

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING**

# **MINUTES**

**The Ordinary Meeting of Council  
Council Chambers, Cottesloe Civic Centre  
7.00pm, 27 May, 2002.**



# ORDINARY MEETING OF FULL COUNCIL

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# **ORDINARY MEETING OF COUNCIL**

27 May, 2002

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

The Presiding Officer announced the meeting opened at 7.00pm.

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

The Mayor:	Mr J.C. Hammond
Councillors:	Cr. J.S. Birnbrauer
	Cr. M.E. Ewing
	Cr. B.R. Miller
	Cr. K.J. Morgan
	Cr. J. Utting
	Cr. R. Whitby
Chief Executive Officer:	Mr S.D. Tindale
Manager, Engineering Services/Deputy CEO:	Mr M.R. Doig
Manager, Development Services:	Mr S. Sullivan
Manager, Corporate Services:	Mr A. Lamb

## **APOLOGIES**

Crs. Furlong, Rattigan, Sheppard and Walsh have tendered their apologies.

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

## **4 PUBLIC QUESTION TIME**

Nil.

## **5 PUBLIC STATEMENT TIME**

- (1) Mr Dell Bibby, No. 5 Rosser Street – Item 13.  
Mr Bibby spoke as a resident and ratepayer of the Town of Cottesloe, against the proposal. He noted that the proposal set no limits to the total subsidy and also that sporting clubs and other local groups could make individual representation to Council as required.
- (2) Mr John Sainsbury, No. 341 Marmion Street – Item TP50  
Mr Sainsbury spoke against the proposed development noting overshadowing, especially to his outdoor entertaining area and solar hot water system.
- (3) Ms. Sue Scott, No. 1A Parry Street – Item C31  
Ms. Scott spoke against the dangerous dog declaration noting inconsistencies with the date of the action and information given in relation to the appeal process. She asked for the matter to be deferred to the June meeting of Council and its committees.

**6 PETITIONS/DEPUTATIONS/PRESENTATIONS****7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

Moved Cr. Miller, seconded Cr. Ewing, that the minutes of the Ordinary Meeting of Full Council held on the 22 April, 2002 be confirmed.

Carried 7/0

**8 NOTIFICATION OF APPLICATIONS FOR LEAVE OF ABSENCE  
APPLICATIONS FOR LEAVE OF ABSENCE**

Moved Cr. Miller, seconded Cr. Utting

That leave of absence be granted for Mayor Hammond from 20 June, to 6 July, 2002.

Carried 7/0

Moved Mayor Hammond, seconded Cr. Ewing

That leave of absence be granted for Cr. Birnbrauer from 29 May, to 15 June, 2002.

Carried 7/0

**9 DECLARATION OF MEMBERS' INTERESTS**

Nil.

**10 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION****(1) BEACHES - SEAWEED**

The Mayor noted in relation to a recent item in the press that Council does not remove seaweed from beaches and whilst this was the practice in the past, it had not been done for some years and was contrary to Council's local Laws.

**(2) BUDGET**

The Mayor reported that the 2002/03 Budget was in the process of being prepared, a number of briefing sessions had been held and it should be put to Council in around four weeks time.

**(3) TOWN PLANNING SCHEME NO. 3 – DENSITIES**

The Mayor reported that the Special Council Meeting scheduled to deal with densities was not held and the matter would be dealt with at the June Development Services and Ordinary Full Council Meetings.

**11 REPORT ITEMS FOR DECISION****11.1 APPOINTMENT OF COUNCIL DELEGATES – OTHER COUNCIL AND EXTERNAL COMMITTEES**

**File No.:** X4.3  
**Author:** Stephen Tindale  
**Report Date:** 8 May, 2001

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## Background

Elected member representation is required for Council Advisory Committees and delegates for external Committees/Boards in May each year.

### COUNCIL COMMITTEES:

- (1) **TOWN PLANNING SCHEME REVIEW COMMITTEE**  
File No.: D2.4

Moved Mayor Hammond, seconded Cr. Morgan

**That the Mayor, Chair of Development Services, Cr. Utting & Walsh Chief Executive Officer and Manager, Development Services be appointed to the Town Planning Scheme Review Committee and Cr. Birnbrauer deputy Delegate.**

Carried 7/0

- (2) **CARE FOR COTT – LOCAL AGENDA 21 COMMITTEE**  
File No.: X12.2

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Birnbrauer and Cr. Ewing be appointed to the Care for Cott (LA21) Committee.**

Carried 7/0

- (3) **MUSIC FOR PLEASURE CONCERTS - LIAISON COUNCILLOR**  
File No.: X2.2

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Rattigan be appointed to coordinate the Music for Pleasure Concerts and Cr. Birnbrauer deputy liaison councillor.**

Carried 7/0

### EXTERNAL COMMITTEES/BOARDS:

- (4) **WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION - CENTRAL METRO-POLITAN ZONE**  
File No.: X11.7

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Furlong and Cr. Sheppard, be appointed delegates and Cr. Ewing deputy delegate to the Western Australian Local Government Association - Central Metropolitan Zone.**

Carried 7/0

(5) **WESTERN METROPOLITAN REGIONAL COUNCIL**

File No.: D15.14

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Ewing be appointed delegate and Cr. Birnbrauer deputy delegate to the Western Metropolitan Regional Council.**

Carried 7/0

(6) **COTTESLOE-PEPPERMINT GROVE-MOSMAN PARK LIBRARY COMMITTEE**

File No.: C11.1

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Utting. be appointed delegate to the Cottesloe-Peppermint Grove-Mosman Park Library Committee.**

Carried 7/0

(7) **COMBINED COUNCILS AGED SUPPORT SERVICE COMMITTEE**

File No.: C16.1

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Ewing be appointed delegate and Cr. Birnbrauer deputy delegate to the Combined Councils Aged Support Service Committee.**

Carried 7/0

(8) **THE AGED PERSONS SUPPORT SERVICE (INC.)**

File No.: C16.7

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Ewing be appointed delegate and Cr. Birnbrauer deputy delegate to the Aged Persons Support Service (Inc.).**

Carried 7/0

(9) **CURTIN AGED PERSONS HOMES (INC.)**

File No.: C16.3

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Furlong be appointed delegate to the Curtin Aged Persons Homes (Inc.).**

Carried 7/0

(10) **CURTIN AGED PERSONS FOUNDATION (INC.)**

File No.: C16.2

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Furlong be appointed delegate to the Curtin Aged Persons Foundation (Inc.).**

Carried 7/0

(11) **RIVERSEA-WEARNE HOSTEL BOARD**

File No.: C16.5

Moved Miller, seconded Cr. Morgan

**That Cr. Furlong be appointed delegate to the RiverSea Hostel Board.**

Carried 7/0

(12) **SAFER WA WESTERN SUBURBS COMMITTEE**

File No.: C5.4

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Furlong be appointed liaison councillor to the Safer WA Western Suburbs Committee.**

Carried 7/0

(13) **COTTESLOE COAST CARE ASSOCIATION INC.**

File No.: E2.10

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Morgan be appointed delegate and Cr. Birnbrauer deputy delegate to the Cottesloe Coast Care Association Inc.**

Carried 7/0

(14) **COTTESLOE MARINE PROTECTION GROUP**

File No.: E2.4

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Birnbrauer be appointed delegate and Cr. Morgan deputy delegate to the Cottesloe Marine Protection Group.**

Carried 7/0

(15) **COASTAL MANAGEMENT ADVISORY GROUP**

File No.: E2.2

No delegates were appointed.

(16) **WESTERN SUBURBS REGIONAL ORGANISATION OF COUNCILS – BOARD OF MANAGEMENT**

File No.: X11.20

Moved Cr. Miller, seconded Cr. Morgan

**That the Mayor and Deputy Mayor be appointed delegate and deputy delegate to the Western Suburbs Regional Organisation of Councils Board of Management.**

Carried 7/0

**(17) WESTERN SUBURBS DISTRICT PLANNING COMMITTEE****File No.: D4.13**

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Ewing be appointed delegate and Cr. Birnbrauer deputy delegate to the Western Suburbs District Planning Committee.**

Carried 7/0

**(18) COTTESLOE BUSINESS ASSOCIATION INC.****File No.: X5.1**

Moved Cr. Miller, seconded Cr. Morgan

**That Cr. Miller be appointed delegate and Cr. Birnbrauer deputy delegate to the Cottesloe Business Association.**

Carried 7/0

**WORKS & CORPORATE SERVICES COMMITTEE****21 May, 2002****6.1 JARRAD STREET "A" CLASS RESERVES REVIEW GROUP – SEA VIEW GOLF CLUB LEASE**

The Jarrad Street "A" Class Reserves Review Group has asked that its preliminary submission on the renewal of the Sea View Golf Club lease be tabled at this committee meeting.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

That Council receive the Jarrad Street 'A' Class Reserve Review Group's submission on the renewal of the Sea View Golf Club lease.

**AMENDMENT**

Moved Cr. Ewing, seconded Cr. Whitby

That the motion be amended adding the following:

*"(2) Request administration to prepare a report for the June Works & Corporate Services Meeting on the status/progress of the Sea View Golf Club Lease review."*

Carried 7/0

The amended motion was put.

## COUNCIL RESOLUTION

### That Council:

- (1) Receive the Jarrad Street 'A' Class Reserve Review Group's submission on the renewal of the Sea View Golf Club lease; and
- (2) Request administration to prepare a report for the June Works & Corporate Services Meeting on the status/progress of the Sea View Golf Club Lease review.

Carried 7/0

## 6.2 NAPIER STREET PARKING RESTRICTIONS

### COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Whitby

**That Council introduce a temporary residential parking permit system for residents of No. 7 Napier Street to park on the south side of the road in front of that property and that this system operate until the broader issue of parking in the area is resolved.**

Carried 7/0

Mayor Hammond, with the approval of the Council members, allowed Mr Dell Bibby to address Council, as there had been a misunderstanding on when he could address the meeting on his second point which he had previously recorded on his request form.

Mr Bibby noted that the Committee meeting minutes omitted the points he made regarding the need for a public submission period and for the process for leasing being brought forward.

## C27 STATUTORY FINANCIAL STATEMENTS

<b>File No.:</b>	<b>C7.14</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>14 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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### Summary

The Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 30 April, 2002, are presented for perusal and it is recommended that they be received.

### Statutory Environment

Financial reporting is a statutory requirement.

### Policy Implications

Nil.

### Strategic Implications

Nil.

**Financial Implications**

Nil.

**Background**

The Financial Statements are presented monthly.

**Consultation**

N/A.

**Staff Comment**

It will be noted from the Operating Statement (page 3) that expenditure overall continues to be lower than expected at this time and that income is higher. This trend is forecast to continue to the end of the year. Forecasts for operating income and expenditure and capital expenditure indicate a surplus of around \$400,000 at year end.

**Voting**

Simple majority.

**C27 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the month ending 30 April, 2002, as submitted to the May meeting of the Works & Corporate Services Committee.**

Carried 7/0

**C28 SCHEDULE OF INVESTMENTS & SCHEDULE OF LOANS**

<b>File No.:</b>	<b>C7.12 &amp; C7.13</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>14 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

**Summary**

The Schedule of Investments and Schedule of Loans for the period ending 30 April, 2002, are presented for perusal and it is recommended that they be received.

**Statutory Environment**

Financial reporting is a statutory requirement.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

nil

**Background**

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

**Consultation**

N/A.

**Staff Comment**

As will be noted from the Statement of Investments, on page 34, \$1,669,641 was invested as at 30 April, 2002. Of this, \$563,497 was reserved and so its use is restricted. 51.59% of the funds were invested with the National Bank (Council's Bank), 21.25% was invested with the Home Building Society, and 27.16% with Bankwest.

**Voting**

Simple majority.

C28 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council receive the Schedule of Investments and Schedule of Loans for the month ending 30 April, 2002, as submitted to the May meeting of the Works & Corporate Services Committee.**

Carried 7/0

C29 **ACCOUNTS**

<b>File No.:</b>	<b>C7.8</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>14 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

The List of Accounts for the period ending 30 April, 2002, are presented for perusal and it is recommended that they be received.

**Statutory Environment**

Financial reporting is a statutory requirement.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

The List of Accounts are presented monthly.

**Consultation**

N/A.

**Staff Comment**

Significant payments brought to Councils attention include \$20,000 to Ian Maitland for the Lotteries Commission funded structural investigation works at the Cottesloe Civic Centre, \$14,771.06 to K&F Concrete for concrete works at various locations, \$32,581.82 to Western Metropolitan Regional Council for transfer station fees for January February and March, \$11,219.15 Western Power for monthly street lighting account (\$6,477) and various areas, \$16,268 to Fire and Emergency Services for the fourth quarter contribution, \$11960.38 to RentWorks for IT equipment lease payment, 437,054.13 to Roads and Robinson for rubbish collection services for February, \$19,968.75 to WA Local Government Super Plant for staff superannuation contributions, \$40,545.26 and \$40,682.87 for payroll for April.

**Voting**

Simple majority.

**C29 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council receive the List of Accounts for the month ending 30 April, 2002, as submitted to the May meeting of the Works & Corporate Services Committee.**

Carried 7/0

**C30 PROPERTY & SUNDRY DEBTORS REPORTS**

<b>File No.:</b>	<b>C7.9</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Alan Lamb</b>
<b>Report Date:</b>	<b>14 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Stephen Tindale</b>

**Summary**

The Property & Sundry Debtors Reports for the period ending 30 April, 2002, are presented for perusal and it is recommended that they be received.

**Statutory Environment**

Financial reporting is a statutory requirement.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.



**Financial Implications**

Nil.

**Background**

The Property & Sundry Debtors Reports are presented monthly.

**Consultation**

N/A.

**Staff Comment**

The Sundry Debtors Report (page 33) shows a balance of \$50,656.81 outstanding at the end of April. The major item is an outstanding account due from the City of Nedlands for \$26,693.13, which is being followed up by the Manager, Engineering Services and now should be received in May.

The Property Debtors Report shows a reduction from \$404, 475.53 at the end of March to \$369,693.63 at the end of April. Approximately \$70,000 relates to a combination of interim rates raised and payments not received as yet, and these are being followed up.

**Voting**

Simple majority.

C30

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council:**

- (1) **Receive and endorse the Property Debtors Report for the month ending 30 April, 2002; and**
- (2) **Receive the Sundry Debtors Report for the month ending 30 April, 2002.**

Carried 7/0

C31

**DANGEROUS DOG**

<b>File No.:</b>	<b>No. 1A Parry Street</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>14 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

The purpose of this report is to put the dog owner's appeal against a dangerous dog declaration to Council for consideration. A letter of appeal was received by the dog's registered owner, Ms. Sue Scott of 1A Parry Street on 26 April, 2002. It is recommended that the appeal be dismissed.

**Statutory Environment**

The Dog Act (Division 2 – Dangerous Dogs) applies. Council's Dogs Local Law applies also.

The Dog Act provides for the owners of a dog declared to be dangerous, to appeal against the declaration within seven days of the date of the declaration notice. The owner may appeal to Council, with a subsequent right to appeal to a Local Court against any decision made by Council, or directly to a Local Court. If Council dismisses the objection, the owner may appeal to a Local Court within seven days after Council gives notice of its decision. If Council does not give notice to the owner that the objection has been considered, and either upheld, varied, or dismissed within thirty five days after the notice is issued, the owner may appeal to a Local Court within forty two days after the giving of the notice.

The dangerous dog notice requires, the owner to enclose the property where the dog is kept with a fence of sufficient height and of such a nature so as to prevent the dog from escaping and to restrict access by young children, and for self closing mechanisms to be fitted to gates and doors in the fence.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Nil at this time, however there could be some legal costs to Council if the appellants take the appeal to the Local Court.

