate application to Council, and the applicant shall liaise with Council staff in this regard.
 - (i) Revised plans being submitted for approval by the Manager Development Services, showing:
 - (i) the western side setbacks to House 1 and the eastern side setbacks to House 2, at all levels, being reviewed and revised to either comply with the acceptable development requirements of the Residential Design Codes or be demonstrated to be appropriate under the performance criteria of the Codes, to the satisfaction of the Manager Development Services;
 - (ii) the entry wall to House 1 located on the western side boundary being set back a minimum of 1.5m from the boundary in accordance with the Performance Criteria provisions of the Residential Planning Codes;
 - (iii) the entry wall to House 2 located on the eastern side boundary being set back a minimum of 1.5m from the boundary in accordance with the Performance Criteria provisions of the Residential Planning Codes;
 - (iv) the flat roof height of Houses 1 and 2 being modified to comply with the 7.0m requirement of the Residential Design Codes, to be reduced to levels RL 33.852 and RL 33.875 respectively, and the height of the lift overrun being correspondingly reduced;
 - (v) the proposed air-conditioning units for Houses 1 and 2 being located in the undercroft; and
 - (vi) the first floor eastern master bedroom window of House 2 being modified to prevent overlooking into the adjoining property by being constructed of fixed and obscure glazing.
- (2) Advise the submitters of this decision.

Carried 10/0

10.1.3 NO. 3 (LOT 10) BROOME STREET – TWO X TWO-STOREY DWELLINGS

File No:	1207
Author:	Mr Lance Collison Mr Andrew Jackson
Attachments:	Location plan Correspondence from applicant Submissions (2) Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	1 August, 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	G & S Thomson
Applicant:	Vista Designs
Date of Application:	4 July, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R30
Lot Area:	666m² between two lots
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for two by two storey residences on the subject site.

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

PROPOSAL

The front Unit (Unit 1) comprises of three levels. It has a basement level garage and store. On the ground floor a kitchen, dining, living open area, laundry, powder, ensuite, WIR and Master Bedroom is proposed. A courtyard, portico and outdoor living area are proposed externally.

On the upper floor an activity, three bedrooms with WIRs, ensuite and powder rooms are proposed. Staircases link the three levels.

The rear Unit (Unit 2) comprises of two levels. The ground floor comprises of a double garage, ensuite, 2 WIR's, powder, living, meals, kitchen, laundry, store and bedroom. Externally a gate provides secured access via a pedestrian access way to an outdoor living and alfresco area. A portico provides an entry statement to the R.O.W. The upper floor proposes a gallery, two bedrooms, balcony, ensuite and WIR. Staircases link the two levels.

URBAN DESIGN APPRECIATION

This initial section of Broome Street leading into the district is characterised by prominent dwellings with a built-up sense of bulk and scale, due to their elevation, proximity to the street and the massing of building design and solid front fences.

Where on these larger lots subdivision occurs or two grouped dwellings can be accommodated, this pattern of built form is being strengthened and the trend is for conventional dwelling designs with a substantial appearance, which the proposal reflects. In this way the proposal fits in with the urban landscape rather than making any contrasting statement in a more modernist style.

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
Clause 5.1.1 – height	6m maximum wall height 8.5m maximum building height	Unit 1 = 6.13m wall height. Unit 1 = roof height complies Unit 2 = 6.491m wall height Unit 2 = 8.8m roof height
Clause 5.1.1 – height	The basement shall be no more than 1m above the footpath level at the centre of the front boundary or below the determined NGL at the centre of the site to not be considered a storey.	The basement is 1.468m above the footpath level at the centre of the front boundary. The basement is not below the NGL at the centre of the site.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 3 – Boundary Setbacks	3m setback – upper west wall (Unit 1)	2.4m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	2.5m setback – Ground north wall (Unit 2)	1.6 – 4.3m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	1.5m setback – Ground south wall (Unit 2)	nil – 1.5m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	2m setback – Upper north wall (Unit 2)	1.5 – 4.3m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	1.6m setback – Upper south wall (Unit 2)	1.5 – 2m setback	Clause 3.3.1 – P1
Element 6 – Site Works	Fill no less than 500mm	Some areas up to 1.2m of fill	Clause 3.6.1 – 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 Letter to Adjoining Property Owners

Submissions

There were 4 letters sent out. There was 2 submissions received, which were objections. Details of the submissions received are set out below:

John G Paterson of 5 Broome Street

- *Requests an increase in the height of the boundary fence to remove overlooking into their bathroom.*

- *Requests an increase in the boundary fence to remove overlooking from the rear property's upper floor windows.*
- *Requests an independent visual survey be conducted due to proposed in-fill*
- *Asks if the fence could be designed to match/compliment the neighbouring fences on Broome Street.*
- *Requests that no building materials be left on their property at any time.*

Steve Coward of 1 Broome Street

- *Objects to the height of the respective building which does not conform to the building height restrictions.*
- *Objects to the height of the built-up area at the front of Unit 2.*
- *Asks that the stairway on Unit 2 should have obscured glass to prevent overlooking the alfresco area of the adjoining property.*
- *Questions the parapet wall on the northern boundary which may conflict with approved parapet wall on the adjoining property.*
- *Questions the shadow effect of the proposed building if it is contrary to the recommended winter sunlight deemed necessary by Council.*

Officer Comment

- The aspects raised in submissions are addressed in the detailed assessment below, where it will be seen that height has been controlled and setbacks are essentially acceptable.
- General amenity considerations such as privacy, overshadowing and open space are assessed as satisfactory.
- With respect to the points raised by the owner of 1 Broome Street, it is observed that the recent approval by Council for two dwellings on that property, which exhibits similar characteristics to the subject proposal, likewise entailed design variations such as site levels, building heights, setbacks, boundary walls and privacy measures. Also, the style of the proposed dwellings is in harmony with that approved for the neighbour. It is noted that the front lot of 1 Broome Street is currently for sale (together with the approved plans).

BACKGROUND

The existing brick and tile residence, carport, pergola and shed are proposed to be demolished. The property was given a green title subdivision in August 2005. The battleaxe configuration results in Unit 1 having its frontage to Broome Street whilst Unit 2 fronts the R.O.W and a pedestrian access way provides access to Broome Street.

STAFF COMMENT

Natural Ground Levels

There's is a significant slope on the proposed development. The block slopes from a high point of RL 26.36 at the northwest corner of Unit 2 to a low point of RL 21.65 at the south east corner of Unit 1. This is a difference of 4.71m and has presented design challenges.

Basement Garage

The plans show a ceiling level of Unit 1's garage of RL 23.968. This is a variation to the following Clause of TPS No. 2.

Council's general policy for development within the district favours low rise development of no more than 2 storeys to maintain privacy, views and general amenity notwithstanding that Council may consider the circumstances and merits of each case in terms of the amenity and development control provisions of this Scheme. In exercising height control policies Council will not regard as a storey undercroft space used for lift shafts, stairways, or meter rooms, bathrooms, shower rooms, laundries, water closets or other sanitary compartments or the parking of vehicles where that space is not higher than 1 metre above the footpath level measured at the centre of the natural ground level measured at the centre of the site as determined by Council.

At present, Unit 1 is defined technically, as a three storey dwelling, unless Council exercises discretion by reason of topography or the determination of NGL.

The space is not all below the natural ground level at the centre of the site, which is determined to be RL 23.7. Also, the footpath level at the centre of the front boundary is determined to be RL 22.5, which would allow the ceiling to be at a maximum height of RL 23.5. It is considered that the driveway gradient could be increased and still meet the Australian Standards.

It is recommended that the ceiling level of the garage be reduced to a maximum height of RL 23.7. This would also mean that the dwelling is defined as a two storey dwelling as per Town of Cottesloe Town Planning Scheme No. 2, and the whole of the dwelling should be lowered accordingly.

Building Heights

Unit 1 has a wall height of RL29.833 or 6.133m and a roof height of RL31.792 or 8.092m above natural ground level at the centre of the site. The roof height is in compliance with the Scheme. In regards to the wall height, this is attributed to the large slope of the land and the consequent filling and retaining. This is proposed to create level areas for development.

The floor to ceiling heights are not considered excessive and the design is similar to the recently approved front unit at 1 Broome Street which also has a sunken garage level with two levels above. However, as the undercroft level does not meet the height requirement. It is proposed to be conditioned to be reduced in height. It is also considered that this can allow a reduction in the overall wall height to meet the maximum permissible RL of 29.7. This is a proposed condition of approval.

For Unit 2 the proposal asks for a variation to the wall and roof heights. It has an 8.8m (RL 34) roof height and a maximum 6.492m wall height (RL 31.691). These variations are attributed to the slope of the land and the consequent filling and retaining required creating level areas for development, recognising that two dwellings are to be accommodated on the site.

The proposal manages to partially step the development down the site in accordance with the natural ground level, however, to lower the wall heights would require a further redesign of this unit and is likely to complicate the overall ability to achieve a suitable design.

The floor-to-ceiling heights are not considered excessive and are similar to other Cottesloe residences. It is considered that these height variations be supported given that there was no objection from surrounding neighbours. The wall height variation should not unduly affect the amenity of neighbours. It should be noted that most of the bulk is to the eastern elevation which is facing Unit 1 of the development.

If Council wishes to amend the height, it is recommended the overall roof height can be reduced to RL 33.7, which is 8.5m above the centre of the site level. This can be achieved by reducing the pitch of the roof. It is not preferred to alter the wall height.

Boundary Setbacks

The following side boundary setbacks don't comply automatically 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) & 3.3.2 (P2) of the RDC, which are also listed below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Upper West wall (Unit 1)	All	5.8m	10m	Yes	3m setback	2.4m setback
Ground north wall (Unit 2)	All	Maximum 4m	13m	Yes	2.5m setback	1.6 – 4.3m setback
Ground south wall (Unit 2)	All	Maximum 4m	13.5m	No	1.5m setback	nil – 1.5m setback
Upper north wall (Unit 2)	All	Maximum 7m	13.5m	No	2m setback	1.5 – 4.3m setback
Upper south wall (Unit 2)	All	Maximum 7m	12m	No	1.6m setback	1.5 – 2m setback

3.3.1 – Buildings Set back from the Boundary

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

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

3.3.2 – Buildings on the Boundary

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*

- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

Unit 1

The upper west wall is proposed to have a 2.4m setback from the boundary. The wall meets the Performance Criteria of the RDC because it still provides sun and ventilation to this building and adjoining properties. The windows do not overlook any major openings or outdoor living areas of the other proposed unit. It should be noted that the western unit is Unit 2 of this development.

Unit 2

The ground north wall of Unit 2 has a side setback of 1.6 to 4.3m. This is based on a required setback of 2.5m. It should be noted that most of this wall has a height of 3.5m or less which would require a 1.5m setback for this wall. The height of the wall increases to 4m where the natural ground level slopes away.

The wall meets the Performance Criteria of the RDC. The setback ensures adequate direct sun and ventilation being available to adjoining properties and to the building. The setback does not adversely impact the feeling of bulk and privacy is not affected.

The ground south wall requires a 1.5m setback where a nil to 1.5m setback is proposed. It should be noted The RDC also allow as per Clause 3.3.2 A2:

In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary.

In this case the length of walls on the boundary meets this requirement. The remainder of the wall meets the Performance Criteria of the RDC as it ensures adequate direct sun and ventilation being available to adjoining properties and to the building. The setback does not adversely impact the feeling of bulk due to a garage being proposed on the other side of this wall on the southern neighbouring property. There are no privacy issues relating to this setback as there are no major openings proposed from any habitable rooms.

The upper north wall of Unit 2 has a setback of 1.59m for the bed 2, bath and powder and a 4.3m for the void. The required setback for the wall is 2m. The setback meets the Performance Criteria as it ensures sun and ventilation for this property and the northern neighbour. It also assists with the amelioration of bulk as a significant portion of the wall greatly exceeds the required setback. The setback also meets the RDC privacy requirements as there are no major openings except from a void.

The upper south wall has a setback from 1.5 to 2m where a 1.6m setback is required. The wall meets the Performance Criteria of the RDC as sun and ventilation to the southern neighbouring property is deemed satisfactory. The setback will cast a shadow over part of the southern neighbour, but it meets the Acceptable

Development of the RDC for overshadowing. The proposal meets the bulk criterion. Privacy is also protected as there are no major openings from this wall.

Overshadowing

The two units overshadow 31.5% of the southern neighbouring property. This is less than the maximum 35% overshadowing permissible in a R30 coded area.

Privacy

All rooms of both units comply with the Acceptable Development provisions for privacy. The northern neighbours have concerns regarding the potential overlooking into their bathroom from the proposed pedestrian access way and outdoor living area of Unit 2. The applicant is proposing to build a screen wall along the northern boundary adjacent to Unit 1.

This screen wall (as proposed) satisfies the RDC for overlooking from the outdoor living area of Unit 2.

Staircases and the like do not need to be assessed for privacy. However, to alleviate the neighbour's concerns regarding overlooking from the top row of stairs in the pedestrian access way of Unit 2 it is recommended the wall be extended to the east by 2 metres at a height of RL 27.56. This is adjacent to the top row of stairs at the pedestrian access way. This should remove potential overlooking into their private bathroom and is a proposed condition of approval.

Fill

Given the site topography, there is significant fill and retaining proposed. Much of this fill will be located under the built envelope of the dwellings. The fill allows areas of level flooring and this fill is calculated as part of the building height of the dwellings. It should also be noted that there is also some cutting proposed to allow for the construction of the underground garage on the eastern unit.

Retaining walls are also proposed to be located on the northern boundary, between the two units as well as in the front setback area of Unit 1. The RDC generally require these retaining walls to be setback from the boundary. However due to the design of the dwellings, large slope and the small lot sizes, it is argued the retaining walls are required. The neighbour has not commented on the proposed retaining walls.

Clause 5.1.4 of the Scheme sets a maximum height of 1.8m for retaining walls on or near boundaries and the proposal complies with this.

There are areas outside the built envelope where fill exceeds 500mm. The RDC specify that where fill exceeds 500mm within the front setback, the development should meet the Performance Criteria. The applicable Clause 3.6.1 P1 states:

Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property.

The front setback area of Unit 1 has a courtyard at an RL of 23.711 which is approximately 600mm above natural ground level. However it is recommended that the courtyard level be reduced by 400mm to RL 23.311. This will make the development retain a visual impression of the natural level of a site. It is also recommended that the associated fencing be reduced; this is explained in the following section of the report.

In regards to the outdoor living area of Unit 2, this is raised up to 1.2m above natural ground level. The proposal will be screened from the neighbour by a screen wall so it is argued the proposal meets the Performance Criteria of Clause 3.6.1 of the RDC.

Fencing within the front setback

The proposed front fence partially complies with the Fencing Local Law. The applicant proposes several fences in the front setback area. There is fencing between Unit 1 and Unit 2, fencing to the west and south of the courtyard of Unit 1 and fencing to the Broome Street boundary.

These fences are generally open aspect; the solid sections are proposed to be up to 1.2m on the Broome Street elevation, 1.3m on the northern elevation and 1.6m on the eastern edge of the driveway. It is recommended that these fences be amended to comply with the Fencing Local Law.

In regards to the fencing separating the front courtyard and the driveway, the lowered height of the fence shall compliment the proposed lowered height of the courtyard. An open aspect balustrade will prevent objects falling from the courtyard.

Portico

This is not located within the front setback. The portico is considered an incidental structure and has a nil setback to the pedestrian access way. This setback is considered acceptable.

Open Space

The proposal meets the Acceptable Development provisions for open space.

CONCLUSION

The two residences have been designed with very few setback variations. This is commended due to the large slope on the site. The slight wall height variation for Unit 1 is proposed to be a condition of approval, whilst the variations for Unit 2 are supported. It is argued a reduction in the wall heights would result in a lower-quality building.

Overall, the dwellings have been designed to compliment the streetscape, to prevent overlooking and the application meets overshadowing and open space requirements. The proposed fill on the property is generally satisfactory except within the front setback area, which is conditioned to be largely removed. The application is recommended for approval subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee requested additional conditions addressing the neighbour's concerns about overlooking, a dilapidation report and building materials not being on their verge. The Manager Development Services advised that the conditions could be worded to manage the building process in the normal manner and to assess the need for any privacy improvements as the building progressed, and Committee agreed to that approach. The fence piers is a design aspect for the Town to determine and this could be considered.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for two by two storey residences at No. 3 (Lot 10) Broome Street, Cottesloe, in accordance with the plans submitted on 9 July 2007, the streetscape plan dated 9 July 2007 and the west elevation of Unit 1 and east elevation of Unit 2 dated 16 July 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) 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.
 - (c) 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.
 - (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 complying with the Town of Cottesloe Policies and Procedures for Street Trees (February 2000) where development requires the removal, replacement, protection or pruning of street trees for development.
 - (f) The existing redundant crossover in Broome 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 applying to the Town of Cottesloe for approval to construct the proposed crossover to Broome Street, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.

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- (h) The finish and colour of the boundary wall facing the southern neighbour being to the satisfaction of the Manager Development Services.
 - (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (j) The proposed screen wall on the northern boundary to Unit 1 shall be built at the applicant's cost and be extended to a height of RL 27.65 for an additional 2m length to the east.
 - (k) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) the wall heights of Unit 1 being modified to comply with the requirements of Clause 5.1.1 of Town Planning Scheme No. 2 in that they shall not exceed RL 29.7;
 - (ii) the ceiling height of the basement for Unit 1 shall be no higher than RL 23.7;
 - (iii) the front courtyard of Unit 1 shall being a maximum height of RL 23.311; and
 - (iv) all proposed fencing within the front setback area shall comply with Council's fencing Local Law, which allows solid fencing up to 900mm above natural ground level and open- aspect fencing above.
- (2) Advise the submitters of this decision.

10.1.3 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council:

- (1) **GRANT its Approval to Commence Development for two by two storey residences at No. 3 (Lot 10) Broome Street, Cottesloe, in accordance with the plans submitted on 9 July 2007, the streetscape plan dated 9 July 2007 and the west elevation of Unit 1 and east elevation of Unit 2 dated 16 July 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) **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.**

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- (c) 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.
 - (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 complying with the Town of Cottesloe Policies and Procedures for Street Trees (February 2000) where development requires the removal, replacement, protection or pruning of street trees for development.
 - (f) The existing redundant crossover in Broome 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 applying to the Town of Cottesloe for approval to construct the proposed crossover to Broome Street, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (h) The finish and colour of the boundary wall facing the southern neighbour being to the satisfaction of the Manager Development Services.
 - (i) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (j) The proposed screen wall on the northern boundary to Unit 1 shall be built at the applicant's cost and be extended to a height of RL 27.65 for an additional 2m length to the east.
 - (k) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) the wall heights of Unit 1 being modified to comply with the requirements of Clause 5.1.1 of Town Planning Scheme No. 2 in that they shall not exceed RL 29.7;
 - (ii) the ceiling height of the basement for Unit 1 shall be no higher than RL 23.7;
 - (iii) the front courtyard of Unit 1 shall being a maximum height of RL 23.311; and
 - (iv) all proposed fencing within the front setback area shall comply with Council's fencing Local Law, which allows solid fencing up to 900mm above natural ground level and open-aspect fencing above.
 - (l) As construction proceeds, should it be determined by the Manager Development Services that unreasonable overlooking will occur to
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No. 5 Broome Street, specifically in respect of (i): the main bathroom window at No. 5 Broome Street being overlooked by an upper-level east-facing window of Unit 1, and (ii): No. 5 Broome Street being overlooked from the proposed alfresco area, then appropriate measures shall be undertaken to ensure adequate privacy to the satisfaction of the Manager Development Services.

- (m) At Building Licence stage a comprehensive Construction Management Plan shall be provided to the satisfaction of the Manager Development Services, which shall include full dilapidation reports for adjoining properties and shall exclude the use of any neighbouring verges for any parking, storage or construction-related activities whatsoever.
 - (n) The height of the front fence piers to Unit 1 on Broome Street being reduced to match-in with the height of the existing similar piers adjacent at No. 5 Broome Street, in order to enhance the streetscape, to the satisfaction of the Manager Development Services.
- (2) Advise the submitters of this decision.

Carried 10/0

10.1.4 NO. 1 (LOT 34) GERALDINE STREET – ALTERATIONS AND ADDITIONS TO EXISTING RESIDENCE, INCLUDING VEHICULAR ACCESS VIA P.A.W.

File No:	1175
Author:	Mrs Lisa Engelbrecht Mr Andrew Jackson
Attachments:	Location plan Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	20 July, 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Mr John Woodward
Applicant:	Mr John Woodward
Date of Application:	20 July, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	703m²
M.R.S. Reservation:	N/A

SUMMARY

The site is located at the western end of Geraldine Street, which is a short cul-de-sac. The Cottesloe Tennis Club is located to the south of the property, separated by Bryan Way public footpath and a Pedestrian Access Way also runs along the western boundary of the subject lot. To the west of the subject site, an R30 coding is applicable and a number of unit developments exist.

The property at No.1 Geraldine Street has a long history relating to pedestrian/vehicular access using the PAW. The new property owner has inherited an unusual situation and proposes to extend vehicular access, which needs to be carefully considered with reference to previous deliberations.

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

PROPOSAL

The proposal is for renovations and extensions to the existing dwelling, which entailed fairly significant site works when it was built, changing the levels of the property. A two-storey addition is proposed at the rear of the site, logically utilising the existing site levels, which causes the proposal to exceed the basic building height limits.

The dwelling presently has a double garage with access to the PAW, granted by Council. The addition of a further single garage with access from the PAW is now proposed.

Discussions between planning staff and the applicant regarding the proposal have resulted in the submission of revised plans. The revisions incorporate a small reduction in the building height on the western side of the property.

URBAN DESIGN APPRECIATION

- Renovation and extension of existing dwellings is popular in Cottesloe.
- The upgrading of existing buildings improves amenity to that extent, and can preserve much of the established streetscape character while also adding to the dwelling.
- Such additions are required to address the development parameters but may also seek variations given the established situation and site-specific considerations.
- The subject proposal seeks to retain and expand on the built form and architectural aesthetic of the dwelling, which is a longitudinal structure with clean lines and limited detailing.
- The proposed new level introduces a cohesive element with some subtle angles to the low-profile scallion roof and façade wall, plus a feature nautical reference in the sloping poles to the balcony.
- The general massing and articulation of the proposed dwelling when added to and made-over is compatible with the massing and lines of the surrounding two dwellings and three storey flats. It is also ameliorated by the separation afforded by the front street, side and rear walkways and the embankment rising above the site to the tennis courts.
- Overall, from an urban design point of view the proposal is considered to be acceptable and in keeping the styles and scale of surrounding development, being in a tucked-away location with only one abutting neighbour.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Local Government Act 1995
- 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
Flat roof height	7.0m (RL 31.90)	8.2m (RL 33.11) rear east 8.7m (RL 33.61) rear west

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	6.1m setback to western middle level wall	3.0-4.9m including 1.5m of PAW	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	2.2m setback to eastern middle level wall	1.5m	Clause 3.3.1 – P1
No8 – Privacy	7.5m setback to front balcony looking east	6.0m	Clause 3.8.1 – P1
No8 – Privacy	7.5m setback to front balcony looking west	4.5m	Clause 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 4 letters sent out. The adjoining property owners from No. 2 Gadsdon Street and No.3 Kathleen Street signed the original set of plans in support of the proposed development.

The revised plans were lodged on 8 August and are not required to be advertised as the modifications by reducing height improve the bulk and scale of the building and without affecting the amenity of the adjoining sites.

BACKGROUND

The site has a history regarding vehicle access, through the previous owner. The access issues relate to the Pedestrian Access Way (PAW) that adjoins the western boundary of the site. A brief summary of the issues is below;

- 1983 – the accessway was gazetted as a legal street;
- 1997 – the previous owners of No.1 Geraldine Street gave written notice to Council that they were prepared to lose vehicular rights to the accessway (following road being used by Gadsdon Street units to access Kathleen Street);
- 1997 – reverted to a PAW (access restricted to pedestrians and utilities only) as a Crown Reserve under the management of Town of Cottesloe;
- Feb 2006 – previous owner explored modification of the PAW management order in favour of vehicular access from 1 Geraldine (did not proceed);
- Feb 2006 – Council made the following resolution
“That Council inform the owner of 1 Geraldine Street, Cottesloe, that a bollard will be installed at the end of March, 2006 to prevent vehicle use of this access, but that the bollard be positioned or of a type to allow access to 1 Geraldine Street only, subject to the necessary insurance being arranged by the owner.”
- Sept 2006 – property was sold to the current owner and applicant;
- Feb 2007 – Council wrote to current owner explaining the process so far and stating it was yet to be resolved;
- May 07 – application lodged with new garage accessing existing PAW;
- Jun 07 – owner submitted details of public liability insurance for PAW, as per Council’s resolution of Feb 2006.

STAFF COMMENT

Building Height

The property at No. 1 Geraldine Street has an existing residence located centrally. The existing building has a garage structure at ground level with the PAW and then a further storey of living area above. At the rear of the site, there is a storey of retaining/brick build-up adjoining the garage and then the living area above.

The current Town Planning Scheme (TPS2) states that buildings in the Residential zone shall be no more than two storeys and comply with a 6.0m wall height and 8.5m roof ridge height. A 7.0m restriction is accepted as appropriate for flat roofed structures, as per the R Codes. Building height is calculated from the natural ground level at the centre of the site, as determined by Council.

For calculation of heights, natural ground level has been determined using an average of the four corners of the site, without taking the existing retaining/brick build-up into account, as it represents artificial elevation. It is noted that the Geraldine Street area is reasonably level, however the Cottesloe Tennis Club to the rear (south) is raised substantially by approximately 3.0m.

As the existing garage level is at grade, it is defined as a storey and is not an undercroft. The existing home is therefore two storeys at the front (garage and first floor living) and single storey at the rear (retaining/brick build-up and first floor living) with the height of a two storey structure.

The proposal incorporates the addition of a second storey floor at the rear of the property. At no point is the home three storeys, due to the retaining/brick build-up at the rear of the property not being classified as a "storey". However, the rear addition does not comply with the height restriction.

The proposed alterations and additions modernise the style of the existing residence by incorporating a flat roof parapet at the front and a skillion roof at the rear. Because the addition is located at the rear of the site (setback some 26.5m from the Geraldine Street boundary), it will have minimal impact on the streetscape.

The 7.0m height restriction has been applied to the rear addition, as the skillion roof is considered to be more in keeping with a flat roof than a pitched roof envelope. The calculations indicate that the 7.0m height restriction is exceeded by 1.2m on the east and 1.7m on the west. This appears excessive, however the site is restricted by the existing retaining/brick build-up.

TPS2 contains particular areas where discretion may be applied to building height variations:

- Number of storeys – including provision for undercrofts provided they do not rise above a certain level, which as discussed is not directly relevant in this case;
- Topography – where natural ground levels indicate a variation is warranted, provided that the amenity of neighbouring areas is not unreasonably diminished, which is not relevant in this case as the topographical variation is only mild;
- Calculation of natural ground level – to be determined by Council, Council in terms of the height measure or point, and in this case the level of RL 24.90 is considered reasonable; and
- Extension to existing buildings – which is relevant in this case as the proposal is for alterations and additions to the existing structure.

In terms of topography, the R Codes state the following:

“Retaining walls that are provided as part of a previous dwelling, to establish base levels for lots, are excluded from these requirements. For the purposes of the Codes, such walls are regarded as natural features.”

A building licence for the existing home and site works was issued in 1983 and as such the existing retaining/brick build-up could be considered as a “natural feature” and is long established. Furthermore, the applicant has gained the written support for the proposal of the adjoining property owners at No. 3 Geraldine Street and No. 2 Gadsdon Street, which are most affected by the rear addition. This is considered to satisfy the Scheme requirements for neighbouring amenity not being “*unreasonably diminished*”. However, the degree of build-up could be considered to exceed typical retaining or fill.