**Background**

The dog (a German Sheppard cross) was declared dangerous on 12 April, 2002, following two reported incidents. The first occurred 27 February, 2002, and involved the dog charging two boys. The dog was snarling and growling aggressively. The second occurred on 22 April, 2002. Here the dog lunged at and bit a young boy on the upper leg, causing his shorts to be torn and puncture wounds to be inflicted. During this second incident, the dog was being held on a leash and both attacks were unprovoked. The owners were issued with an infringement notice relating to the dog committing a nuisance.

The letter of appeal was dated and received on 26 April, 2002. It is noted that renovations being done to the property resulted in fences being substituted with temporary barricades and the suggestion that this resulted in the dog feeling more insecure and territorial. Also the dog is 13 years old and has had major orthopaedic surgeries and suffers with osteoarthritis.

The owner advises that the dog has been taunted to bark by some passers by but that it has never shown signs of aggression before. Also that measures such as pain relief treatment, and advice of an animal behaviourist, have been taken. Renovation works were expected to be completed by the middle of May. The owner is a qualified Veterinary Nurse.

**Consultation**

Council Rangers have consulted with the dog owner and the parent of the child who was bitten.

**Staff Comment**

The appeal was sent and received after the seven days allowed for lodgement following the declaration. The time has passed for the appellant to take the matter to a Local Court.

It would have been very difficult to comply with the requirements of the order whilst renovation works were being done and these works are nearing completion now. At the time of inspection (14/5/02) fencing was up and a roller door was to be fitted.

Whilst the dog's state of health and the owner's difficulty in complying are factors, it is suggested that as the dog has shown a tendency to be aggressive, the appeal be dismissed and that the requirement of the declaration be enforced.

**Voting**

Simple Majority.

C31 **OFFICER & COMMITTEE RECOMMENDATION**

That Council dismiss the appeal from Ms. Sue Scott, of No. 1 Parry Street, Cottesloe, against the dangerous dog declaration in respect of her dog due to the appeal being lodged later than 7 days after the date of the declaration.

**COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That the matter be deferred until the June Works & Corporate Services Committee.**

Carried 7/0

Note: The matter was deferred following the dog owner's representation to Council.

C32 **COTTESLOE CIVIC CENTRE – CATERING LEASE**

<b>File No.:</b>	<b>C4.7</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>14 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

The current lease between Spotless Catering Services Ltd and Council expires on 1 August, 2003, and the purpose of this report is to commence the process to call for expressions of interest in tendering for another lease period.

**Statutory Environment**

The Local Government Act (Section 3.57) and Local Government (Functions and General) Regulations (11 to 24) apply.

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

**Financial Implications**

Not known at this time. If Council were to enter into a new lease arrangement, then the net income would be subject to details of that lease and levels of usage. If Council were to cease leasing the Civic Centre, then income and costs levels would reduce, but would be subject to whatever alternative was decided.

The lease rent was \$42,000 per annum in 1993 and has increased to \$45,675 (net of GST) in the current year and hire fees from the lessee amounted to \$34,000 (approximately) for 2001/02.

**Background**

The Civic Centre has been subject to leases for much of its time in Council's ownership. The current lease commenced on 2 August, 1993, with Mustard Catering P/L and was assigned, with Council's approval to Spotless Catering Services Ltd on 15 October, 1993.

The lease includes part of the building and exclusive catering rights. The leased premises includes all areas east of the Games Room, Staff Kitchen and RSL Hall on the ground floor of the War Memorial Town Hall, except for a storeroom, switchboard room and stairwells. It also includes the Lesser Hall Kitchen (this Hall has two kitchen areas, the one leased and the second (shown as the Bar Area on plans attached to the lease) used by hirers of the Hall.

**Consultation**

The need for the process relating to a new lease to be commenced at this time was discussed with a representative of the current lessee, as was the proposed timetable for this process.

**Staff Comment**

Most bookings are made well in advance and so there is a need for the lease to be dealt with in the current calendar year.

It is suggested that whilst ceasing the practice of leasing is an option, it not be considered until expected future incomes and arrangements have been brought to light as part of the calling for expressions of interest and tendering process.

It is also suggested that the expressions of interest process be employed prior to calling for tenders. There may be advantages in increasing or reducing the scope of the lease arrangement and it is expected that the call for expressions

of interest will result in a range of options, including the management of bookings and the facility, being put forward.

The following time table is put forward for consideration and is reflected in the recommendation:

<b>Date</b>	<b>Activity</b>
May 2002	Call for expressions of interest lodged in 'West' on 29 May and 1 June, 2002.
June 2002	Expressions of interest submission period close on 14 June, 2002, and submissions considered by the Works and Corporate Services Committee (18 June) and Council (24 June). Tenders called and advertisement placed in the 'West' on 29 June and 3 July.
July 2002	Tenders close 15 July and considered by the Works and Corporate Services Committee (16 July) and Council (22 July).

**Voting**

Simple Majority.

**OFFICER RECOMMENDATION**

That Council:

- (1) Call for expressions of interest in a lease relating to the functions use of the Cottesloe Civic Centre that may include:
  - Lease of parts of the Cottesloe Civic Centre buildings
  - Exclusive catering rights
  - Booking and/or facilities management services;
- (2) The closing date for lodgement of expressions of interest be 14 June, 2002.

**COMMITTEE RECOMMENDATION**

Moved Miller, seconded Cr. Whitby

That Council:

- (2) Call for expressions of interest in a lease relating to the use of the Cottesloe Civic Centre that may include:
  - Lease of parts of the Cottesloe Civic Centre buildings
  - Booking and/or facilities management services; and
- (2) The closing date for lodgement of expressions of interest be 12 July, 2002.

Note: The Committee felt that the reference in the Officer's Recommendation to "exclusive catering rights" could unnecessarily limit the range of potential leasing options.

**AMENDMENT**

Moved Cr. Utting, seconded Cr. Morgan

Due to the deteriorating state of repair of the War Memorial Town Hall and Civic Centre it is recommended that a study be carried out of the following matters:

- (1) The preparation of an estimate of cost for the repairs to the building and surrounds with a programme for the carrying out of the works;
- (2) The financing of the project to be obtained from the sale of a section of the Council Depot because:
  - (a) The Depot land is 9,000m<sup>2</sup>;
  - (b) An upgraded Depot could be constructed on one third of this area in a better grade of materials so that it could blend into a surrounding residential development;
  - (c) 6,000m<sup>2</sup> of land would be available for sale as a residential development, with a possible value of \$5-6 million.
  - (d) Repairs to the Civic Centre buildings and surrounds would cost \$3,000,000 and based on the above information, it would be feasible to commence the repair work as soon as a detailed study is completed.

Amendment Lost 1/6

**C32 COUNCIL RESOLUTION**

**That Council:**

- (1) **Call for expressions of interest in a lease relating to the use of the Cottesloe Civic Centre that may include:**
  - **Lease of parts of the Cottesloe Civic Centre buildings**
  - **Booking and/or facilities management services; and**
- (2) **The closing date for lodgement of expressions of interest be 12 July, 2002.**

Carried 6/1

**C33 PARKING MANAGEMENT - SURVEY**

<b>File No.:</b>	<b>C15.9</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Alan Lamb</b>
<b>Report Date:</b>	<b>16 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

**Summary**

Council's approval is sought to conduct a survey prior to making recommendations to Council in relation to parking management.

**Statutory Environment**

The Local Government Act and Council's Parking Local Law apply to parking generally.

**Policy Implications**

Nil at this time.

**Strategic Implications**

Nil at this time.

**Financial Implications**

It is intended that the survey be conducted by Council staff and so the costs would be met from current budget provisions.

**Background**

Council introduced a new Parking Local Law at the end of 2001. The new local law provided for a division of the parking region into Sectors A and B. Sector B is the area near the beach most affected by summertime parking problems. This local law contained increased modified penalties designed to reduce the incidence of illegal parking.

Administration recently commenced a review of parking facilities with a view to preparing a management plan that included rationalising signage and a staged approach to other improvements that may be required. This review has centred on Sector B and community input is now sought prior to making recommendations.

**Consultation**

Informal discussion have been held with a number of business proprietors and residents.

**Staff Comment**

In conducting the review it was noted that areas such as John Street, Marine Parade, Napier Street and Overton Gardens had their own particular problems. It was thought that owners and occupiers of residential and commercial properties could have input and this would be a great advantage.

**Voting**

Simple majority.

**OFFICER RECOMMENDATION**

That Council approve the survey of the occupiers of residential and commercial properties as part of a review of parking in Sector B.

C33

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council:**

- (1) approve the survey of the occupiers of residential and commercial properties as part of a review of parking in Sector B; and
- (2) include Eileen and Gadsdon Streets in the areas to be surveyed.

Carried 7/0

**C34**      **ELECTED MEMBERS' - TELECOMMUNICATIONS EXPENSES**

**File No.:** X4.3  
**Applicant:** N/A  
**Author:** Mr Alan Lamb  
**Report Date:** 14 May, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Stephen Tindale

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**Summary**

The purpose of the report is to:

- (1) amend Council's "Telephone and Fax Reimbursements – Elected Members" Policy to provide for an annual telecommunications allowance instead of the current reimbursement of costs; and
- (2) rescind part 1 of resolution C11, February 2002 as from 30 June, 2002.

**Statutory Environment**

The Local Government Act (section 5.99A) and Local Government (Administration) Regulations (Regulation 34A) apply.

**Policy Implications**

This matter deals with Council's policy on reimbursement of telecommunication charges.

**Strategic Implications**

Nil.

**Financial Implications**

If Council adopts the recommendation, annual expenditure in this area is expected to rise by approximately \$19,000. Partially offsetting this will be reduced costs in processing claims for reimbursement throughout the year.

**Background**

Council resolved at its February 2002 meeting:

*"That Council:*

- (1) Approve the reimbursement of Councillors' initial and periodic internet connection costs; and*
- (2) Request Administration review the current Telephone and Fax Reimbursements – Elected Members Policy with a view to amendments that may be incorporated in the 2002/03 Budget."*

The current policy (Telephone and Fax Reimbursements – Elected Members) provides for Councillors to claim for reimbursement of standard rental charges for telephone and facsimile lines. In addition to this, Council's resolution of February 2002, as set out above, provides for Members to claim reimbursement of initial and periodic internet charges. No provision has been made for the reimbursement of call costs. The Act provides for Members to seek reimbursement of costs, such as call costs, but in the absence of a provision for this in Council's policy, each claim would have to go to Council for approval.



Regulations provide for Councils to resolve to set a telecommunications allowance of up to \$2,000 per annum.

**Consultation**

Nil.

**Staff Comment**

It is suggested that member's expenses are not adequately compensated by the current policy on telecommunications costs, or the recent resolution on internet charges, as both deal only with the fixed charges and no compensation is made for phone and fax call costs, or internet use charges.

The following draft amended policy will more fully meet members' costs and reduce administration costs in processing claims for reimbursement. It is suggested that the new policy take effect as from 1 July, 2002, and that appropriate provision be made in the 2002/03 Budget for the associated costs.

**"TOWN OF COTTESLOE**

**TELECOMMUNICATIONS FEE - ELECTED MEMBERS  
DRAFT AMENDED POLICY**

(1) **OBJECTIVE**

To provide an annual allowance to Members to adequately cover fixed and usage related charges for telephone, facsimile and internet connections relevant to Council.

(2) **PRINCIPLES**

To meet Council Member's communication costs relevant to their Membership on Council.

(3) **ISSUES**

The Local Government Act provides for a telecommunications allowance as an alternative to reimbursement of costs. The annual allowance is less costly to administer than the cost reimbursement option and does not rely on claims being lodged. It should more adequately meet Members' costs relating to communication with the community, each other and administration, and in research and general information gathering, via the internet and the like, on issues relevant to Council.

(4) **POLICY**

4.1 **TELECOMMUNICATION CHARGES**

4.1.1 Council Members will be paid an annual telecommunications allowance of \$2,000 in respect of a listed telephone number and other telecommunication costs.

4.1.2 The payment will be made in two moieties in July and December of each year.

4.2 **FACSIMILE EQUIPMENT**

4.2.1 Council will provide a suitable facsimile machine for Members' use.

4.2.2 Ownership of the equipment may be transferred to a member upon resignation or retirement, under the following circumstances:

- if the equipment is two years old or less it shall remain Council property;
- if the equipment is between two and four years old it will be offered to the member for an amount equal to the

written down value of the equipment in Council's asset Register at the time he/she ceases to become a member;

- if the equipment is four years old or more, it shall be gifted to the member.

### **Voting**

Absolute Majority Required.

### **OFFICER RECOMMENDATION**

That Council:

- (1) Rescind part 1 of resolution C11, February 2002 as from 30 June, 2002; and
- (2) Amend the current '*Telephone and Fax Reimbursements – Elected Members*' policy to read as follows with the new provisions coming into force as from 1 July, 2002:

### **TOWN OF COTTESLOE**

#### **TELECOMMUNICATIONS FEE - ELECTED MEMBERS DRAFT AMENDED POLICY**

- (1) **OBJECTIVE**  
To provide an annual allowance to Members to adequately cover fixed and usage related charges for telephone, facsimile and internet connections relevant to Council.
- (2) **PRINCIPLES**  
To meet Council Member's communication costs relevant to their Membership on Council.
- (3) **ISSUES**  
The Local Government Act provides for a telecommunications allowance as an alternative to reimbursement of costs. The annual allowance is less costly to administer than the cost reimbursement option and does not rely on claims being lodged. It should more adequately meet Members' costs relating to communication with the community, each other and administration, and in research and general information gathering, via the internet and the like, on issues relevant to Council.
- (4) **POLICY**
  - 4.1 **TELECOMMUNICATION CHARGES**
    - 4.1.1 Council Members will be paid an annual telecommunications allowance of \$2,000 in respect of a listed telephone number and other telecommunication costs.
    - 4.1.2 The payment will be made in two moieties in July and December of each year.
  - 4.2 **FACSIMILE EQUIPMENT**
    - 4.2.1 Council will provide a suitable facsimile machine for Members' use.
    - 4.2.2 Ownership of the equipment may be transferred to a member upon resignation or retirement, under the following circumstances:

- if the equipment is two years old or less it shall remain Council property;
- if the equipment is between two and four years old it will be offered to the member for an amount equal to the written down value of the equipment in Council's asset Register at the time he/she ceases to become a member;
- if the equipment is four years old or more, it shall be gifted to the member.

C34 **COMMITTEE RECOMMENDATION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council:**

- (2) **Rescind part 1 of resolution C11, February 2002 as from 30 June, 2002; and**
- (2) **Amend the current '*Telephone and Fax Reimbursements – Elected Members*' policy to read as follows with the new provisions coming into force as from 1 July, 2002:**

**TOWN OF COTTESLOE**

**TELECOMMUNICATIONS FEE - ELECTED MEMBERS  
DRAFT AMENDED POLICY**

- (1) **OBJECTIVE**  
To provide an annual allowance to Members to adequately cover fixed and usage related charges for telephone, facsimile and internet connections relevant to Council.
- (2) **PRINCIPLES**  
To meet Council Member's communication costs relevant to their Membership on Council.
- (3) **ISSUES**  
The Local Government Act provides for a telecommunications allowance as an alternative to reimbursement of costs. The annual allowance is less costly to administer than the cost reimbursement option and does not rely on claims being lodged. It should more adequately meet Members' costs relating to communication with the community, each other and administration, and in research and general information gathering, via the internet and the like, on issues relevant to Council.
- (4) **POLICY**
  - 4.1 **TELECOMMUNICATION CHARGES**
    - 4.1.1 Council Members will be paid an annual telecommunications allowance of \$1,000 in respect of a listed telephone number and other telecommunication costs.
    - 4.1.2 The payment will be made in two moieties in July and December of each year.
  - 4.2 **FACSIMILE EQUIPMENT**
    - 4.2.1 Council will provide a suitable facsimile machine for Members' use.