Directly to the west of No. 1 Geraldine Street are two properties containing unit developments (Nos 2 and 4 Gadsdon Street). These properties have non-compliant densities and are between 2 and 3 storeys in height, so have greater building bulk than what could be expected in the residential zone.

The revised plans have resulted in minimal floor to ceiling heights being proposed in the rear addition. The addition cannot be lowered to comply with the height restriction and still meet the minimum floor to ceiling heights required by the Building Code of Australia.

Therefore, in terms of streetscape and urban design, the bulk and scale is considered compatible. Based on the form and construction of the existing dwelling, the extra height could be legitimately allowed as an extension. It is also observed that in comparison to a pitched-roof design the flat roof design requires less additional height.

Access

The existing situation has a double garage fronting the western boundary of the site, with access via the PAW and an additional bay with access from Geraldine Street. The proposal incorporates the addition of a single garage adjoining the existing double garage, with sole access via the PAW.

There is already a double carport (pergola structure) off Geraldine Street as legal road access for vehicles, with space for two more cars to park on the crossover (or even six altogether at a pinch – as there is no footpath which would be blocked).

The PAW is clearly developed as such, being narrow at less than the ideal right-of-way width of six metres, with a concrete footpath and Pencil Pines alongside the boundary wall to the subject dwelling. It provides limited space for vehicle manoeuvres, although the setback of the garage enables that, while Geraldine Street being a no-through-road assists traffic safety.

Concerns were raised by Council’s Engineering Department in relation to vehicle use of the PAW, for which in February 2006 it was recommended that all vehicle use be prevented. The following is an extract from the February 2006 report to Council:

“The access is vested in Council as a Pedestrian Access Way (PAW). Council has no current power to allow vehicles to be driven on this PAW. Only a

change of status back to a Laneway/Right of Way or to a road would restore the vehicle access right. This has been confirmed through contact with Land Asset Management Services.”

Despite this advice, Council made the following resolution:

“That Council inform the owner of 1 Geraldine Street, Cottesloe, that a bollard will be installed at the end of March, 2006 to prevent vehicle use of this access, but that the bollard be positioned or of a type to allow access to 1 Geraldine Street only, subject to the necessary insurance being arranged by the owner.”

With the current proposal to extend the amount of vehicle use of the PAW, Council's Engineering Department have again reiterated their concerns. Council now has the opportunity to follow-up on the access issues due to the current application.

The revised plans indicate that the owner is prepared to install a pedestrian chicane on the PAW, to the south of the garage opening. This would increase the safety of pedestrians as vehicles from the reverse out.

While in a sense the new owner has inherited the existing access arrangement, that does not include the right to expand it, and Council would be prudent in containing the current situation. As the existing four on-site parking bays exceed the two required, there is not an overriding need for the proposed garage. Further privatisation and vehicular dominance of the PAW is not supported. It might even be contemplated that a change in ownership presents the opportunity for the access matter to be revisited and rectified, however, that may seem harsh in the circumstances, because the existing double garage is a given as originally approved and Council has recently resolved to allow that arrangement to continue in a controlled manner.

The applicant can retain the existing garage, but not construct the new garage, although that space could be created for storage or a workshop, etc, but with no garage door. The use of the PAW can still be controlled by bollards.

In conformity with Council's February 2006 resolution, the current owner has provided details of public liability insurance for 20 million dollars, which is valid until 30 April 2008 and lists Council as an interested party. However, at this stage Council has not installed a bollard of the type required by the 2006 resolution.

Setbacks

Two setback variations to the Acceptable Development provisions of the Codes have been identified, which require consideration under the Performance Criteria of R Code Clause 3.3.1 (P1), which is listed below:

Wall ID	Required	Proposed
Setback to western middle level wall – height 6.2m, length 29.2m, with major openings	6.1m	3.0-4.9m including 1.5m of PAW
Setback to eastern middle level dining & kitchen wall – height 3.7m, length 10.9m, with major openings	2.2m	1.5m

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.*

In relation to the western side setback, the Codes allow 2.0m of the adjoining PAW to be included in the setback calculation. The PAW physically provides a 3.0m distance between the subject site and the rear boundaries of the adjoining properties, reducing any impacts of building bulk.

The majority of the western middle level wall is existing, with only the front (northern) bedroom and balcony being additions. While both the bedroom and balcony contain openings, the existing portion of the wall contains openings that overlook a similar area. Furthermore, the adjoining sites to the west front onto Gadsdon Street, so the setback variation is located next to parking areas and outbuildings.

The setback to the eastern middle level dining and kitchen wall is considered to be minor as it is less than 1.0m. The wall is actually existing at a 1.5m setback, with minor modifications being made to openings. A large window to the dining room is being retained. Modifications involve the removal of two existing large windows and replacement with a highlight window, which will improve the overlooking situation. No changes are being made to the dimensions of the wall.

No objections have been received from the owners of the adjoining properties.

Visual Privacy

Application of the visual privacy cone has identified two variations from the middle level front balcony, affecting the adjoining properties to the west and east. The variations are considered minor and will not impact on the privacy of the neighbouring sites.

The balcony produces a minor variation of only 1.0m to the east and the cone affects the front garden area of the adjoining property. In terms of overlooking, the front garden area is generally considered less important than a rear garden. Rear gardens are more private and where outdoor entertaining or recreation take place. Front gardens, such as the one at No. 3 Geraldine Street, are often open to the street and can be viewed by the public.

To the west, the front balcony overlooks the PAW and portions of the adjoining property at No. 4 Gadsdon Street. While it appears that the adjoining property at No.1A Geraldine Street is also affected, the visual cone actually impinges on the front setback area of that site only, which not considered a variation under the Codes.

The overlooking of the PAW is considered to contribute positively to the locality, by providing passive surveillance for security. The overlooking of No. 4 Gadsdon Street will impact on a paved car parking area at the rear of the unit development, which is not a private outdoor area.

There have been no objections to the proposal from the adjoining property owners.

Front Fencing

The property currently has solid fencing on the front boundary, including the return adjoining the PAW. The fence is a rendered wall and has been indented in sections, where landscaping with mature trees exists. This will remain and the existing landscaping has been used effectively to soften the solidity of the fence.

Pool

A below-ground swimming pool is to be added within the fenced property, to which standard conditions apply.

CONCLUSION

In summary, the proposal is assessed as a generally compliant application involving additions to an existing dwelling, on a previously modified site. The history of access to the site is also important.

The streetscape and amenity outcomes are considered acceptable and there has been no neighbour concern. Compliance with development standards is difficult due to the existing building and has been substantially achieved.

It is considered that Council should approve the height of the addition in excess of the requirements, using the discretion in the Scheme for variations permitted in the case of extensions to existing buildings and the particular context of this site and design of the proposal.

It is considered that Council should approve the side setback and visual privacy variations under the Performance Criteria of the Codes.

While the owner has provided liability insurance for vehicular use of the PAW, it is considered that Council is not in a position to allow additional access for private vehicles. There is alternative parking available with access from Geraldine Street and the present on-site parking is ample.

VOTING

Simple Majority

COMMITTEE COMMENT

The Manager Development Services advised that the owner owns the private lot and the public PAW is owned by the Crown. The owner is obtaining private insurance for the access arrangement, which would compliment any liability still the responsibility of the Town. While there were legalities involved the existing garaging is a given, the street is not a thoroughfare, the walkway is not heavily-used and people are generally accustomed to the situation.

Committee concluded that condition 10 could be deleted from the approval as the additional garage would not impact unduly on the accessway in view of its location and function and the above aspects.

OFFICER RECOMMENDATION

That Council GRANT its Approval to Commence Development for the Alterations and Additions to Existing Residence at No 1 (Lot 34) Geraldine Street, Cottesloe, in accordance with the revised plans submitted on 08 August 2007, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve, access-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (3) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (4) The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (5) The applicant shall apply 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.
- (6) The spa/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.
- (7) 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.
- (8) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.

- (9) Any front boundary fencing to the site being of an open-aspect design in accordance with the Fencing Local Law and the subject of a separate application to Council.
- (10) The proposed additional single garage with access via the pedestrian way is excluded from this approval, however, that space may be used for some other acceptable purpose such as storage or a workshop, hence at building licence stage revised plans shall be submitted showing deletion of the single garage door and designation of how that space is intended to be used, all to the satisfaction of the Manager Development Services.

COMMITTEE RECOMMENDATION

That Council GRANT its Approval to Commence Development for the Alterations and Additions to Existing Residence at No 1 (Lot 34) Geraldine Street, Cottesloe, in accordance with the revised plans submitted on 08 August 2007, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve, access-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings for a building licence.
- (3) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (4) The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (5) The applicant shall apply 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.
- (6) The spa/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.
- (7) 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.
- (8) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.

- (9) Any front boundary fencing to the site being of an open-aspect design in accordance with the Fencing Local Law and the subject of a separate application to Council.

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That condition 10 which was deleted from the officer recommendation be re-inserted.

Lost 2/8

10.1.4 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Alterations and Additions to Existing Residence at No 1 (Lot 34) Geraldine Street, Cottesloe, in accordance with the revised plans submitted on 08 August 2007, subject to the following conditions:

- (1) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (2) **Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve, access-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas shall be included within the working drawings for a building licence.**
- (3) **The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (4) **The roof surface shall be treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (5) **The applicant shall apply 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.**
- (6) **The spa/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.**
- (7) **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.**

- (8) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.**
- (9) Any front boundary fencing to the site being of an open-aspect design in accordance with the Fencing Local Law and the subject of a separate application to Council.**

Carried 10/0

10.1.5 NO. 26 (LOT 12) LILLIAN STREET – TWO-STOREY RESIDENCE AND POOL

File No:	1197
Author:	Mr Lance Collison Mr Andrew Jackson
Attachments:	Location plan Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	25 July, 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Mr R & Mrs C Dryden
Applicant:	Riverstone Construction
Date of Application:	26 June, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	612m²
M.R.S. Reservation:	N/A

SUMMARY

The applicant is proposing a two storey residence and pool.

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

PROPOSAL

The existing residence and pool will be demolished to make way for the new residence. The proposal incorporates the combination of a two storey flat roof front section and single storey pitched roof rear section.

On the ground floor a garage, laundry, family room, powder, ensuite, WC, master bedroom, WIR, scullery, kitchen and living/ dining room is proposed. An alfresco outdoor area overlooks a pool adjacent to the rear of the block.

On the upper floor two bedrooms, a sitting room, bathroom and a balcony overlooking the street is proposed. A staircase links the two floors.

URBAN DESIGN APPRECIATION

- Externally, the design of the proposed dwelling comprises two distinct parts: the front two-storey portion which is a contemporary, flat-roof design, and the rear portion which is a single-storey conventional pitched-roof design.

- It is understood that this hybrid design is due to the prohibitive cost of continuing a flat or skillion roof design over the rear half, especially because of the expense of steel framework.
- It is unusual to encounter a dwelling designed in this way, which almost appears as two dwellings on the one site, such as in a rear dwelling situation.
- While there is no particular planning rule that prevents such a design approach, on one hand it does mean that the dwelling is not a cohesive entity, whereby the building is both physically and visually disjointed.
- On the other hand, it is not unusual for rear extensions to be in contrast with the front part of a dwelling, typically in the case of modern additions to older houses. Indeed, with heritage dwellings (which this is not), a common philosophy is to clearly differentiate the old from the new.
- Another perspective is that rear dwellings generally may vary from front dwellings, although there is also a strong argument for design similarity.
- Yet another argument is that in small lot developments and redevelopment projects, for example, adjacent or adjoining dwellings often have diverse designs to be individual and create variety – albeit sometimes resulting in a dolls-house or Hollywood-set environment.
- The alternative school of thought is for thematic architectural design with a good degree of consistency and compatibility, so that the built form and urban landscape outcomes deliver a unified sense of place and design integrity and integration.
- Returning to the subject proposal, the saving grace in this case is that the front portion of the dwelling presents to the streetscape as the main architectural statement and largely conceals the rear portion, which would be barely visible.
- Hence, while the character of the streetscape will be influenced by the contemporary style, the rear portion will not have a bearing to the public domain and, as only single storey and conventional, would be essentially inoffensive to surrounding properties. In this respect it is noted that neighbours have not expressed any concerns regarding the design per se.
- At the same time, the proposal is preferable to simple facadism, when the front of a dwelling is dressed-up to represent a certain style or classiness to the street, but the rest of the building is basic or nondescript and turns its back on next door properties. In other words, the front portion of the proposed dwelling is substantial and designed as a whole entity in itself.
- In summary, while from a purist point of view it can be considered desirable to achieve a holistic design, where a hybrid design performs in terms of development requirements and amenity aspects, and where the streetscape is not faced with an awkward juxtaposition of built form, then it is assessed that the proposal may be supported.
- A site inspection has confirmed that the dwelling will behave in this manner, given the pattern of development of surrounding dwellings, yards, fences and vegetation – while the rear extension could be viewed from certain vantage points by neighbours located behind, the lot configuration, topography and adjacent dwellings mean that the streetscape image would simply be the new two-storey modern portion at the front.

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	Maximum 6m wall height Maximum 8.5m building height	7.5m building height concealed roof

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 2 – Streetscape	Garage door not exceeding a width of 50% of the street frontage	Garage occupies 63% of the frontage	3.2.8 – P8
Element 3 – Boundary Setbacks	1m – Ground west wall	Nil	3.3.1 – P1
Element 3 – Boundary Setbacks	1.5m – ground east wall	1.2 to 4.5m	3.3.1 – P1
Element 3 – Boundary Setbacks	1.5m – ground east wall	1.3 to 3.5m	3.3.1 – P1
Element 3 – Boundary Setbacks	1.7m – upper east wall	1.3 to 4.5m	3.3.1 – P1
Element 3 – Boundary Setbacks	2.1m – upper west wall	1.3m to 2.1m	3.3.1 – P1
Element 8 – Privacy	4.5m - bed 3	4.1m	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 7 letters sent out. No objections were received.

BACKGROUND

The existing single storey residence is being demolished and the pool removed to make way for a two storey residence. The residence was approved in 1982, the pool approved in 1988 and a carport approved in 1999.

STAFF COMMENTNatural Ground Levels

It is assessed the natural ground levels slope downwards from the front of the block to the rear. The maximum fall is 1.8m. The centre of the site has been determined at RL 16.9.

Building Height

The wall heights do not conform to the TPS2 requirement of a 6m wall height. The roof in this proposal to the front section is largely concealed for the second storey component. As dwellings with concealed roofs are not considered directly in TPS2 the RDC are relied upon as a guide. The RDC allow a 7m wall height with concealed roofs. It is assessed that this proposal has a concealed roof for the second storey, so that standard should apply.

The proposal has a maximum 7.55m (RL 24.5) wall height taken from the centre of the site for the entry only. This is also the maximum building height. The remainder has a wall height of between 6.45 and 7.1m above the centre of the site level. The centre of the site level is determined to be RL16.9.

The entry footprint has a 7.55m wall height and measures 5.3m north-south and 2.9m east-west or 15.37sqm. It is setback a minimum of 1.784m from the eastern boundary. The neighbouring property to the east did not object to this building height. It is noted that the initial concept proposed this entry feature at 8.9m high, but that was reduced on advice from Council officers.

This wall/roof situation is a design approach rather than being brought about by topography or some other basis for the specific exercise of discretion under the Scheme, but on a performance-based assessment under the RDC it may be considered sufficient to support such a variation as meritorious. The form of the subject part of the dwelling is consistent with other similar dwellings approved taking into account the use of flat roofs and their interrelationship with wall heights. As indicated this particular proposal is relatively low-key and is setback a minimum of 1.87m from the eastern neighbour to avoid bulk or shadow issues to neighbours.

This entry occupies only a small portion of the space that a conventional pitched roof would, so that there is a greater view-shed available over the dwelling. Although at the same time a flat roof design with up to 7m rather than 6m high walls actually occupies some of the pitched-roof envelope to counter this gain. It should also be remembered that the second storey only occupies the front half of the proposed dwelling. This is partly due to the desire to have a greater street presence to a lot with a narrow 7.8m frontage. However, it is noted the lot does not slope significantly enough to allow a variation to height by reason of topography, hence the height is sought on the basis of an architectural feature only.

In summary, the proposed height variation for the entry could be supported in itself as a design approach and given that it is not an amenity concern and there is no neighbour objection. The performance criteria of the RDC could be relied upon to enable this. It is assessed that reducing the height to 7m would make a visually discernable change yet not make a great deal of difference to urban design or amenity. As a guide, recently Council supported a half-metre height variation to facilitate a 30sqm skylight at 56A Marine Parade, and in comparison the subject proposal of the void over the entry is for an area of only 15.3sqm.

In regards to the 7.1m section of wall (RL of 24.0), this is located along the southern, western and eastern edges of the second storey addition. The parapet wall conceals the 3 degree pitch of the metal roof. It is considered this could also be supported.

Boundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground west wall	Garage	3.5m	7.3m	no	1m	Nil

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground east wall	Garage to stair	3.7m	11.5m (measured at right angles)	No	1.5m	1.2 to 4.5m
Ground east wall	Scullery to living	3m	13.7m (measured at right angles)	Yes	1.5m	1.3 to 3.5m
Upper east wall	All except sitting room	7.7m	11.5m (measured at right angles)	No	1.7m	1.3 to 4.5m
Upper west wall	All	7.2m	13.7m	no	2.1m	1.3m to 2.1m

3.3.1 – Buildings Set back from the Boundary

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

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

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The RDC do also allow as per Clause 3.3.2 A2ii “*In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;*” However in this circumstance the garage does not meet the height requirement of an average of 2.7m.

Nevertheless, the garage setback meets the Performance Criteria of the RDC as it makes an effective use of space. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The garage does not present any privacy issues. The garage on the boundary is supported.

This proposal is to have a 1.2m to 4.5m setback to the side boundary for the ground east wall for the garage to staircase. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. It should also be noted this wall is not parallel with the boundary and is only a variation at the south eastern corner of the staircase.

This proposal is to have a 1.3m to 3.5m setback to the side boundary for the ground east wall for the scullery to living room. This is usually required to be setback 1.5m

from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. It should also be noted this wall is not parallel with the boundary and is only a variation at the south eastern corner of the living room and scullery.

The proposed setback variation for the upper east wall excluding the sitting room also meets the Performance Criteria of the RDC. The setback required is 1.7m while the proposed setback varies from 1.3 to 3.5m. The wall provides direct sun to the property as well as adjoining open spaces. The wall does not provide any privacy issues and because the wall is staggered it does not present a bulk issue to the eastern neighbouring properties. This wall is only a variation at the south eastern corner of the staircase.

The proposed setback variation for the upper west wall also meets the Performance Criteria of the RDC. The wall provides direct sun to the property as well as adjoining open spaces. The wall does not provide any opportunity for overlooking. It also does not present a perception of bulk. This is partly due to the second storey being set in from the ground floor and the varying setback to this side. There was no objection to this setback.

Privacy

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

Room	Required	Provided
Bedroom 3	4.5m	4.1m

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 bedroom 3 cone of vision setbacks. In this circumstance the window does not face the neighbouring property. The window faces north while the neighbouring property where the overlooking could occur is to the west. The neighbour did not object to this proposal and the proposed cone of vision only just intersects the neighbouring property. It is seen that this window of bedroom 3 meets the performance criteria of the RDC.

Garage Door

The width of the garage door does not meet the Acceptable Development requirements of the RDC.

The Acceptable Development measures specify;

“Where a garage is located in front or within one metre of the building, a garage door (or garage wall where a garage is aligned parallel to the street) facing the primary street is not to occupy more than 50 per cent of the frontage at the setback line as viewed from the street. This may be increased to 60 per cent where an upper floor or balcony extends for the full width of the garage and the entrance to the dwelling is clearly visible from the primary street.”

In this circumstance the garage door occupies 5m out of the 7.9m street frontage or 63%. As a consequence, the Performance Criteria of the Codes shall be addressed. The Performance Criteria says;

“The proportion of frontage and building façade occupied by garages limited so as not to detract from the streetscape.

In this circumstance the applicant has addressed the Performance Criteria. A balcony above part of the garage as well as a staggered roof line reduces its impact on the streetscape. It should also be noted that because of the unusual shape of the lot with only a 7.9m frontage that any double garage would not be able to comply with the Acceptable Development provisions. Furthermore there is no alternative entrance for a garage. It will replace a carport which is closer to the front boundary and this new proposal provides for a better streetscape. The variation is therefore recommended for approval.

CONCLUSION

The proposed two-storey residence and swimming pool will add architectural interest to an acute corner of the street. The proposed 7.55m maximum building height for a small area only allows for an entry statement which is a feature of the dwelling without causing impacts. The proposed 7.1m high walls for the second storey are also recommended for approval as only a marginal variation.

All the side setback variations meet the Performance Criteria of the RDC and the applicant has designed the front elevation in a way to detract attention from the width of the garage door. There were no objections. It is recommended the residence and pool is approved subject to standard conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee supported the proposal without reservation.

10.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council GRANT its Approval to Commence Development of a two-storey residence and pool at No, 26 (Lot 12) Lillian Street, Cottesloe, in accordance with the revised plans submitted on 10 July 2007, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (2) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (3) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (4) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (5) The 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.
- (6) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
- (7) 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.
- (8) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
- (9) 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.
- (10) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (11) If the crossover is to modify a crossover, the applicant applying to the Town of Cottesloe for approval to modify a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.

Carried 10/0

10.1.6 NO. 291 (LOT 4) MARMION STREET (43 HAWKSTONE STREET) – TWO-STOREY RESIDENCE, OPEN-ASPECT FRONT FENCE AND GATE

File No:	1205
Author:	Mr Lance Collison Mr Andrew Jackson
Attachments:	Location plan Submission from owner Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	6 August, 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Glen Buckley
Applicant:	Glen Buckley
Date of Application:	6 August, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	460m²
M.R.S. Reservation:	N/A

SUMMARY

A two storey residence, front fence and gate are proposed on the newly created lot.

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

PROPOSAL

On the lower floor a partially sunken carport, a garage/workshop, two bedrooms, a study, a WC and bathroom is proposed.

On the upper floor, a kitchen, living/dining, sitting, studio, study, laundry, ensuite and WC, master bedroom and WIR is proposed. A deck and ramp, open aspect fence and front gate can be found externally. A staircase links the two levels.

URBAN DESIGN APPRECIATION

The proposed dwelling follows the rise of the street and would be in stepped-scale with the newer dwelling to the east and the older dwelling to the west, sharing a similar massing. A street tree to the verge and two to the eastern neighbours' verge soften the streetscape. The contemporary design is also reflective of the three modern dwellings being built immediately opposite. The proposal seeks to blend in as opposed to being in stark contrast to this streetscape character, which its simple lines and attention to detailing would facilitate.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Council Resolution

Resolution	Required	Provided
TP128a – 28 October 2002	Generally insist on 6m setback for residential development which does not include averaging	5m front setback for the deck

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.5m setback – west lower floor	1.3-3.7m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	3.5m setback – south upper floor	0-2m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	3.7m setback – west first floor	1.3-3.7m setback	Clause 3.3.1 – P1
No 8 – Privacy	4.5m setback – bedroom	3.8m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m setback –studio	3.8m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m setback -deck	4.5m setback	Clause 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 Letter to Adjoining Property Owners.

Submissions

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

BACKGROUND

The existing residence at 291 Marmion Street was granted subdivision approval by the WAPC in September 2006. This approval required part of the existing residence to be demolished and created two green title lots. This planning application is relating to the lot which is proposed to be named 43 Hawkstone Street. This lot faces Hawkstone Street and has no frontage to Marmion Street.

STAFF COMMENTNatural Ground Level

A 4-corner average was used to determine the centre of the site. This is deemed to be the fairest calculation due to the large amount of retaining on site. Historically the site has been used as a terraced garden for the existing residence at 291 Marmion Street. The centre of the site is determined to be RL 11.48.

Building Heights

The wall and building heights are compliant with the RDC for a concealed roof designed house. The maximum height of the residence is RL 18.0 or 6.52m above the determined centre of the site level.

Boundary Setbacks

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

The setback variations are:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
West Lower	All except study	1.5m	15.6m	No	1.5m	1.3-3.7m
South Upper	All	Up to 4.8m	15.9m	Yes	3.5m	Nil to 2.0m
West Upper	All except laundry	5.5m	16.0m	Yes	3.7m	1.3-3.7m

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.*

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The RDC do also allow as per Clause 3.3.2 A2ii *“In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;”* However in this instance an over height boundary wall is proposed on the southern boundary.

This proposal is to have a 1.3 to 3.7m setback to the side boundary for the lower 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. It can be argued the wall does not have an adverse effect on the amenity of the adjoining property. This is because it is partially sunken. The setback also provides adequate sun and ventilation to this property and the adjoining western neighbour.

This proposal is to have a nil to 2m setback to the side boundary for the south upper wall. This is usually required to be setback 3.5m from the boundary. Whilst this is considered a large variation it should be noted that the section with a nil setback is 600mm lower than the section setback 2m from the boundary. Under the RDC both the laundry to ensuite and the studio to study sections of wall are considered one wall.

The wall setback meets the Performance Criteria of the RDC as it makes an effective use of space. It does not adversely affect the amenity of the adjoining property as this property is also partly built on this boundary. Direct sun and ventilation is still available to this property and the neighbour. The wall will provide adequate privacy to both properties as no major openings from habitable rooms are proposed. It should also be noted that the applicant also owns the southern adjoining property.

The west wall on the upper floor proposes a 1.3 to 3.7m setback where a 3.7m setback is usually required. The setback generally meets the Performance Criteria of the RDC and is supported. The setback makes an effective use of space and allows direct sun to this property and the western neighbours. The wall is proposing a major

opening from the kitchen however this section is setback 3.7m which is the required setback. This is not a full height window.

Also, the louvres from the studio are proposed to be operable, however, these shall be angled to prevent overlooking to the neighbour. This is a recommended condition of approval.

Front Setback

The front deck is proposing to be setback 5m from the front boundary. The RDC allow an averaged 6m setback for R20 coded dwellings; however, Council has adopted a resolution requiring a preferred 6m front setback for residential development (which is the R20 standard) for the district generally which does not include averaging.

The RDC calculate an averaged setback by deducting the open areas behind the front setback (between 6 and 12m from the front boundary) from the incurred built areas in the front setback (between 0 and 6m from the front boundary). The areas within 1m of the side boundaries are not calculated in this averaged setback. The average front setback of this proposal is 6.1m.

It is noted that the main wall (windows) face of the dwelling is actually setback 7.2m, however, the upper level deck sits forward of this line up to the 5m setback, hence the effect of the dwelling is to occupy a built envelope to the lesser (albeit strictly compliant) setback.

The proposal has both a "reduced" setback and a lightweight look. The overhanging upper floor deck structure presents as a solid element which projects forward of the adjacent buildings.

In assessing the impact of the proposed front setback, neighbouring properties along Hawkstone Street were examined. To the west the setback of 41 Hawkstone Street is 6m, although the property has a partially solid front fence, whilst the eastern neighbour at 291 Marmion Street also has a 6m front setback to Hawkstone Street.

In summary, Council has in certain circumstances supported less than 6m front setbacks where the streetscape, built form and amenity considerations have been assessed as acceptable. In this case the view lines are not deemed to be affected and the setback variation is supported.

Privacy

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

Room	Required	Provided
Upper bedroom, angled view looking north	4.5m	3.8m
Studio, angled view looking north	6.0m	3.8m
Deck, angled view looking south	7.5m	4.5m

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 upper floor bedroom cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. This is because the window is facing north to capture sunlight and this variation occurs on a 45 degree angle toward the eastern neighbouring property. The window does not directly overlook any major openings on the neighbouring property.

The proposal asks for a variation to the studio on the upper floor's cone of vision setbacks. The proposal also complies with the Performance Criteria of the RDC. This is because the window is facing north to capture sunlight and this variation occurs on a 45 degree angle toward the western neighbouring property. The window does not directly overlook any major openings on the neighbouring property. It should also be noted the high boundary fence will also prevent some overlooking to this property.

The proposal asks for a variation to the upper floor deck's cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. A screen is provided on the eastern edge of the deck. It extends 1m past the edge of the deck to the south. Any possible overlooking would be on a 45 degree angle toward the eastern neighbouring property and will be partly blocked by a retained tree. The deck does not directly overlook any major openings on the neighbouring property.

Rainwater Tank

A circular rain water tank is proposed in the south western corner of the lot. The Town does not have specific setback regulations regarding these tanks and it is not deemed to be an amenity issue. The proposed height of the tank is 2m and is setback a minimum of 500mm from the neighbouring property, and this is considered acceptable.

Front fence and gate

The front fence is proposed to be open aspect in accordance with the Town's Fencing Local Law.

CONCLUSION

The proposed minor, partial front setback variation does not affect the amenity of neighbouring properties; and it can be recommended that the protrusion into the front setback is feasible and is limited to a deck only. The property meets a 6m setback

average as required in the RDC. The property has been designed to take advantage of sustainable principles. Solar panels, a rainwater tank and several northern facing windows are proposed.

The application complies with overshadowing and open space. The side setbacks are generally compliant and the front fence and gate have been designed to not detract from the streetscape. It is recommended that the application be approved subject to standard conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Clarification was sought regarding the front setback and it was explained that only some of the access steps/ramp was in the front yard area while the dwelling was setback as required or in excess of that. Committee was satisfied accordingly.

10.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

GRANT its Approval to Commence Development of a two-storey residence, open aspect front fence and gate at No. 291 (Lot 4) Marmion Street, Cottesloe, in accordance with the plans submitted on 2 July 2007, subject to the following conditions:

- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
- (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (c) **The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
- (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (e) **The finish and colour of the boundary wall facing the neighbours being to the satisfaction of the Manager Development Services.**
- (f) **Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**

- (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover in accordance with Council specifications as approved by the Manager Engineering Services or an authorised officer.**
- (h) The louvres to the studio shall be fixed and angled to prevent overlooking to the western neighbour, to the satisfaction of the Manager Development Services.**

Carried 10/0

10.1.7 NO. 9 (LOT 2) GRANT STREET – ALTERATIONS TO ROOFLINE, STAIRCASE/BALCONY, WALKWAY AND PROPOSED GATEHOUSE

File No: PRO/1479
Author: Ms Lisa Engelbrecht, Mr Andrew Jackson
Attachments: Location plan
Correspondence from owner (3)
Submissions (2)
Photos of similar structures
Plans

Author Disclosure of Interest: Nil
Report Date: 9 August, 2007
Senior Officer: Mr Stephen Tindale

Property Owner: Mr Peter Rattigan

Applicant: Mr Peter Rattigan
Date of Application: 4 July 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 370m²
M.R.S. Reservation: N/A

BACKGROUND TO APPLICATION

- The application has been put forward as an amendment of a previous approval by Council in March 2007. While to the extent that the present proposal seeks to vary components of the previous approval it is in that sense an amendment application, it does not include the entire earlier proposal and some new components are involved. Also, the previous approval still stands and can be implemented within that approval period. Therefore, the current application is really a fresh application in itself and the proposals it contains can be considered anew, within the context of the existing development.
- The owner has a right to apply for changed or new components, and it is not uncommon for proposals for properties to evolve as the ideas or needs of the owner unfold and, as in this instance, there is ongoing development around the subject property which may influence that.
- However, where Council has given recent consideration to particular components, and where the implications of those proposals for all concerned (ie owner, designer, council, neighbours) have been thoroughly assessed, then a basis has been established for what is considered reasonable in the circumstances. This is not to say that subsequent proposals for alternatives are without merit, as indeed they may comply or be acceptable on performance, which must be determined through the assessment process. In this regard, on one hand it is preferable to put aside the previous proposals and any associated issues, so that an impartial view of the revised or additional proposals may be reached. On the other hand, there is weight in

- the attitude that the debate has been had, the bounds have been set and the expectations of what will eventuate have been confirmed.
- In this respect, any neighbour comments to be taken into account ought to be grounded in genuine concerns about the changed or extra proposals and discernable implications for their properties, rather than merely objecting to the experience of change or introduction of another component.
 - In the context of this background and approaches to decision-making, a framework for assessment of the current application is whether:
 - The proposed changes are necessary or reasonable in themselves.
 - They are an improvement in relation to the property.
 - They are an improvement in relation to the surrounding properties and streetscape.
 - They are consistent with similar such components elsewhere as approved by Council having regard to the assessment instruments.
 - Approval may generate any undesirable precedent.
 - Given the assessment that has been undertaken, the recommendation is to approve the application, subject to standard conditions and some modifications.

PROPOSAL

As described in the attached letter from the owner, the application contains several components:

- A gatehouse to demark the entrance to the property via the pedestrian access leg.
- Construction of the walkway to make use of the access leg.
- Reconfiguration of the entry stairs, with privacy screening, leading from the access leg to the upper level of the dwelling.
- Increasing the level of the northern balcony to the dwelling.
- Three minor roofline alternations to the dwelling.

These are each relatively minor incidental additions or amendments making improvements to the dwelling. The gatehouse and walkway are interrelated and would fulfil the intent of the original subdivision and development approvals for construction and use of that access arrangement – the access leg is not meant to be left as a barren wasteland and the expectation of abutting properties is that it would be properly finished and used accordingly.

STATUTORY ENVIRONMENT

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

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 Local Law

Policy	Required	Provided
Fencing Local Law	Fences in the front setback may be of solid construction to 900mm, open aspect between 900mm and 1800mm and piers to 2100mm above NGL at the boundary.	Gate house to 2.9m in height – the Fencing Local Law is focussed on fencing to front or side boundaries or within the front setback area and does not address pedestrian access legs.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No.3 – Boundary Setbacks	Eaves overhang not project closer to a boundary than 0.75m.	0.35m	Clause 3.3.1 – P1
No.8 – Privacy	Screening to a height of 1.65m above FFL and with less than 20% perforation.	Unspecified metal screening – a condition can address this.	Clause 3.8.1 – P1
No.6 – Site Works	0.5m maximum fill.	1.2m maximum from NGL of accessway.	Clause 3.6.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

ADVERTISING OF PROPOSAL

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

The advertising consisted of a letter to Adjoining Property Owners.

Submissions

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

Owners of No.11 Grant Street, to the east of the subject site:

- *Object to gatehouse as a building and subject to 4.0m front setback.*
- *Concern with bulk from gatehouse, aesthetics and need for structure.*
- *Concern that fill in walkway will allow viewing into courtyard.*
- *Object to screening of stairs which will block light.*
- *Advise that boundary wall is on 11 Grant Street and owners of 9 Grant are not to change fence.*

Owner of No.7 Grant Street, to the north of the subject site:

- *Concern at potential for overlooking from raised walkway.*
- *Comments that retaining will be required by the proposal, as their boundary walls are not retained.*
- *Offers to slightly raise their boundary wall to achieve a 1.8m height, and seeks access to the walkway to finish-off their walls.*
- *Concern that the realigned staircase would allow more overlooking than the approved design.*
- *Concern that the gatehouse equates to a building and would be a dominant structure some 3.6m above their natural ground level, so seek a better design solution.*

It can be seen that there are common concerns regarding the impact of the gatehouse and walkway as intended, plus about the potential effect of the stairs on privacy. These aspects are assessed further below. The applicant has been provided with the normal opportunity to respond to the neighbours' concerns and has elaborated on the proposal in an attached letter, which assists in assessing the proposal. Briefly, this addresses the following:

- *Emphasises privacy as a two-way consideration and that the proposals are to improve upon it.*
- *11 Grant St – the walkway level is to be reduced at the front to improve privacy and where it is to be raised further along a minimum height of 1.8m to the boundary wall will be provided, a condition for which would be accepted. The new stairs would provide better screening and additional screening could be provided atop the dividing wall, a condition for which would be accepted. The gatehouse would be transparent and lightweight and its bulk obscured.*
- *7 Grant St – the view from this property would bypass the gatehouse and privacy would be improved by reducing the level of the walkway at the front. The increased level further along the walkway would be managed in the same manner as described above.*

DETAILED CONSIDERATIONS

Roofline Alteration

These are three minor design changes only for the practical purpose of better weather protection. There is a new roof-light with louvres on the northern roof, adjoining a solar hot water system, and changes in the roof lines at the north-western and north-eastern corners of the building.

The roof-light is similar to what is commonly known as a skylight. It lies parallel to the roof and does not have any bulk or overlooking impacts. It will provide the meals room with northern sunlight and the design is in accordance with passive-solar design principles.

The previously approved plans included a continuation of the roof-line shown on the northern elevation. In the current proposal, the north-western portion of this roof line has been deleted, exposing the gabled roof-line from the western elevation behind. The pitched roof over the entry area at the north-eastern corner of the building has also been modified, extending the northern roof towards the eastern boundary, while maintaining a hip.

None of these changes are of consequence to any assessment element or concern to neighbours. They are minor alternations to enhance the amenity of the dwelling.

Staircase/Balcony Alteration

The stairs extend from the first floor entry to the ground floor northern courtyard area, on the eastern side of the site near the southern opening of the pedestrian access way.

The previously approved plans showed a staircase that wound back on itself, on an east-west orientation. The staircase had privacy screening fitted to the eastern side to prevent overlooking and was setback 1.0m from the eastern boundary.

The current proposal incorporates a straight stair case and maintains a 1.0m setback from the eastern boundary. Privacy screening is again shown on the eastern side of the stairs, to prevent overlooking into the adjoining site at No. 11 Grant Street. Because the stairs are no longer winding, they will extend further north adjoining the central courtyard area to No.11. They will also be closer to the property at No. 7 Grant Street (was 3.4m setback, now 1.5m setback approx.).

While stairs could be considered part of a building under the Code definitions, they are primarily open, lightweight structures linking levels, hence usually they don't have the same building bulk as a house wall, for example.

Stairs are structures used to provide access to different levels and are not areas where people remain for extended periods. The Codes do not apply a visual privacy cone to stairs, seemingly due to their transient use. Visual cones apply only to habitable rooms, of which spaces similar to stairs, such as hallways and lobbies, are excluded. In other words, ordinarily stairs or steps may be unscreened.

Despite this, there can be overlooking which needs to be considered under the General Amenity Clause 5.1.2 of the Scheme, and which in this instance has been addressed by screening. A condition can be placed on the screening to ensure that its detailed design will prevent overlooking.

Because the stairway is located to the west and south of the neighbouring sites, it will not impact on access to northern sunlight for the adjoining properties.

The balcony is proposed to be raised on the northern side. The previously approved plans had steps down from the entry and from the balcony with access from the meals room. The current proposal indicates the balcony extending out at the same level as the entry and existing balcony, with no stepping. The additional height is approximately 0.55m, however, the balcony maintains a 7.5m visual privacy setback from the rear wall and windows of the adjoining building at No. 7 Grant Street, so is deemed to be acceptable. Also, obviously for convenience and safety it is preferable that the balcony be all one level and the same as the internal floor level of the dwelling.

Walkway Level Alteration

The level of the access leg is debatable: It is not critical for access to be at any particular level and a gradual ramp would seem more convenient and safer than steps, in terms of wheely-bins (including their noise), young children or older persons, and night-time use, for example. In this respect the applicant has stated that mature-aged persons would be using the walkway and that it would be used for bins (to overcome having to wheel them through the park as at present).

The architect has based the proposed new levels of the walkway from the existing levels in the walkway. The existing levels are affected by remnants of landscape retaining walls from the original house at No. 9 Grant Street, which has been demolished. The owner has advised that the plans submitted may not be entirely accurate and that he, too, wishes to ensure mutual privacy between the walkway and neighbouring properties, hence a condition would be accepted to ensure that the walkway is at a level/s to achieve a standard 1.8m dividing fence height to the boundary walls along the walkway.

The development of the walkway includes paving of the access, but does not include boundary fencing/walls. The existing walls on either side of the walkway are located on the adjoining properties. The height of boundary fencing is therefore directly relative to the ground levels of the adjoining sites.

There are topographical changes between the levels of the access leg and the adjoining properties due to the natural slope of Grant Street. Level changes may impact on privacy where the levels in the walkway are raised so as to render boundary fencing less effective. Because the fencing on either side of the walkway does not belong to No. 9 Grant Street, privacy can only be achieved by controlling the levels in the access under the current proposal.

The Site Works element of the Codes uses 0.5m of fill as a benchmark for what is considered reasonable in relation to having minimal impact on neighbouring properties in terms of privacy (and building bulk for that matter). It is recognised that in stepping the walkway along its length to regulate the slope up from the footpath to

the house, some fill may be desirable or necessary. However, it is also considered that the fill or stepped arrangement could be spread over the distance of the walkway to be kept within the 0.5m raised levels requirement of the Codes.

Privacy is desirable along the walkway, although would not be constantly affected given the transitory nature of its use. From the general amenity and streetscape points of view, however, the walkway level would ideally be lower rather than higher, and the gatehouse likewise set at a lower level so as to be least obtrusive. Consideration could also be given to the gatehouse perhaps also being setback even further, to be less obvious and to better knit-in with the pattern of the side walling along the front section of the access leg.

The proposed floor level of the gatehouse at RL 10.438 is considered reasonable and is within 0.5m of the approved ground level at the front of No. 7 Grant Street. This level is also below the ground level of the adjoining property at No. 11.

A condition is recommended to manage the walkway levels.

Approach to Gatehouses

- Town Planning Scheme No. 2 and the Fencing Local Law do not deal with gatehouses in any specific way; that is, they are neither expressly provided for nor prohibited. The Residential Design Codes deal with gatehouses only in a general way in relation to fencing and streetscape. Council has no particular planning policy regarding gatehouses.
- Under the *Streetscape Element* section the Codes in the explanatory (white) pages generally discourage substantial structures in the front setback area but do refer to structures which may be allowed, including *...appropriately scaled archways or gateways, in character with the streetscape*. In the prescriptive (blue) pages the Codes do not mention gatehouses specifically and the particular controls cannot be extrapolated to embrace them, however, the overall *Objective* does provide guidance: *To contribute towards attractive streetscapes and security for occupants and passersby....*
- It is apparent that there is ample evidence of gatehouses having been approved and built throughout the district, albeit to a small minority of properties, whereby they are an exception rather than the rule. However, it can be seen that they are a fairly popular design feature, offering an entry statement, weather protection, security, privacy and individuality.
- From the photographic examples submitted by the applicant, it is observed that these fall into a number of categories:
 - Old-fashioned, lighter-weight, typically timber gatehouses or garden “arches” to period residences, essentially quaint and in keeping with the heritage character.
 - 1980s-era style, more massive, solid masonry structures with square, curved or pitched roof forms and strong gates or doors, being bolder and obvious, both as a barrier and an architectural element.
 - Recent contemporary steel, timber and masonry designs which are relatively restrained, refined and usually serve a direct purpose, such as defining an entry (especially where more than one dwelling or to a pedestrian link) and formalising open spaces to smaller lots (such as a front courtyard or pool area). These designs compliment the dwelling,

fencing and front yard treatments of their properties and are legible and logical from the street.

- It is noted that the first two categories tend to pre-date the Scheme, RD-Codes and Fencing Local Law, so that while they may be perceived as a precedent, the planning rules have altered to no longer allow them without due consideration.
- It is also noted that where the modern gatehouses have lower walls, suspended or floating (often flat) and low roofs, open-aspect metal-rung or timber-slat gates, and knit-in with carports, garages, fences, retaining, terraces or constructed landscaping, they are less noticeable and effectively blend-in. It is actually the bulky and tall Mediterranean or classical-type designs which are obtrusive, dominant elements in the streetscape.
- In recent instances Council has been inclined to not support certain gatehouses, however, given the above analysis it is suggested that each one could be assessed in context according to prescribed criteria, including:
 - Does the gatehouse serve a worthwhile purpose?
 - Is its design integral and aesthetic in relation to the dwelling and property?
 - Is it relatively open-aspect in keeping with any such existing or proposed fencing, or does it create a more closed pattern?
 - Does it cause any amenity impacts to neighbouring properties and are any neighbour concerns sustainable?
 - Is it appropriate to and compatible with the streetscape?
 - Is it justifiable in the context of its function, design, the surrounds and setting, or could it be interpreted as establishing an undesirable precedent for the proliferation of such unsuitable structures?
 - Are there any other plausible factors to consider (eg: security of aged persons, a multi-unit complex, etc)?
- The notion of protection from weather deserves analysis. While it is true that protection will be provided when pausing in a fee-standing gatehouse, there is no protection when traversing usually relatively long distances to a dwelling, so apart from the waiting period to gain access, an umbrella might otherwise be employed. Also, Perth's climate is comparatively fair-weather, with not so much rain and many more fine days. Hence an overriding and enduring need for the gatehouse due to weather is questionable.

Rationale for Gatehouse

- Having regard to the above. the rationale advanced by the applicant for the subject gatehouse is assessed as essentially valid:
 - General – the pedestrian access leg is an alien environment which is problematic: it would benefit from being defined so that it can be easily found and properly used by visitors and service or emergency providers, in accordance with the original subdivision and development approvals; the access leg is attractive as an unattended and uncontrolled alleyway to unwanted strangers, straying animals and litter. These are social amenity considerations.
 - Security – this reflects the above and it is recognised that the proximity to beach and hotel pedestrian traffic is a tangible impact in this locality. At present the construction activity of the dwellings either side has disguised the access leg, but once completed it will become noticeable as a route not only to

the subject rear dwelling but also to the sides of the new neighbouring dwellings.

Weather protection – this is somewhat a material consideration in such an exposed position so close to the ocean and with the wide street, as opposed to a more sheltered inland site buffered by the ridge. It is noted, nonetheless, that the two-storey dwellings to the sides of the access leg do afford a degree of protection from wind, sun and rain, depending on the nature and severity.

Precedent from carports and garages – although the point of similarity with forward carports and garaged can be acknowledged, this is not considered to be a like-for-like comparison, as the origin, function, form and effects of these other structures is really another group of design aspects altogether.

Precedent for gatehouses – this has been commented on above and it is important to distinguish historically-allowed gatehouse from those consciously approved (or refused) under today's rules.

Gatehouse Design

- The gatehouse is designed as a simple and lightweight structure to fit into the pedestrian pathway, comprising six slender posts and a fairly low-profile pitched roof lengthways, setback nearly 2.5m from the front boundary and with a gate at the far end. Transparent glass or perspex roofing is indicated.
- This indented, slim-line design would be visually permeable, especially with the transparent roofing and an open-aspect gate (which can be conditioned). It occupies the 1.5m width of the walkway, which is logical, and is 3.6m long or deep, which is generous in terms of accommodating mainly one or two people at a time (and could be reduced to as little as 1.5m in dimension to minimise its extent while still affording some protection, although 2-2.5m maximum would seem sensible and in proportion, also matching with the profile of the side boundary fences/walls to the walkway). The height ranges from 2.1m to 2.9m. It is observed that a lower/flatter roof would remove the open gable side elevations of the pitched roof that would let in more rain.
- While the position of the gatehouse is practical and better inset instead of being on the boundary, the pitched roof is in keeping with the design of the dwelling it serves rather than consistent with the new modernist dwellings each side. Based on the streetscape criterion of compatibility with character, the gatehouse would read more appropriately were it designed to suit the dwellings that it bridges, so that it is virtually imperceptible. In other words, there should be similarity in lieu of differentiation, to avoid an out-of-kilter-looking structure wedged between two cohesive dwellings as an add-on or afterthought, which does not belong to those dwellings and sits alone. It is not considered that there is a strong argument in favour of the gatehouse being set-apart. Moreover, as the adjacent dwellings will look upon the gatehouse it should be designed to aesthetically relate to them, for a streamlined rather than disjointed appearance which contributes to but does not detract from the streetscape. In this respect the applicant has submitted several photos of such contemporary gatehouses which would suit this situation.
- Overall, while there are no prescriptive standards for gatehouses, the thrust of the applicable guidelines is for inoffensive structures which demonstrate design integrity, meaning that they are needed, not just a feature, and compliment their setting, which in this instance is not a typical front boundary

but in a sense a breathing space for two contemporary dwellings in an important streetscape.

CONCLUSION

- The proposals are in themselves relatively minor and capable of being resolved.
- Changes to the previous approval can be applied for and ought to be allowed if they are assessed as acceptable against the relevant criteria.
- The walkway and staircase can be developed provided an appropriate degree of privacy is achieved.
- The addition of a gatehouse is supported in this situation where it is clearly beneficial to have such a facility, subject to redesign.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee considered that a gatehouse here was not necessary or desirable and hence that conditions (e)(i) and (ii) should be removed to delete the gatehouse, however, a security gate could replace the gatehouse.

That conditions (e)(i) and (ii) be deleted.

Committee was also concerned about the appearance of the proposed redesigned outside staircase with extensive screening, which was considered unattractive compared to the previously-approved version (which should suffice and can be constructed) and about the related increase in the balcony level. It was concluded that the decision should require deletion of the staircase and balcony alterations as now proposed. Comment was also passed that a staircase in this location made it appear that there are two dwellings with separate entries.

In addition Committee discussed the functionality and privacy of the walkway and agreed that condition (e)(iii) be altered to require a ramp or long and that the levels achieve a minimum boundary wall height of 1.8m.

OFFICER RECOMMENDATION

That Council:

GRANT its Approval to Commence Development for the Alterations to roof, staircase and proposed gatehouse at No. 9 (lot 2) Grant Street, Cottesloe in accordance with the plans submitted on 4 July 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 portion of the development or 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) Revised plans being submitted for approval by the Manager Development Services, showing:
 - (i) The gatehouse being re-designed to be a simple contemporary expression in keeping with the architectural aesthetic of the dwellings to its sides, to be no deeper than 2.5m, to have a flat roof no higher than 2.5m, and to have a visually-permeable open-aspect (ie metal rung) gate.
 - (ii) The gatehouse floor level shall be no higher than RL 10.438.
 - (iii) The finished levels in the walkway shall be raised by no more than 0.5m above the natural ground levels along the walkway. To achieve this requirement, as well as in the interests of convenience, safety, noise control and amenity, the applicant is encouraged to re-design the walkway as a continuous ramp or as a series of long, gentle steps.
 - (iv) The privacy screening to the eastern sides of the staircase and first floor balcony shall be of a fixed, opaque or solid (non-perforated) material and a minimum height of 1.65m above the finished floor levels of the stairs and balcony.
- (2) Advise the submitters of this decision.

COMMITTEE RECOMMENDATION

That Council:

GRANT its Approval to Commence Development for the Alterations to roof, staircase and proposed gatehouse at No. 9 (lot 2) Grant Street, Cottesloe in accordance with the plans submitted on 4 July 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 portion of the development or 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) Revised plans being submitted for approval by the Manager Development Services, showing:
- (i) Deletion of the gatehouse. If desired, the gatehouse may be replaced by an open-aspect security gate, no higher than the adjacent boundary walls to the walkway, and of a contemporary design compatible with the adjacent dwellings, to the satisfaction of the Manager Development Services.
 - (ii) Deletion of the staircase and balcony level as proposed, in favour of the previously approved staircase and balcony design, which may be built in accordance with the terms and conditions of that approval.
 - (iii) The finished levels along the walkway shall be raised by no more than 0.5m above the natural ground levels along the walkway and shall achieve a minimum adjacent boundary wall height of 1.8m on each side. To achieve this requirement, as well as in the interests of convenience, safety, noise control and amenity, the applicant shall re-design the walkway as a continuous ramp or as a series of long, gentle steps, to the satisfaction of the Manager Development Services.
- (2) Advise the submitters of this decision.

AMENDMENT

Moved Cr Furlong, seconded Cr Strzina

That Council at the request of the owner defers determination of this application pending further consideration by Council at a future meeting.

Carried 8/2

10.1.7 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council at the request of the owner defers determination of this application pending further consideration by Council at a future meeting.

Carried 8/2

**10.1.8 NO. 2 (LOT 3) MARGARET STREET – OPEN-ASPECT FRONT FENCING,
GATE HOUSE AND PIER WALL, GATE AND FENCING INFILL TO
CANOPY EXTENSION**

File No: 1234
Author: Mr Lance Collison
Mr Andrew Jackson
Attachments: Location plan
Photos
Plans
Author Disclosure of Interest: Nil
Report Date: 10 August, 2007
Senior Officer: Mr Andrew Jackson

Property Owner: G & V Wheeler

Applicant: Boughton Architecture
Date of Application: 24 July, 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 551m²
M.R.S. Reservation: N/A

SUMMARY

A gate house, open aspect front fencing and a canopy extension to the dwelling with an associated pier wall are proposed.

Given the assessment that has been undertaken, the recommendation is to Approve the Application, subject to some design modification.

PROPOSAL

Incidental development is proposed within the front setback area. The existing open-aspect fencing is to be retained and augmented, whilst a gatehouse is proposed to be added located 600mm off the front boundary.

The canopy of the residence is being extended to the entry gate and is behind the front setback line. This will provide shelter to the entrance area. A solid pier wall to support the canopy extension is also proposed, this is located 7.5m from the front boundary.

The applicant has not provided any written rationale for the proposal, although it can be seen that the design is high quality and integral with the architecture of the dwelling.

STATUTORY ENVIRONMENT

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

- Fencing Local Law

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Local Law

Local Law	Required	Provided
Fencing Local Law	Fences in the front setback may be of solid construction to 900mm, open aspect between 900mm and 1800mm and piers to 2100mm above NGL at the boundary.	Fencing complies. Gatehouse does not and is 2.7m high with two solid walls 1.5m and 1.8m wide.

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of a Letter to Adjoining Property Owners

Submissions

The applicant has consulted the immediate neighbours who have signed the plans in support of this proposal.

BACKGROUND

The existing two storey residence was approved in January 2001. A swimming pool was approved in November 2001 and the existing open aspect front fence was approved in April 2002. Upper storey alterations and additions were approved in April 2007.

STAFF COMMENTGatehouse

The applicant is proposing a quite substantial gatehouse which would incorporate the following:

- An open-aspect gate on the east side, a solid wall to 2.3m high and 1.8m wide on the south side, an indented wall parallel to the front boundary 2.1m high and 1.5m wide, and a flat roof 2.7m high above ground level. The roof is 3.6 wide by 2.4m deep or 8.64sqm in area.

The proposed gatehouse is classified as a structure within the front setback area. Council's planning policies do not make reference to allowing any buildings or structures other than carports/garages or fences within the front setback area. However, it could be argued that the gatehouse, while not small, would have less impact than a larger and bulkier carport/garage building in the same location.

The gatehouse is proposed to compliment the existing residence. It comprises of the same roof lines as the residence. When viewing the gatehouse from the street, the structure looks light-weight and is adjacent to open-aspect fencing to the front boundary. The gatehouse is located within the front setback area, but due to the site characteristics does not directly alter views from the adjacent properties, and the neighbours signed the plans in support of the application.

The proposed solid sections of wall to the gatehouse may be considered somewhat excessive. The 1.5m wide wall parallel to Margaret Street is, however, partially screened and punctuated by the side return of the open-aspect front fence. The 1.8m wide wall aligned with the southern elevation would be partially concealed by the existing over-height southern boundary wall between neighbours. This gatehouse wall would house a meter box.

The proposed gatehouse is clearly an elegant design as a deliberate part of the overall architecture of the dwelling and grounds. The front yard design is a formal treatment of construction and landscaping, with the fencing and gatehouse appearing against the backdrop of the dwelling rising above in a stepped fashion. In this respect the gatehouse would appear relatively low-key, being setback and with a slender, floating roof and supporting blade walls. The pagoda effect echoes that of the canopy and dwelling rooflines.