- 4.2.2 Ownership of the equipment may be transferred to a member upon resignation or retirement, under the following circumstances:
- if the equipment is two years old or less it shall remain Council property;
  - if the equipment is between two and four years old it will be offered to the member for an amount equal to the written down value of the equipment in Council's asset Register at the time he/she ceases to become a member;
  - if the equipment is four years old or more, it shall be gifted to the member.

### AMENDMENT

Cr. Miller noted that the Committee Recommendation was to have included reference to the fee being paid, subject to a claim.

Moved Cr. Ewing, seconded Cr. Morgan

That the motion be amended by adding in 4.1.2 the following words "*on written request*" after the "*be made*".

Carried 7/0

The amended motion was put.

### COUNCIL RESOLUTION

**That Council:**

- (1) **Rescind part 1 of resolution C11, February 2002 as from 30 June, 2002; and**
- (2) **Amend the current '*Telephone and Fax Reimbursements – Elected Members*' policy to read as follows with the new provisions coming into force as from 1 July, 2002:**

### TOWN OF COTTESLOE

#### TELECOMMUNICATIONS FEE - ELECTED MEMBERS DRAFT AMENDED POLICY

- (1) **OBJECTIVE**  
To provide an annual allowance to Members to adequately cover fixed and usage related charges for telephone, facsimile and internet connections relevant to Council.
- (2) **PRINCIPLES**  
To meet Council Member's communication costs relevant to their Membership on Council.
- (3) **ISSUES**  
The Local Government Act provides for a telecommunications allowance as an alternative to reimbursement of costs. The annual allowance is less costly to administer than the cost reimbursement option and does not rely on claims being lodged. It should more adequately meet Members' costs

relating to communication with the community, each other and administration, and in research and general information gathering, via the internet and the like, on issues relevant to Council.

(4) **POLICY**

4.1 **TELECOMMUNICATION CHARGES**

4.1.1 Council Members will be paid an annual telecommunications allowance of \$1,000 in respect of a listed telephone number and other telecommunication costs.

4.1.2 The payment will be made, on written request, in two moieties in July and December of each year.

4.2 **FACSIMILE EQUIPMENT**

4.2.1 Council will provide a suitable facsimile machine for Members' use.

4.2.2 Ownership of the equipment may be transferred to a member upon resignation or retirement, under the following circumstances:

- if the equipment is two years old or less it shall remain Council property;
- if the equipment is between two and four years old it will be offered to the member for an amount equal to the written down value of the equipment in Council's asset Register at the time he/she ceases to become a member;
- if the equipment is four years old or more, it shall be gifted to the member.

Carried 7/0

**C35 TOWN OF COTTESLOE – REGISTER OF DELEGATED POWERS**

**File No.:** X4.11  
**Applicant:** N/A  
**Author:** Mr Stephen Tindale  
**Report Date:** 13 May, 2002  
**Author Disclosure of Interest:** Nil

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**Summary**

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

**Statutory Environment**

Sections 5.42 and 5.43 of the Local Government Act (1995), provides as follows.

**“5.42. Delegation of some powers and duties to CEO**

- (1) *A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*
- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.”*

**5.43. Limits on delegations to CEOs**

*A local government cannot delegate to a CEO any of the following powers or duties —*

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

**Policy Implications**

Once adopted, the delegation of powers and duties becomes Council policy until the 30 May, 2003 unless otherwise resolved.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

Council may delegate powers to the Chief Executive Officer in the interests of the efficient day-to-day running of the organisation. The Chief Executive Officer may, in turn, delegate functions to other staff members. It is customary practice at the Town of Cottesloe to review the delegations made to the CEO in May of each year.

**Consultation**

Nil.

**Staff Comment**

In speaking to an officer from the Department of Local Government and Regional Development, it has been confirmed that some local governments have gone overboard in delegating powers to the CEO for what are essentially

administrative actions that are either a pre-requisite to, or follow the Council decision making process.

While the adoption of a “safety first” policy is admirable, it does create problems insofar as the Act provides that a “...*person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*”

The regulations provide that:

*“Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of —*

- (a) how the person exercised the power or discharged the duty;*
- (b) when the person exercised the power or discharged the duty; and*
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.”*

In theory, a written record should exist detailing the exercise of every delegated power on each and every occasion. In practice it doesn't happen – mainly because there is little to recommend the recording of what is essentially an administrative action.

Two choices would seem to present themselves in terms of overcoming current deficiencies.

The first is to allocate additional staff resources to the formal recording of the exercise of every existing delegated power. The second is to reduce the list of delegated powers to one that has fewer delegated powers and thereby reduce the requirement to record each and every exercise of delegated power.

The second option is preferred as it is more appropriate for a small local government looking to reduce its overheads and still retain efficiencies in the way it conducts business.

The following table shows Council's existing table of delegated powers. Those delegated powers which can be removed safely without causing major difficulties have been struck through.

#### DELEGATED COUNCIL FUNCTIONS

Section	Local Government Act 1995
3.18	Administration and enforcement of local laws
3.21	Performance of executive functions relating to land
3.24/3.25/3.26(3)	Powers to be exercised by authorised persons in relation to land
3.28/3.29	Powers of entry to land
3.31/3.33/3.34	Powers of entry to land
3.36	Opening/closing of fences
3.39	Authorising employees to impound goods
3.46	Withholding of goods
3.47	Disposal of impounded goods
3.48	Recovery of costs associated with impounded goods
3.49	Declaration of Thoroughfares

<b>Section</b>	<b>Local Government Act 1995</b>
3.50	Closure of thoroughfares to certain vehicles
<del>3.52(4)</del>	<del>Keeping of Plans of Levels and Alignments</del>
3.53	Control and Management of unvested Facilities
3.54	Control and Management of Land Under Parks and Reserves Act 1895
3.57(1)	Inviting tenders for goods and services under contract
<del>3.59(2)</del>	<del>Preparation of Business Plans</del>
4.28	Payment of Fees to Electoral Officers
5.2	Ensuring that an appropriate structure exists for administration
5.36	Employment of persons other than the Chief Executive Officer
5.37	Designation of senior employees
5.47	Provision of Superannuation for Employees
5.50	Preparation of Policy Relating to Payments to Employees on Termination of Employment
5.53	Preparation of Annual Report
<del>5.56/5.57</del>	<del>Preparation and notice of principal activity plan</del>
5.103	Preparation of Review of Code of Conduct
6.2/6.3	Preparation of Budget
6.4	Preparation of Annual Financial Report
6.6/6.9	Establishment of Funds
6.10	Making Payments from Municipal and Trust Funds
6.11	Establishment of Reserve Accounts
6.14	Investing funds not required
6.19	Notice of Fees and Charges
6.36	Giving Notice of certain Rates
6.39	Keeping of Rates Records
6.40	Reassessment of Rates
6.41	Service of Rates Notices
6.45(3)	Imposition of Charges for Rates Paid by Instalment
6.49	Make agreements with persons regarding payment of rates
6.60	Dealings with Lessors/Lesseees
6.64/6.67	Action taken when rates are unpaid for at least 3 years
6.76(4,5,6)	Dealing with objections to rates records
9.10	Appointment of authorised persons
<b>Section</b>	<b>Local Government (Miscellaneous Provisions) Act 1960</b>
374.(1) (b)	Approve or refuse building licence applications
401	Give notice of required alterations to buildings
<b>Law No.</b>	<b>Signs, Hoardings and Billposting Local Law</b>
28	Revoke sign licences
33	Issue and revoke special permits for signs
36A	Remove and dispose of signs unlawfully displayed
	<b>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law</b>
6.2	Approve or refuse an application for a permit to trade, conduct a stall or outdoor eating facility.
	Approve/Refuse Licence to Trade in Streets & Public Places
	Approve/refuse Licence for Eating Areas in Streets & Public places
<b>Regulation</b>	<b>Building Regulations 1989</b>
20	Issue a certificate of classification

**Voting**

Absolute majority required.



C35 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Miller, seconded Cr. Whitby

**That Council delegate the following powers and duties to the Chief Executive Officer effective to the 30 May, 2003:**

**DELEGATED COUNCIL FUNCTIONS**

<b>Section</b>	<b>Local Government Act 1995</b>
3.18	Administration and enforcement of local laws
3.21	Performance of executive functions relating to land
3.24/3.25/3.26(3)	Powers to be exercised by authorised persons in relation to land
3.28/3.29	Powers of entry to land
3.31/3.33/3.34	Powers of entry to land
3.36	Opening/closing of fences
3.39	Authorising employees to impound goods
3.46	Withholding of goods
3.47	Disposal of impounded goods
3.48	Recovery of costs associated with impounded goods
3.50	Closure of thoroughfares to certain vehicles
3.57(1)	Inviting tenders for goods and services under contract
5.2	Ensuring that an appropriate structure exists for administration
5.36	Employment of persons other than the Chief Executive Officer
6.12	Waive, grant concessions or write off individual debts to a maximum of \$100
6.14	Investing funds not required
6.49	Make agreements with persons regarding payment of rates
6.64	Action taken when rates are unpaid for at least 3 years
6.76(4,5,6)	Dealing with objections to rates records
9.10	Appointment of authorised persons
<b>Section</b>	<b>Local Government (Miscellaneous Provisions) Act 1960</b>
374.(1) (b)	Plans of buildings to be approved
401	Give notice of required alterations to buildings
<b>Law No.</b>	<b>Signs, Hoardings and Billposting Local Law</b>
28	Revoke sign licences
33	Issue and revoke special permits for signs
36A	Remove and dispose of signs unlawfully displayed
	<b>Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law</b>
6.2	Approve or refuse an application for a permit to trade, conduct a stall or outdoor eating facility.
<b>Regulation</b>	<b>Building Regulations 1989</b>
20	Issue a certificate of classification

Carried 7/0

**C36**      **THE AGED PERONS SUPPORT SERVICE – INDEPENDENT REVIEW**

**File No.:** C16.7  
**Applicant:** N/A  
**Author:** Mr Stephen Tindale  
**Report Date:** 13 May, 2002  
**Author Disclosure of Interest:** Nil

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**Summary**

The operations of the Aged Persons Support Scheme have been the subject of an independent review. Arising from the review the following recommendations are made:

- (1) That the report on The Aged Persons Support Scheme as prepared by Bob Tomlins Consulting be endorsed.
- (2) That subject to the endorsement, a “Restructuring Group” be established consisting of representatives from the four local governments (staff) and the TAPSS Management Committee.
- (3) That a representative of the HACC Program be invited on to the group.
- (4) That a brief be drafted and expressions of interest sought for an appropriately skilled independent person to implement the restructuring process under the direction of the “Restructuring Group”.
- (5) That Council’s solicitors be instructed to draw up a new lease agreement for the Old Post Office with costs to be borne by the lessee.

**Statutory Environment**

The relevant sections of the Local Government Act read as follows:

***“5.8.Establishment of committees***

*A local government may establish\* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.”*

***“5.9.Types of committees***

- (1) *In this section —*  
*“other person” means a person who is not a council member or an employee.*
- (2) *A committee is to comprise —*
  - (a) *council members only;*
  - (b) *council members and employees;*
  - (c) *council members, employees and other persons;*
  - (d) *council members and other persons;*
  - (e) *employees and other persons; or*
  - (f) *other persons only.”*

**Policy Implications**

Nil.

**Strategic Implications**

Nil.

### **Financial Implications**

It is anticipated that the preparation of a standard lease agreement should not cost the Town of Cottesloe more than \$500.

It is thought that costs associated with the appointment of an appropriately skilled independent person to implement the restructuring process under the direction of the "Restructuring Group" can be found from within the existing HACC budget.

### **Background**

The Aged Persons Support Service (TAPSS) operates from the Cottesloe Old Post Office building. It is subsidised by the Cottesloe, Peppermint Grove, Mosman Park and Claremont Town Councils to provide a range of services to the elderly.

A community-based committee manages TAPSS under an agreement that involves a Combined Councils Aged Support Committee taking an overseeing role on behalf of the stakeholder Councils.

In May of 2001 Council was informed that the service agreement with TAPSS was due to terminate in June 2002. It was then resolved to:

*"Conduct, through the Chief Executive Officer, a review of the current combined Councils' agreement with TAPSS which will result in a new lease and service agreement being ready for consideration no later than February, 2002."*

Bob Tomlins Consulting was engaged to conduct a review of the current service agreement and a copy of the consultant's report is enclosed with this agenda.

### **Consultation**

The report details the level of consultation undertaken in preparing the report.

After the publication of the report, a meeting of representatives of the TAPSS Management Committee, the four local government CEOs and the consultant was convened.

### **Staff Comment**

At the meeting, it was agreed that the report formed a good basis from which to proceed with the future restructuring of TAPSS and its services.

The TAPSS Management Committee representatives felt that the home visiting service was often of considerable value to the "well aged" (well in this context has the same meaning as healthy) as well as "frail" seniors. It was agreed that an effective assessment process could identify those people in genuine need of socialisation – and that they were likely to be "older" seniors.

The meeting agreed upon the following actions.

- (1) That the report be presented to each member Council for endorsement.
- (2) That subject to the endorsement, a "Restructuring Group" be established as per recommendation 17 of the report.
- (3) That a representative of the HACC Program be invited on to the group.

- (4) That a brief be drafted and expressions of interest sought for an appropriately skilled independent person to implement the restructuring process under the direction of the "Restructuring Group".

### **Voting**

Simple majority.

### **OFFICER RECOMMENDATION**

- (1) That the report on The Aged Persons Support Scheme as prepared by Bob Tomlins Consulting be endorsed.
- (2) That subject to the endorsement, a "Restructuring Group" be established consisting of representatives from the four local governments (staff) and the TAPSS Management Committee.
- (3) That a representative of the HACCC Program be invited to join the group.
- (4) That a brief be drafted and expressions of interest sought for an appropriately skilled independent person to implement the restructuring process under the direction of the "Restructuring Group".
- (5) That Council's solicitors be instructed to draw up a new lease agreement for the Old Post Office with costs to be borne by the lessee.

C36

### **COMMITTEE RECOMMENDATION**

Moved Cr. Miller, seconded Cr. Whitby

- (1) That the report on The Aged Persons Support Scheme as prepared by Bob Tomlins Consulting be received.
- (2) That Council acknowledge the continued good work done by volunteers in TAPSS.
- (3) That a "Restructuring Group" be established consisting of representatives from the four local governments (staff) and the TAPSS Management Committee.
- (4) That a representative of the HACCC Program be invited to join the group.
- (5) That a brief be drafted and expressions of interest sought for an appropriately skilled independent person to implement the restructuring process under the direction of the "Restructuring Group".
- (5) That Council's solicitors be instructed to draw up a new lease agreement for the Old Post Office with costs to be borne by the lessee.

### **AMENDMENT**

Moved Cr. Ewing, seconded Cr. Whitby

That the motion be amended by adding the following:

*"(2) That Council does not agree with recommendations 4-7 in the Tomlins' Report."*

And renumbering the others.

Carried

The amended motion was put.

**COUNCIL RESOLUTION**

- (1) That the report on The Aged Persons Support Scheme as prepared by Bob Tomlins Consulting be received.
- (2) That Council does not agree with recommendations 4-7 in the Tomlins' Report.
- (3) That Council acknowledge the continued good work done by volunteers in TAPSS.
- (4) That a "Restructuring Group" be established consisting of representatives from the four local governments (staff) and the TAPSS Management Committee.
- (5) That a representative of the HACC Program be invited to join the group.
- (6) That a brief be drafted and expressions of interest sought for an appropriately skilled independent person to implement the restructuring process under the direction of the "Restructuring Group".
- (7) That Council's solicitors be instructed to draw up a new lease agreement for the Old Post Office with costs to be borne by the lessee.