However, the actual scale of the gatehouse remains questionable, with only half of the roof area being functional over the gate and the rest being a design approach to reflect the form of the dwelling. It is uncertain whether the gate, which is full-height at

2.1m, is to be open-aspect or solid – which a condition could address. This, together with the two tall solid walls, although arranged to give visual relief and softened by the open-aspect fencing, also represents considerable mass – in comparison, for example, the gatehouse roof is the width of a single carport. Nonetheless, the setback of the gatehouse and the indented pattern of the fencing ameliorate the impact of bulk.

The need for the gatehouse could also be questioned, as the proposed gate, wall and fencing to the canopy and entry area of the dwelling would provide security as well, whereby there would be two sets of gates before reaching the front door. The proposed internal gate and wall sit behind the front setback in conjunction with the dwelling, so is not of concern in regard to the Fencing Local Law.

From a fundamental streetscape perspective, therefore, it is concluded that the proposed gatehouse would read as a purpose-designed component of the property in harmony with the cohesive architectural aesthetic, but it would at the same time appear relatively generous and create a built-up, partially-closed character. The solid side boundary walls to the front yard are quite bulky, adding to this, especially on the southern side.

Yet the rise of the land and dwelling from the street, the low, dense street tree blocking a view into the front yard from some angles, plus the bushes inside the existing open-aspect fencing, mean that the gatehouse would be partially concealed and dominated, and that there is already a degree of closed character to the street, with a general massing of dwellings and retaining walls along this side.

The overall conclusion about this particular gatehouse is that, while it is not essential (and again is not expressly provided for), it could be approved in context from the core streetscape point of view as assessed above, subject to a revised design to reduce its scale and presence. The alternative would be deletion of this element and reliance on the inner gate only.

Fencing within the front setback

The proposal involves:

- Reducing the existing 9.5m long open aspect front boundary fence to 8.8m long.
- A new 2m long open aspect fence setback 1830mm from the front boundary
- A new return-section open-aspect fence linking the existing fence to the gatehouse.

The front fencing which is not associated with the gatehouse is compliant with the Fencing Local Law.

Canopy Extension and Pier Wall

The proposed pier wall is located 7.5m behind the front setback. This is solid to 3m but is well behind the standard 6m setback. This pier will support the canopy which is being extended. The canopy extension is setback 2.4m from the southern boundary and 6.1m from the front boundary and the roof is at the same height as the ceiling of the ground floor of the residence.

The canopy is being extended to provide shelter to the area in front of the main entry door and is compliant with all setbacks and height requirements.

CONCLUSION

This sensitively-designed gatehouse and the modified front fencing would be basically compatible with the streetscape as described. Margaret Street has a wide range of residential styles from older beach shacks and flats to modern two-storey residences. In the front setback areas in this street, several houses have carports and front fences, some of these solid. This proposal is not considered dominant to the streetscape and would compliment the existing residence.

The canopy extension and pier wall is well setback from both boundaries and there are no amenity concerns. Both neighbours have signed the plans in support of the proposal.

In light of this, it is recommended the application could be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee concluded that this proposed gatehouse (as with the others under consideration) was excessive to the streetscape and should be deleted from the approval, to be replaced with a revised front fence and ordinary gate design to the satisfaction of the Manager Development Services; noting that there was also an inner security gate.

OFFICER RECOMMENDATION

That Council GRANT its Approval to Commence Development for the Front Fencing, Gatehouse and Pier Wall, Gate and Fencing Infill to Canopy Extension at No. 2 (Lot 3) Margaret Street, Cottesloe, in accordance with the plans submitted on 24 July 2007 subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. -Construction sites.
- (b) 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.
- (c) 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.
- (d) The gatehouse shall be redesigned and reduced in dimension to a maximum of 2.5m wide, deep or high, and revised plans showing all details shall be submitted at building licence stage to the satisfaction of the Manager Development Services. Alternatively, the gatehouse may be deleted and a revised front fence and ordinary gate design completed to the satisfaction of the Manager Development Services.

- (e) The gate to the gatehouse, to any alternative ordinary gate to the front fence, and to the entry to the dwelling (canopy area) shall be open-aspect to match the existing open-aspect fencing, and revised plans showing all details shall be submitted at building licence stage to the satisfaction of the Manager Development Services.

10.1.8 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Dawkins

That Council GRANT its Approval to Commence Development for the Front Fencing, Gatehouse and Pier Wall, Gate and Fencing Infill to Canopy Extension at No. 2 (Lot 3) Margaret Street, Cottesloe, in accordance with the plans submitted on 24 July 2007 subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) 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.
- (c) 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.
- (d) The gatehouse to the front fence shall be deleted and a revised front fence and ordinary gate design completed to the satisfaction of the Manager Development Services.
- (e) The gate to the front fence and to the entry to the dwelling (canopy area) shall be of an open-aspect and height to match the existing open-aspect fencing, and revised plans showing all details shall be submitted at building licence stage to the satisfaction of the Manager Development Services.

Carried 10/0

10.1.9 NO. 33A (LOT 2) SALVADO STREET – GROUND AND FIRST FLOOR ADDITIONS, GATE HOUSE AND SOLID FENCING AND DRIVEWAY GATE

File No: 1212
Author: Mr Lance Collison
Mr Andrew Jackson
Attachments: Location plan
Correspondence from applicant
Photos
Plans
Author Disclosure of Interest: Nil
Report Date: 9 August, 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Alan & Marina Greenshields

Applicant: Dale Alcock Home Improvements
Date of Application: 4 July, 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
Lot Area: 490m²
M.R.S. Reservation: N/A

SUMMARY

Ground and first floor alterations, a gate house, solid fencing in the front setback and a gate to the driveway is proposed.

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

PROPOSAL

On the ground floor the carport is being removed to make way for a garage and workshop. A new porch, portico, entry and a lounge extension is proposed toward the front of the property. Externally a gate house, side and front boundary fencing and an electronic gate is proposed within the front setback area.

On the upper floor the house has also been extended at the front. The master bedroom, ensuite, WIR and study are relocated and enlarged, a new store room and balcony is proposed. A staircase links the two levels.

The proposal does not affect anything toward the rear of the property.

No detailed explanation or justification for the components of the proposal has been submitted, such as design approach, needs or desires of occupants, and so on. On this basis it is assumed that the intended solid front wall and gatehouse are conceived as features of the style sought rather than essential facilities.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Of Cottesloe Local Law

Local Law	Required	Provided
Fencing Local Law	Fences in the front setback may be of solid construction to 900mm, open aspect between 900mm and 1800mm and piers to 2100mm above NGL at the boundary.	Solid fencing to 1.8m to front boundary, fencing to 2m to west side boundary within front setback area, Gate house to 3.2m in height.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Ground West Wall 1m setback	Nil setback	Clause 3.3.2 – P2
No 3 – Boundary Setbacks	Upper East Wall 3.9m setback	1.5-2.6m setback	Clause 3.3.1 – P1
No 8 – Privacy	Balcony - 7.5m cone of vision setback	1.5m setback east, 4.5m setback west	Clause 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 3 letters sent out. No submissions were received.

BACKGROUND

An existing contemporary two storey residence was approved in 1988 and a swimming pool in the rear approved in 1991.

STAFF COMMENTUrban Design Appreciation

The application is for home improvements internally and externally, the latter giving it a different look from the street, and it can be seen that the gatehouse and solid walling are part of that design approach. In this respect the proposal is to replace an open front yard with a closed front yard and to create a more handsome or substantial-looking residence, with a greater presence and mass.

That style departs from the cottages-character of the modestly-proportioned and mainly single-storey dwellings on the small lots in this part of Salvado Street, with its sloping topography. The existing dwelling although two-storey is not dominant on its site and is well setback. The property actually provides an attractive open-aspect front garden to this side of the street which has several solid walls, while the opposite side of the street is predominantly open-aspect. Even recognising the built-up appearance of the dwelling to the east, with a solid wall, forward carport and square garden arch, the dwelling to the west with a solid front fence, it is discerned that introducing a gatehouse would be excessive.

In this regard it is assessed that the gatehouse and walling would appear quite bulky and at odds with the established situation, representing a design feature reflecting the form of the dwelling rather than being germane to its function. The gatehouse would constitute essentially a small building on the front boundary, with solid pillars, beams sides and a pitched roof. Together with the proposed solid boundary walling and heavier aesthetic of the made-over dwelling, this would result in a noticeably bulky appearance.

Furthermore, the wide verge, street trees and tree in the front yard provide an sense of separation in the transition from the public domain to private property. The proposed new façade to the dwelling and garden treatments including featuring the tree will be significant enhancements to the property and a positive contribution to the streetscape, whereas the addition of the intended solid wall and substantial gatehouse would erode the relationship with the streetscape.

Additional comments on the components of the overall proposal are set out below.

Front Fencing, Gate and Gatehouse

The applicant is proposing to construct a gate to the driveway, fencing within the front setback and a gatehouse; with details as follows:

- 4m long, 1.8m high brick solid fence along front boundary.
- Solid fencing to west side boundary within the front setback to 2m in height.
- Electronic open-aspect gate to driveway.
- A gatehouse 1.8 wide x 1.8m deep, with an open-aspect gate on the south side, solid walls to 1.8m in height on the east and west, piers to 2.6m high and a pitched roof to 3.2m high.

The proposed gatehouse is classified as a structure within the front setback area. Council's planning policies do not make reference to allowing any buildings or structures other than carports/garages or fences to be supported within the front setback area. Nevertheless, it could be argued that the proposed gatehouse has less impact than a carport or garage in the same location.

Furthermore, Element 10 *Incidental Development* of the RDC does not mention gatehouses specifically, although it does refer to security gates. However, it is clear that the thrust of this element is also to protect streetscape and amenity – outbuildings, for instance, are recommended to be small, low and excluded from front setback areas, so were the proposed gatehouse to be considered as such, it would not meet these criteria. Clearly, gatehouses are conceived in relation to fences and should be considered in that connection rather than as outbuildings. Hence to treat a gatehouse as incidental development cannot be relied upon and must be dismissed as an assessment guide.

The gatehouse is proposed to house the water and gas meters of the dwelling. It is centrally-located within the front setback and hence does not directly alter views from the neighbours – there were no objections to the gatehouse. However, it would present as a partially solid, tall and roofed building higher than front fencing or piers normally allowed.

On balance, it is assessed that the gatehouse is not essential and while acknowledged as suiting the style of the dwelling as proposed to be altered, it would be out of character with the preferred open-aspect front boundary fencing as assessed below. Therefore, on the basis outlined above, in this instance it is concluded that the gatehouse component should be deleted. This is reinforced by the fact that this portion of Salvado Street appears free of gatehouses and that a general perpetuation of gatehouses is not provided for or encouraged by Council's planning framework.

With regard to the fence component, this does not meet the Fencing Local Law, which states that Council may consider exercising discretion having regard to whether the fence shall 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 owner has noted that a high volume of pedestrian traffic walks past the property, which is located between South Cottesloe Beach and Mosman Park Train Station. The solid fence would also provide some additional privacy, although the property has a private back yard.

However, it is questionable whether the streetscape would be enhanced. The eastern neighbour has a solid front fence to approximately 1.8m high, while the western neighbour has a solid fence for part of the front boundary 1.8m high. The remainder of the properties on both sides along this section of Salvado Street have a mix of solid front fences or no front fencing at all. It is also noted that the property already has solid fencing on both side boundaries right up to the street boundary. It is unclear whether that was approved, although those fences may have been built prior to the adoption of the Fencing Local Law.

It is assessed that an open-aspect front fence would provide a similar degree of amenity and security as a solid wall, with in fact better passive surveillance of the street and a more sociable demarcation from, yet interrelationship with, the street. Indeed, in terms of security, one of the negatives of solid walls is that they conceal intruders once shielded behind them. As well, an open-aspect fence would contribute to rather than detract from the streetscape, where there is a cumulative impact by solid walls. There is no strong reason for allowing the proposed front boundary wall. It is recommended the design be revised accordingly.

In addition, the Town's Fencing Local Law asks that all fencing within the front setback area be open-aspect. The western side boundary fencing within the front setback is proposing a solid wall 2m in height. This would replace an existing part brick and part timber-lap solid fence. The proposed solid is supported in-principle as it would provide a higher-quality boundary fence, subject to the maximum height being reduced to 1.8m above natural ground level.

The proposed electronic gate to the driveway is open-aspect and complies with the Fencing Local Law.

Side Boundary Setbacks

The following side boundary setbacks of the proposed additions seek variation from the Acceptable Development standards of the RDC and therefore are required to be assessed under the Performance Criteria of Clause 3.3.2 (P2):

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Ground West	All	2.9m	7.4m	N/A	1m	Nil
Upper East Wall	All except bed 3	6m	14.5m	Yes at balcony	3.9m	1.5-2.6m

The RDC provide:

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*
- *ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The RDC do also allow a parapet wall as per Clause 3.3.2 A2ii *"In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;"* However in this circumstance the parapet (west ground floor) wall is higher than this.

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

The east upper floor wall has a boundary setback of 1.5 to 2.6m where the required setback is 3.9m. This wall is penalized by the RDC as the only major opening to the wall is from the balcony. This opening is recommended to be screened which would require the wall to be setback 1.9m. However, the setback makes an effective use of space. The setback also ensures that direct sun and ventilation to major openings to habitable rooms and outdoor living areas of this property and adjoining properties is not restricted. It is considered that the proposed western ground side boundary setback variations satisfy the above Performance Criteria of the RDC apart from the privacy criterion and is supported. Privacy is discussed in the following section of this report. No objections were raised in this respect.

Privacy

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

Room	Required	Provided
Balcony	7.5m setback	1.5m setback to the east, 4.5m to the west

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 is proposing a balustrade to the east side to a height of 1m. It is assessed that this overlooks a large area of the neighbouring property including areas behind the front setback. This is generally not acceptable. It is recommended that a screen be provided to a height of 1650mm above finished floor level of the balcony on its eastern edge. This will restrict any possible overlooking to being on an acute angle to the neighbouring property's private front setback area when looking north from the balcony. It is noted the eastern neighbour did not object to this overlooking.

In regards to overlooking to the west, a privacy screen is proposed to the western edge of the balcony. This screen is to a height of 1650mm above finished floor level which is the acceptable height required by the RDC to prevent overlooking. This will restrict any possible overlooking to being on an acute angle to the western neighbouring property's partially open front setback area. This is possible when looking to the north from the balcony. It is noted the western neighbour did not object to this overlooking. No additional screening is recommended to this side of the balcony.

Other considerations

The application meets overshadowing, open space and building height requirements of the Town of Cottesloe.

CONCLUSION

The proposal will improve and modernise the appearance of the existing dwelling. These additions are generally compliant with the RDC, apart from a reduction in privacy from the balcony. A condition is proposed to provide greater compliance with the performance criteria of the RDC in this regard.

In terms of the external fencing and gatehouse proposals, these would increase the presence of bulk to the streetscape. The neighbouring properties do incorporate some solid fencing, however, new sections of solid fencing or bulky gatehouses are not recommended as they are not in accordance with the Fencing Local Law. Subject to appropriate redesign they may be supported.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee noted the comments made by the owner and their views regarding gatehouses generally as well as this particular proposal. Initially it was moved that condition (h)(i) be removed so as to allow a reduced and improved gatehouse. To assist Committee the Manager Development Services provided a form of words for this but emphasised that the officer recommendation remained as is.

The gatehouse being redesigned to be reduced in bulk and scale, including a height of no more than 2.4m and to be of a more open-aspect design in keeping with the open-aspect front boundary fencing and gates required by condition (h)(ii) below.

Lost 2/4

Committee went on to discuss the issues of bulk and scale in relation to streetscape presentation, including that a gatehouse per se is not essential to security, as well as the principles of consistency and guided decision-making. The Manager Development Services pointed out that the detailed assessments set out for the three gatehouses in the Agenda [the previous two of which Committee has not supported either] provides the framework for determination and indicates that gatehouses were not openly encouraged; plus that under draft Scheme 3 policy consideration was being given to better control over gatehouse proposals.

OFFICER & COMMITTEE RECOMMENDATION

That Council GRANT its Approval to Commence Development for the Ground and First Floor Additions, Front Fencing, Driveway Gate and Gatehouse at No 33a (Lot 2) Salvado Street, Cottesloe, in accordance with the plans submitted on 4 July 2007 subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. -Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) 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 complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.

-
- (g) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.
- (h) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
- (i) The proposed gatehouse being deleted in favour of an ordinary open-aspect gate (which may be a security gate) designed in keeping with an open-aspect fence; and the Planning Department should be consulted to assist in this regard.
 - (ii) The entire front boundary fence and related gates being of an open-aspect design in accordance with Council's Fencing Local Law; and the Planning Department should be consulted to assist in this regard.
 - (iii) A visually-impermeable screen on the eastern edge of the balcony, to a minimum height of 1650mm above the finished floor level, to prevent overlooking.
 - (iv) The western side boundary solid wall within the front setback area not exceeding 1800mm in height above the natural ground level at that boundary.

AMENDMENT

Moved Mayor Morgan

That condition (h) (i) be deleted.

The amendment lapsed for want of a seconder.

AMENDMENT

Moved Cr Strzina, seconded Cr Dawkins

That the words "except for the eastern section of some 4 metres" be inserted into item (h) (ii) after the word "fence".

Lost 5/6 on the casting vote of the Mayor

10.1.9 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Ground and First Floor Additions, Front Fencing, Driveway Gate and Gatehouse at No 33a (Lot 2) Salvado Street, Cottesloe, in accordance with the plans submitted on 4 July 2007 subject to:

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

- disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) 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 complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (g) The finish and colour of the boundary wall facing the neighbour be to the satisfaction of the Manager Development Services.
 - (h) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing:
 - (i) The proposed gatehouse being deleted in favour of an ordinary open-aspect gate (which may be a security gate) designed in keeping with an open-aspect fence; and the Planning Department should be consulted to assist in this regard.
 - (ii) The entire front boundary fence and related gates being of an open-aspect design in accordance with Council's Fencing Local Law; and the Planning Department should be consulted to assist in this regard.
 - (iii) A visually-impermeable screen on the eastern edge of the balcony, to a minimum height of 1650mm above the finished floor level, to prevent overlooking.
 - (iv) The western side boundary solid wall within the front setback area not exceeding 1800mm in height above the natural ground level at that boundary.

Carried 10/0

10.1.10 NO. 29A (LOT 802) AVONMORE TERRACE – PROPOSED FRONT FENCING

File No: PRO/3780
Author: Mr Andrew Jackson
Attachments: Location plan
Correspondence from applicant (2)
Correspondence from owner
Plans
Author Disclosure of Interest: Nil
Report Date: 9 August, 2007
Senior Officer: Mr Stephen Tindale

Property Owner: Mrs Josephine Dawkins

Applicant: Hofman & Brown Architects
Date of Application: 23 July 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 340m²
M.R.S. Reservation: N/A

SUMMARY

- The proposal is for a combined open-aspect and solid front fence to a planned new dwelling.
- A new lot has been subdivided to the rear of the existing dwelling being retained on this corner property.
- Council has approved an architect-designed two-storey dwelling for the new lot.
- The architects have now purpose-designed front fencing to suit the design of the intended dwelling and its site, in order to complete the proposal prior to the construction phase.
- The application was not required to be advertised.
- The subject site is to contain a modern dwelling and the new lot has no heritage listing.
- Given the assessment that has been undertaken, the recommendation is to approve the application.

PROPOSAL

- The current situation is that the existing side boundary of the original property contains a high solid wall and double garage to Avonmore Terrace.
 - The rear lot results in a new street frontage and the new dwelling has been designed to address Avonmore Terrace with its entry, loggias, windows and outdoor spaces, making it an essentially legible, permeable and friendly face to the street.
-

- The front fencing is intended to largely preserve this interrelationship, while also providing for a desirable degree of security and privacy, integral with the design of the dwelling and its setting.
- Specifically, the proposed front fencing features:
 - An understated and streamlined design in harmony with the dwelling.
 - The horizontality of the fence is consistent with the dwelling and ameliorates any sense of bulk, including avoiding a proliferation of piers with caps protruding higher than the fence, which would give a heavier/more dominant effect.
 - Full-height open-aspect fencing occupies most of the width of the public façade, rather than adds to the mass of the building, and does away with any solid plinth which would also appear bulky.
 - The metal rungs have a wider spacing than the minimum 50/50 spacing permitted, so will be truly open-aspect and able to be seen through.
 - At the southern end, an indented L-shaped section houses the meter-boxes, screens the side/service yard of the dwelling and links to the built form of the existing dwelling.
 - The pair of central piers defines the entry gate and they are aligned with the vertical elements of the dwelling, rather than interrupting the open-aspect view in either direction.
 - The northern end of the fencing comprises a solid wall to the private open space outdoor recreation area. This extends beyond the dwelling to form the yard space and ends at the laneway.
 - The overall fencing adopts a height of 1.8m, which is the norm and in accordance with the Fencing Local Law – as mentioned it does not include taller piers or caps which are allowed.
 - The side returns to the front fencing are solid as existing in relation to the retained dwelling and the laneway, ie this is a given which is acceptable.

JUSTIFICATION

- The applicants have provided a written rationale for the design and function of the proposed front fencing, and officers have liaised with them about the design approach. This is articulated in the attached letters from the architects and the owners. The salient points are:
 - *Removal of much of the existing solid walling to open-up the outlook to and from the site.*
 - *An open-aspect design as the foreground to the main part of the front of the dwelling presenting to the street.*
 - *Appropriate privacy to the only outdoor living area for the dwelling.*
 - *A lower height than the existing solid walling.*
 - *As the site falls away from the road it is quite exposed and can be seen into, whereby a measure of privacy is important to the occupants, noting also that it is a relatively busy local street.*
 - *The extent of openness in the proposal exceeds what the local law would allow were a plinth-and-piers design opted for – a comparative sketch clearly demonstrates this.*

ASSESSMENT

- Town Planning Scheme No. 2 does not deal with fencing in any specific way and Council's Fencing Local Law (referred to below) is focussed mainly on what constitutes sufficient fencing.
- In assessing the proposal, the Residential Design Codes (RDC) offer useful guidance in relation to streetscapes and fencing.
- This includes recognition of characteristically *open* or *closed* streetscapes, in which respect this section of Avonmore Terrace is actually a notably closed streetscape, with solid fences to the side boundaries of properties. This is emphasised by the rise of the topography to the east, whereby the property opposite has a high, massive limestone retaining wall to an elevated tennis court and dwelling looking over the subject property.
- In this regard the proposed fencing represents an improvement in terms of its open-aspect portion, and at the same time is in keeping with the closed character in terms of its solid portion.
- The RDC go on to recognise that sole outdoor open space areas may require solid screening for privacy and amenity.
- The RDC also promote surveillance of the street, which the proposal achieves due to the open-aspect section, limited height of the fencing and orientation/detailed design of the dwelling.
- Therefore, under the Streetscape element of the RDC it can be seen that the fencing as proposed satisfies the objective of:
To contribute towards attractive streetscapes and security for occupants and passers-by, ensure adequate privacy for open space for occupants and provide an attractive setting for buildings.
- In this connection, under the Fencing Local Law there is discretion for Council to consider solid sections of wall having regard to whether the fence would have an adverse effect on:
the safety or convenient use of any land, the safety or convenience of any person and the impact of the fence on the streetscape.
- In these regards, as discussed above the proposal creates better surveillance, affords appropriate privacy and improves the streetscape, hence being safer, more convenient and having less impact than the existing character.
- It should also be acknowledged that the proposal is an enhancement of the open-aspect parameters and a well-executed design in keeping with the dwelling – the fencing has a subtle aesthetic and a balanced appearance relative to the dwelling and surrounds, when a more elaborate and taller fence with a solid base, a series of piers and closer rungs/slats could be contemplated.

CONCLUSION

- The proposal is a well-reasoned solution to ensuring a practical and attractive fence which contributes to the streetscape and fulfils the needs of the dwelling, at a human scale and sympathetic to the locality.
- The design per se is restrained and streamlined, being a good example of how fencing can optimise its form and function on both architectural and planning grounds.
- This two-stage approach to the design of the dwelling first, followed by a sympathetic fencing proposal, is an appropriate way to consider the optimal

solution for front fencing having regard to the particular circumstances and relevant provisions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee considered that the proposal was appropriate as assessed and noted the advice of the Manager Development Services that there had been liaison with the architects to evolve and demonstrate the design detail.

DECLARATION OF INTEREST

Cr Dawkins declared a financial interest as owner of the property and left the meeting at 8.18 pm.

10.1.10 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the proposed front fencing at No. 29A (Lot 802) Avonmore Terrace, Cottesloe, in accordance with the plans received on 23 July 2007, subject to the following conditions:

- (1) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 – Construction sites.**
- (2) 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.**
- (3) Full details of the fencing, including all construction, materials and finishes being included in the building licence plans to the satisfaction of the Manager Development Services.**

Carried 9/0

Cr Dawkins returned to the meeting at 8.19 pm

10.1.11 NO. 151 (PROPOSED LOT 89) BROOME STREET – TWO-STOREY RESIDENCE, POOL AND PARTIAL SOLID FRONT FENCE

File No: 1202
Author: Mr Lance Collison
Mr Andrew Jackson
Attachments: Location plan
Report by applicant
Submissions (2)
Photos
Plans
Author Disclosure of Interest: Nil
Report Date: 24 July 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Mr & Mrs Fisher

Applicant: Carolyn Marshall Architect
Date of Application: 29 June 2007

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 339m² proposed
M.R.S. Reservation: N/A

SUMMARY

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

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

PROPOSAL

151 Broome Street is proposed to be subdivided into two lots and the existing dwelling is being kept. This proposal involves the rear lot (89) which has a frontage to Eric Street only. The subdivision is currently with the Western Australian Planning Commission for determination and has been supported by the Town.

On the ground floor a garage, bath, study, laundry, meals, living and kitchen is proposed. Externally a north-facing deck and pool is to be located within the front setback area. A partial solid front fence is also proposed along Eric Street, located adjacent to the pool.

On the upper floor, four bedrooms, a WIR, bathroom, ensuite and terrace is proposed. Staircases link both floors.

URBAN DESIGN APPRECIATION

The existing yard area of the subject property to Eric Street is relatively built-up, with mainly solid fencing (as usually allowed to yards to side streets) and a lesser section

of open-aspect picket fencing, as well as a double garage. The two newer, two-storey dwellings adjacent to the west and other dwellings heading uphill westwards on both sides of the street present a generally built-up character, to which the road and verges add a sense of space. The western dwellings exhibit a strong presence in relation to the proposal.

Within this setting the proposed lot has a fairly exposed position, although it is separated by the wide verge and the footpath is located away from the site at the kerb. It would, however, tend to be looked towards by traffic travelling in both directions along Eric Street, and especially viewed from above approaching downhill from the west.

On this basis an amount of privacy and screening from the street, a district distributor, would seem reasonable, and the detailed design of the proposed wall to the pool, with its rock face and wave-form top, would be a point of interest. However, it would also represent more solid wall massing to the street, going against the grain of the Fencing Local Law.

In recent times Council has dealt with other proposed fences to front yards with pools, including Broome Street and Forrest Street, for example. In relation to urban design and streetscape outcomes Council has been more inclined to support open-aspect fencing and thereby avoid bulk to the street, but prepared to support solid front walls only in exceptional circumstances, such as a site which falls significantly away from the road.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

HERITAGE LISTING

- State Register of Heritage Places N/A
- TPS No 2 N/A
- Town Planning Scheme Policy No 12 N/A
- Draft Heritage Strategy Report N/A
- Municipal Inventory Category 3
- National Trust N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Council Resolution

Resolution	Required	Provided
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TP128a	Generally insist on a 6m setback which does not include averaging	2.4m to 7.3m front setback
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Town Planning Scheme Policy/Policies

Policy	Required	Provided
TPSP 003 – Garages and Carports in the Front Setback Area	4.5m setback for a garage at right angles to street	2.4m setback to garage

Town of Cottesloe Fencing Local Law

Local Law	Required	Provided
Fencing Local Law	Fence may be solid to 900mm and open aspect above	Pool fence is solid to 1.8m on front boundary

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.7m setback – upper east wall	Nil setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	1.5m setback – ground south wall	Nil to 1.5m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	1.5m setback – ground west wall	1.3m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	2.9m setback – upper west wall	1.65m setback	Clause 3.3.1 – P1
No 8 – Privacy	7.5m cone of vision setback – terrace	1.65m setback	Clause 3.8.1 – P1
No 8 – Privacy	4.5m cone of vision setback – master suite	1.65m setback	Clause 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 2 letters sent out. There was 2 submission received, which were both objections. Details of the submission received is set out below:

Malcolm Brown & Eileen O' Reilly of 29A Eric Street

- *Requests the side setback is 1.5m in accordance with Council regulations*
- *The western windows should be treated to prevent overlooking into our property*
- *The southern setbacks should comply with Council regulations*
- *They accept the front setback variation providing the peppermint tree is not removed or severely pruned. If the tree were removed the setback regulation should be enforced.*
- *Requests the first floor balcony has screening added to it.*

Drs Roy & Vicki Payne of 149 Broome Street

- *Object to the laundry being built on the boundary*
- *Says that existing two storey buildings in the area have destroyed their enjoyment and use of back garden*
- *Another two storey building will dominate the back yard*
- *They do not want to redevelop their lot*
- *Concerned over the replacement of their northern boundary fence as it may damage their trees which soften have*
- *They are saddened by the loss of their amenities*

BACKGROUND

The existing Category 3 residence is being partially demolished and modified to make way for the proposed lot 89. The existing outbuilding and pool is also being removed to facilitate the subdivision.

The Western Australian Planning Commission has received two applications regarding subdivision of 151 Broome Street into two lots. One is a green-title and one is survey strata. Administration has forwarded a recommendation of approval of both applications to the Commission for their determination. The Commission has approved the survey-strata subdivision to date.

STAFF COMMENT

Natural Ground Level & Building Height

The natural ground level at the centre of the site is RL 20.35. This was established using a four corner method. This method was used as a swimming pool is located in the centre of the current site which has artificially lowered the level in this location. In relation to this NGL, the wall and roof heights comply with the Scheme requirements.

Front Setback

The proposal asks for a variation to the front setback. Council requests a 6m front setback for residences as per the Council resolution TP128a whilst the Residential Design Codes require a 4m averaged setback for a dwelling in a R30 coded area.

This proposal has a minimum setback of 2.3m from the front boundary for the garage. The meals room is setback 7.4m from the front boundary and the living room is setback 4.2m. The averaged setback is 5.2m from the front boundary. The proposed upper floor setbacks are the same as the ground floor.

Whilst, a front boundary setback variation to the Council Resolution is not always supported, there is merit in this proposal. It has a large frontage and a shallow depth as a result of the subdivision. The irregular shaped lot has the dimensions of a 20.06m frontage, and a depth of only 16.75m². If a 6m front setback is applied, more than a third of the block could not be built upon and makes designing a house which still has a backyard difficult.

It should also be noted that the portion of the residence which is setback only 2.3m is next to the existing house which is part of this subdivision. This house on the corner of Eric St and Broome Streets has its primary frontage to Broome Street. As a result, the setbacks to Eric Street of the existing residence at 151 Broome Street are part in line with this garage and the bedrooms proposed above. This is typical of corner lots generally.

The western neighbour has asked that the peppermint tree is to remain. If removed, they would like the standard setback to be enforced. The tree is located in the North West corner of the proposed lot and is proposed to remain. Council can require the tree will remain if the property is sold and it is not proposed to be conditioned to remain.

In balance, the front setback variation is supported as the streetscape will be staggered to partially compliment neighbouring properties. The dwelling will read logically as designed to suit the wide, shallow lot.

Boundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Upper	All	6m	14.3m	No	1.5m	Nil

East wall						
Ground South wall	Laundry to study	3.5m	6m	No	1m	Nil to 1.5m
Ground west wall	All	3m	11m	Yes	1.5m	1.3m
Upper west wall	All including terrace	5.5m	11m	Yes at terrace	2.9m	1.65m

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.

P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- make effective use of space; or
- enhance privacy; or
- otherwise enhance the amenity of the development; and
- not have any significant adverse effect on the amenity of the adjoining property; and
- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

The RDC do also allow as per Clause 3.3.2 A2ii *“In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary”* However in this circumstance two boundary walls are proposed, one on each of the eastern and southern boundaries, albeit for the size of a laundry at ground floor only.

The proposal is to have a nil setback to the east side boundary. This is proposed to lie against a boundary wall of the existing house as part of the subdivision. As the neighbouring property has the same owner and the parapet wall makes effective use of space, the setback is supported.

This proposal is to have a nil to 1.5m setback to the side boundary for the ground south wall. This is usually required to be setback 1m from the boundary. The setback meets the Performance Criteria of the RDC 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 1.3m setback to the ground floor west wall. This is usually required to be setback 1.5m from the boundary. The setback 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 criterion regarding bulk is not applicable as this lot is much shorter than the neighbouring lot and is on the ground floor. The proposal also does not affect privacy.

The proposal is to have a 1.65m setback to the upper floor west wall. This is usually required to be setback 2.9m from the boundary. The setback 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 proposal meets the amelioration of bulk criterion as this lot is much shorter than the neighbouring lot. It should also be noted that the floor is set in slightly compared to the ground floor and if the major openings from the terrace and bedrooms were made minor openings, the wall would comply with the required setback. This is reported in the privacy section of this report. The proposed setback is recommended for approval.

Privacy

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

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.*

Room	Required	Provided
Terrace	7.5m setback	1.65m setback
Master Bedroom	4.5m setback	1.65m setback

The proposal asks for a variation to the master bedroom's cone of vision setbacks. The proposal does not comply with the Performance Criteria of the RDC. The window faces the neighbour and could overlook habitable rooms of the neighbouring property. It is noted the proposed louvers do not protect privacy of the neighbour. It is recommended that this window is fixed and positioned to prevent overlooking to the western neighbour.

The proposal asks for a variation to the terrace's cone of vision setback as the proposed louvers do not prevent overlooking to the west. The terrace is positioned to overlook the front garden and driveway of the neighbour. Whilst this is not desired by the RDC, this may be allowed. It should also be noted that this terrace can only be accessed through a master suite and is less likely to be used an entertaining area.

Front Fence

The proposed 1800mm high solid portion does not meet the open-aspect requirement of the Fencing Local Law, where it should not exceed 900mm in height. It is noted that the driveway is open and some open-aspect fencing is proposed on

the front boundary on the western side. The proposed solid sections amount to 37.4% of the frontage and the proposed open-aspect sections amount to 62.6%.

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

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

The proposed fence may assist the safe use of land and persons because it will provide a barrier against unwanted visitors. However, an open-aspect fence would also provide better surveillance to the street. It is observed that the public footpath is well-separated from the property by the wide verge, which provides for both physical security and a sense of distance in terms of private outdoor recreation (by choice in a front yard facing the street) and pedestrian movement. There is also a rear private courtyard, so the front yard is not the sole outdoor private open space.

However, it is assessed that the streetscape would not be enhanced as the non-complying front fence would create bulk to the front setback area. Overall, there is a predominant pattern of open front yards along this side of the street heading west. The argument of providing privacy for the pool area is of merit as people generally want privacy when around a private pool. However, approving a solid front fence because a pool is proposed also in the front setback could set an undesirable precedent.

At the same time, requiring the fence to be a maximum solid height of up to 900mm above ground level (which is the Fencing Local Law standard) may not adhere to the swimming pool barrier standard AS 1926.1, which requires a fence of 1200mm height with no gap exceeding 100mm vertically or horizontally.

Therefore, it is recommended that the fence be amended to allow a solid portion to a maximum height of 900mm with the portion above to 1800mm high being open-aspect. The fence shall also comply with the Swimming Pool standard AS 1926.1. This condition of approval would ensure that the fence strikes a balance between the open-aspect requirements of the Fencing Local Law whilst providing a sufficient barrier to the swimming pool. The requirement of meeting both the Fencing Local Law and the Australian Standard is very possible with a well-designed and considered front fence.

CONCLUSION

The residence meets a majority of the planning regulations. The front setback variation could be supported on the basis of the residence being the result of subdivision. The staggered front setback is not presenting a large bulk presence to the street. The proposed garage is in line with some of the existing residence at 151 Broome Street on the Eric Street elevation. Also, privacy issues can be addressed by conditions of approval and the height is compliant and is not an issue.

In regards to the front fence, it is considered that the solid portion of fence is too large and does not meet the objectives of the Fencing Local Law. It is recommended the

application be approved subject to conditions including amending the solid front fence to be open aspect consistent with pool requirements.

This conclusion is also reached in the context of the subdivision and closer development of the original lot, which requires relaxation in relation to setbacks and car parking to both dwellings, whereby it is important to manage the combined impacts of bulk and detailed design treatments.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed that the design was compatible with the site and not a very large dwelling, with only one small single-storey section of boundary walling. The Manager Development Services advised that the design performed well and essentially complimented the streetscape as recommended.

10.1.11 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

- (1) **GRANT its Approval to Commence Development of a two-storey residence, front fence and swimming pool at No. 151 (proposed lot 89) Broome Street, Cottesloe, in accordance with the revised plans submitted on 23 July 2007, subject to the following conditions:**
- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) **The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (e) **The finish and colour of the boundary wall facing the neighbours being to the satisfaction of the Manager Development Services.**
 - (f) **The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.**

- (g) 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.
 - (h) 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.
 - (i) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (j) 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.
 - (k) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (l) Revised plans being submitted at building licence stage for approval by the Manager Development Services, showing the front boundary fencing being of an open-aspect design in accordance with Council's Fencing Local Law. Due to the intended swimming pool adjacent, the design of the fence must also comply with Australian Standard 1926.1 for swimming pool barriers. The applicant should liaise with the Planning Department to fulfil this condition.
- (2) Advise submitters of Council's decision.

Carried 10/0

10.1.12 NO. 151 (PROPOSED LOT 88) BROOME STREET – PROPOSED ALTERATIONS TO EXISTING DWELLING AND FORWARD CARPORT TO LESSER STREET

File No:	1201
Author:	Mr Lance Collison Mr Andrew Jackson
Attachments:	Location plan Submissions (2) Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	8 August, 2007
Senior Officer:	Mr Andrew Jackson
Property Owner:	Mr & Mrs Fisher
Applicant:	Mr Brett Endersby
Date of Application:	28 June, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	419m²
M.R.S. Reservation:	N/A

SUMMARY

Minor alterations and a carport are proposed on a newly subdivided property.

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

PROPOSAL

The application involves the creation of a new eastern boundary wall. This is proposed as the subdivision required the partial demolition of the existing residence. The kitchen and sitting room are removing openings. The existing laundry has a new door and sidelight.

To facilitate parking as part of the subdivision, a double carport is proposed. This is to be located off Broome Street.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Garages and Carports in the Front Setback Area Policy No 003

HERITAGE LISTING

- State Register of Heritage Places N/A
- TPS No 2 N/A
- Town Planning Scheme Policy No 12 N/A
- Draft Heritage Strategy Report N/A
- Municipal Inventory Category 3
- National Trust N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

Policy	Required	Provided
TPSP 003- Garages and Carports in Front Setback Area	4.5m setback for carports where vehicles are parked at right angles to the primary street alignment	1-1.12m setback, vehicles parked at right angles to primary street alignment

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.5m setback – ground east wall	Nil setback	Clause 3.3.2 – P2
No 3 – Boundary Setbacks	1.2m setback – upper east wall	Nil setback	Clause 3.3.2 – P2

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of a Letter to Adjoining Property Owner

Submissions

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

Dr Roy and Vicki Payne – 149 Broome Street

- *Says the close proximity of the driveway to the Broome Street roundabout is a safety concern*
- *Says it is hard for them to turn right from their driveway and they are located further from the roundabout*
- *They believe that a slip road would allow safe ingress/egress to this property*

BACKGROUND

The existing Category 3 residence is being retained but partially demolished and modified to make way for the proposed lot 89. This report is concerned with the development on the existing residence on proposed lot 88.

The Western Australian Planning Commission has received two applications regarding subdivision of 151 Broome Street into two lots. One is a green-title and one is survey strata. Administration has forwarded a recommendation of approval of both applications to the Commission for their determination. To date the Commission has approved the survey strata subdivision.

It is also noted that on-site parking for two cars is a normal subdivision requirement and that the subject Broome and Eric Streets do not conveniently accommodate on-street parking.

STAFF COMMENT

Front Setback

The carport is proposed to be setback 1-1.12m from the front boundary. This is a variation to the requirements of the Garages & Carports in Front Setback Area Policy which requires carports to be setback 4.5m from the front boundary where vehicles are parked at right angles to the street alignment.

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

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

The Council shall also have regard to:

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

The carport is an open structure and would afford adequate view/sight lines from driveway of the adjacent southern property. The neighbouring driveway is not adjacent to this proposed carport. The southern neighbour has a solid front and side boundary fence so any view of the carport would be limited.

The proposal shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles due to the wide verge.

The carport partially meets the objectives of the RDC. The RDC specify "*that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent*". The carport is 5.6m (33.4%) wide of a 16.75m wide frontage and complies.

The RDC also require two parking spaces per single house and the design to meet standard bay dimensions, which this application meets satisfies.

It can be argued that this application also meets the criteria "*The amenity of the adjoining lot or deter future development on adjoining lots*". The southern neighbouring property will have a slight reduction in their amenity due to reduced sunlight to their front yard area. The applicant has tried to reduce any impacts by proposing a lower floor level for the carport than the residence. It should be noted that the existing side boundary fence (between 149 & 151 Broome Street) adjacent to where the carport is proposed, is 1.8m high above the existing lawn level. The carport is proposed to be 600mm lower than this lawn level and as a result, most of the carport will not be visible from the southern neighbouring property.

In regards to the criterion, "*the existing and potential future use and development of any adjoining lots*", there is potential subdivision of the southern neighbouring lots. The area is coded R30 which allows medium density development with each dwelling only needing a lot size of 300m². The immediate southern neighbouring lot is 683m² so it has subdivision potential. Several other lots in this street block also have subdivision potential and should that occur then additional closer development would result.

However, the application does not meet the final criteria being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport is setback 5m closer to the Broome Street boundary than the pergola on the southern neighbouring property.

The carport being setback 1.2m to the front boundary is a large projection and interrupts the streetscape. This is not desirable and alternative solutions should be explored. It is noted that the immediate southern neighbour has a solid front fence to 1.8m in height.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 7.2m to 7.4m to the Broome Street boundary. A standard carport is generally 6x6m in dimension so it can be concluded the carport cannot be setback further on the Broome Street boundary. Unfortunately this setback would reduce light penetration to a bedroom.

The alternative of having the double carport off Eric Street is not recommended. The maximum setback of the house from the Eric Street boundary is 3m. Therefore a carport is not possible on this side due to an inadequate setback. Eric Street is also a generally busier road with more complex traffic movements.

Relocating the carport to the northern end of the Broome Street front setback area is also not feasible. The carport and associated crossover would be too close to the Broome and Eric Street roundabout. Furthermore, a location near the Broome and Eric Street corner would detract from the heritage value of the residence.

The proposed materials of the carport include a tiled roof, which matches the existing pitch of the house and this is commended. It is a light-weight, open structure with no solid walls and is setback away from the neighbour. It is also noted that the large bedroom adjacent to the proposed carport has three windows and only one of these is affected.

The proposed location of the double carport is seen as the best solution for a site constrained by the existing built envelope. The setback is the best solution for the streetscape whilst still allowing undercover parking.

Heritage

Council's Heritage Architect Advisor has advised that the alterations to this Municipal Inventory Category 3 dwelling are acceptable and that the proposed carport reads as a well-thought out design in sympathy with the dwelling including good attention to detail, and from a heritage point of view is appropriately located adjacent to the lesser side of the dwelling rather than intruding on the more important main façade to Eric Street.

Street Tree

This is being retained and protected. The applicant has designed the crossover around the existing tree.

Side Boundary Setbacks

The eastern side boundary setback of the residence seeks variation from the Acceptable Development standards of the RDC and therefore is required to be assessed under the Performance Criteria of Clause 3.3.2 (P2) which are also below:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Ground east	All	2.8m	13m	No	1.5m	Nil
Upper east	All	5.5m	7m	No	1.2m	Nil

3.3.2 P2 Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- make effective use of space; or*
- enhance privacy; or*
- otherwise enhance the amenity of the development; and*
- not have any significant adverse effect on the amenity of the adjoining property; and*
- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

This proposal is to have a nil setback to the ground and upper floor eastern wall. The setback meets the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property.

It should be noted the wall is a result of a subdivision condition which requires all buildings on the newly created lot next door being removed. The two newly-created lots have the same owner and these variations are supported. The new dwelling is being designed to suit this arrangement.

CONCLUSION

It is recommended that the application be approved as proposed. This conclusion was arrived at as the carport cannot be pushed back further due to the existing residence behind the carport. A setback greater than 1m may not maintain the size and dimensions of a standard double carport and no alternative solution can be recommended due to the existing constraints of the site. It is also welcomed that the carport will be at a lower height than the residence.

The side setback variations are supported as they fulfill a condition of subdivision. The application is recommended for approval subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee was satisfied that the carport proposal was suitable in the circumstances as part of the overall subdivision and development concept and due to the need for on-site parking as well as streetscape and heritage considerations.

10.1.12 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council:

- (1) GRANT its Approval to Commence Development for the Alterations to the Existing Dwellings and Carport at No. 151 (Proposed Lot 88) Broome Street, Cottesloe, in accordance with the revised plans submitted on 30 July 2007, subject to:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. – Construction sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the relevant local law.
 - (f) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (2) Advise submitter of Council's decision.

Carried 10/0

10.1.13 NO. 48 FORREST STREET (LOTS 92 & 500) – ALTERATIONS AND ADDITIONS TO A HERITAGE PLACE KNOWN AS *BARSDEN'S*, PLUS DEMOLITION OF NON-HERITAGE APARTMENT BUILDING

File No:	PRO/1300
Author:	Ms Lisa Englebreght / Mr Andrew Jackson
Attachments:	Location plan Photos Plans
Author Disclosure of Interest:	Nil
Report Date:	15 August, 2007
Senior Officer:	Mr Stephen Tindale
Property Owner:	Mrs Angela Nasuti
Applicant:	Property Genesis Architects
Date of Application:	18 June, 2007
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	1275m²
M.R.S. Reservation:	N/A

SUMMARY

The subject property is a prominent heritage-classified residence and grounds, located on the north-eastern corner of Broome and Forrest Streets. There is also a right-of-way (ROW) adjoining the northern boundary of the site, which is 2.7m wide, paved and well-used, although the subject property has garage access off Broome Street.

The property comprises two lots, a large site on the corner (Lot 92) and a smaller site with frontage to Forrest Street (Lot 500). It is unclear as to whether separate Certificates of Title have been sought, however, the same person is listed as the owner of both lots.

The main, original, dwelling is located on Lot 92, with a more recent apartment building (granny flat) located at the rear in the north-eastern portion and straddling the boundary of Lots 92 and Lot 500. The apartment is understood to have been built in about 1975 and mimics the period architecture of the dwelling, but is not of heritage significance in itself.

Additions and alterations to the heritage dwelling are proposed, together with demolition of the apartment to make way for the additions. This report presents the normal development requirements assessment as well as a body of heritage controls considerations relating to the place. Overall, given the assessment that has been undertaken, the recommendation is to approve the application, subject to conditions.

PROPOSAL

The home is single-storey and has been extended previously. The current proposal retains all development at ground floor level and includes extensions to living areas and bedroom additions.

The separate modern-era apartment building is proposed to be demolished to enable the additions. This demolition may be supported as the apartment is not original and while in keeping with the design of the main dwelling does not have heritage value.

Extensions to the main dwelling are contained completely on Lot 92. This frees-up Lot 500 for potential future development, although the Town is unaware of any proposal at this stage. In that respect it should be noted at this stage that aspects such as the land title, heritage setting, interrelationship with the main dwelling and other planning parameters would need to be fully assessed were any further development contemplated.

A new lap swimming pool is proposed along the common boundary between Lots 92 and 500, behind the front setback line.

For the purposes of the planning technical assessment, the common boundary between Lots 92 and 500 has been used for calculation of setbacks, open space and so on.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No. 2
- Residential Design Codes
- Various heritage listings and polices

POLICY IMPLICATIONS

TPS2 Policy No. 12 Places of Cultural Heritage Significance
 WAPC SPP 3.5 Historic Heritage Conservation
 Proposed heritage incentives policy under draft TPS3

HERITAGE LISTING

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

APPLICATION ASSESSMENT – DEVELOPMENT REQUIREMENTS

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No.3 – Boundary Setbacks	1.5m to northern (rear) wall	1.3m including ½ width of ROW	Clause 3.3.1 – P1
No.3 – Boundary Setbacks	5.0m to eastern whole wall	1.5-4.8m (partially existing)	Clause 3.3.1 – P1
No.3 – Boundary Setbacks	1.0m to eastern bedroom 3 wall	Nil	Clause 3.3.2 – P2

STRATEGIC IMPLICATIONS

Heritage is recognised as a cornerstone of the character and amenity of Cottesloe, which Council aims to foster through the planning approvals process and related measures.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building – no particular comments or concerns.

External

- Heritage Council of WA and Heritage Advisor
- National Trust
-
- The Heritage Considerations section of this report outlines this input to assessment
- of the proposal.

ADVERTISING OF PROPOSAL

The application was advertised in accordance with the Scheme and RDC in the usual manner. Three letters to adjoining owners were distributed and no submissions were received.

BACKGROUND

Barsden's is one of the grandest historical properties in Cottesloe and a true landmark given its commanding position, exposure to view, generous proportions and locally-unique architectural treatments. This heritage significance is augmented by

the setting of the place in the heart of the district, being an area characterised by a number of other well-known heritage properties, a general collection of period dwellings and the Norfolk Island Pines.

In recent times other heritage properties in the area have undergone change and Council has aimed to ensure that the opportunity is taken to manage the heritage values of the places and to achieve development compatible with the properties and precinct.

The subject property has experienced previous alternations and additions, which have been relatively low-key and sympathetic, and adopted a design ethos to reflect the historical architecture and detailing of the main dwelling. In this respect it is most fortunate that much of the original dwelling has been retained intact both internally and externally. In relation to the external presentation of the place, it is emphasised that due to the two street frontages and wide-open grounds, the form and fabric of the dwelling can be seen and enjoyed as a major contribution to the streetscape and public realm. The dwelling is in fact known for its classical columns and balustrade.

In this context it is somewhat surprising that apparently no conservation plan or heritage assessment has been undertaken in the past, and that no real heritage rationale for the current proposal has been provided. It is also respectfully observed that the architect for the application is understood not to be a heritage or conservation specialist. Nonetheless, bearing in mind the heritage dimension to the property, the new owner and the architect for the proposal have liaised with officers in formulating and revising the proposal, and this collaborative approach is to be commended. Beyond that, the Heritage Considerations section of this report provides the necessary guidance to make a proper assessment of the proposal.

STAFF COMMENT

The proposal is essentially compliant with the development requirements of the Scheme and RDC. Requirements such as open space, building height, car parking and visual privacy are existing or compliant in nature. The additions have also been sensitively located to have limited impact on the heritage elevations of the dwelling.

Three minor setback variations have been identified as follows:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
North (rear)	Whole	3.8m	12.1m	No	1.5m	1.3m including ½ of ROW
East	Bed 3	4.2m	6.2m	No	1.0m	Nil
East	Whole	3.8m	30.0m	Yes	5.0m	1.5-4.8m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. The relevant Code Performance Criteria from Clause 3.3.1 states:

“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 ground and first floor setback variations (excluding boundary walls) are considered to satisfy the Performance Criteria. The northern wall is high at 3.8m, however, it abuts the adjoining ROW, which provides a physical distance between the subject site and adjoining properties.

The eastern whole wall consists of partially existing and partially new development. The existing portion of the wall is higher than the new section and has existing openings. The new portion of the wall does not materially increase any amenity impacts on Lot 500, than already exists.

Boundary walls are controlled under Clause 3.3.2 of the Codes. The proposal incorporates a boundary wall to bedroom 3. Due to the height of the wall (4.2m maximum proposed, 3.0m maximum allowed), a variation is proposed to the Acceptable Development provisions of the Codes, which requires consideration under the following Performance Criteria:

P2 – Buildings built up to boundaries other than the street boundary where it is desirable to do so in order to:

- *Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development; and*
- *Not have any significant adverse effect on the amenity of the adjoining property; and*
- *Ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The bedroom 3 wall does not contain any openings, so will not overlook Lot 500. As it is located on the western side of Lot 500, it will not impede access to northern sunlight to any future development on that property.

Clause 3.3.2 A2 of the Codes contains an Acceptable Development provision allowing an adjoining development to have a boundary wall constructed to similar dimensions as an existing wall. If the proposed bed 3 wall is approved, a future development on Lot 500 may also have development abutting it, to 4.2m in height. However, the wall is located at the rear of the site and will not have any impact on the streetscape or solar access.

There are no objections to the eastern setback variations as Lots 92 and 500 are owned by the same person. There have been no submissions in relation to the northern setback variation.

HERITAGE CONSIDERATIONS

Introduction

- A range of heritage considerations relate to the subject property and to the proposal, as set out below.
- There is an established framework for assessment of planning proposals from a heritage perspective, which is important in general and in this instance in particular.
- Together with the ordinary planning technical assessment involved (ie development requirements or standards), the heritage values and classifications of a property have a significant bearing on the consideration of a proposal and the extent to which it is acceptable or may warrant some design modifications or conditions of approval.
- This is an expected part of the development assessment process in the case of heritage-listed properties and those within recognised character or heritage areas.
- It is through this process that a balanced outcome can be achieved between the objectives of the proposal, the normal planning parameters and the heritage layer of consideration.
- In this instance, it can be seen that a strong collection of heritage instruments and classifications relating to the place apply and that they provide clear guidance on how the assessment of proposals should be approached and the values of the place to take into account.

Town Planning Scheme No. 2

- Clause 5.1.2 of TPS2 requires Council in considering a proposed development in relation to heritage to have regard to:
 - *The need for preservation of existing trees or areas or buildings of architectural or historical interest.*
 - *The choice of building materials and finishes where these relate to the preservation of local character and the amenity of the area generally.*
- The subject property is also included in Schedule 1 of TPS2, which is the highest listing available in terms of local government heritage control, as a scheme has the force and effect of law, ie affording statutory heritage protection.
- The Schedule lists the property as follows:
 - *House No. 48, Lot 92 Forrest Street, Cottlesloe, Brick and tile single-storey house constructed circa 1910.*
 - *Classified by the National Trust.*
- This invokes Part 6 of the Scheme: *Conservation and Preservation of Places of Natural Beauty and Historic Buildings and Objects of Historic or Scientific Interest*, requiring Council's written consent to proposals in addition to a planning approval under Part 7.
- Broadly, Part 6 requires virtually any change to such a place to receive Council's consent, and in practice the making of a development application enables that step to be addressed.
- Part 6 states that:

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

- The matters covered requiring Council's consent include:
clear, excavate or fill any land; fell, remove, kill or irreparably damage any tree; erect any fence; commence or carry out any renovation, modification, refitting, decoration or demolition of any building; alter or remove any building or object or any part thereof.