Carried 7/0

**C37**

**CURTIN AGED PERSONS FOUNDATION – REQUEST FOR RECURRENT FUNDING**

<b>File No.:</b>	<b>C16.2</b>
<b>Applicant:</b>	<b>Curtin Aged Persons Foundation Inc</b>
<b>Author:</b>	<b>Mr Stephen Tindale</b>
<b>Report Date:</b>	<b>14 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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**Summary**

The Curtin Aged Persons Foundation (Inc.) seeks regular annual contributions from four local governments (Cottesloe, Mosman Park, Claremont and Peppermint Grove) as a means of generating sufficient funds to undertake as yet, unidentified capital works and/or provide operating subsidies to TAPSS, the Wearne Hostel and RiverSea Hostel.

The following recommendations are made:

- (1) That Council advise the Curtin Aged Person's Foundation that while Council supports the objects of the Foundation, it cannot support the proposal that the four local governments underwrite the Foundation by way of an annual contribution.
- (2) That Council advise the Curtin Aged Person's Foundation that Council will consider the contribution of capital funds to specific aged care capital

projects within the area defined by the four local governments as and when requested and on a needs basis.

### **Statutory Environment**

Nil.

### **Policy Implications**

Nil.

### **Strategic Implications**

Nil – aged care does not figure as a priority within Council's strategic plan.

### **Financial Implications**

One per cent of Council's rate income (2001/2002) amounts to approximately \$41,000.

### **Background**

CAPF is the trustee of the Curtin Aged Persons Foundation Trust. It was formed by Curtin Aged Persons Homes and the local governments of Claremont, Cottesloe, Mosman Park and Peppermint Grove in 1990 - mainly to provide funds for the support of the Aged Persons Support Service and the Wearne Hostel.

The specific objects of the trust are exclusively to:

- “(1) provide funds for the support of The Aged Persons Support Services (Inc.) and Wearne Hostel Board (Inc.);*
- (2) provide funds for the support of any other existing service, institution, or organisation which caters for the needs of the aged and disabled, such service, institution or organisation having been approved for the purposes of section 78(1)(a) of the Income Tax Assessment act;*
- (3) provide funds for the establishment, maintenance and support of any organisation providing support services for the aged and disabled, hostels for the frail aged and disabled, nursing homes and hospitals, such organisation, hostels, homes or hospitals having been approved for the purposes of section 78(1)(a) of the Income tax Assessment Act; and*
- (4) obtain collect and receive money and funds by way of contributions, donations, subscription, legacies, grants or any other lawful method to accept and receive any gifts or property of any description whether subject to any special trusts or not.”*

### **Consultation**

The author has discussed the matter with Council's representative on the Curtin Aged Persons Foundation (Cr. Arthur Furlong) and has requested additional information from the Hon. Secretary of CAPF, Rex Langmead.

In discussions with other CEOs, the general consensus is that in the absence of demonstrated need, the request for recurrent funding cannot be supported.

### **Staff Comment**

Apart from one significant contribution to the CAPF Trust from a deceased estate, fundraising efforts by CAPF appear to have languished over the years.

Correspondence from Curtin Aged Persons Foundation says in part that:

*"It is obvious ... that the Foundation will be asked to provide assistance from the Trust Fund to maintain or expand the Wearne or RiverSea Hostels, or to assist in providing new facilities including, perhaps, an adjacent nursing home...[however]... there is a perception amongst community members that local government rates should cover the work of the Foundation and that it is unnecessary for individual members of the community to give serious consideration to further private donations or bequests. As a result the Foundation is able to make only slow progress in accumulating monies.*

*Therefore we would like to suggest to the municipalities that the Foundation they established be supported by an annual allocation of funds to the Foundation, perhaps, expressed as a component of rate income...."*

In other words, regular annual contributions from the four local governments are seen as one way of generating sufficient funds to undertake as yet, unidentified capital works and/or provide operating subsidies to TAPSS, the Wearne Hostel and RiverSea Hostel.

However Council already provides an operating subsidy to TAPSS. There is little to recommend the channelling of the subsidy through a third party such as the CAPF when Council already has direct links with TAPSS.

Insofar as the Wearne Hostel is concerned, Curtin Aged Persons Homes has contracted out the management of the hostel to Churches of Christ Homes. The current track record of Churches of Christ Homes and their financial projections confirm that the Wearne Hostel is a financially viable proposition. The Wearne Hostel does not require an operating subsidy by way of public subscription.

Furthermore, Churches of Christ Homes can profitably fund the construction of another 18 licensed hostel beds from within their own resources.

In short, run properly and with the right facilities, the provision of accommodation for the aged is a profitable business. Indeed approaches have been made by another outside charitable organisation to construct an additional aged care facility on Wearne Hostel land.

Setting aside the need for operating subsidies (there is none), there is still the issue of identifying the requirement for additional facilities. It appears that the Wearne and RiverSea Hostels have yet to call on CAPF for additional or expanded facilities.

Without a specific requirement or project in mind, it is my view that CAPF will always be up against it in terms of galvanising the community into a serious fundraising effort. Calling on the four local governments to provide recurrent funding to CAPF is one way (but not necessarily the only way) of overcoming a lethargic community response to a vision that has yet to be articulated in terms of a solid bricks and mortar proposition.

It should be noted that the correspondence from CAPF points out that construction funds for the Wearne Hostel were obtained through a concerted community fundraising appeal and that the construction of the RiverSea Hostel was met from loan funds.

Given that these methods of fundraising have been used with considerable success in the past, it could be argued that these methods should be used in the future. The alternative (which is to rely on CAPF as a permanent foundation that is underwritten by the four local governments) would seem to be an inefficient way of raising and allocating funds.

Firstly, it defeats the primary purpose of CAPF – to raise community funds in addition to those normally provided by government sources (local, State and Federal). Somewhat perversely, it shifts the emphasis away from a private subscription for a worthy cause to a community subscription for a necessary cause.

Secondly, it removes direct control from the four local governments in how funds are finally expended – notwithstanding the presence of local government representatives on the CAPF Trust.

Despite this shortcoming, there is a way that Council can retain ultimate control over the expenditure of funds. Rather than paying out a percentage of rates to CAPF on an annual basis, the Town of Cottesloe could establish a Reserve Fund that achieves the same end but leaves Council with a direct say over the final disposition of funds. It also allows Council to reap the opportunity cost of the funds (i.e. bank interest).

Having said that, Reserve Funds are usually established for some specific purpose in order to avoid the impact of foreseen abnormal expenditure in any given year (e.g. the replacement of heavy plant and equipment or new facilities).

A Reserve Fund established for the future (and largely unidentified needs) of the aged breaks new ground insofar as a specific project has not been identified. The major weakness in establishing such a Reserve Fund for aged care is that in the absence of an identified specific need, future Councils may be tempted to change the purpose of the Reserve Fund for newly emerging and higher order expenditure priorities.

Thirdly, setting aside an annual percentage of rate income assumes that the private sector will be unable to meet fully the needs of the aged - even with ongoing financial operating subsidies from the Commonwealth Government. In other words, there is a future role for local government (the Town of Cottesloe) to play in mitigating the failure of the private sector and the Commonwealth Government to meet the needs of the aged. Given that our aging population has increasing electoral strength, this would seem to be a premature and possibly erroneous assumption.

Finally, the four local governments are quite capable of dealing directly with Curtin Aged Persons Homes in response to any request for additional local government capital funding without going through CAPF.



If CAPF is unable to gain meaningful community fundraising support at this time, then it may have to redefine its vision for the future. This is particularly important if Council and the community are to support its objects.

CAPF certainly has a legitimate role to play in acting as a trust fund for the bequests of the deceased but its continued existence on these grounds alone would appear to be doubtful.

Council may wish to consider passing these sentiments on through its nominated representative to CAPF. In the meantime and in the absence of any documented need, the provision of recurrent funding to CAPF cannot be supported.

**Voting**

Simple majority.

**C37 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council advise the Curtin Aged Person's Foundation:**

- (1) that while Council supports the objects of the Foundation, it cannot support the proposal that the four local governments underwrite the Foundation by way of an annual contribution; and**
- (2) that Council will consider the contribution of capital funds to specific aged care capital projects within the area defined by the four local governments when requested and on a needs basis.**

Carried 7/0

**W15 ROAD GRANTS – FUNCTIONAL ROAD HIERARCHY**

<b>File No.:</b>	<b>E8.3</b>
<b>Applicant:</b>	<b>Not applicable</b>
<b>Author:</b>	<b>Mr Malcolm Doig</b>
<b>Report Date:</b>	<b>9 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

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**Summary**

To advise Council of a stricter interpretation and application of the selection criteria for funding applications made under the Metropolitan Regional Road Programme and to recommend action to resolve the issue in order to avoid a loss of future grant allocations.

**Statutory Environment**

Metropolitan Regional Road Group - Funding Guidelines.

**Policy Implications**

Traffic Management Policy.

**Strategic Implications**

Nil.

**Financial Implications**

With the stricter application of rules, the Town of Cottesloe funding applications for \$45,500 road rehabilitation in Grant Street in 2003/2004 and a further \$60,000 in 2004/2005 would be ineligible, despite meeting all other criteria.

**Background**

The existing road hierarchy is a listing of the type of road based on a uniform criteria developed by Main Roads WA. The classification reflects the current vehicle usage. A change in classification does not indicate any intention to increase or decrease usage in the future.

**Consultation**

Nil.

**Staff Comment**

A road classification less than "local distributor" will now be ineligible for funding for construction or rehabilitation, even when all other factors strongly support the application.

There are two current applications totalling in excess of \$100,000 that will not now be eligible unless Council resolved to change the road classification. The first is for 66% of the cost of resurfacing, draining and kerbing the north lane of Grant Street between Marine and Marmion and the second the south lane of Grant Street between Marine and Broome. No change to the width of the pavement has been proposed.

Grant Street, which is currently classified as an "access road", does form part of the minor road network and carried approximately 3,000 vehicles per day. The recommendation is therefore that Grant Street be reclassified as a "local distributor" road under the provisions of the Metropolitan Functional Road hierarchy in order to qualify for future funding.

In the meantime 2002/2003 road grants have been approved under the old rules for both Forrest Street and Station Street, between Railway Street and Stirling Highway both of which are currently classified as "access roads". While the grant approvals are not in jeopardy, reclassification in these circumstances is also warranted.

**Voting**

Simple majority.

W15

**OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council advise Main Roads WA that a decision has been made to classify the following roads from 'Local Access Roads' to 'Local Distributor Roads' as detailed in the Metropolitan Functional Road Hierarchy:**

- Grant Street between Curtin Avenue and Marine Parade;
- Forrest Street between Railway Street and Stirling Highway;
- Station Street between Railway Street and Stirling Highway.

Carried 7/0

**W16**      **LOCAL GOVERNMENT DISTRICT BOUNDARY AT NORTH STREET**

**File No.:** E17.10.71  
**Applicant:** N/A  
**Author:** Mr Malcolm Doig  
**Report Date:** 7 May, 2002  
**Author Disclosure of Interest:** Nil  
**Senior Officer:** Mr Stephen Tindale

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**Summary**

The proposal is to formalise the realignment of the district boundary at North Street to the centre of the road reserve rather than each authority have sole responsibility for the sections of road east and west of Marmion Street.

**Statutory Environment**

Local Government Act.

**Policy Implications**

Nil. Both councils use the same Functional Road Classification.

**Strategic Implications**

Nil. In most cases both councils already operate on the basis of the road being divided at the centreline.

**Financial Implications**

Nil. Maintenance expenses will continue to be shared in the same proportion.

**Background**

The City of Nedlands has again raised the issue of the district boundary at North Street. When this was last considered, the Town Cottesloe resolved to support an application to realign the boundary subsequent to the resolution of current traffic issues.

**Consultation**

Nil.

**Staff Comment**

As the agreed, road works have been completed and the 50 km/ph speed restriction is in place, so there is no reason to delay an application.

**Voting**

Simple majority.

**W16 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council advise the City of Nedlands that the Town of Cottesloe is willing to proceed with an application to realign the district boundary at North Street to the centre of the road reserve.**

Carried 7/0

**W17 MEMORIAL SEAT POLICY**

<b>File No:</b>	<b>X4.11</b>
<b>Applicant:</b>	<b>N/A</b>
<b>Author:</b>	<b>Mr Malcolm Doig</b>
<b>Report Date:</b>	<b>9 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

**Summary**

To establish the conditions to apply where memorial furniture is offered to Council.

**Statutory Environment**

Nil.

**Policy Implications**

Council has adopted a policy detailing the range of streetscape furniture and pavements selected. It is therefore suggested that a section covering the sponsorship of furniture, including topics (a) to (e), be inserted into the document.

**Strategic Implications**

Nil.

**Financial Implications**

Nil.

**Background**

In September 2000 to: Council resolved to:

*“Accept that the donation of street furniture can provide additional community facilities at minimal cost and request that a policy be drafted to cover the issues involved”.*

It was suggested that the policy should include topic such as:

- (a) Cash contribution required;
- (b) Size of plaque and wording;
- (c) Location of donated item;
- (d) Responsibility for routine maintenance; and
- (e) Removal after set period, or at end of asset life.

**Consultation**

Nil.

**Staff Comment**

The existing Streetscape Furniture Selection Policy can be amended to include adequate provisions.

**Voting**

Simple majority.

W17 **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Miller, seconded Cr. Whitby

**That Council include the following provisions in the Streetscape Furniture Selection Policy:**

**“SPONSORSHIP OF FURNITURE**

**Sponsorship of the supply and installation (including any associated site works) of street furniture by private individuals, groups, or businesses is acceptable and will be encouraged as a way of increasing the supply of street furniture for the community's use.**

**Contribution Required**

**The applicant will be responsible for the full cost of purchase of any item agreed to and for the cost of any plaque that may be attached.**

**Selection of Furniture**

**The furniture item/s must comply with the requirements of this policy and be selected from the adopted catalogue of furniture and use the adopted colour and materials palette.**

**Size of Plaque and Wording**

**Subject to prior approval of wording, a plaque detailing a short message may be provided, either on a plaque mounted on the item or inscribed into a timber item. The plaque can be no larger than 120mm x 80mm or the inscription no larger than 400mm long x 80mm high. Ongoing repair or replacement of the plaque or inscription is the responsibility of the donor.**

**Location of Donated Item**

**The donor may request/suggest a particular location, however final approval for the location of street furniture has been delegated to the Manager, Engineering Services.**

**Routine Maintenance**

**After installation the item will become the property of the Town of Cottesloe and Council will maintain the furniture item at its discretion as part of a regular maintenance during the economic life of the item.”**

Carried 7/0

## DEVELOPMENT SERVICES COMMITTEE

20 May, 2002

TP39 REVIEW OF DELEGATION TO THE MANAGER, DEVELOPMENT SERVICES

**File:** X4.6  
**Author:** Mr Stephen Sullivan  
**Report Date:** 3 May, 2002  
**Author Disclosure of Interest:** Nil

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### **PURPOSE OF REPORT**

To review and endorse the delegation of authority from Council to the Manager of Development Services and the Chief Executive Officer under Section 7.10 of the No. 2 Town Planning Scheme Text.

### **BACKGROUND**

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

The statutory documents in the Development Services Section cover the areas of planning, building and health. Most of the delegations in those areas are covered by the Local Government Act. However, some of the delegations relate to other legislation, such as the Town Planning and Development Act and the existing Town Planning Scheme. This report will address delegation of matters under the Town Planning Scheme and the Metropolitan Region Scheme.

The planning delegation policies have been in place for many years and Council has resolved that they are required to be reviewed and endorsed by Council annually.

A delegation to the staff from Council can be revoked at any time.