TPS2 Policy 12: Places of Cultural Heritage Significance

- This planning policy made under the Scheme elaborates on the assessment process for properties falling within its ambit.
- It provides that the places identified in Schedule 1 of the Scheme and in Categories 1 and 2 of the Municipal Heritage Inventory as of cultural and heritage importance contribute significantly to the character of Cottesloe and Council is conscious that they form an integral part of the character, amenity and sense of place of the suburb.
- The Policy Objectives are to:
 - *Protect existing places of cultural heritage significance and to maintain the character, amenity and sense of place of the suburb.*
 - *Ensure that any additions or alterations to existing places are sympathetic to the cultural heritage significance of the building.*
- The Policy Statements include:
 - *Demolition of places covered by this policy will not be supported by Council, unless it is demonstrated to Council's satisfaction that the listed building is not of local cultural heritage significance.*
 - *Where discretion exists in relation to the provisions of the Town Planning Scheme and Residential Planning Codes, Council may be sympathetic to a request for the exercise of that discretion, if the conservation of heritage places covered by this policy are deemed to be sympathetic to the original place by Council or the Heritage Council of Western Australia.*

Municipal Heritage Inventory

- The property was originally classified in the MHI as Category 1 in 1995. The 2003 McDougall and Vines MHI Review recommended that it remain as such, however, in 2004 staff recommended a reclassification to Category 2, which Council adopted and is defined as:
High level of protection appropriate: provide maximum encouragement to the owner under the Town Planning Scheme to conserve the significance of the place. Photographically record the place prior to any major redevelopment or demolition.
- The MHI description of the place is:
Of great historic and architectural interest in prominent heritage streetscape/precinct.
- Its significance is stated as:
An unusual house in the Cottesloe context, in a prominent position and having associations with a prominent person after whom a nearby street was named.
- The property is described as:
A large house on a prominent corner in Cottesloe flanked by avenues of Norfolk Island Pines. It was built in 1924 for Joseph Henry Barsden, a solicitor of some note in Cottesloe in the early days. The house of white rendered brick has a romanticised Ionic colonnade supporting an unusual entablature and balustrade to three sides. The splayed windows have bay windows within

projecting bays of the verandah formed by the colonnade. Large windows and French doors lead onto the verandah. In the bay window the glass is stained to the six upper lights with plain below. The roof is gabled to the south with two small louvred sections for air. There is a porthole window by the front door. The door itself is panelled and glazed with a half light to the upper section, three small lights above and half length side lights all stained.

Register of National Estate

- This national heritage listing is of note and provides the following information:

Barsdens House, 48 Forrest St, Cottesloe, WA, Australia**Photographs:**

List: Register of the National Estate

Class: Historic

Legal Status: Registered (28/09/1982)

Place ID: 10269

Place File No: 5/11/008/0006

Statement of Significance:

This is significant as a large house built post 1910 / post World War One by a Mr Barsden. Barsden was a solicitor of note in Cottesloe, after whom the nearby Barsden Street was named. The house is of white rendered brick, with Doric columns and balustrading around the wide verandahs. The verandahs on the western side are shaded by latticed infills.

Official Values: Not Available

Description:

This large house was built circa 1910 / Post World War I for a Mr Barsden. Barsden was a solicitor of note in the early days of Cottesloe, and nearby Barsden Street is named after him. The house is of white-rendered brick with Doric columns and balustrading surrounding its verandah roofline. It has large windows and French doors lead out onto the wide verandahs. The verandahs are shaded by latticed infills on the western side. The house is bounded on two sides by pine trees. It is now being enlarged by its present owners. It stands next to 52 Forrest Street, a Federation bungalow built before 1905.

History: Not Available

Condition and Integrity:

The house is being enlarged by its present owners. One room has been enlarged by the construction of a bay window underneath the verandah. There is also a modern addition at the rear.

Location:

48 Forrest Street, corner Broome Street, Cottesloe.

Bibliography:

Ruth Marchant James, 'A Heritage of Pines', Town of Cottesloe, 1977.

'The Heritage of Western Australia: the Illustrated National Estate', Sun McMillan, Melbourne, 1989.

National Trust

- The National Trust has been consulted and advises that it classified this residence in 1979 for its aesthetic value:
The building's use of Doric columns and balustrading is of architectural significance and is unmatched in the Town of Cottesloe. It's setting on high ground overlooking the ocean is of further significance.
- The Trust supports the retention of these features in any works to the building.

Heritage Council of WA & Heritage Advisor

- It is understood that the HCWA has identified *Barsden's* as worthy of assessment for consideration of being classified on the State Heritage Register, which acknowledges the number of other heritage listings already assigned to the place. That task remains to be done, however, which means that the property is not officially classified at State level at this juncture.
- Notwithstanding, the joint HCWA/Town of Cottesloe Heritage (Architect) Advisor has participated in discussions and a site inspection of the property with the owner, application architect and officers, to assist in the assessment process. This liaison process reflects the interests of the HCWA and facilitates a dialogue to address the heritage aspects.
- As a result revised plans have been provided which improve the proposed side changes to the Broome Street façade of the main dwelling.
- Certain design/heritage matters drawn to attention as follows:
 - *The iconic balustrade to the verandah roof edge is intended to be removed, but in accordance with the various heritage listings and descriptions this is a very important feature of the main dwelling and also serves to delineate the original verandah from that proposed.*
 - *The design approach to the proposed extension of the verandah is considered questionable, regarding the idea of continuing the column detail and the concept of separating the old from the new. However, it is positive that the original verandah roof is being retained to break the old and new, and this is a meritorious design approach, which will need to be accurately detailed in the construction drawings. While re-using any redundant original columns may be contemplated as "authentic", the notion of adding reproduction columns is not advocated, as the differentiation between the old and the new is a primary heritage development design technique.*
 - *The internal restoration of the dwelling is to be supported.*
 - *The Building Licence plans and specifications will be required to address all of the technical detail.*

WAPC Heritage Policy

- The WAPC *State Planning Policy (SPP) 3.5 Historic Heritage Conservation* was recently gazetted.
- Its objectives are:
 - *To conserve places and areas of historic heritage significance.*

- *To ensure that development does not adversely affect the significance of heritage places and areas.*
 - *To ensure that heritage significance at both the State and local levels is given due weight in planning decision-making.*
 - *To provide improved certainty to landowners and the community about the planning processes for heritage identification, conservation and protection.*
 - The Policy describes the existing statutory framework for heritage conservation and the relationship and responsibilities of the Heritage Council of WA (HCWA), the WAPC and local governments.
 - It specifies policy measures and the means for their implementation.
 - The policy requires local governments to have regard to specific matters relating to heritage in considering applications for planning approval.
 - Those matters relevant to the subject proposal include:
 - *The conservation and protection of any place or area that is included in the heritage list under a scheme.*
 - *Whether the proposed development will adversely affect the significance of any heritage place including any adverse effect resulting from the location, bulk, form or appearance of the proposed development.*
 - *The level of heritage significance of the place, based on a relevant heritage assessment.*
 - *Measures proposed to conserve the heritage significance of the place and its setting.*
 - *The structural condition of the place, and whether the place is reasonably capable of conservation.*
 - The Policy requires that: *the following development control principles should be applied in considering planning applications in relation to a place entered in a heritage list, a place or area entered in the state register, or a heritage area designated pursuant to a local planning scheme.*
 - *Alterations, extensions or change of use affecting a heritage place:*
 - *Development should conserve and protect the cultural significance of a heritage place based on respect for the existing building or structure, and should involve the least possible change to the significant fabric.*
 - *Alterations and additions to a heritage place should not detract from its significance and should be compatible with the siting, scale, architectural style and form, materials and external finishes of the place. Compatibility requires additions or alterations to sit well with the original fabric rather than simply copying or mimicking it.*
 - *In some cases, the conservation and protection of a heritage place may require a change of use to ensure a reasonable beneficial use or return. Sympathetic adaptation and change of use should be supported in such cases.*
 - *Development should be in accordance with any local planning policies relating to heritage.*
 - Implementation of the SPP is expected by local governments as follows:
Local government has a role in support of the policy through ensuring that due regard is given to heritage significance in development assessment, planning schemes and planning strategies.
-

Summary

- A suite of heritage instruments and classifications apply to the *Barsden's* heritage-listed property.
- Collectively they provide direction, principles and criteria for the consideration of proposals from a heritage perspective and the basis for decision-making.
- Against this framework it is assessed that:
 - The heritage significance and contribution of the property should not be underestimated.
 - The proposal is supportable in terms of normal development requirements and essentially supportable in relation to heritage considerations, subject to some conditions.
 - In this way the proposal and shared approach taken by the applicant and Council would set a good example of appropriate heritage development and conservation.
 - In other words, the objectives of both the owners as the residents of the property and of the Town as the local custodian of heritage places can be met with minimal compromise and maximum benefit.
 - Therefore, a number of specific conditions of approval manage the demolition, design of the alterations/additions, architectural detailing, conservation retention and restoration works, and materials and finishes; while an advice note refers to any possible future proposals.

CONCLUSION

In summary, the proposal is assessed as a generally sensitive proposal for single-storey alterations and additions to a prominent dwelling entailing important heritage considerations.

In terms of technical compliance with development requirements, the proposal is assessed as suitably complying with the Acceptable Development Standards and Performance Criteria of the RDC, and the overall streetscape and amenity outcomes are considered to be appropriate from a planning point of view.

The heritage significance of the place, which embodies its particular architectural elements of the original dwelling, is recognised by virtually the complete range of heritage instruments and authorities. This framework supports carefully-designed additions/alterations, retention of heritage fabric, conservation/restoration works and documentation for the long term use and care of the place.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee sought clarification regarding the treatment of the side verandah and supported retention of the balustrade as important to the integrity of the heritage values of the dwelling. Committee was satisfied with the design overall, which was further explained by the Manager Development Services, and noted that Lot 500 may be the subject of a future proposal but was not part of the listed place.

10.1.13 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council GRANT its Written Consent and Approval to Commence Development for the Alterations and Additions to Existing Residence and Demolition of the Apartment Building at No. 48 (Lots 92 and 500) Forrest Street, Cottesloe, in accordance with the revised plans submitted on 20 July 2007, subject to the following conditions, all to the satisfaction of the Manager Development Services:

- (1) Prior to any demolition, whether to parts of the original dwelling, to later additions or alternations, or to the apartment building, a full photographic and documented record, both internally and externally, of the existing buildings or portions thereof, features and fabric to be demolished shall be compiled and submitted to the Town as a heritage record.**
- (2) The entire existing balustrade to the verandah roof shall be retained and restored as required in perpetuity.**
- (3) Full details of the retention of the existing side verandah section to Broome Street in connection with the proposed addition to that side shall be shown in the Building Licence plans. In this respect, the existing columns to the entire wrap-around verandah to the dwelling which is unaffected by the addition/s shall be retained and restored as required in perpetuity, except where to be removed by the approved addition/s. Any removed columns may be considered for re-use in the new works, but the substitution of unoriginal or reproduction columns is not supported.**
- (4) The application for a Building Licence shall include a comprehensive schedule of all conservation works and of all materials and finishes to be used in the development and conservation works.**
- (5) All restoration works proposed or required to the existing fabric of this heritage-listed building as detailed in the planning and building applications and approvals shall be carried out as part of the overall development approval and completed prior to occupation of the finished development.**
- (6) The external profile of the proposed development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (7) All boundary walls facing any abutting lots or other property such as the right-of-way shall be properly finished-off.**
- (8) Adequate storage disposal on site shall be provided to contain site stormwater in accordance with Council's Local Law. Stormwater runoff from the driveway or any other paved portion of the site shall not be discharged onto the street reserve, right-of-way or adjoining properties, and the gutters, downpipes and soakwells used for the disposal of the**

- stormwater runoff from roofed areas shall be included within the working drawings for a Building Licence.
- (9) 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
 - (10) Wastewater or backwash water from the swimming pool filtration system shall be contained within the boundary of the property and disposed of into adequate soakwells. A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, with a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary. Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
 - (11) Any 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.
 - (12) All construction work shall be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (13) All street trees shall be protected at all times from the demolition and construction activities and any stockpiled materials shall be kept clear of the trees and not built up around or leant against their trunks.
 - (14) Any future-proposed new (or alternations to) boundary fencing or gates to the street frontages and associated setback areas of the site shall be of an open-aspect design in accordance with the Town of Cottesloe Fencing Local Law and the subject of a separate application to Council.

Advice Notes:

1. The owner is encouraged to retain as much of any trees or significant vegetation on site as possible in relation to the demolition and development, in the interests of the heritage value of the place and the amenity of property for the residents as well as to the streetscape and locality.
2. This approval is to the proposed demolition, development and required restoration works only. All future proposals for the property are subject to further applications, approvals and consents as required by the Town of Cottesloe town planning scheme and any heritage classifications of the property. The owner is encouraged to consider amalgamation of the existing two lots into one lot on one Certificate of Title. This approval should not be interpreted to imply any support for future proposals for existing Lot 500.

Carried 10/0

10.1.14 NO. 1 (LOT 15) STATION STREET – AMENDMENT TO PREVIOUS PROPOSAL – REDUCED ROOF DECKS TO APPROVED OFFICE BUILDING FOR STAFF USE

File No: PRO/3484
Author: Mr Andrew Jackson
Attachments: Location plan
Correspondence from applicant
Submission (1)
Plans

Author Disclosure of Interest: Nil
Report Date: 9 August, 2007
Senior Officer: Mr Andrew Jackson

Property Owner: Lapping Family Trust & Hudson Family Trust

Applicant: Robert Allan Architect
Date of Application: 9 August, 2007

Zoning: Town Centre
Use: AA - A use that is not permitted unless special approval is granted by the Council

Density: R100
Lot Area: 417m²
M.R.S. Reservation: N/A

INTRODUCTION

- The proposal is an amendment application to add revised decks to the upper level of an approved two-storey commercial building.
- In December 2006 Council approved a retail/office development, with basement car parking, for the corner of Station and Railway Streets. This was recommended as a high-quality proposal appropriate to enhancement of the town centre.
- Condition 2 of the approval required that the then proposed roof deck be deleted from the proposal. This was essentially because at the time it was considered the deck had not been adequately justified and might have potential amenity impacts in terms of its future use.
- It is noted, however, that there is no specific provision prohibiting such a deck and that it was not an overriding cause for objection. In this regard condition 1 of the approval limits the uses of the building to offices and professional offices, whereby use of the intended deck would be associated with offices as an amenity space for staff.
- Given the assessment that has been undertaken the recommendation is to approve the application.

PROPOSAL

- The architect has subsequently liaised with the Manager Development Services to discuss the prospect of a revised deck proposal and has submitted revised plans accordingly.
-

- The attached explanatory letters from the architect advise that:
 - *A long-term tenant for the ground floor office is being arranged.*
 - *A concrete slab roof to the ground floor is desired to provide for any future allowed expansion of the upper floor.*
 - *For economy of construction, use by office staff upstairs and an attractive outlook, it is desired to create two lesser decks out of the concrete slab as part of the initial development.*
 - *The amended decks design is much smaller, ie essentially balconies, being to the north and south only and not over the street awnings, and they are screened to ensure privacy.*
 - *These decks are to be used solely in conjunction with the approved office uses.*

ADVERTISING

- For consistency the amendment proposal has again been advertised to neighbouring properties.
- A single submission was received, from the owner of the retail premises at 3-9 Station Street on the eastern side, who has inspected the plans and discussed them with the Manager Development Services. The submission raises no objection and requests adequate screening to the east to protect envisaged redevelopment from any overlooking.
- The architect has responded to this by providing revised plans incorporating full-height screening to the eastern side of the decks.

ASSESSMENT

- The original assessment made the following observations about the deck as proposed at that stage:

First Floor Roof Deck:

- *The building is intended to be constructed to enable possible expansion of the second storey floorspace, should that become allowable at some time in the future.*
- *Until then, a proposed roof deck would occupy the top of the ground floor roof outside the first floor office space, with clear glass balustrades along the northern, western and southern flanks.*
- *While this is an innovative utilisation of surplus roof space, the balustrades although clear would tend to add to the impression of bulk.*
- *Moreover, were a change of use to entertainment premises ever to occur, then the roof deck could be utilised accordingly, which would have implications for the number of persons, associated parking demand, amenity and security.*
- *On the other hand, the roof deck would be a pleasant facility for the users of the offices, albeit excessive for that purpose.*
- *It is concluded that the roof deck should be either deleted or limited to only a small area, as it is not tied to any particular proposed use, is not normally associated with office usage, would add unnecessarily to building bulk, and may lead to undesirable complications in the future.*

- As can be seen the concern was not simply about use but also its extent and built form. While benefits were also apparent, basically it was felt that this aspect of the proposal had not be sufficiently explained or justified, so it was considered better to leave it out in the first instance.
- This subsequent revised proposal has enabled these points to be addressed by the design and for a more complete rationale to be articulated.
- As mentioned, there is no particular provision in the Scheme or any Policy either for or against roof decks or balconies to commercial developments. Such facilities or features are not uncommon in business premises, in the interests of building design, amenities for staff and offering attractive premises.
- The subject building does lend itself to upper level decks, with two street frontages, another side to the laneway and only one neighbour, whereby there is the opportunity to gain an outlook and to design-out any privacy concern by way of screening.
- In respect of privacy, it is noted that this is a commercial rather than a residential situation, with the streets, lane, other office/retail premises and carparks, but no residences, surrounding. While the adjacent owner may wish to have future residential use, that does not currently exist and is yet to be proposed or approved. Nonetheless, the architect has revised the design to ensure that privacy is achieved.
- In terms of urban design, the decks and planters would actually make the building more attractive when viewed from around it, which includes from other two or more storey buildings and the elevated railway station/footbridge. A “landscaped roof” structure would result and the building would be seen from the street as a well-considered design. It would also help to balance the building, which has a smaller upper floor due to the plot ratio limit, whereas a full second storey would otherwise be expected.
- This “greening” of the building would be in keeping with the attention to sustainability incorporated into the design.
- The northern deck to the Station Street frontage has an area of 8sqm and is not a privacy concern. This is effectively as small relief balcony.
- The southern deck to Railway Street has an area of approx. 36sqm and is set well back from both the eastern neighbour and the lane and, with planter screening to three sides and full-height screening to the east (which will also create a more pleasant environment for the deck area). This deck is the equivalent of a larger balcony and would be a place where workers could use during breaks.
- The planters provide not only a screening effect but also a balustrade to the edge of the decks, setting-back persons, and would also provide a pleasant view to the landscaped vegetation from the street and from within the offices.

CONCLUSION

- Given the revised design, privacy solutions and amenity contributions of the proposed decks, it can be seen that they present less of a concern than originally discerned and that in the context of the office use it is apparent that there is little reason to not support them.
 - In the longer term, should the allowable plot ratio for this part of the Town Centre be increased, then the decks will be capable of being built over to create more internal floor space, subject of course to an application and approval.
-

- On this basis approval is recommend, with a few conditions to coordinate this approval with the parent approval.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee accepted this redesign of the decks and did not see any concerns.

10.1.14 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council:

- (1) **Grant its APPROVAL to commence development for the proposed addition of two roof decks to the approved office building at No. 1 (Lot 15) Station Street, Cottesloe, in accordance with the revised plans received on 25 July 2007, subject to the following conditions:**
 - (a) **This approval is to the two roof decks only, which shall be used only in conjunction with the normal day-to-day activities of the approved office use. Any additional use, change of use, or physical or aesthetic change proposed for the development in the future shall require further applications for planning determination.**
 - (b) **The building licence plans and supporting documentation for the overall office building development, including the roof decks, shall be formulated in consultation with the Town of Cottesloe and to the satisfaction of the Manager Development Services, and shall include full details of all proposed external materials, finishes and colours, all selected to be of low-reflectivity.**
 - (c) **All conditions contained in the approval letter dated 20 December 2006 to the overall office building development remain in force.**
- (2) **Advise the submitter of the decision accordingly.**

Carried 10/0

10.1.15 NO. 40 JARRAD STREET – BOATSHED REMOVAL OF FRONT PARKING

File No: PRO/1855-02
Author: Ms Delia Neglie/Mr Andrew Jackson
Attachments: Location Plan
Letters from Boatshed dated 13 November 2006 and 10 July 2007
Author Disclosure of Interest: Nil
Report Date: 15 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Parking spaces that were located immediately in front of the Boatshed have been removed and converted to a forecourt, comprising planting, paving, lighting and bollards, without prior approval. This change comprises a change to the original planning approval that required the provision of these car bays.

Council officers have been in dialogue with the landowner and the Boatshed since late 2006 to redress the situation. The Boatshed believes that use of the area as a car park presents a risk to pedestrians (customers and workers). This has been acknowledged by Council officers.

The Boatshed requests that Council waive the need to replace or compensate for the car bays and believes that re-marking the existing Council car park would yield additional car bays to compensate. They are happy to assist Council with the re-marking and to discuss the possibility of providing further parking at the rear of 42 Jarrad Street.

STATUTORY ENVIRONMENT

- Town Planning Scheme No 2 applies.
- Clause 5.5 and Table 2 provide minimum vehicle parking requirements.
- Clause 3.4.2(c) applies to parking requirements in the Town Centre for a change of use and allows Council to waive these requirements *subject to Council having regard to the nature of the use to be made of the site, the known or likely volume of goods or materials, or the numbers of people moving to or from the site and the likelihood or otherwise of congestion of traffic on any road or in other public places in the vicinity.*
- Clause 3.4.2(c) applies to the proposal as the Boatshed was established following a change of use from a warehouse.

POLICY IMPLICATIONS

Planning Policy No 1 that relates to car parking applies as follows:

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

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

STRATEGIC IMPLICATIONS

Planning for the Town Centre is a primary strategy for Council and parking provision and management are key facets of a successful town centre. The application of parking requirements, rationalisation of parking arrangements and operation of relevant discretion are all part of making ongoing improvements to the overall form and function of the town centre precinct.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

- By way of background it is important to note that the Boatshed's conversion to Food Market was approved in June 1988 subject to: *the applicant pay to Council a cash in lieu of parking of \$70 000 with a credit for 137m² of warehouse floor area and 447m² of retail floor area.* Six on-site bays were provided at the front of the building.
- Also, an application to extend the warehouse component was approved in December 1992 with the 6 on-site bays at the front of the building retained. The applicant was advised that the parking requirement to provide 2 additional on-site bays was waived and that any future redevelopment may require variation to the on-site parking requirements. A subsequent proposal in 1994 for the use of a mezzanine for an office and lunch room was in fact approved subject to provision of 1 additional car bay.
- With regard to the proposal before Council now, the Town become aware in late 2006 of the conversion of the parking spaces that were located immediately in front of the Boatshed to a forecourt and blocking of vehicular access.
- This effectively constitutes a change of use as well as development works, which had not been the subject of any planning application or approval.
- Moreover, removal of the parking bays is considered contrary to the previous planning approvals for the Boatshed, which required those on-site bays.
- The landowner and business operator were advised of this by letter dated 2 November 2006 and were asked to provide a written explanation and rectification of the matter.
- The Boatshed advised, by letter dated 13 November 2006 that the area was repaved and bollards installed to improve safety of customers. The area was a risk to pedestrians due to uneven paving and vehicles reversing into the area. It is believed that the risks have been exacerbated due to increase in trade over the

years and the development of Vivien's Corner at Jarrad and Station Streets which attracts customer and even resident visitor parking. The MLA for Cottesloe also encouraged the owners to address the problem.

- The Manager Development Services has corresponded further with the applicants (letters dated 15 December 2006, 19 March 2007 and 29 June 2007) to discuss Council's position and negotiate an acceptable outcome.
- The Boatshed believes that *the situation of vehicles crossing the footpath and manoeuvring in and out of the area has become a serious risk to pedestrians* and requests that Council *wave the need to replace or compensate for the car bays* and believe that re-marking the existing Council car park would yield additional car bays to compensate. They are happy to assist Council with the re-marking and to discuss the possibility of providing further parking at the rear of 42 Jarrad Street.

THE SITUATION

- Parking provided under previous planning approvals cannot simply be removed without prior application and approval, and may require compensation by replacement bays or cash-in-lieu. This is subject to Council's agreement and it should not be presumed that the loss of parking will be accepted or any compensation reduced or waived.
- Earlier Council decisions and advice have emphasised the importance of retaining this parking and not using it otherwise.
- The Boatshed now provides no on-site customer parking, as the Jarrad Street shared parking is in the road reserve and provided by the Town.
- The bollards confuse shoppers who park in the former driveway space (despite the two "No Parking" signs) and some have been booked by Council Rangers. This is caused by the change made. The Rangers have been asked to cease bookings while the matter is resolved.
- It is acknowledged that the previous bays were desirable in terms of parking provision, but not ideal in terms of accessibility, pedestrian safety and general amenity, whereby reinstatement of that actual parking may be considered undesirable.
- The Town is in the process of resurfacing and line-marking the public car parking area to Jarrad Street.
- This will include creating parking bays over the former vehicular access to the forecourt of the Boatshed (former parking bays).
- However, that should not be interpreted as absolving the Boatshed from redressing the unauthorised removal of the parking bays or from contributing to parking provision.
- In addition, the new public parking bays should not be used by delivery or collection vehicles, which should use the dedicated rear lane access or loading bays in the vicinity.
- It is also apparent that some relatively minor trading activities are occurring from the forecourt area, ie signs, plants/flowers and shopping trolleys, which albeit on private land, was disallowed as part of the approval to the former parking bays.

POSSIBLE SOLUTIONS

- The principle behind the loss of the car bays is important as the area was approved to be used for car parking as part of the original approval. Despite the safety issue, the planning approval process is required to be followed and as the development relies on a shared Council car park, Council's involvement and approval is essential.
- The potential options for a solution in relation to the provision of parking include:
 - The Boatshed providing replacement parking nearby on land it owns or leases.
 - The Boatshed providing cash-in-lieu for the lost bays, subject to Council approval.
 - The Boatshed seeking Council approval to waive the need to replace or pay cash-in-lieu for the lost bays.
 - Some combination of the above, and/or partial rather than whole satisfaction of the ultimate requirements.

- The relative feasibilities are assessed as follows:

Replacement Parking

- Replacement parking could be provided by the proposed re-marking of the existing car park. Two new bays would be provided in the former access way to the forecourt area. Re-marking would also provide a more efficient car park arrangement.
- The applicant has suggested parking at the rear of 42 Jarrad Street. This should not, however, be relied upon as a proposal that was approved in 2004 for rearrangement of the shops at this site included the provision of 2 new bays at the rear (with access from the right of way) of which only one was a surplus bay. While technically a surplus this additional bay is in fact required to service 42 Jarrad which has no other parking.

Cash-in-lieu

- Clause 5.5.4 of TPS2 and Council's Town Centre Parking Policy enable Council to require cash-in-lieu in this situation.
- The original conversion of the building to the Boatshed market incurred a substantial amount in cash-in-lieu.
- Given that the existing situation has been brought about in the interests of safety and that the number of usable bays that were removed is likely to be replaced by re-marking of the car park, it may appear heavy-handed to require cash-in-lieu.

Waiver

- Clause 3.4.2(c) allows Council to waive the parking requirements despite Council's Town Centre Parking Policy that would require at least half to be provided either on or adjacent to the site.
- The practical loss of the car bays is not great. Although 6 bays were shown on the approved plans usually only one or two cars at a time actually parked there as the location of the space was difficult to get in and out of and felt dangerous and as it was un-marked and its purpose was ambiguous.
- These one or two cars will be reinstated by the re-marking of the car park.