### **CURRENT DELEGATION**

The list of delegations to the Manager of Development Services that do not relate to the Local Government Act are listed below.

- Register No. 2 - Subdivision and or Amalgamation of Lots of Land
- Register No. 6 - Approval of Development Applications (Delegation under the Town Planning Scheme)

The Chief Executive Officer is also delegated the same powers as the Manager of Development Services under these delegations. This allows the Chief Executive Officer to make determinations on applications when the Manager of Development Services is on leave. Advice from the Planning Assistant is provided prior to a determination being made on the application.

**PROPOSED CHANGES TO REGISTER NO. 2 - SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND**

The following changes to the policy are requested:

**Update of Register relating to Heritage – Part (1)(c)**

This section has been amended to include properties listed on the State Register of Heritage Places (this would include Interim or Permanent Listings) and reflect the adoption of Town Planning Scheme Policy No. 12 and the Heritage Strategy Report.

**Non-Conformity With The Residential Planning Codes (Subdivision) – End of Part (1)**

Council receives single house subdivision proposals from the Western Australian Planning Commission for comment. Certain applications do not meet the minimum area requirements for subdivision for single houses in the R20 coded areas, yet the site is still suitable for development as two grouped dwellings. A grouped dwelling development has almost identical development standards as a single house. The principal issue relates to the type of land ownership rather than other matters.

Therefore, it is requested that these types of applications be dealt with by the Manager, Development Services.

The only time that this will become an issue is when an applicant seeks to subdivide a site that has a heritage building on it. In those instances, the application should be referred to Council for determination.

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

The following changes to the Delegation Policy are requested:

**Applications for Change In Land Uses – Modification to Part (1)**

The first suggested change is to allow the Manager, Development Services to make a determination on a change in land use. This is primarily involving applications for Planning Consent in the commercial zones.

If a change in land use is proposed that is in keeping with the objectives for that zone and there are no valid objections, then the Manager, Development Services should be able to make a determination on that application.

**Demolition Control - Update of Heritage Items – Part (1)**

The second suggested change is that the Delegation policy be updated to reflect the adoption of Town Planning Scheme Policy No. 12 and the adoption of the Heritage Strategy, in particular, the identification of Essential and Contributory Buildings in the proposed heritage areas.

**Submission Of Expired or Revised Plans For Planning Consent (Register Item No. 6 – New Part (3)(b))**

The third suggested change is that should an applicant seek to amend or revise an application for Planning Consent that has already been determined by Council, the Manager Development Services be delegated the authority to make a determination on that application for Planning Consent.

There have been times when an application for planning consent has been determined by Council and has expired or some minor changes are required to the approved plans. The applicant is required to undertake the necessary approval process again, including the advertising of the application. It is anticipated that any issues raised as a consequence of the second submission period or the application ie. (non-conforming height) would be very similar to those raised in the first application that was determined by Council.

Therefore, should the application be re-submitted to Council again?

**CONCLUSION**

The annual renewal of the current delegation is submitted for discussion and adoption by Council. The current delegation expires on the 31 May 2002. If Council is not satisfied with the renewal of the delegation, then the previous delegation should be extended to the end of June so that operations of the Department can continue to operate until Council has adopted the revised delegations.

Therefore, it is recommended that the lists of delegations for the relevant staff members be endorsed and reviewed in May 2003.

**OFFICER RECOMMENDATION**

That the following powers be delegated to the nominated officers until 31 May 2003:

**REGISTER NO. 2 - SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND**

- (1) Council delegates to the Manager of Development Services and the Chief Executive Officer, the authority to recommend to the Western Australian Planning Commission those applications for subdivision and/or amalgamation for single houses that:
  - (a) conform to the provisions and requirements of Council's Town Planning Scheme and Town Planning Scheme policies.
  - (b) conform to an application for planning consent that Council granted its approval, to which involved the subdivision or amalgamation of land as part of that application.
  - (c) do not involve a building that is listed in:
    - (i) State Register of Heritage Places;
    - (ii) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
    - (iii) Municipal Inventory as Category 1 or Category 2 buildings.
    - (iv) Town Planning Scheme Policy No. 12; or



- (v) those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy  
unless the application meets the requirements of (1)(b) above.
- (2) Notwithstanding the above, should an application for subdivision for single house lots be received, and those lots do not comply with the average lot size for the applicable density coding, the Manager of Development Services is authorised to make a determination on that application provided the original site is suitable for the development of grouped dwellings.
- (3) To delegate is to consider the imposition of such conditions as the delegate considers necessary to:-
- (a) meet the requirements of the Town Planning Scheme, or Residential Planning Codes, Town Planning Scheme Policies or conditions of planning consent where appropriate; and
- (b) preserve the amenity of the area by addressing such matters as effective site maintenance and controls, such as screening of the site where no development is proposed for that site.
- (4) Clearance of Conditions of Subdivision Approval  
The Manager of Development Services or the Chief Executive Officer are authorised to grant a clearance of the conditions of subdivision approval for any application for subdivision or amalgamation, where the Manager of Development Services or the Chief Executive Officer are satisfied that the relevant conditions of approval have been complied with.

REGISTER NO. 6 - DETERMINATION OF APPLICATIONS FOR PLANNING CONSENT

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

- (1) Extent of Delegation  
Subject to the provisions of Clause 2, the authority to determine applications for planning consent shall be restricted to the following types of applications:
- development relating to single houses;
  - additional dwelling;
  - no more than two grouped dwellings or multiple dwellings;
  - home occupations;
  - minor additions and alterations to existing unit developments;
  - minor additions and alterations to existing commercial premises; and
  - change in land uses.

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

- (a) State Register of Heritage Places;

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

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

(2) Conditions of Delegation

- (a) If it is a requirement of:-
  - (i) Town Planning Scheme No. 2; or
  - (ii) the Residential Planning Codes; or
  - (iii) the Town Planning Scheme Policies; or
  - (iv) any other relevant statutory document.

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

- (A) the required notices were served; and
- (B) no written submissions expressing objection were received.

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

- (b) The application is to be referred to the Council for determination where:
  - (i) the proposed development requires the exercise by the Council of a discretion under the Residential Planning Codes, other than a discretion to vary the setbacks.
  - (ii) the proposed development involves the siting of a carport, garage or pergola within the front setback area and another reasonable alternative site is available; or
  - (iii) the proposed development does not comply with a requirement or standard of Town Planning Scheme No. 2 (other than a standard or requirement of the Residential Planning Codes) or of the Town Planning Scheme Policies and a discretion exists to vary that standard or requirement.

(3) Power to Grant Planning Approval

- (a) Subject to part (3)(b), the power to grant Planning Approval is restricted to the following:

- (i) For those applications which comply in all respects with the provisions and requirements of the Council's Town Planning Scheme, Policies and/or Residential Planning Codes; or
- (ii) For those applications which require a variation to setbacks having regard to site specific issues; or
- (iii) Subject to conditions to ensure that the development conforms to the provisions and requirements of the Council's Town Planning Scheme, Policies, and/or Residential Planning Codes; or
- (iv) For siting of carports and pergolas within the front setback area provided that there is no reasonable alternative site available and subject to all provisions of Council's policy in relation to carports (TPSP 003); or
- (v) For applications for demolition where in the view of the Manager Development Services, the proposed demolition warrants the provision of conditions of planning consent relating to the general amenity of the area.

Notwithstanding the requirements of part (2) and 3(a)

- (b) Where Council has previously made a determination on an application for Planning Approval and:
  - (i) that approval has expired and a new application for planning approval has been lodged; or
  - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;

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

(4) Power to Refuse Planning Approval

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

**COMMITTEE COMMENT**

The committee required some minor grammatical changes to Register No. 2 and modified the commencement of part (2) of Register No. 2.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Ewing, seconded Cr. Miller

That the following powers be delegated to the nominated officers until 31 May, 2003:

REGISTER NO. 2 - SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND

- (1) Council delegates to the Manager of Development Services and the Chief Executive Officer, the authority to recommend to the Western Australian Planning Commission those applications for subdivision and/or amalgamation for single houses that:
  - (a) conform to the provisions and requirements of Council's Town Planning Scheme and Town Planning Scheme policies.

- (b) conform to an application for planning consent that Council granted its approval, which involved the subdivision or amalgamation of land as part of that application.
- (c) do not involve a building that is listed in:
- (i) State Register of Heritage Places;
  - (ii) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
  - (iii) Municipal Inventory as Category 1 or Category 2 buildings.
  - (iv) Town Planning Scheme Policy No. 12; or
  - (v) those buildings that are listed as either "Essential" or "Contributory" in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy unless the application meets the requirements of (1)(b) above.
- (2) Subject to (1)(c), should an application for subdivision for single house lots be received, and those lots do not comply with the average lot size for the applicable density coding, the Manager of Development Services is authorised to make a determination on that application provided the original site is suitable for the development of grouped dwellings.
- (3) The delegate is to consider the imposition of such conditions as the delegate considers necessary to:-
- (a) meet the requirements of the Town Planning Scheme, or Residential Planning Codes, Town Planning Scheme Policies or conditions of planning consent where appropriate; and
  - (b) preserve the amenity of the area by addressing such matters as effective site maintenance and controls, such as screening of the site where no development is proposed for that site.
- (4) Clearance of Conditions of Subdivision Approval  
The Manager of Development Services or the Chief Executive Officer are authorised to grant a clearance of the conditions of subdivision approval for any application for subdivision or amalgamation, where the Manager of Development Services or the Chief Executive Officer are satisfied that the relevant conditions of approval have been complied with.

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

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

##### (1) Extent of Delegation

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

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

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

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

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

(2) Conditions of Delegation

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

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

- (b) The application is to be referred to the Council for determination where:
  - (i) the proposed development requires the exercise by the Council of a discretion under the Residential Planning Codes, other than a discretion to vary the setbacks.
  - (ii) the proposed development involves the siting of a carport, garage or pergola within the front setback area and another reasonable alternative site is available; or
  - (iii) the proposed development does not comply with a requirement or standard of Town Planning Scheme No. 2 (other than a standard or requirement of the Residential Planning Codes) or of the Town Planning Scheme Policies and a discretion exists to vary that standard or requirement.

- (3) Power to Grant Planning Approval
- (a) Subject to part (3)(b), the power to grant Planning Approval is restricted to the following:
- (i) For those applications which comply in all respects with the provisions and requirements of the Council's Town Planning Scheme, Policies and/or Residential Planning Codes; or
  - (ii) For those applications which require a variation to setbacks having regard to site specific issues; or
  - (iii) Subject to conditions to ensure that the development conforms to the provisions and requirements of the Council's Town Planning Scheme, Policies, and/or Residential Planning Codes; or
  - (iv) For siting of carports and pergolas within the front setback area provided that there is no reasonable alternative site available and subject to all provisions of Council's policy in relation to carports (TPSP 003); or
  - (vi) For applications for demolition where in the view of the Manager Development Services, the proposed demolition warrants the provision of conditions of planning consent relating to the general amenity of the area.

Notwithstanding the requirements of parts (2) and 3(a)

- (b) Where Council has previously made a determination on an application for Planning Approval and:
- (i) that approval has expired and a new application for planning approval has been lodged; or
  - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;
- the Manager, Development Services or the Chief Executive Officer are authorised to deal with these application under Delegated Authority.
- (4) Power to Refuse Planning Approval  
When the application does not conform to the provisions and requirements of the Council's Town Planning Scheme, Policies and/or the Residential Planning Codes and no discretion to vary such control exists.

#### AMENDMENT

Moved Mayor Hammond, seconded Cr. Whitby

That the motion be amended by deleting the words "*or Category 2*" in "Register No. 2 – Subdivision and/or Amalgamation of Lots of Land" (1)(c)(iii) and "Register No. 6 – Determination of Applications for Planning Consent" (1)(c) and substituting with "*to Category 5*".

Carried 5/2

The amended motion was put.

TP39

#### COUNCIL RESOLUTION

**That the following powers be delegated to the nominated officers until 31 May, 2003:**

**REGISTER NO. 2 - SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND**

- (1) Council delegates to the Manager of Development Services and the Chief Executive Officer, the authority to recommend to the Western Australian Planning Commission those applications for subdivision and/or amalgamation for single houses that:

  - (a) conform to the provisions and requirements of Council's Town Planning Scheme and Town Planning Scheme policies.
  - (b) conform to an application for planning consent that Council granted its approval, which involved the subdivision or amalgamation of land as part of that application.
  - (c) do not involve a building that is listed in:
    - (i) State Register of Heritage Places;
    - (ii) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
    - (iii) Municipal Inventory as Category 1 to Category 5 buildings.
    - (iv) Town Planning Scheme Policy No. 12; or
    - (v) those buildings that are listed as either "Essential" or "Contributory" in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy unless the application meets the requirements of (1)(b) above.
- (2) Subject to (1)(c), should an application for subdivision for single house lots be received, and those lots do not comply with the average lot size for the applicable density coding, the Manager of Development Services is authorised to make a determination on that application provided the original site is suitable for the development of grouped dwellings.
- (3) The delegate is to consider the imposition of such conditions as the delegate considers necessary to:-

  - (a) meet the requirements of the Town Planning Scheme, or Residential Planning Codes, Town Planning Scheme Policies or conditions of planning consent where appropriate; and
  - (b) preserve the amenity of the area by addressing such matters as effective site maintenance and controls, such as screening of the site where no development is proposed for that site.
- (4) Clearance of Conditions of Subdivision Approval

The Manager of Development Services or the Chief Executive Officer are authorised to grant a clearance of the conditions of subdivision approval for any application for subdivision or amalgamation, where the Manager of Development Services or the Chief Executive Officer are satisfied that the relevant conditions of approval have been complied with.

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

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

**(1) Extent of Delegation**

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

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

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

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

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

**(2) Conditions of Delegation**

- (a) If it is a requirement of:
  - (i) Town Planning Scheme No. 2; or
  - (ii) the Residential Planning Codes; or
  - (iii) the Town Planning Scheme Policies; or
  - (iv) any other relevant statutory document.

that the adjoining owners, occupiers and owners of other properties which may be affected by the proposed development, be advised in writing of the application and given



the opportunity to submit comments in writing to the Council, then before exercising this delegated authority, the Manager of Development Services or the Chief Executive Officer, must be satisfied that when such a requirement exists:-

- (A) the required notices were served; and
- (B) no written submissions expressing objection were received.

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

- (b) The application is to be referred to the Council for determination where:
  - (i) the proposed development requires the exercise by the Council of a discretion under the Residential Planning Codes, other than a discretion to vary the setbacks.
  - (ii) the proposed development involves the siting of a carport, garage or pergola within the front setback area and another reasonable alternative site is available; or
  - (iii) the proposed development does not comply with a requirement or standard of Town Planning Scheme No. 2 (other than a standard or requirement of the Residential Planning Codes) or of the Town Planning Scheme Policies and a discretion exists to vary that standard or requirement.

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

- (a) Subject to part (3)(b), the power to grant Planning Approval is restricted to the following:
  - (i) For those applications which comply in all respects with the provisions and requirements of the Council's Town Planning Scheme, Policies and/or Residential Planning Codes; or
  - (ii) For those applications which require a variation to setbacks having regard to site specific issues; or
  - (iii) Subject to conditions to ensure that the development conforms to the provisions and requirements of the Council's Town Planning Scheme, Policies, and/or Residential Planning Codes; or
  - (iv) For siting of carports and pergolas within the front setback area provided that there is no reasonable alternative site available and subject to all provisions of Council's policy in relation to carports (TPSP 003); or

- (vii) For applications for demolition where in the view of the Manager Development Services, the proposed demolition warrants the provision of conditions of planning consent relating to the general amenity of the area.