CONCLUSION

- Car parking provision in the Town Centre is an issue that Council is currently aiming to address through the Town Planning Scheme review and proposed Parking Policy and the Town Centre Study.
- There is a high demand for this and other shared car parking in the Town Centre due to the shortage of such bays overall and the relative shortage of on-site car bays. There are a number of constraints to providing on-site parking, including the retention of existing buildings that enhance the amenity of the Town Centre.
- Council car parks and street parking contribute significantly to customer parking provision and whilst businesses compete for a share of the public parking, its provision is for the mutual benefit of all businesses and the economic viability of the centre as a whole.
- Re-marking the Council car park to create a more efficient car park will be of benefit to all the businesses and properties that currently rely on this car park for customer and visitor car parking.
- This matter was discussed at a senior management meeting, where the Administration agreed that the original approval for car parking immediately in front of the premises was not ideal, insofar as it did not appear to weigh-up the efficacy of car parking in front of the main entrance/exit for the Boatshed, with the associated problems for amenity, safety and exhaust fumes.
- It is thus considered reasonable to agree to the retention of the forecourt, rather than attempting to reinstate it as parking.
- It is also considered reasonable to see the re-marking of the car park as making-up for the removal of the original on-site bays in a practical sense in terms of parking provision, which as observed actually experienced limited use.
- As cash-in-lieu was originally paid for use of the Council car park, it may be seen as unreasonable to request a further large cash-in-lieu payment for the official loss of six bays, and as a full valuation for that would most likely be a prohibitive amount in the order of several tens of thousands of dollars.
- However, a nominal additional cash-in-lieu payment for the lost bays may be regarded as important in principle, being a suitable gesture and fair recompense in the circumstances.
- An amount of \$10,000 is suggested, representing a conservative estimate of the value of one bay (typically \$12,000-15,000 generally and often more in areas such as Fremantle or the western suburbs).
- Also, the efficiency of the car park would be increased if its use was not restricted by vehicles loading and unloading.
- Therefore, it is recommended that the deleted bays be accepted, subject to the Boatshed paying some cash-in-lieu and loading and unloading being undertaken from the rear of the building or other designated service bays (such as in the nearby railway carpark along Railway Street).
- The cash-in-lieu would be deployed for ongoing parking purposes in the interest of the overall Town Centre.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee queried the amount of cash-in-lieu and emphasised the need to ensure that delivery vehicles did not park in the customer bays. There was some discussion about Town Centre parking generally and other previous parking approvals.

OFFICER & COMMITTEE RECOMMENDATION

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

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

AMENDMENT

Moved Cr Furlong, seconded Cr Dawkins

That the following is added to the recommendation:

- (3) **This arrangement be formalised by a development application to vary the previous planning approval accordingly.**

Carried 10/0

AMENDMENT

Moved Mayor Morgan, seconded Cr Strzina

That the amount of “\$10,000’ be replaced with “a yet to be determined amount” in item (1) of the recommendation.

Carried 6/5 on the casting vote of the Mayor

10.1.15 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

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

- (1) **The Boatshed making a cash-in-lieu payment of a yet to be determined amount to the Town towards the unauthorised removal of the approved car bays in the forecourt area.**

- (2) All delivery and service vehicles using designated loading or service bays in the rear laneway or nearby (such as in the railway carpark on Railway Street) but not using public car bays in the shared customer carpark to Jarrad Street.
- (3) This arrangement be formalised by a development application to vary the previous planning approval accordingly.

Lost 6/5 on the casting vote of the Mayor

Cr Jeanes requested the votes be recorded

For: Mayor Morgan, Cr Strzina, Cr Utting, Cr Walsh, Cr Miller

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

**10.1.16 NO. 6 NAPOLEON STREET – PHILLIPS CAFÉ – SECTION 40 –
VARIATION TO EXTENDED TRADING PERMIT – RESTAURANT SERVING
ALCOHOL WITHOUT A MEAL**

File No: PRO/2873
Author: Ms Delia Neglie
Mr Andrew Jackson
Attachments: Location Plan
The Department of Racing Gaming and Liquor
Policy regarding Extended Trading Permits for
Restaurants to Sell and Supply Liquor Without
a Meal.
Author Disclosure of Interest: Nil
Report Date: 15 August, 2007
Senior Officer: Mr Andrew Jackson

SUMMARY

Phillips Café at 6 Napoleon Street has applied for a Section 40 certificate under the Liquor Control Act to enable an extended trading permit (ETP) to serve alcohol without a meal as allowed by recent changes to the Act.

STATUTORY ENVIRONMENT

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

Restaurants could previously only serve alcohol without a meal within a designated area up to 20 per cent of the seating capacity. Under the reform, restaurants can now apply for an ETP to serve alcohol without a meal to all patrons as long as they are seated at a table (i.e., there would be no bar service for people not having a meal). The primary purpose of the restaurant must be the provision of meals. The application would be advertised by the applicant for the Department of Racing, Gaming and Liquor (DRGL) in the community and may be approved for up to five years. Restaurants failing to comply with regulations would risk losing their ETP.

POLICY IMPLICATIONS

Council at its meeting on 23 July 2007, considered a proposed new policy to provide guidelines for planning applications involving liquor licences and the issue of Section 39 and Section 40 certificates under the *Liquor Control Act* which provides guidance in this instance.

STRATEGIC IMPLICATIONS

Town Centre objectives and management of licensed premises generally.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At its meeting on 28 May 2007 Council supported applications for section 39 and 40 certificates for the Blue Waters restaurant located at 110 Marine Parade to sell and supply liquor without a meal to patrons seated in the restaurant and alfresco areas.

The Department of Racing Gaming and Liquor has recently (11 June 2007) adopted a Policy regarding Extended Trading Permits for Restaurants to Sell and Supply Liquor without a Meal. The policy assists Council's consideration in this case and confirms that:

When read as a whole, the provisions of the Act in relation to restaurants mean that the business conducted under a restaurant license must consist primarily and predominantly of the regular supply to customers of meals to be eaten on the premises, by patrons seated at a dining table or fixed structure used for dining.

The Act provides flexibility, by way of an extended trading permit, for a restaurant licensee to also sell liquor without a meal, in certain circumstances. In this regard, section 50(1a) specifically provides that the consumption of liquor without a meal can only occur where an extended trading permit has been issued under section 60(4) (ca) of the Act, and only where the patron is sitting at a table, or at a fixed structure used as a table.

The policy requires applicants to demonstrate to the DRGL *how the conduct of business... will be managed; that is, what strategies will be implemented so that the premises continues to be operated as a restaurant and that at all times, proper facilities and services are in place for the sale, supply and consumption of genuine meals.*

The policy includes possible conditions that may be imposed to a liquor license by the DRGL *to ensure restaurants do not become de-facto bars* as follows:

1. *Pursuant to section 50 of the Act, the purpose of the business carried on at the licensed premises must consist primarily and predominantly of the regular supply of meals (as defined by section 3 of the Act) to customers.*

The licensee must determine what criteria are to be adopted to ensure compliance with this condition. For example, whether or not 60 per cent of the business turnover, takings or profits during the operation of the permit is derived from the supply of meals (as opposed to liquor) to customers.

2. *For the purposes of establishing the primary purpose of the business under the license, the licensee shall, if required to do so, provide to the Director of Liquor Licensing a record of all transactions entered into by or on behalf of the licensee involving the sale or other disposal of liquor and food.*
3. *The kitchen situated on the licensed premises, together with kitchen and food service staff, must be open and operating with the restaurant's regular full menu being available at all times liquor is sold and supplied to patrons.*

The regular full menu refers to the menu that the restaurant would normally offer at a particular time of day (eg: breakfast, lunch, or dinner) to

customers. It does not mean a reduced version of the menu that offers only finger foods or snack type options. Patrons must be able to order a genuine meal (as defined in section 3 of the Act) at any time during the permit hours.

4. *Liquor may only be consumed by patrons while seated at a table, or a fixed structure used as a table for the eating of food, and not elsewhere. Therefore, the sale and supply of liquor to patrons is restricted to table service by staff of the licensee.*
5. *The premises must always be set up and presented for dining and tables can not be removed or shifted in order to create dance floors or function areas.*
6. *The permit does not apply to any bar/servery area identified in the approved plans or, unless the relevant local government authority otherwise consents, to any external trading area that currently trades under an al fresco extended trading permit (i.e. over a local government controlled footpath area).*
7. *The licensee is prohibited from promoting and/or advertising the licensed premises as anything other than a restaurant.*
8. *The maximum permitted trading hours in respect of the permit are:*
 - *Monday to Saturday between the hours of 6am and 12 midnight, and on Sunday from 10 am to 10 pm;*
 - *No trading under the permit is authorised on Christmas Day, Good Friday or before noon on Anzac Day.*

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

DRAFT COUNCIL POLICY

Council at its meeting on 23 July 2007 resolved to endorse and advertise a draft Liquor (Licensed Premises) Policy. The aim of the Policy is to *properly manage the impacts of licensed premises on the community and the environment*. Its objectives are to provide guidelines to:

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

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

PROPOSED PREMISES

- Napoleon Street has developed into a vibrant café and shopping strip which contains a number of restaurants of which four (Barista, Phillips, La Palme D'or and Van's) currently hold a liquor license. The addition of serving liquor without meals at Phillips would contribute to a range of entertainment venues being available in the Town Centre.
- Phillips Café is currently open for breakfast, lunch and dinner from Wednesday to Sunday. Trading hours are proposed to be altered by the addition of Monday and Tuesday opening; the proposed hours being:
Monday-Thursday, 11:00am -12 midnight;
Friday, 10:00am -12 midnight;
Saturday, 9:00am – 12 midnight;
Sunday, 9:00am - 10:00pm; and
Christmas Day, Good Friday and Anzac Day closed.
- The restaurant would function as it is at present, but with the addition of customers having the advantage of having pre-dinner and post-dinner drinks at their table rather than in a designated bar area.
- Health requirements have been met and a Section 39 is able to be issued together with the Section 40.
- It is noted that the first few days of the week are typically quieter trading days and that any non-meal drinking during that period may be expected to be limited and low-key.

CONCLUSION

- A variety of entertainment, eating and shopping venues in the Town Centre contribute to its character and ambience. Achieving a good variety is of mutual benefit to all businesses within the Town Centre.
- The applicant is required to demonstrate to the Liquor Licensing authority that the premises will continue to function as a restaurant and not a de-facto small bar. It would otherwise be required to apply for that different licence.
- As the liquor licence reforms are as yet untested in WA, the ability for the Director of Liquor Licensing to provide this control has been questioned by some councils and the media.
- It is considered that the reforms deserve an opportunity to prove themselves and the Town Centre would benefit from a choice of establishments as an obviously appropriate location for this type of facility to be experienced.
- The licensing authority has safeguards including conditions to the licence and the ability to withdraw the ETP should conditions not be met. Also, Council has the ability to recommend conditions and the application will be advertised locally to ensure that the community is aware and the specific nature of the proposal is made clear.
- The proposal would meet the criteria of the Council-endorsed draft Liquor (Licensed Premises) Policy.
- It is thus recommended that the application be supported subject to conditions 1-8 of the Department of Racing Gaming and Liquor Policy regarding *Extended Trading Permits for Restaurants to Sell and Supply Liquor without a Meal (as amended 11 June 2007)*.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee raised no query or comment in this regard.

10.1.16 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Cunningham

That Council:

- (1) **Support the proposed Section 40 Certificate for a variation to the existing liquor licence for Phillips Café, to include an Extended Trading Permit for Restaurants to Sell and Supply Liquor without a Meal.**
- (2) **Recommend to the Director of Liquor Licensing that the Section 40 Certificate be subject to conditions 1-8 as included in the Department of Racing, Gaming and Liquor Policy: *Extended Trading Permits for Restaurants to Sell and Supply Liquor Without a Meal (as amended 11 June 2007)*.**

Carried 10/0

**10.1.17 NO. 87 MARINE PARADE – COTTESLOE SURF LIFE SAVING CLUB
– CONCEPT DESIGN COMPETITION FOR POSSIBLE REDEVELOPMENT**

File No: PRO/2412
Author: Ms Delia Neglie / Mr Andrew Jackson
Attachments: Location plan
Correspondence from Surf Life Saving Club dated 3 August 2007
Author Disclosure of Interest: Nil
Report Date: 15 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

The Cottesloe Surf Life Saving Club (CSLSC) is proposing a Concept Design Competition for the Possible Re-development of the Cottesloe Surf Life Saving Club.

Five architects will be invited to participate. The purpose of the competition is to choose an architect to be appointed as the design architect.

A panel of judges is proposed including two architects and the President of the CSLSC. Council has been invited to participate as a sponsor and to nominate a member of this judging panel.

STATUTORY ENVIRONMENT

The CSLSC is situated on land reserved for Parks and Recreation under the Metropolitan Region Scheme and reserved accordingly under Council's Town Planning Scheme. In terms of land tenure the area comprise Crown reserves and it is understood that the Club may have a vesting order for its current site only.

POLICY IMPLICATIONS

Regional and local planning considerations in relation to the coast and recreational reserve.

STRATEGIC IMPLICATIONS

Relationship to coastal management, Foreshore Vision initiative and recreational planning.

FINANCIAL IMPLICATIONS

None at present.

BACKGROUND

The CSLSC Strategic Advisory Board has been in contact with the CEO and MDS regarding a proposed concept design competition for the redevelopment of the CSLSC. In a letter dated 3 August 2007 (attached), the Club requests a representative from the Town to participate in the judging panel which will total five persons including two architects and the President of the CSLSC.

The launch of the competition is planned for Monday 3 September 2007 with Monday 5 November 2007 as the final submission date. Notification of the winner is scheduled for Friday 14 December 2007.

The competition will be managed by an advisor, Emeritus Professor Laurie Hegvold and is endorsed by the Royal Australian Institute of Architects

The purpose of the competition is to choose an architect (or firm) who can:

- Work with the CSLSC *to develop a site appropriate response to the needs and desires of the Club and user groups;*
- *Achieve a cost-effective design for the Club;* (a budget of \$10,000,000 is nominated)
- *Develop a project that demonstrates the successful integration of energy-efficient and ecological-sustainable design, waste-minimisation and sensitive use of materials; and*
- *Achieve design excellence, (an iconic building for an iconic site).*

The draft competition documents identify the for a building that includes 30-50 car bays, club activity areas, amenities, gymnasium, pool area, function centre, café and administration. Access to the beach from the café and for members generally is seen as important whilst maintaining general public access. The building is required to be energy-efficient and sympathetic to the environment and its location but to take advantage of ocean views.

The documents include advice that *the existing footprint (of the current building) may be altered if it is in the interests of facilitating an appropriate design. A site plan is included ...setting out limits within which the design proposal must be kept.*

This site plan includes land that appears to go beyond the lease boundaries of the CSLSC site.

STAFF COMMENT

It is appreciated that the CSLSC has requested Council to be involved in the conceptual re-development of the site at this early stage of the planning process.

While is it anticipated that Council would wish to participate and support this proposal in principle, it is considered that there are a number of qualifications to Council being so involved on a preliminary basis:

- The extent of the proposed site plan;
- The possibility that Council may be seen as endorsing a proposal before planning considerations are able to be assessed; and
- The whole gamut of environmental, coastal management, town planning, engineering, infrastructure works, services, recreational and so on processes and approvals to be addressed.
- The absence of any community or agency consultation at this time.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed whether an Elected Member or a Senior Officer would best be the representative but also expressed concern that perhaps the Town should remain one-step removed from the actual competition process, given the range of responsibilities that the Town has, including approval processes, attending to the needs of other stakeholders, the Foreshore Vision initiative and so on, which would tend to prejudice its ability to endorse any concept design.

DECLARATION OF INTEREST

Mayor Morgan declared an interest of impartiality as the patron of the Cottesloe Surf Life Saving Club.

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) Thank the Cottesloe Surf Life Saving Club for the opportunity to participate.
- (2) Nominate a Council representative to the judging panel of the Concept Design Competition for the Possible Re-development of the Cottesloe Surf Life Saving Club.
- (3) Advise the Club that Council may be unlikely to support the construction of any significant building or structure on other than the existing location of the Surf Club building and car park.
- (4) Advise the Club that the competition cannot and should not be seen to pre-empt or prejudice the full range of consultations and approvals required before being able to develop within the coastal recreation or conservation reserve areas.

AMENDMENT

Moved Cr Walsh, seconded Cr Furlong

That the words “but advise that Council respectfully declines the invitation” be added to point (1) after the word “participate” and that item (2) be deleted.

Carried 10/0

AMENDMENT

Moved Cr Cunningham, seconded Cr Jeanes

That the new points (2) and (3), ie the last two remaining points, also be deleted from the recommendation.

Lost 5/6 on the casting vote of the Mayor

10.1.17 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Strzina

That Council:

- (1) Thank the Cottesloe Surf Life Saving Club for the opportunity to participate but advise that Council respectfully declines the invitation.**
- (2) Advise the Club that Council may be unlikely to support the construction of any significant building or structure on other than the existing location of the Surf Club building and car park.**
- (3) Advise the Club that the competition cannot and should not be seen to pre-empt or prejudice the full range of consultations and approvals required before being able to develop within the coastal recreation or conservation reserve areas.**

Carried 8/2

The agenda items were dealt with in the following order: Item 11.1.1, 11.1.2, 11.1.4, 11.2.1, 11.2.2, 11.3.1 and the balance in numerical order enbloc.

11 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 21 AUGUST 2007

11.1 ADMINISTRATION

11.1.1 RETURNED SERVICES LEAGUE - COTTESLOE SUB-BRANCH - AIR CONDITIONING

File No: SUB/143
Attachment(s): [Copy of Letter from RSL, Cottesloe Sub-Branch](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 14 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to express sincere regret at the delay in providing air conditioning to the RSL meeting room at the Cottesloe Civic Centre and to seek professional advice on an air conditioning solution for the room.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

A donation of \$2,600 has been set aside in the Town of Cottesloe's 2007/08 budget to assist the Cottesloe Sub –Branch of the RSL with the supply and installation of a split-system, reverse-cycle air conditioning system for their meeting room at the Cottesloe Civic Centre.

Needham Air have provided a quote of \$3,300 for the work which is over-budget and as a consequence, the RSL have requested an increase in the donation provided by Council to cover the shortfall.

BACKGROUND

In April 2007 the Cottesloe Sub-Branch of the RSL made application to the Town of Cottesloe for a donation of \$2,600 for the supply and installation of a split-system reverse-cycle air conditioning system to the RSL meeting room.

On 9th July 2007 the RSL were advised that their application was successful.

Upon inspecting the room and the exterior of the room, the air conditioning contractor, Needham Air, revised their cost estimate to \$3,679. This was subsequently reduced to \$3,300 after further representation was made to Needham Air by representatives of the RSL.

On being made aware of the proposed air conditioning solution and on taking advice from other staff, the CEO called a stop to the proposed work on the basis that:-

1. the proposed location of the air conditioner's outdoor unit adjacent to existing toilets and within a cleaners storage room was not appropriate and could result in contaminated air being supplied to the meeting room,
2. the likely demolition of the wall where the air conditioner's outdoor unit is to be affixed will render any air conditioning installation obsolete within six months of installation - assuming Civic Centre renovations go ahead,
3. the indoor unit will not be ideally situated within the RSL meeting room itself in terms of the movement of air,
4. there is no provision for the escape of air from the meeting room,
5. the fascia of the air conditioner and the punching of hole through the Jarrah panelling is insensitive to the heritage of the room. It is one of only two rooms that remain substantially intact from the time that the Civic Centre was acquired by the Town of Cottesloe – the other room being the Council Chambers.

The Secretary of the Cottesloe Sub-Branch of the RSL has now written to the Town of Cottesloe (see attachment) expressing disappointment at the decision to halt the proposed work and requesting reconsideration of the matter.

CONSULTATION

The CEO met with the Secretary of the Sub-Branch, RSL representatives and Cr Utting on the 14th August 2007.

A number of matters were discussed.

Plans for the proposed upgrade of the Civic Centre were considered and the CEO expressed his support for the retention of the current staff kitchenette to service the needs of RSL members exclusively. Some discussion was held on the provision of temporary meeting spaces and access while the Civic Centre is being renovated.

STAFF COMMENT

While staff are sympathetic to the situation that the Cottesloe Sub-Branch of the RSL finds itself in, the proposed air-conditioning solution represents a short-term solution that is insensitive to the heritage of the room and may create more problems than it solves. Potential problems include the introduction of contaminated air into the room, and ongoing problems associated with the absence of air returns and/or fresh air sources.

There is no denying that the room suffers badly from a lack of ventilation. The current wall-mounted fans are next to useless and the noise of window-mounted exhaust

fans makes normal conversation within the room impossible - and doubly so for those who are hard of hearing. On days of extreme heat, the room is stifling and the door has to be kept open for the movement of some air. This in turn affects the privacy of RSL meetings because of the close proximity of Council staff during meal and tea breaks.

Rather than waste money on a short-term fix, it would make better sense to request the mechanical engineers associated with the upgrading of the Civic Centre to find a better air conditioning solution for the RSL meeting room with the work to be undertaken at the time of the Civic Centre upgrade

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Express its sincere regret at the delay in providing air conditioning to the RSL meeting room, and
- (2) Seek professional advice on an air conditioning solution for the RSL meeting room with a view to having the necessary work undertaken at the time of the proposed Civic Centre upgrades.

CEO COMMENT

The CEO advised the meeting that he had taken further advice and was confident that a solution could be found through the relocation of the wall mounted unit and the condenser unit.

Additional funds were required for a power point, circuit breaker and the 'chasing' of additional pipe and electrical work.

DECLARATION OF INTEREST

Cr Utting declared an interest of impartiality as a member of the RSL Cottesloe Sub-Branch.

11.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council approve the expenditure of up to \$4,000 on the provision of an air conditioner for the RSL Meeting Room subject to the advice of Philip Griffith Architects.

Carried 10/0

11.1.2 PROCOTT INC. - REQUEST FOR CONTRIBUTION TOWARDS FESTIVE ILLUMINATION

File No: SUB/47
Attachment(s): [Proposal](#)
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 13 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to contribute funds of \$19,680 towards the acquisition of festive illumination for the town centre.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

No provision has been made in the 2006/07 budget for the contribution of funds to Procott for the supply and installation of festive illumination.

Any decision to make a contribution will therefore require an absolute majority decision by Council.

BACKGROUND

On the 26th June 2007 the President of Procott wrote to the CEO advising of Procott's intention to allocate funding of \$30,000 towards the supply and installation of festive illumination in the town centre. In her correspondence, the President of Procott said:-

The Procott Board understands that while there may have not been an allocation of funds for this aspect of the town centre, we hope that there can be some parity between the contributions of Procott and the Town of Cottesloe.

Procott has now submitted a plan and quotation for festive lighting for Napoleon St, Station St and Jarrad St. Details of the proposal are attached and contributory funding of \$19,680 is now sought from the Town of Cottesloe.

The following points have been made by Procott:-

- The lights will be installed and left in place all year.
- Traders will pay for the power used by the lights and be reimbursed by Procott.
- The cost of installation of power points has yet to be ascertained.

- Procott will be responsible for the maintenance of lighting and replacement of the lighting as required.
- It is intended to extend the lighting in future years.
- The lights will belong to Procott.

CONSULTATION

The CEO has met with the President of Procott onsite to discuss the proposal and there is no practical reason (other than the issue of unbudgeted funding) as to why it should not go ahead.

STAFF COMMENT

The Procott offer is almost too good to refuse. Procott has indicated its preparedness and willingness to supply and install festive illumination and assume responsibility for its ongoing maintenance.

In most other local government areas the general expectation is that it is the Council that will purchase and maintain festive illumination – particularly where Christmas festive lighting is concerned.

A decision to contribute funds towards the provision of the festive lighting therefore hinges on the following considerations:-

- Is the proposed investment decision a good one?
- Is any ongoing obligation placed upon the Town of Cottesloe?
- Is there any urgency in providing contributory funding?
- Is there any opportunity for the Town of Cottesloe to recover any costs incurred now at some later date?

In the CEO's opinion the provision of the proposed lighting has considerable benefit and will undoubtedly enhance a cosmopolitan image of Cottesloe. It is a relatively cheap investment which can be amortised over several years. Napoleon Street in particular lends itself to festive lighting and it is perhaps something of a surprise that other local governments of a similar size to Cottesloe have done more in terms of promoting their town centres with festive lighting over the years – albeit within the narrower confines of the Christmas season.

The willingness of Procott to assume responsibility for ongoing maintenance is also particularly attractive as it places no added burden on the resources of the town of Cottesloe.

However the intention to extend the lighting in future years suggests that there may be some further financial call upon the Town of Cottesloe.

There also appears to be no urgency in providing contributory funding and it is possible that Procott could scale back its proposal with a view to staging it over several years without calling on Council funds and meeting future costs by simply increasing the special rate levy for properties in the town centre.

On balance however, it is my view that the Town of Cottesloe should collaborate with Procott in supporting what is a good initiative and should not really need to wait a year for Council funding or support.

VOTING

Absolute Majority – unbudgeted expenditure

11.1.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council contribute funds of \$19,680 towards the acquisition of festive illumination for the town centre subject to:-

- (1) Procott indemnifying the Town of Cottesloe against theft or vandalism arising from the installation of the festive illumination,**
- (2) Procott confirming in writing that it will meet all ongoing costs associated with the maintenance of the lighting, and**
- (3) Procott reimbursing the Town of Cottesloe 40% of any income received from any subsequent sale and disposal of the lights within the next five years.**

Carried 10/0

11.1.3 TENDER EVALUATION PANEL

File No: SUB/44
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 13 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to appoint three members to a tender evaluation panel to consider tenders received for the provision of architectural services for the upgrade of the Cottesloe Civic Centre and to make a recommendation through to Council.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

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

Tender Criteria

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

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

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

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

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At last month's meeting Council agreed to sign off on the developed design for the proposed Civic Centre upgrade and expansion and to call tenders for fee proposals for professional services to complete the project including contract documentation and administration.

The tender has been advertised with a closing time and date of 2.00pm on Friday 31st August 2007. Tender details can be viewed at the following web address <http://www.cottesloe.wa.gov.au/?p=42>

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

Relevant Experience – 40%

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

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

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

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

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

Methodology – 15%

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

Communication and Liaison Skills – 10%

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

Quality Assurance – 5%

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

Any other quality management practices should be enumerated.

Tendered Price – 10%

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

CONSULTATION

Nil.

STAFF COMMENT

With the benefit of hindsight the evaluation panel should have been established prior to the advertising of a tender.

However it is not too late to form the evaluation panel and include on it a mix of skills and experience relevant to the nature of the purchase.

As determined by Council’s *Purchasing* Policy, requests for tender with a total estimated (ex GST) price of \$100,000 and above means that the panel must contain a minimum of 3 members.

VOTING

Simple Majority

11.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council appoint the Mayor, Presiding Member of the Works and Corporate Services Committee and the CEO to a tender evaluation panel to consider tenders received for the provision of architectural services for the upgrade of the Cottesloe Civic Centre and make a recommendation through to Council.

Carried 10/0

11.1.4 SENIOR PLANNER - REMUNERATION PACKAGE

File No: SUB/239
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil
Report Date: 14 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Council's support is requested for a budget amendment to help secure a senior planning officer by including a vehicle as part of the salary package, which would maintain parity with other staff at similar levels in competing local governments.

STATUTORY ENVIRONMENT

Section 6.8 of the *Local Government Act 1995* relates to new expenditure from the municipal fund not previously identified in the annual budget. Hence the proposed acquisition of another vehicle requires a budget amendment, which in turn requires an absolute majority resolution by Council.

POLICY IMPLICATIONS

This request is consistent with Council's *Vehicle Fleet Administration Policy* and is timely in connection with the planned transition to more sustainable four-cylinder vehicles.

STRATEGIC IMPLICATIONS

The request is in accordance with ongoing governance to recruit and retain staff at appropriate levels, to properly manage the town planning area and to pursue sustainability objectives.

FINANCIAL IMPLICATIONS

No provision has been made in the current budget for the proposed running costs of a vehicle in the Town Planning Area. An additional amount of \$15,100 is sought to be allocated for that purpose.

The capital cost for the vehicle can be found from within the current Capital Works Programme.