Notwithstanding the requirements of parts (2) and 3(a)

- (b) Where Council has previously made a determination on an application for Planning Approval and:
- (i) that approval has expired and a new application for planning approval has been lodged; or
  - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;

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

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

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

Carried 5/2

TP40

**REVIEW OF DELEGATION TO THE DEVELOPMENT SERVICES COMMITTEE**

File: X4.6  
 Author: Mr Stephen Sullivan  
 Report Date: 3 May, 2002  
 Author Disclosure of Interest: Nil

**PURPOSE OF REPORT**

To review and endorse the delegation of authority from Council to the Development Services Committee under Section 7.10 of the No. 2 Town Planning Scheme Text.

**BACKGROUND**

At its November, 1996 meeting, Council adopted the following resolution relating to the Manager, Development Services and the Development Services Committee:

*That Council:*

- (1) *Continue to delegate its authority to the Manager of Development Services as set out in the Delegation of Authority Policy No. 6 - Determination of Applications for Planning Consent;*
- (2) *Delegate authority to the Development Services Committee to approve those applications for Planning Consent which the Manager of Development Services does not have the authority to determine and only if:*
  - (a) *there are no concessions but there are objections;*

- (b) *concessions are required and no objections have been received; and*
- (c) *the Committee is satisfied that the developers and objectors can reach a compromise on development proposals;*

There are some sites where a Council decision is required under the:

- (a) Town Planning Scheme;
- (b) Town Planning Scheme and the Metropolitan Region Scheme; or
- (c) Metropolitan Region Scheme.

The Commission has delegated to Council the authority to make a determination for development sites that either abut or are reserved under the Metropolitan Region Scheme as a Primary Road Reservation. This only affects properties along Stirling Highway. The type of development involved generally relates to single houses or modification to existing units. Therefore the delegation should be amended to allow the Development Services Committee to make a determination under (b) and (c) above.

The exception to this would be larger developments. The Development Services Committee would need to determine at what point the application should be referred to Council for final determination. It is suggested that residential development could be determined by the Committee and non-residential development of a minor nature.

## CONCLUSION

The 1996 resolution has been revised to allow the Development Services Committee to make decisions under the Metropolitan Region Scheme when required.

TP40

## OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Miller

**That Council delegates its authority to the Development Services Committee:**

- (1) **under Section 7.10 of the Town Planning Scheme text to approve those applications for Planning Consent which the Manager of Development Services does not have the authority to determine under the No. 2 Town Planning Scheme text and only if:**
  - a) **there are no concessions but there are objections;**
  - b) **concessions are required and no objections have been received; and**
  - c) **the Committee is satisfied that the developers and objectors can reach a compromise on development proposals;**
- (2) **to make a determination on applications for Planning Approval on sites that are reserved or partly reserved under the Metropolitan Region Scheme as a Primary Road reservation for the following types of development:**

- (i) residential development; and
- (ii) non-residential development of a minor nature.

Carried 7/0

**TP41 NO. 9A (LOT 10) WENTWORTH STREET, COTTESLOE – PROPOSED TWO (2) STOREY DWELLING**

**File No.:** No. 9A (Lot 10) Wentworth Street, Cottesloe  
**Author:** Mr Kevin Broughton  
**Date of Application:** 3 April, 2002  
**Report Date:** 10 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

For Council to consider an application for a two (2) storey dwelling on the subject land.

**PROPERTY INFORMATION**

**Owner:** N Murphy  
**Applicant:** Gerard McCann (Architect)  
**Zoning:** Residential  
**Density:** R20  
**Lot Area:** 278 m<sup>2</sup>  
**Heritage:** N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Cottesloe Town Planning Scheme No. 2 Residential Planning Codes
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

**AREAS OF NON-COMPLIANCE**

<b>Statutory Non-compliance</b>	<b>N/A</b>
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<b>Discretionary Provisions</b>	<b>Min/Required</b>	<b>Proposed</b>
Front Setback	6.0m	3.9m
Rear Setback	6.0m av / 40m <sup>2</sup> courtyard	4.8 av and 32m <sup>2</sup> courtyard
Side setback to western ground floor dining room wall – height 3.4m, length 5.3 m with no major openings	1.0m	Nil
Side setback to western ground floor garage wall – height 3.3 m, length 12.2m with no major openings	1.2m	Nil

Side setback to western ground floor wall – height 3.4 m, length 25.6m with no major openings	1.7m	1.2m
Side setback to western first floor bed 1 wall – height 6.9 m, length 25.6m with no major openings	1.3m	Nil
Side setback to western first floor wall – height 6.7 m, length 15.7m with no major openings	2.0m	1.2m
Open Space	50%	43%

## NEIGHBOUR NOTIFICATION

Neighbours were contacted by registered mail. One (1) submissions was received during the advertising period which objected to the proposal on the following grounds:

- The subject land is substantially below the minimum lot sizes permitted under the R20 density coding;
- The proposed dwelling exceeds the 50% site coverage permitted under the Residential Planning Codes;
- The dwelling does not comply with various minimum setbacks to front and side boundaries; and
- The proposed dwelling will impact on the amenity given its character, scale and potential for overlooking.

## COMMENT

### Site Description

The subject land is vacant. Surrounding land is characterised by a range of single residential dwelling types.

### Proposal

It is proposed to develop the land with a two (2) storey dwelling. The dwelling will be constructed with masonry wall materials and a flat metal roof.

The rear of the site will be developed with a two (2) car garage with access from the rear right-of-way.

### Planning Considerations

#### (1) Setback Non-compliances

It is clear from the non-compliance table within this report that the proposed dwelling does not comply with various setback requirements. In terms of physical appearance, these non-compliances will result in a significant departure from setbacks within the immediate area, including:

- Proposing a reduced front setback contrary to the prevailing front setback of 6 metres; and
- Proposing extensive parapet walls in an area which is characterised by traditional 1-1.5 metre side setbacks;

Whilst it is acknowledged that the subject lot is relatively small, it is considered that the proposed dwelling could comply with the minimum

setback requirements of the Residential Planning Codes and therefore be consistent with prevailing setbacks.

(2) Open Space

The proposed development does not comply with the minimum open space requirements specified within the Residential Planning Codes by 7% or 20m<sup>2</sup>. From a planning view point, this level of variation is considered excessive. Moreover, there are sound reasons why open space should be provided in accordance with the Residential Planning Codes, being:

- Impact on residential character (ie. dominance of non-complying building);
- Impact on residential character given the absence of appropriate treed spaces;
- Impact on micro-climate; and
- The need to provide useable areas of open space both for passive and active recreational needs.

Compliance with the minimum open space requirements is required.

(3) Overlooking

The submitted plans indicate various window locations that might allow overlooking. Each of these windows can be modified to minimise overlooking (i.e. through the use of highlight windows and obscure glass).

(4) Streetscape Appearance

Clause 5.1.5 of the Scheme requires that developments are consistent with character of adjoining residential buildings. Administration considers that the proposed dwelling represents a significant departure from the prevailing character of the area given:

- Two (2) storey construction;
- Elevated terrace immediately fronting the street environment;
- Dominant (vertical) front elevation; and
- Use of flat-decked roofing whereas surrounding buildings incorporate 30+ degree roofing.

This position is supported by the objection received from an adjoining neighbour.

It is considered that a revised design can be prepared that 'marries' with the character of the immediate area. Such a design could include:

- Tiled/metal roofing with a 30 degree pitch;
- Gradation of height from front to rear (to reduce the visual dominance of the site); and
- Deletion of the front terrace in favour of a traditional street presence.

## CONCLUSION

Based on the foregoing, the submitted plans are not supported. It has to be acknowledged however, that the subject land is relatively small and as such, has significant design constraints which may warrant variations to setback etc. It follows that the proposal should not be refused at this time and the applicant be invited to submit revised plans.

A recommendation to this effect is provided.

**Voting Requirements**     Simple Majority

### **OFFICER RECOMMENDATION**

That Council:

- (1) Defer consideration of the application for Approval to Commence Development submitted by Gerard McCann for a two (2) storey dwelling at No. 9A (Lot 10) Wentworth Street, Cottesloe;
- (2) Advise the applicant that the Council does not support the submitted plans due to various setback and open space non-compliances, and given that the proposed design represents a significant departure from the character of the area (contrary to Clause 5.1.5 of the Scheme); and
- (3) Invite/request that the applicant submit revised plans incorporating the following changes to the site planning of the proposed development:
  - (a) Compliance with the minimum 6 metre front setback;
  - (b) Reduction of proposed parapet walls;
  - (c) Compliance with the 50% minimum area of open space; and
  - (d) Modification of elevations consistent with the theme of adjoining dwellings.

### **COMMITTEE COMMENT**

The Committee expressed concern at the extent of variations to the Residential Planning Codes the applicant was seeking, in particular, the non-compliance with open space, variation to setbacks and the length and height and amount of walls of the building to be located on the boundary. The Committee felt that an additional condition requiring modifications to the upper floor windows was required to address the issue of overlooking.

### TP41     **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council:**

- (1) Defer consideration of the application for Approval to Commence Development submitted by Gerard McCann for a two (2) storey dwelling at No. 9A (Lot 10) Wentworth Street, Cottesloe;**
- (2) Advise the applicant that the Council does not support the submitted plans due to various setback and open space non-compliances, and given that the proposed design represents a significant departure from the character of the area (contrary to Clause 5.1.5 of the Scheme); and**
- (3) Invite/request that the applicant submit revised plans incorporating the following changes to the site planning of the proposed development:**
  - (a) Compliance with the minimum 6 metre front setback;**
  - (b) Reduction of proposed parapet walls;**

- (c) Compliance with the 50% minimum area of open space;
- (d) Modification of elevations consistent with the theme of adjoining dwellings; and
- (e) Second storey windows to be designed in a manner which will prevent overlooking.

Carried 7/0

TP42

**NO. 1 & 3 (LOTS 64 & 65) JOHN STREET, COTTESLOE – PROPOSED TOWN PLANNING SCHEME AMENDMENT NO. 32 (FORESHORE CENTRE ‘R30’ TO FORESHORE CENTRE ‘R50’)**

**File No.:** No. 1 & 3 John Street, Cottesloe  
**Author:** Mr Kevin Broughton  
**Date of Application:** N/A  
**Report Date:** 10 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

For Council to formally initiate an Amendment to Town Planning Scheme No. 2 by rezoning the subject land from ‘Foreshore R30’ to ‘Foreshore R50’.

**PROPERTY INFORMATION**

**Owner:** J Kelly  
**Applicant:** Peter Webb and Associates  
**Zoning:** Foreshore Centre  
**Density:** R30  
**Lot Area:** 625m<sup>2</sup> and 627 m<sup>2</sup>  
**Heritage:** N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Town Planning Scheme No. 2 Residential Planning Codes
TPS Policy Implications:	Nil
Financial Implication:	Nil
Strategic Implication:	Nil

**NEIGHBOUR NOTIFICATION**

Neighbourhood consultation will occur following initiation of this Amendment to Town Planning Scheme No. 2.

**COMMENT**

**Background**

A request to rezone the subject land from ‘Foreshore R30’ to ‘Foreshore R60’ was received by the Town of Cottesloe in June 2001. The proposal was presented to the July 2001 Council meeting where it was resolved to defer the proposal pending receipt of concept plans for the subject land.



Concept plans were received and presented to the Council at its August 2001 meeting where it was resolved to (inter alia):

- Advise the applicant that the Council supports an increase in density subject to the Concept Plans being supported by Council;
- Refer the Concept Plans to the Design Advisory Panel for its comment; and
- Further consider the matter at its September 2001 meeting;

Revised Concept Plans consistent with the R50 coding were presented to the September 2001 Council meeting. At this meeting, Council considered comments from the Design Advisory Panel and resolved to initiate an Amendment to rezone the land to Foreshore Centre R50 subject to various conditions including:

- Submission of revised plans incorporating minor design changes;
- Retention of mature trees;
- Payment of all costs associated with the Scheme Amendment;
- The Concept Plan being incorporated within the Scheme Amendment documents; and
- Approval of the Concept Plan prior to final approval being granted for the Scheme Amendment.

The previous resolution of Council did not initiate the Scheme Amendment in the correct manner. It is the purpose of this report to formally initiate and adopt the Scheme Amendment in the format specified within the Town Planning Regulations (1967).

Scheme Amendment Process

The Council is not asked to reconsider or approve the proposed Concept Plan at this time. Council is simply required to initiate an Amendment to the Town of Cottesloe Town Planning Scheme No. 2 to facilitate the proposed development of six (6) residential uses on the land.

The Scheme Amendment will rezone the land to the higher density coding (being R50) and insert specific provisions (ie. development standards/controls) relating to the site. In doing so, the Council will have the ability to formally determine (ie. approve, approve with conditions or refuse) an application consistent with the Concept Plan already supported by the Council.

The process for a Scheme Amendment is as follows:

<b>Scheme Amendment Process</b>	<b>Anticipated Timing</b>
Lodgement of rezoning submission to the Town of Cottesloe	Completed
Review by Administration	Completed
Report to Council by Administration	Completed
Resolution deciding to prepare a Scheme Amendment	Completed
Formal initiation and adoption of Scheme Amendment	Subject of this Report
Preparation of Town Planning Scheme Amendment documents	May 2002
Refer to Environmental Protection Authority	June 2002
Consent to advertise from Environmental Protection Authority	July 2002
Advertising (42 days)	July 2002
Review of submissions by Town of Cottesloe	August 2002
Endorsement of final approval by Town of Cottesloe	September 2002
Final approval by Western Australian Planning Commission	Sept/October 2002
Gazettal by Hon. Minister for Planning	Oct/November 2002

It is anticipated that a formal planning approval for the proposed development will be lodged with the Town of Cottesloe upon gazettal of the Scheme Amendment.

#### Scheme Amendment Mechanism

Under normal circumstances, the proposed development could be implemented through an Amendment to the Scheme Map. In this instance however, the proposal will be implemented via Amendments to the Scheme Maps and an Amendment to the Scheme Text, as follows:

- Amending the Scheme Map by recoding the land from 'R30' to 'R50'; and
- Inserting specific provisions within the Scheme Text relating to the subject land.

The reason for this approach relates to the need to insert site-specific provisions relating to:

- The ability for Council to grant an increase to plot ratio from 0.5:1.0 to 0.66:1.0 (as is proposed);
- Limiting fill within the rear of the site to 500mm rather than 1.2 metres (as is proposed); and
- Retaining all mature trees on the land.

It is noted that comparable provisions have been inserted within the Scheme relating to Lot 28 Corner Eric Street and Marine Parade.

Unfortunately, the Western Australian Planning Commission is unlikely to support an additional entry relating to the subject land within the body of the Scheme Text given that such an entry would be 'ad hoc'. To remedy this, it is proposed to:

- Insert a new Schedule within the Scheme Text (being Schedule 5) to list any variations to the Residential Planning Codes or any other provisions of the Scheme that may be granted by the Council for specific lots within the Town of Cottesloe;
- Relocate existing provisions relating to Lot 28 Eric Street within Schedule 5; and
- Include specific provisions relating to the subject land.

Specific provisions are listed in the Officer recommendation.

#### **CONCLUSION**

It is recommended that the Council initiate and adopt this Amendment to Town of Cottesloe given that it is consistent with previous resolutions of the Council.