BACKGROUND

The recruitment of staff generally is increasingly difficult in a highly-competitive market-place and over the past several years there has been a marked shortage of Town Planners affecting local governments, vying with state agencies and the private sector for suitable applicants.

In particular, smaller councils such as Cottesloe have found it hard to attract staff, at least partly due to the comparatively more attractive salary packages offered by larger local governments. For Town Planning positions the trend has been to offer vehicles to not only management level but also senior officers. Examples include the

Town of Victoria Park and City of Melville. This is on a par with other senior positions at Cottesloe, such as the Principal Building Surveyor and Principal Health Surveyor.

For a few years now the Planning Department has had limited stability of staffing, with the two Planning Officer positions affected by various departures, maternity leave arrangements and working routines. This has been compensated by a series of part-time contract officers and some consultancy assistance, which is not ideal in the longer term and increases demands on core full-time staff, both within the department and in other departments.

In recent months the Town of Cottesloe has twice advertised for a suitably qualified and experienced local government Town Planner, but to no avail. Unfortunately applicants have been few and either not WA-trained or not statutory-based, rendering them less focused on the type of work involved in order to perform with adeptness and little supervision.

Recruitment agencies have had a corresponding scarcity of staff to offer.

To address this situation the Manager Development Services has endeavoured to find a replacement officer by direct approaches to known mainstream local government statutory planners. However, most individuals have indicated a preference to remain at their present place of employment and the availability of a car is one factor influencing this. A senior officer level is also sought to add experience and back-up to the small Planning Department team, so as to assist the Manager as well as increase the capacity to serve customers and Council.

Therefore, in order to secure an officer in-principle, it is proposed to recruit at Senior Planner level and to provide a vehicle for full private use. Negotiations with a particular individual so far have advanced to the point of making an offer subject to inclusion of a vehicle. This reflects his current and previous entitlements at other local governments and is also based on a four-cylinder vehicle which Cottesloe is changing to.

Subject to confirmation of a vehicle being endorsed by Council for inclusion in the remuneration package, a formal offer will be made and if accepted a start date can be set. In this way the vacancy can be filled and the Planning Department will be fully-staffed.

CONSULTATION

Preliminary consultation has been undertaken with the CEO who supports the proposal and a prospective candidate in this regard.

STAFF COMMENT

Based on a typical mid range four-cylinder vehicle, the estimated total annual cost of providing the vehicle benefit (including fuel, insurance, registration, repairs, FBT and the notional cost of interest income foregone) is approximately \$15,100 per annum based on \$20,000km of travel per year.

As this amount has not been provided for in the current budget an amendment is necessary.

The purchase of a suitable vehicle on government contract and exempt of GST is approximately \$29,000. This amount can be found from within Council's current fleet replacement capital works programme given the planned deferral of replacement vehicles for ranger staff.

VOTING

Absolute Majority

11.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council:

- (1) **Agree to amend the 2007/2008 Budget by transferring \$29,000 from the Capital Works Programme of the Parking area to the Capital Works Programme of the Town Planning area for the purchase of a passenger vehicle; and**
- (2) **Agree to amend the 2007/2008 Budget to allocate \$15,100 for the direct and indirect running costs of a passenger vehicle in the area of Town Planning.**

Carried 10/0 by Absolute Majority

Mr Andrew Jackson left the meeting at 8.47 pm and did not return.

11.1.5 STAFF GIFT POLICY

File No: SUB/586
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 13 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Following public advertising, a formal recommendation is made to adopt a *Staff Gift Policy*.

STATUTORY ENVIRONMENT

Section 5.50 of the *Local Government Act 1995* provides the following:-

5.50. Payments to employees in addition to contract or award

(1) A local government is to prepare a policy in relation to employees whose employment with the local government is finishing, setting out —

(a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and

(b) the manner of assessment of the additional amount,

and cause local public notice to be given in relation to the policy.

(1a) A local government must not make any payment of the kind described in subsection (1)(a) unless the local government has adopted a policy prepared under subsection (1).

(2) A local government may make a payment —

(a) to an employee whose employment with the local government is finishing; and

(b) that is more than the additional amount set out in the policy prepared under subsection (1) and adopted by the local government,

but local public notice is to be given in relation to the payment made.

(3) The value of a payment or payments made to a person under this section is not to exceed such amount as is prescribed or provided for by regulations.

(4) In this section a reference to a payment to a person includes a reference to the disposition of property in favour of, or the conferral of any other financial benefit on, the person.

Regulation 19A of the *Local Government Act (Administration) Regulations 1996* provides the following:-

19A. Payments to employee in addition to contract or award — s. 5.50(3)

(1) The value of a payment or payments made under section 5.50(1) and (2) to an employee whose employment with a local government finishes after 1 January 2010 is not to exceed in total —

(a) if the person accepts voluntary severance by resigning as an employee, the value of the person's final annual remuneration; or

(b) in all other cases, \$5 000.

(2) In this regulation —

“final annual remuneration” in respect of a person means the value of the annual remuneration paid, or payable, to the person by the local government which employed that person immediately before the person's employment with the local government finished.

POLICY IMPLICATIONS

Currently there is no policy in place that governs the provision of gifts/payments to staff.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

If the policy is adopted, the cost to the Town of Cottesloe on an annual basis is estimated to be approximately \$2,000.

BACKGROUND

This matter was last presented to Council at its May 2007 meeting where the CEO advised that from time to time he had provided additional Council funds towards the provision of farewell gifts for Council employees that were retiring or moving on to other employment.

As there was no policy in place that governed the amount of Council funds that applied to individual gifts, it was seen to be an undesirable state of affairs in terms of accountability for Council funds and at odds with the intent and requirements of the *Local Government Act 1995*.

A draft policy was adopted by Council and local public notice given in the *Post* newspaper on Saturday 23rd June 2007 and Saturday 7th July 2007 in accordance with the requirements of the *Local Government Act 1995*.

Submissions on the policy closed on 31st July 2007.

CONSULTATION

One e-mail submission was received from Valerie Frearson-Lane who said “It all seems quite reasonable from my personal point of view.”

STAFF COMMENT

Nil.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

That Council formally adopt the following *Staff Gift Policy*:-

STAFF GIFT POLICY**PAYMENTS TO EMPLOYEES WHOSE EMPLOYMENT WITH THE TOWN OF COTTESLOE IS FINISHING AND WHICH IS IN ADDITION TO CONTRACT OF EMPLOYMENT OR AWARD ENTITLEMENTS****(1) BACKGROUND**

The *Local Government Act 1995* requires the Town of Cottesloe to prepare a policy in relation to employees whose employment with the local government is finishing, setting out:-

- (a) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and
- (b) The manner of assessment of the additional amount,

This policy is intended to meet the requirements of the *Local Government Act 1995*.

It gives the Town of Cottesloe the option of rewarding staff with an appropriate gift with the value of the gift being determined mainly by length of service.

(2) AIM OF THIS POLICY

To provide guidelines for circumstances where the Town of Cottesloe may consider paying a member of staff over the agreed level, according to the relevant Award and Contract of Employment, or other contractual arrangement or document, current at the time that staff members' employment with the Town of Cottesloe is finishing.

Such reasons for termination of employment include retirement, cessation of contract, termination of contract and resignation on grounds of ill health, death, redundancy and severance.

(3) POLICY STATEMENT**POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO DISMISSAL**

No payment to be made.

POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO ORDINARY AND CUSTOMARY RETIREMENT OR RESIGNATIONStatement

Examples are voluntary retirement due to age or sickness or a voluntary resignation due to having secured other employment, personal or family reasons etc.

Such payments are to be referred to as “gratuities”.

Conditions

1. A gratuity may be made to any retiring employee at the discretion of the CEO upon the employee’s resignation due to ill health (or to the employee’s beneficiaries following the employee’s death) or for any other circumstances leading to retirement, under the following conditions:
 - (1) Employees who have completed up to five years’ service may receive a gift up to the value of \$250, on the basis of \$50 for each year of service.
 - (ii) Employees who have completed over five years service may receive a gift of an additional \$100 per year of service for each year of service over five years, up to a maximum of \$750.00 at the discretion of the CEO.
2. In assessing the amount to be paid for a gift, consideration will also be given to the level of performance exhibited by the employee, health circumstances and/or family hardship in cases of death or retirement on grounds of ill health.
3. The Council may, in special circumstances, determine that benefits additional to those described in this policy are to be paid to an employee, however, details of those additional benefits and/or payments shall be published in accordance with Section 5.50 of the *Local Government Act 1995*.

POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO ORGANISATIONAL REDUNDANCY/SEVERANCEStatement

This policy applies where the Town of Cottesloe has chosen to offer severance or redundancy payments in the context of an organisational restructure and in particular where the employer no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour.

Such payments are to be referred to as “organisational redundancy or severance payments”.

It is understood at all times that any payment is not seen as a right, but either as a reward to those staff members who have demonstrated high levels of

service and/or a reward to staff members who have positively and constructively assisted with any relevant organisational restructuring process.

Conditions

1. Subject to any regulation made under Section 5.50(3) of the *Local Government Act 1995*, any offer of additional payment will be limited to a maximum of an additional 100% based on the total severance pay entitlement, with each case to be considered on its individual merits
2. Such consideration will take into account the relevant objectives of any prevailing organisational restructure, the employee's length of service, the level of performance exhibited by the employee and any current or likely family hardship caused by the termination.
3. In all other cases involving a payment over the value of \$2,000 the CEO must seek the express approval of Council prior to any payment being made.

AMENDMENT

Moved Mayor Morgan, seconded Cr Jeanes

That all the monetary values referred to in the policy under the sub-heading of 'POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO ORDINARY AND CUSTOMARY RETIREMENT OR RESIGNATION' be halved.

Carried 6/4

11.1.5 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council formally adopt the following *Staff Gift Policy*:-

STAFF GIFT POLICY

PAYMENTS TO EMPLOYEES WHOSE EMPLOYMENT WITH THE TOWN OF COTTESLOE IS FINISHING AND WHICH IS IN ADDITION TO CONTRACT OF EMPLOYMENT OR AWARD ENTITLEMENTS

(1) BACKGROUND

The *Local Government Act 1995* requires the Town of Cottesloe to prepare a policy in relation to employees whose employment with the local government is finishing, setting out:-

- (c) the circumstances in which the local government will pay an employee an amount in addition to any amount to which the employee is entitled under a contract of employment or award relating to the employee; and
- (d) The manner of assessment of the additional amount,

This policy is intended to meet the requirements of the *Local Government Act 1995*.

It gives the Town of Cottesloe the option of rewarding staff with an appropriate gift with the value of the gift being determined mainly by length of service.

(2) AIM OF THIS POLICY

To provide guidelines for circumstances where the Town of Cottesloe may consider paying a member of staff over the agreed level, according to the relevant Award and Contract of Employment, or other contractual arrangement or document, current at the time that staff members' employment with the Town of Cottesloe is finishing.

Such reasons for termination of employment include retirement, cessation of contract, termination of contract and resignation on grounds of ill health, death, redundancy and severance.

(3) POLICY STATEMENT

POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO DISMISSAL

No payment to be made.

POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO ORDINARY AND CUSTOMARY RETIREMENT OR RESIGNATION

Statement

Examples are voluntary retirement due to age or sickness or a voluntary resignation due to having secured other employment, personal or family reasons etc.

Such payments are to be referred to as "gratuities".

Conditions

1. A gratuity may be made to any retiring employee at the discretion of the CEO upon the employee's resignation due to ill health (or to the employee's beneficiaries following the employee's death) or for any other circumstances leading to retirement, under the following conditions:
 - (1) Employees who have completed up to five years' service may receive a gift up to the value of \$125, on the basis of \$25 for each year of service.
 - (ii) Employees who have completed over five years service may receive a gift of an additional \$50 per year of service for each year of service over five years, up to a maximum of \$375.00 at the discretion of the CEO.
 2. In assessing the amount to be paid for a gift, consideration will also be given to the level of performance exhibited by the employee, health circumstances and/or family hardship in cases of death or retirement on grounds of ill health.
-

3. The Council may, in special circumstances, determine that benefits additional to those described in this policy are to be paid to an employee, however, details of those additional benefits and/or payments shall be published in accordance with Section 5.50 of the *Local Government Act 1995*.

POLICY IN CASE OF EMPLOYEES TERMINATING DUE TO ORGANISATIONAL REDUNDANCY/SEVERANCE

Statement

This policy applies where the Town of Cottesloe has chosen to offer severance or redundancy payments in the context of an organisational restructure and in particular where the employer no longer wishes the job the employee has been doing done by anyone and this is not due to the ordinary and customary turnover of labour.

Such payments are to be referred to as “organisational redundancy or severance payments”.

It is understood at all times that any payment is not seen as a right, but either as a reward to those staff members who have demonstrated high levels of service and/or a reward to staff members who have positively and constructively assisted with any relevant organisational restructuring process.

Conditions

1. Subject to any regulation made under Section 5.50(3) of the *Local Government Act 1995*, any offer of additional payment will be limited to a maximum of an additional 100% based on the total severance pay entitlement, with each case to be considered on its individual merits
2. Such consideration will take into account the relevant objectives of any prevailing organisational restructure, the employee’s length of service, the level of performance exhibited by the employee and any current or likely family hardship caused by the termination.
3. In all other cases involving a payment over the value of \$2,000 the CEO must seek the express approval of Council prior to any payment being made.

Carried 8/2

11.1.6 RECORDS MANAGEMENT POLICY AND PROCEDURES MANUAL

File No: SUB/184
Attachments: [Records Management Policy and Procedures Manual](#)
Author: Ms Lisa Oliver
Author Disclosure of Interest: Nil
Report Date: 20 June, 2007
Senior Officer: Mr Graham Pattrick

SUMMARY

A recommendation is made to adopt a *Records Management Policy and Procedures Manual* (see attachment).

STATUTORY ENVIRONMENT

Section 16 of the *State Records Act 2000* requires the Town of Cottesloe, as a government organisation, to have a record keeping plan.

16. Content of plans

(1) A record keeping plan in respect of a government organization is a record setting out—

- (a) the matters about which records are to be created by the organization; and
- (b) how the organization is to keep its government records.

Within the *Town of Cottesloe's Record Keeping Plan* there is an obligation to prepare a new policy and procedures manual once a new electronic records management system is in place. This has now occurred.

POLICY IMPLICATIONS

The proposed policy and procedures manual is intended to assist in ensuring that all records created and received in the course of the Town's business are captured at the point of creation (regardless of format) and managed in accordance with sound record keeping principles.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Record keeping is an integral component of the day-to-day management of a local government such as the Town of Cottesloe.

The manual has been created in order to standardise policies and procedures for record keeping across the entire organisation. This includes the four departments of

Executive Services, Corporate Services, Engineering Services and Development Services. It also includes elected members, contractors and consultants in the course of their work for the Town of Cottesloe.

Essentially, elected members, employees, consultants and contractors of the Town are expected to provide full and accurate records, in an appropriate format, of the Town's business decisions and transactions to meet all legislative, business, administrative, financial, evidential and historical requirements.

As an aside, access to the Town's records by elected members can be obtained through the Chief Executive Officer in accordance with the obligations and responsibilities set out in the *Local Government Act 1995*.

CONSULTATION

Nil.

STAFF COMMENT

The draft *Records Management Policy and Procedures Manual* is presented to the Works and Corporate Services Committee for its consideration and for adoption by Council.

VOTING

Simple Majority

11.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council adopt the *Records Management Policy and Procedures Manual*.

Carried 10/0

11.2 ENGINEERING**11.2.1 TENDER - CAST IN-SITU CONCRETE PATH CONSTRUCTION - THREE YEAR PERIOD**

File No: SUB/611
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 13 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

Council has adopted a five year footpath construction program which is based on the replacement of concrete slab footpaths with cast in-situ concrete paths.

As the program may involve the expenditure of \$100,000 or more, per annum with one contractor, tenders were called for a three year contract. The tender closed on 10 August, 2007.

A recommendation is made to accept the tender of \$36.90 p/m² from Cobblestone Concrete for cast in-situ concrete footpaths for the period 1 October 2007 to 30 September 2010.

STATUTORY ENVIRONMENT

The *Local Government (Functions and General) Regulations 1996 (WA)* have been recently changed to lift the threshold level for which tenders must be called from \$50,000 to \$100,000. The value of annual capital works to replace concrete slabs with in-situ concrete footpaths will normally be equal to or in excess of \$100,000.

POLICY IMPLICATIONS

Council's *Purchasing* policy applies.

STRATEGIC IMPLICATIONS

Two areas of Council's Strategic Plan apply to this item:

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

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

FINANCIAL IMPLICATIONS

Expenditure on Council's 5 Year Footpath Replacement Program is around \$100,000 per annum. To avoid any potential uncertainty in complying with the mandatory \$100,000 threshold figure for tenders to be called, a tender was called and a contractor now needs to be selected.

BACKGROUND

Council's previous 3 year contract for this type of works has now expired.

Three year contracts allow for an understanding of what will occur with footpath replacement prices over the longer period, apart from CPI or other price increases due to labour, plant or material (concrete) supply abnormal cost changes. Such changes are normally built into a price rise equation for years 2 and 3.

Three years also reduces the resource impacts on Council staff, advertising costs etc.

The three year time period also allows the contractor to gain a better understanding of the Town of Cottesloe's requirements which should in turn, provide for efficiency improvements over the longer term.

The documents used for this tender were based on the previous 3 year contract.

CONSULTATION

This tender was advertised in the *West Australian* newspaper, as well as on Council's notice boards and web page.

STAFF COMMENT

Council last called for tenders for this type of work three years ago.

The current contract calls for the removal of all existing slab paving, forming up and laying of in-situ concrete footpaths, mostly 1.5m wide, reinstatement of street verges and reticulation and the creation of pedestrian ramps as required. All services are to be protected or reinstated at the contractor's cost.

Evaluation Process

The evaluation criteria included:

- experience,
- quality of workmanship,
- capacity to perform works program,
- insurances, and
- price

A summary of the four tenders received is as follows:

Contractor	Price per m length \$ (ex-GST)	Price per m ² \$ (ex-GST)	Price Pedestrian Ramps \$ (ex-GST)
Cobblestone	55.35	36.90	195.00 (each)
Concrete			
K & F Concrete	54.00	36.00	36.00 p/m ²
Westside	97.50	65.00	350.00 (each)
Concrete			
Techsand Pty Ltd	64.00	44.50	400.00 (each)

Of the 4 tenders received, the lowest two, in terms of cost per metre length or square metres, were received from Cobblestone Concrete and K & F Concrete.

K & F Concrete had the last 3 year contract but the ownership of the company has changed in the past twelve months. There have been some issues during that time regarding the clean up of debris, back filling and wearing of safety equipment.

Cobblestone Concrete have recently expanded their operations and now undertake footpath replacement works for the local governments of Vincent, Subiaco, Claremont and Mosman Park. Three of these local governments have been contacted and have provided good references for the quality of work produced.

If the Cobblestone Concrete prices are adopted, then the increase in cost per square metre will have been \$7.90 p/m² over 3 years, or 27.2%.

The price tendered by Cobblestone Concrete is within Council's budget allowance.

Insurance details, as required by the tender documentation, have been provided.

VOTING

Simple Majority

11.2.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That the tender, as submitted by Cobblestone Concrete, for a schedule of rates for cast in-situ concrete footpaths, with a cost of \$36.90 p/m² applying, for the period 1 October 2007 to 30 September 2010, as set out in the received submission, be accepted as the most advantageous to the Town of Cottesloe.

Carried 10/0

11.2.2 JARRAD STREET/BROOME STREET INTERSECTION & ENTRY STATEMENT

File No: SUB/465
Attachment(s): [Copy of Design Statement](#)
Author: Mr Geoff Trigg
Author Disclosure of Interest: NIL
Report Date: 9 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At its September 2006 meeting Council decided to:

Request staff to prepare an area improvement plan showing entry points and traffic flow layout to better delineate vehicular access to the Sea View Kindergarten, Cottesloe Oval and the Sea View Golf Club.

Recommendations are made to:

- (1) Adopt the design concept proposal for the construction of a roundabout and entry statement for the Broome Street/Jarrad Street intersection and Jarrad Street west of Broome Street.
- (2) Support the 2008/09 Black Spot submissions for a roundabout to be constructed at the Broome Street/Jarrad Street intersection.
- (3) Inform the Sea View Golf Club and Seaview Community Kindergarten of Council's decisions in this matter.
- (4) Proceed with the construction of the entry statement as shown in the design concept, with construction to be set out to enable the future construction of the intersection roundabout.

STATUTORY ENVIRONMENT

This section of Jarrad Street is intended to remain open to vehicles and is on a road reserve which is vested in the Town of Cottesloe.

The proposed design for the entry statement envisages standard forms of parking layouts, speed control devices, signage and kerbed areas which are fairly typical of treatments on public streets and roads.

The proposed roundabout and Jarrad Street installations have yet to be approved by the Linemarking and Signage Section of MRWA.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Roundabout:- Two 2008/09 Black Spot submissions have been made for the funding of the roundabout. One has been made under the State Black Spot program (MRWA \$60,000 : Council \$30,000) which includes all lighting and landscaping treatments. The second submission for \$66,000 has been made under the Federal Black Spot program but does not landscaping and other costs.

Entry Statement:- \$40,000 has been budgeted for expenditure in 2007/08 for a proposed Jarrad Street entry statement.

BACKGROUND

Council has previously discussed the idea of a roundabout at the Jarrad Street/Broome Street intersection and some form of entry statement for the section of Jarrad Street immediately west of the intersection.

The Sea View Golf Club has previously requested consideration of an 'entry statement' to try to minimise the flow of traffic west of Broome Street into Jarrad Street to the existing roundabout at the northern turnoff to the Golf Club buildings. This traffic enters the active area of the golf course use and poses a safety risk for golfers and drivers alike.

The area west of the Broome Street/Jarrad Street intersection presents a poor aesthetic image and the proposal is aimed at general improving the area.

CONSULTATION

The draft concept plan has been shown to the Sea View Golf Club and the Seaview Community Kindergarten for comment. Both organisations support the design.

STAFF COMMENT

This concept is designed to deliver the following benefits.

1. The proposed Broome Street roundabout will:-
 - reduce the 'through' speed of vehicles travelling on Broome Street,
 - better control vehicle turning movements, and
 - deliver vehicles in a controlled and slowed manner into the entry statement area on the western 'leg' of Jarrad Street.
2. The Seaview Community Kindergarten will obtain a properly designed and constructed entry/exit/parking area which is better separated from 'through' traffic to the golf course and ovals.
3. The number of 'sightseers' driving into the golf course will be reduced. This will improve overall public safety. Signs are to be installed emphasising that the route leads only to the Cottesloe Oval and the golf course.
4. People accessing Cottesloe Oval will not be impeded but will be given a better controlled entry and exit location.

5. The proposed treatment will greatly improve the aesthetic condition of the area, improve parking and reduce confusion regarding the movement of vehicles around the kindergarten.

VOTING

Simple Majority

11.2.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) **Adopt the design concept proposal for the construction of a roundabout and entry statement for the Broome Street/Jarrad Street intersection and Jarrad Street west of Broome Street.**
- (2) **Support the 2008/09 Black Spot submissions for a roundabout to be constructed at the Broome Street/Jarrad Street intersection.**
- (3) **Inform the Sea View Golf Club and Sea View Community Kindergarten of Council's decisions in this matter.**
- (4) **Proceed with the construction of the entry statement as shown in the design concept, with construction to be set out to enable the future construction of the intersection roundabout.**

Carried 10/0

11.2.3 PART ROAD RESERVE CLOSURE, BARSDEN STREET/FINEY STREET, COTTESLOE

File No: SUB/424 & SUB/448
Attachment(s): [Copy of Letter from Owner & Plans of Proposal](#)
Author: Mr Geoff Trigg
Author Disclosure of Interest: NIL
Report Date: 8 August, 2007
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in November 2006, Council resolved to:

- (1) Support, in principle, the proposed closure of the truncation area on the Barsden Street/Finey Street road reserve intersection adjacent to the south west corner of 12 Barsden Street, Cottesloe, totalling approximately 18m², to be amalgamated into the area of 12 Barsden Street;
- (2) Agree to commence the process of closure covered under Section 58 of the *Land Administration Act, 1997* once the owners of 12 Barsden Street, Cottesloe agree in writing to fund the cost of the public newspaper advertisement to begin the mandatory 35 objection period for public consultation; and
- (3) Inform the owners of 12 Barsden Street, Cottesloe of Council's decision on this matter.

Recommendations are made to:

- (1) Request the Minister to close the truncation area located at the intersection of Barsden Street and Finey Street, Cottesloe, associated with the junction of the two road reserves, with this area to be amalgamated into the property at 12 Barsden Street.
- (2) Have staff undertake all administration requirements to proceed with this closure once the owners of 12 Barsden Street have paid the cost of the advertisement of the proposed closure.

STATUTORY ENVIRONMENT

This matter concerns a small portion of road reserve, which cannot be claimed by adverse possession.

For any permanent road closure, regardless of scale, Section 58 of the *Land Administration Act 1997* is applicable. This process includes a statutory objection period being advertised and all service authorities being asked for comment prior to Council reconsidering the road closure proposal.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Finey Street is a cul-de-sac and therefore does connect through to Barsden Street. The area which could be used as a connection has been developed as a drainage soak pit and sump area and is designed to dispose of drainage water from the general area.

The wall built on the south west corner of 12 Barsden Street is built over the 45° normal road junction boundary truncation and appears to have been there for many years, as has the Barsden Street slab footpath and the well established verge lawn.

There is a well developed drainage system on the unbuilt western end of Finey Street. This was built in 2001 when Barsden Street was rebuilt in order to improve drainage in Finey Street.

The applicants want to include approximately 18m² of the road reserve into their property and legitimise improvements to the house and gardens.

The applicants have agreed in writing to fund the advertising costs of this closure. This cost was \$238.00.

CONSULTATION

The standard mandatory consultation required under Section 58 of the *Land Administration Act 1997* has been undertaken.

STAFF COMMENT

During the advertised 35 day objection or comment period, no resident or landowner comments were received.

The final service authority comment, from Telstra, was received on the 12 July, 2007.

Telstra, Alinta, Water Corporation and Western Power all advise that they have no objections to the truncated area being closed and amalgamated into 12 Barsden Street.

VOTING

Simple Majority

11.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Dawkins

That Council:

- (1) Request the Minister to close the truncated area located at the intersection of Barsden Street and Finey Street, Cottesloe, associated with the junction of the two road reserves, with this area to be amalgamated into the property at 12 Barsden Street.**
- (2) Have staff undertake all administration requirements to proceed with this closure once the owners of 12 Barsden Street have paid the cost of the advertisement of the proposed closure.**

Carried 10/0

11.3 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**11.3.1 CHANGE OF COMMITTEE MEMBERSHIP – COTTESLOE-PEPPERMINT GROVE-MOSMAN PARK LIBRARY**

SUMMARY

Cr Utting advised he wanted to relinquish his role on the Cottesloe-Peppermint Grove-Mosman Park Library Committee and the Library Project Steering Committee in favour of Cr Miller who has been attending these meetings recently on behalf of Cr Utting.

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) Accept Cr Utting's resignation from these committees.
- (2) Approve Cr Miller's appointment to these committees.
- (3) Request a nominee for deputy member at the Full Council meeting.

AMENDMENT

Moved Cr Furlong, seconded Cr Strzina

That part (3) be amended to read 'that Cr Dawkins be appointed deputy member of the Library Project Steering Committee.'

Carried 10/0

11.3.1 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Accept Cr Utting's resignation from these committees.**
- (2) Approve Cr Miller's appointment to these committees.**
- (3) That Cr Dawkins be appointed deputy member of the Library Project Steering Committee.**

Carried 10/0

12 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

14 MEETING CLOSURE

The Mayor announced the closure of the meeting at 9.00 pm.

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