**Voting Requirements**     Simple Majority

TP42

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

Moved Cr. Ewing, seconded Cr. Miller

**That Council:**

- (1) Resolve pursuant to Section 7 of the Town Planning and Development Act 1928, and the Metropolitan Region Town Planning Scheme Act (1959) amend the above Town Planning Scheme by:
- (a) Recoding Lots 64 and 65 (being Nos. 1 and 3) John Street, Cottesloe from 'R30' to 'R50'; and
  - (b) Inserting and/or modifying provisions within the Scheme Text to limit and control development on Lots 64 and 65 (being Nos. 1 and 3) John Street, Cottesloe.
- (2) Instruct the Administration to prepare Scheme Amendment documents incorporating the following Amendments:

- (a) Recoding Lots 64 and 65 (being Nos. 1 and 3) John Street, Cottesloe from 'R30' to 'R50' in accordance with the Scheme Amendment Map;
- (b) Deleting paragraph 3.4.4 (d) of the Scheme Text and replacing it with the following new paragraph:

***“(d) Residential Use***

***May be permitted in accordance with the Residential Planning Codes and the general and amenity provisions of the Scheme.”***

- (c) Adding a new clause to Part III the Scheme Text as follows:

***“3.4.11 Development Exceptions/Concessions***

***Despite anything contained in this Scheme, the Council may grant exemptions/concessions to any standard or requirement of the Scheme relating to the development of, or on land listed in Column 1 at Schedule 5 of the Scheme. Exemptions/concessions granted by the Council shall be limited to the terms and conditions listed in Column 2 at Schedule 5.”***

- (d) Adding a new Schedule (being Schedule 5) and particulars [relocated from item b) above] after Schedule 4 to the Scheme Text as follows:

	COLUMN 1 PARTICULARS OF LAND	COLUMN 2 EXEMPTIONS/CONCESSIONS THAT MAY BE GRANTED BY THE COUNCIL
1	Lot 28, Corner Eric Street and Marine Parade, Cottesloe (previously listed in paragraph 3.4.4 (d) of the Scheme)	Council may: (i) Permit a building exceeding the height controls of Part V of the Scheme so long as the building conforms with the height of adjoining buildings; (ii) Permit departures from the side and rear boundary setback requirements; (iii) Approve a development to a maximum plot ratio of 1.0 and allow it to exceed a site cover of 0.5. (iv) Notwithstanding the plot ratio limits prescribed in (iii) above, permit a higher maximum plot ratio for No. 150 (Lot 28) Marine Parade (north-east corner) Eric Street, subject to:

	COLUMN 1 PARTICULARS OF LAND	COLUMN 2 EXEMPTIONS/CONCESSIONS THAT MAY BE GRANTED BY THE COUNCIL
		(a) the maximum allowable plot ratio for the site does not exceed 1.2; (b) the additional 0.2 plot ratio is used for the purpose of allowing a caretaker's house and office to be developed on the site; and the development which incorporates the caretaker's house and office, is generally in accordance with the drawings prepared by Oldfield Knott - drawing No. 96147 - and received by Council on the 15 October, 1999.
2	Lots 64 and 65 (being No. 1 and 3) John Street, Cottesloe.	Council may permit, in relation to residential development on the land, an increase in plot ratio to a maximum of 0.70:1.0 subject to: (i) Development on the land being generally consistent with the Concept Plan approved 'in principle' by the Council at its September 2002 meeting; (ii) Retention of all mature trees on the land; (iii) Filling associated with the rear dwelling (not fronting John Street) shall not exceed 500 mm; and All fencing shall comply with any Local Law of the Town of Cottesloe.

**(3) Upon payment of the Scheme Amendment fee of \$2,300 by the applicant and preparation of Scheme Amendment documents to the satisfaction of the Manager, Development Services, the Chief Executive Officer:**

- (a) Adopts and endorses the Scheme Amendment documents on behalf of the Council; and**
- (b) Forwards the documents to the Environmental Protection Authority in accordance with Section 48 of the Environmental Protection Act.**

Carried 7/0

TP43

**NO. 58 (LOT 10) FORREST STREET, COTTESLOE – PROPOSED TWO (2) LOT SUBDIVISION**

**File No.:** No. 58 (Lot 10) Forrest Street, Cottesloe  
**Author:** Mr Kevin Broughton  
**Date of Application:** 8 April, 2002  
**Report Date:** 10 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

For Council to make a recommendation to the Western Australian Planning Commission in relation to the above subdivision application.

**PROPERTY INFORMATION**

Owner: A & EW Africh  
Applicant: Kevin McMahon – Licensed Surveyor  
Zoning: Residential

<u>Density:</u>	R20
<u>Lot Area:</u>	1029 m <sup>2</sup>
<u>Heritage:</u>	State Register of Heritage Places - N/A TPS - Schedule 1 Municipal Inventory: Category 2 National Trust - N/A Draft Heritage Report - Essential

### PLANNING FRAMEWORK AND IMPLICATIONS

Statutory Environment:	Town Planning Scheme No 12
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

### NEIGHBOUR NOTIFICATION

No neighbourhood consultation is required for subdivision referrals from the Western Australian Planning Commission.

### COMMENT

#### Site Description

The subject land is presently developed with a two (2) storey building comprising four (4) units [including two (2) walk-up] flats. The site does not have vehicle access from Forrest Street given the extensive retaining walls along the northern side of Forrest Street. Rear access to the site is provided via a constructed right-of-way however, no carparking bays exist due to the steep grade characterised in this location.

A copy of the plans are circulated separately from this report.

#### Background

The Council previously supported the creation of two (2) strata titles for the land, and issued certification to that effect. At the time of determining the strata proposal, Administration expressed concern over the absence of carparking bays.

#### Proposal

It is proposed to subdivide the land into two (2) lots of 499 m<sup>2</sup> and 530 m<sup>2</sup> respectively. Each lot would include two (2) residential units (being a ground floor and first unit).

The existing walkways/stair access and common wall be protected by a party wall easement under Section 136C of the Transfer of Land Act. The existing strata plan will be cancelled upon approval of the plan of subdivision.

Subdivisional Issues

- (1) Minimum and Average Lot Size  
The proposed subdivision does not comply with the minimum and average lot size permitted under the R20 density coding for two units on each lot.
  
- (2) Compliance with Setback and Site Requirements  
Where an existing building will remain as part of a subdivision proposal, the Local Authority must be satisfied with the existing building will comply with minimum site requirements (incl. setbacks, site cover and plot ratio) for the new boundary. In this regard, Administration advises that the dwelling will comply with the minimum setback and site requirements specified within the Residential Planning Codes.
  
- (3) Building Code of Australia  
It is noted that the Building Code of Australia requires all buildings to meet certain fire risk, fire rating and servicing requirements within the boundaries of the land, and in relation to buildings on adjoining land. Where new boundaries are proposed, the Local Authority must be satisfied that existing buildings meet the minimum requirements of the BCA.

In this instance, the existing building will be treated as if it was two (2) separate buildings. The applicant will need to demonstrate that it meets the minimum requirements of the BCA.

It is noted that this may have been satisfied at the time of the Town issuing certification for the strata plan. Notwithstanding, the minimum requirements of the BCA may have changed since this time or the strata approval may have been issued for a 'chalk-line' strata boundary only (where the BCA requirements can be largely ignored). It follows that the applicant will be required to satisfy this requirement prior to the issue of subdivisional clearances.

Given that detailed drawings for the site are not available to Administration, it is uncertain whether this requirement can be met. An appropriate condition can be recommended to the Western Australian Planning Commission in this regard.

- (4) Carparking  
Under the provisions of the Residential Planning Codes [Clause 4.3.1 (c)], the existing development would normally be required to provide four (4) carparking bays [being one (1) bay per unit]. At this time, no bays are provided on-site.

From a planning perspective it appears prudent to resolve the absence of carparking at this time. As previously highlighted in this report, no carparking can be provided from the front elevations given the existence of extensive retaining walls on the northern side of Forrest Street. Carparking must therefore be provided from the rear right-of-way. Whilst this section of the site is characterised by a relatively steep grade, it is clear that carparking can be provided in this location given numerous examples along the lane

Based on the width of the proposed lots, a total of four (4) bays [or two (2) per site] can be provided. A condition to this effect is recommended.

(5) Heritage Implications

It is clear that the existing building has heritage significance and is worthy of retention. It is considered that the proposed subdivision will have no impact on the heritage significance of the building given that no physical changes to the structure will result from the creation of a single dividing boundary.

Application procedures to modify/demolish the existing building will remain unchanged.

**CONCLUSION**

Based on the foregoing, there are no objections to the proposed subdivision.

**Voting Requirements**      Simple Majority

TP43      **OFFICER & COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Miller

That Council:

- (1) Advise the Western Australian Planning Commission that it holds no objection to the proposed subdivision of No. 58 (Lot 10) Forrest Street, Cottesloe (WAPC Ref No: 118982) subject to the following conditions:
  - (a) The right of way located to the rear of the site being paved and drained to the satisfaction of the Manager, Engineering Services, with details of the proposed works being submitted for prior approval by the Manager, Engineering Services;
  - (b) Two (2) carparking bays being provided at the rear of each proposed lot to the satisfaction of the Manager, Engineering Services and Manager, Development Services;
  - (c) All building having the necessary clearance from the new boundaries as required by Town Planning Scheme No. 2;
  - (d) Provision of a party wall easement over the common landings, stairways and dividing walls in accordance with the Transfer of Land Act; and
  - (e) All buildings complying with the Building Code of Australia and certification being granted by the Local Authority prior to the issuance of subdivision clearances.
- (2) The applicant is advised that Support for this subdivision does not represent approval for any works on the land. Separate application must be made and approved prior for any filling of the land, construction of carports or modifications to the existing building to ensure compliance with the Building Code of Australia.

**AMENDMENT**

Moved Cr. Miller, seconded Cr. Birnbrauer

That the motion be amended by adding the following:

*“(3) Authorise the Manager, Development Services, to discuss in further detail the subdivision proposal with staff from the Department for Planning and Infrastructure staff.”*

Carried 7/0

The amended motion was put.

TP43 **COUNCIL RESOLUTION**

**That Council:**

- (1) Advise the Western Australian Planning Commission that it holds no objection to the proposed subdivision of No. 58 (Lot 10) Forrest Street, Cottesloe (WAPC Ref No: 118982) subject to the following conditions:**
  - (a) The right of way located to the rear of the site being paved and drained to the satisfaction of the Manager, Engineering Services, with details of the proposed works being submitted for prior approval by the Manager, Engineering Services;**
  - (b) Two (2) carparking bays being provided at the rear of each proposed lot to the satisfaction of the Manager, Engineering Services and Manager, Development Services;**
  - (c) All building having the necessary clearance from the new boundaries as required by Town Planning Scheme No. 2;**
  - (d) Provision of a party wall easement over the common landings, stairways and dividing walls in accordance with the Transfer of Land Act; and**
  - (e) All buildings complying with the Building Code of Australia and certification being granted by the Local Authority prior to the issuance of subdivision clearances.**
- (2) The applicant is advised that Support for this subdivision does not represent approval for any works on the land. Separate application must be made and approved prior for any filling of the land, construction of carports or modifications to the existing building to ensure compliance with the Building Code of Australia.**
- (3) Authorise the Manager, Development Services, to discuss in further detail the subdivision proposal with staff from the Department for Planning and Infrastructure staff.**

Carried 7/0



TP44 **NO. 12-18 (LOTS 31 & 32) NAPOLEON CLOSE, COTTESLOE – PROPOSED CHANGE OF USE (RESTAURANT TO OFFICE)**

**File No.:** No. 12-18 (Lots 31 and 32) Napoleon Close, Cottesloe  
**Author:** Mr Kevin Broughton  
**Date of Application:** 26 April, 2002  
**Report Date:** 10 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

For Council to consider an application to change the use of the existing tenancy from 'Restaurant' to 'Office'.

**PROPERTY INFORMATION**

Owner: JA Property Pty Ltd  
Applicant: Richard Ellis – Property Managers  
Zoning: Town Centre  
Density: N/A  
Heritage: N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Town Planning Scheme No. 2
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

**NEIGHBOUR NOTIFICATION**

No neighbourhood consultation has been undertaken given the minor nature of the application.

**COMMENT**

Site Description

The subject land is presently developed with a two (2) storey commercial building comprising various tenancies. This application relates to an 83.5 m<sup>2</sup> tenancy located on the first floor.

Background

The subject tenancy forms part of a commercial building approved in the 1980s. Application to change the tenancy from office to restaurant was granted in the early 1990s.

Proposal

It is proposed to change the use of the tenancy from a 'restaurant' to 'office'. The proposal will include minor internal modifications to provide a dividing office wall.

Planning Considerations

The proposed office use is a discretionary or 'AA' use within the Town Centre zone. The proposed office is considered acceptable from a land-use point of view given:

- The existence of other offices within the immediate area;
- There are various offices within the same commercial complex;
- The office use will not prejudice preferred retail uses given that the tenancy is located on the first floor; and
- The subject tenancy was previously approved for office purposes.

The only significant planning issue relates to carparking. In this regard, Administration provides the following comments:

- There are no carparking bays provided on-site;
- The subject tenancy was originally approved for office purposes. No significant change to carparking needs within the area will therefore result.

It is considered that the office complies with the minimum carparking requirements of Town Planning Scheme No. 2.

**CONCLUSION**

Based on the foregoing, there are no objections to the proposed change of use.

**Voting Requirements**      Simple Majority

TP44      **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council GRANT its Approval to Commence Development for a change of use (restaurant to office) at No. 12-18 (Lots 31 and 32) Napoleon Street, Cottesloe in accordance with the plans received on the 26 May, 2002, without conditions.**

Carried 7/0

TP45      **NO. 64 (LOT 6) CNR BROOME AND ROSSER STREETS, COTTESLOE – PROPOSED TWO (2) LOT SUBDIVISION**

<b>File No.:</b>	<b>No. 64 (Lot 6) Broome Street, Cottesloe</b>
<b>Author:</b>	<b>Mr Kevin Broughton</b>
<b>Date of Application:</b>	<b>8 April, 2002</b>
<b>Author Report Date:</b>	<b>10 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

**PURPOSE OF REPORT**

For Council to make a recommendation to the Western Australian Planning Commission in relation to the above subdivision application.

### PROPERTY INFORMATION

<u>Owner:</u>	A & EW Africh
<u>Applicant:</u>	Kevin McMahon – Licensed Surveyor
<u>Zoning:</u>	Residential
<u>Density:</u>	R20
<u>Lot Area:</u>	926 m <sup>2</sup>
<u>Heritage:</u>	State Register of Heritage Places - N/A

### PLANNING FRAMEWORK AND IMPLICATIONS

Statutory Environment:	Town Planning Scheme No. 2
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

### NEIGHBOUR NOTIFICATION

No neighbourhood consultation is required for subdivision referrals from the Western Australian Planning Commission.

### COMMENT

#### Site Description

The subject land is presently developed with a two (2) storey building comprising four (4) units/flats (circa 1950s). Access to the site and a common carparking area is provided from Rosser Street.

Surrounding land is primarily developed for single residential housing (variable in height) and local open space.

#### Background

The Town of Cottesloe has not considered any applications for the subject land since construction of the existing building in the 1950s.

#### Proposal

It is proposed to subdivide the land into two (2) lots of 465 m<sup>2</sup> and 461 m<sup>2</sup> respectively. It is intended that the existing two (2) storey flats will be demolished.

#### Planning Considerations

##### (1) Minimum and Average Lot Size

The subject land has a density coding of R20 under the Town of Cottesloe Town Planning Scheme No. 2. Under the provisions of the Residential Planning Codes, the following criteria applies:

- Grouped Dwellings: 450 m<sup>2</sup> per unit
- Single Residential Subdivision:
  - Average Lot Size 500 m<sup>2</sup>
  - Minimum Lot Size 450 m<sup>2</sup>

It is clear from the above summary that the proposed subdivision:

- Complies with the minimum lot area specified under the Residential Planning Codes; and
- Does not comply with the average lot size required under the Residential Planning Codes (average being 477 m<sup>2</sup> including the adjoining truncation).

Notwithstanding, the Western Australian Planning Commission has published a Planning Bulletin relating to variations to minimum and average lot size (being Planning Bulletin No. 20). The Bulletin states that the Western Australian Planning Commission is prepared to accept variations to minimum and average lot size in established residential areas where:

- The variation is not greater than 10% to average and minimum lot size;
- The variation will not adversely affect the character of the area;
- Such a variation is consistent with the objectives of the Town Planning Scheme; and
- Consent is given by the Local Authority.

The proposed subdivision is consistent with the above criteria given:

- The variation to average lot size does not exceed 10%;
- The proposed subdivision will facilitate continued single residential character; and
- Town Planning Scheme No. 2 seeks to establish and maintain the existing character of residential areas. As described above, the proposed subdivision will facilitate the continued single residential character of the area.

Based on the above, the proposed subdivision can comply with the assessment criteria established by the Western Australian Planning Commission.

(2) Zoning Intent/Impact on Character

In making its decision, the Council should be aware that two (2) grouped dwellings can be developed on the land given that the lot area exceeds 900 m<sup>2</sup>. Each dwelling site may be strata-titled either as a traditional strata or as a survey-strata lot.

It follows that no consequential impact on the character of the area will result given that:

- Two (2) dwellings can be developed on the land regardless of whether a subdivision is approved; and
- The proposed subdivision will allow two (2) single residential dwellings to be developed on the site which is closer to the zoning intent and prevailing character.

It is noted that any future dwellings will require further approval from the Council.

## **CONCLUSION**

Based on the foregoing, there are no objections to the proposed subdivision.

Voting Requirements Simple Majority

TP45 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Miller

**That Council advise the Western Australian Planning Commission that it holds no objection to the proposed subdivision of No. 64 (Lot 6) Cnr Broome and Rosser Streets, (WAPC Ref No: 118857) subject to the following conditions:**

- (1) The existing building being demolished prior to the issue of clearances and any demolition being approved by the Town of Cottesloe prior to any demolition works commencing.
- (2) The site being stabilised to the satisfaction of Council's Building Surveyor.

Carried 7/0

TP46 **NO. 10 (LOT 5) CNR HAINING AVENUE AND CHARLES STREET, COTTESLOE – PROPOSED TWO (2) LOT SUBDIVISION**

**File No.:** No. 10 (Lot 5) Haining Avenue, Cottesloe  
**Author:** Mr Kevin Broughton  
**Date of Application:** 17 April, 2002  
**Report Date:** 10 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

For Council to make a recommendation to the Western Australian Planning Commission in relation to the above subdivision application.

**PROPERTY INFORMATION**

Owner: TJ and CA Walsh  
Applicant: Peter Driscoll and Associates – Licensed Surveyors  
Zoning: Residential  
Density: R20  
Lot Area: 971 m<sup>2</sup>  
Heritage: State Register of Heritage Places - N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Town Planning Scheme No. 2
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

**NEIGHBOUR NOTIFICATION**

No neighbourhood consultation is required for subdivision referrals from the Western Australian Planning Commission.

## COMMENT

### Site Description

The subject land is presently developed with a single storey residential dwelling (circa 1960s). The Lot has frontage to Haining Avenue and Charles Street which are constructed to sealed urban standard.

Surrounding land is primarily developed for single residential housing with varying densities. A medium density site is located in Millers Court.

A copy of the plans is circulated separately from this report.

### Background

The Town of Cottesloe has not considered any applications for the subject land.

### Proposal

It is proposed to subdivide the land into two (2) lots of 453 m<sup>2</sup> and 571 m<sup>2</sup> respectively. It is intended that the existing dwelling will be demolished.

### Planning Considerations

#### (1) Minimum and Average Lot Size

The subject land has a density coding of R20 under the Town of Cottesloe Town Planning Scheme No. 2. Under the provisions of the Residential Planning Codes, the following criteria applies:

- Grouped Dwellings 450 m<sup>2</sup> per unit
- Single Residential Subdivision
  - Average Lot Size 500 m<sup>2</sup>
  - Minimum Lot Size 450 m<sup>2</sup>

It is clear from the above summary that the proposed subdivision:

- Complies with the minimum lot area specified under the Residential Planning Codes; and
- Does not comply with the average lot size required under the Residential Planning Codes (average being 494 m<sup>2</sup> including the adjoining truncation).

Notwithstanding, the Western Australian Planning Commission has published a Planning Bulletin relating to variations to minimum and average lot size (being Planning Bulletin No. 20). The Bulletin states that the Western Australian Planning Commission is prepared to accept variations to minimum and average lot size in established residential areas where:

- The variation is not greater than 10% to average and minimum lot size;
- The variation will not adversely affect the character of the area;
- Such a variation is consistent with the objectives of the Town Planning Scheme; and
- Consent is given by the Local Authority.

The proposed subdivision is consistent with the above criteria given:

- The variation to average lot size does not exceed 10%;

- The proposed subdivision will facilitate continued single residential character; and
- Town Planning Scheme No. 2 seeks to establish and maintain the existing character of residential areas. As described above, the proposed subdivision will facilitate the continued single residential character of the area.

Based on the above, the proposed subdivision can comply with the assessment criteria established by the Western Australian Planning Commission.

(2) Zoning Intent/Impact on Character

In making its decision, the Council should be aware that two (2) grouped dwellings can be developed on the land given that the lot area exceeds 900 m<sup>2</sup>. Each dwelling site may be strata-titled either as a traditional strata or as a survey-strata lot.

It follows that no consequential impact on the character of the area will result given that:

- Two (2) dwellings can be developed on the land regardless of whether a subdivision is approved;
- The surrounding land is developed with varying lots sizes including various 350 m<sup>2</sup> lot associated with the Millers Court subdivision;
- The proposed subdivision will allow two (2) single residential dwellings to be developed on the site which is consistent with the prevailing character of the area; and
- No precedent for further applications in the area exists given that the Haining Avenue residential cell is characterised by lots of 800-850 m<sup>2</sup> which are not capable of subdivision under the R20 coding.

It is noted that any future dwellings will require further approval from the Council.

**CONCLUSION**

Based on the foregoing, there are no objections to the proposed subdivision.

**Voting Requirements**     Simple Majority

TP46     **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council advise the Western Australian Planning Commission that it holds no objection to the proposed subdivision of No. 10 (Lot 5) Cnr Haining Avenue and Charles Street, (WAPC Ref No: 118933) subject to the following conditions:**

- (1) **The existing building being demolished prior to the issue of clearances and any demolition being approved by the Town of Cottesloe prior to any demolition works commencing.**

- (2) The site being stabilised to the satisfaction of Council's Building Surveyor.

Carried 7/0

**TP47 NO. 529 (LOT 101) STIRLING HIGHWAY- REQUEST FOR APPROVAL FOR UNSPECIFIED SPACE WITHIN AN APPROVED MEDICAL SPACE AS A PHARMACY AND SPECIALIST SUITES**

**File No.:** No. 529 (Lot 101) Stirling Highway  
**Author:** Mr Stephen Sullivan  
**Date of Application:** 26 April, 2002  
**Report Date:** 14 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

To provide a report on an application for Planning Consent for consideration by Council.

**PROPERTY INFORMATION**

Owner/Applicant: Edenlea Properties Pty Ltd  
Reserved (MRS): Primary Road Reservation  
Zoning: Town Centre  
Density: R100  
Lot Area: 2074m<sup>2</sup>  
Heritage: State Register of Heritage Places - N/A  
 TPS - N/A  
 Municipal Inventory: N/A  
 National Trust - N/A  
 Draft Heritage Report - N/A  
 Proposed TPSP No. 12 - N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Metropolitan Region Scheme Town Planning Scheme No. 2
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

**NEIGHBOUR NOTIFICATION**

Not required.

**COMMENT**

**Background**

Council has dealt with this application for a medical centre on two previous occasions. The first was to grant approval to the development and the second was to approve a reduced version of the medical centre.



The second proposal did not identify specific areas on the plans and an assessment for parking purposes was made on the layout presented in the original application. A condition was imposed on the second application stating the following:

- (b) *The portions of the building that have been identified on the plans received on the 15 October, 2001 as "Tenancy" or "Tenancy to Future Fitout" are required to be the subject of a separate application for Planning Consent for approval and the use of those un-allocated portions of the building require the necessary issue of approvals under the Metropolitan Region Scheme and the Town Planning Scheme before those un-allocated portions of building can be used.*

### **Revised Proposal**

The revised proposal sets out the proposed use of most of the remaining areas of the medical centre that had not been identified in the second proposal.

A copy of the plans is circulated separately from this report.

### **Conclusion**

The re-calculation of the car parking ratios is still being carried out and therefore, a recommendation will be presented to the Development Services Committee.

**Voting Requirements**      Simple Majority

### **OFFICER RECOMMENDATION**

That a recommendation will be presented to the Development Services Committee by the Manager, Development Services following the completion of the re-calculation of the parking requirements for the medical centre.

### **COMMITTEE COMMENT**

The Manager, Development Services advised the Committee that he had not been able to complete the review of the parking requirements for the new application. The committee felt that the Manager, Development Services should be delegated authority to make a determination on the application as the:

- (a) proposal had already been considered by Council on two previous occasions: and
- (b) the new application was as a consequence of a condition of the second approval.

### TP47      **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That the Manager Development Services be granted delegated authority to make a determination on the application for planning approval under the Metropolitan Region Scheme and the Town Planning Scheme.**

Carried 7/0

**TP48 REQUEST FOR PARTIAL SUBDIVISION OF ROW NO 31 AND AMALGAMATION INTO NO. 52 (LOT 34) JOHN STREET**

**File No.:** E13.1.31  
**Author:** Mr Stephen Sullivan  
**Report Date:** 14 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

To consider further information in relation to a request to close a portion of Right of Way No. 52 and amalgamation into No. 52 John Street.

**PROPERTY INFORMATION**

Owner of right of way Town of Cottesloe  
Owner: No. 52 John Street J & C Green  
Applicant: J & C Green  
Zoning: Residential  
Density: R20

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Land Administration Act 1997 Town Planning and Development Act Transfer of Land Act 1893
TPS Policy Implications:	N/A
Financial Implication:	Unknown legal costs should Council contest the claim through Section 222 of the Transfer of Land Act 1893
Strategic Implication:	Nil

**BACKGROUND**

The back ground to this matter is outlined below:

At its June 1998 meeting, Council resolved as follows in relation to a request for a partial closure of the right of way between the properties at No. 52 and 54 John Street:

- “(1) The Manager of Development Services arrange for a Licensed Surveyor to carry out a survey to determine the extent to which the building and the fence to No. 52 John Street encroaches into the Right of Way;*  
*(2) Having regard to the results of the survey carried out in (1) above, the Manager of Development Services be authorised to commence the process of the partial closure of the Right of Way under section 67 of the Acts Amendments (Land Administration) Act 1997.”*

The request for partial closure was based on the existing house (at No. 52 John Street) being partly located on the right of way, which is owned by Council.

At the time that the report was considered, the Land Administration Act had only recently been gazetted. At that stage, the advice received by the temporary officer was that closure should occur under section 67 of the Act. Since then, it has been established that closure should have occurred under section 52 of the Land Administration Act 1997.

The report to correct the May 1998 resolution for closure was presented to the May 2000 meetings of Council. The Officer's Recommendation to that Committee meeting is reproduced below:

*"That:*

- (1) the Manager of Development Services be authorised to:
  - (a) commence the process of the partial closure of Right of Way No. 31A under section 52 of the Land Administration Act 1997; and*
  - (b) arrange for a Licensed Surveyor to prepare the necessary documents to fulfil the requirements of section 52 of the Land Administration Act 1997.**
- (2) the owners of No. 52 John Street be advised of Council's decision.*

At the May 2000 Development Services Committee meeting, the following recommendation was adopted:

*The applicant be advised:*

- (1) The Council supports the retention of right of ways staying open.*
- (2) Council expresses concern of the narrow width of the right of way, having regard to the location of the unauthorised structure.*
- (3) Council does not support the formal closure of the portion of right of way, and;
  - (a) reserves its right in the future for the fencing to be relocated to the property boundary.*
  - (b) Any future development is to take place in the boundary of the lot."**

Prior to the proposal being considered by Council, the owners requested that consideration of the matter be deferred to the June 2000 meeting of council. Council resolved as follows:

*"That at the request of the applicant, this item be referred back to the Development Services Committee's June Meeting."*

The matter was considered at the June 2000 meeting of Council, but was deferred indefinitely until the applicants responded to the May 2000 resolution of the Development Services Committee.

On 14 July 2000, a letter was received from the owners of No. 52 John Street withdrawing their request for partial closure of the Right of Way under Section 52 of the Land Administration Act 1997.

At its February, 2002 meeting, Council resolved not to accept the recommendation of the Development Services Committee and resolved as follows:

*"That the matter be referred back to the March meeting of the Development Services Committee for further consideration."*

At its March 2002 meeting, the Development Services Committee recommended as follows:

*That Council:*

- (1) *Request the Manager, Development Services to seek confirmation from DOLA that the partial subdivision process is the appropriate process for the subdivision of the right of way into the title of No. 52 John Street; and*
  - (a) *Upon advice from DOLA that this process is appropriate, the Manager Development Services undertake option 3, including the need to advise neighbours of the possible part closure; and*
  - (b) *Should DOLA advise that the subdivision process is inappropriate, the Manager Development Services undertake the closure process under the Land Administration Act.*
- (2) *Request the Manager, Development Services to discuss with Council's solicitors the various issues associated with the closure process; and*
- (3) *Advise the applicant that the costs of the closure process would be borne by the applicant.*

The owners of No. 52 John Street requested through their solicitors that consideration of this matter be deferred. Council resolved as follows:

*That Council:*

- (1) *Defer consideration of this matter to the April 2002 meeting of Council having regard to the written request received on 22 March, 2002 from MacKinlays Solicitors on behalf of the owner of No. 52 John Street; and*
- (2) *Request the Manager, Development Services, to seek written confirmation from DOLA that the partial closure of a right of way through the subdivision process is the appropriate process for the addition of a portion of a right of way into the title of an adjoining property.*

Council has subsequently received a letter from MacKinlays – Solicitors (received 22 April, 2002) representing the Greens. The letter advises that Mr and Mrs Green will be seeking to claim the fenced off portion of the right of way through section 222 of the Transfer of Land Act 1893.

The implementation of part (2) of Council's resolution was put on hold by staff pending the receipt of further information from the Solicitors.

The letter from the solicitors has resulted in another option for the owners of the property – which is contrary to the options considered by Council at its March 2002 meeting.

## **COMMENT**

The decisions of Council relating to this matter have varied from non-support of the closure to support of the closure at the February and March 2002 meetings of Council.

Under section 222, a person in possession of land can make a claim against the owner of the land. Proof of the claim is required and a Commissioner will then determine the extent of notification/advertising that is required, before a final decision is made. The owner of the land against which the claim is being made can contest the action.

Sections 222 to 223A of the Transfer of Land Act 1893 are reproduced below:

222. Person claiming title under a statute of limitations may apply to be registered

*Any person claiming to have acquired under or by virtue of any statute of limitations an estate in fee simple in possession in land under the operation of this Act may make application in the form in the Fourth Schedule to be registered as proprietor thereof and shall furnish such evidence as the Commissioner may deem necessary to prove his title. Such application shall also state the value of the land.*

223. Application to be referred to Commissioner

*Such application with the papers shall be submitted to the Commissioner who may either reject such application altogether or direct notice thereof to be published once at least in a newspaper published in the city of Perth or circulating in the neighbourhood of the land and to be served on any persons named by him and such further publicity to be given as he shall think fit; and the Commissioner shall in such notice appoint a time not less than 14 days nor more than 12 calendar months from such notice or from the advertisement or the first of such advertisements (if more than one) on or after the expiration of which the Registrar shall unless a caveat shall be lodged forbidding the same register such applicant as the proprietor of such land by endorsing on the registered certificate in the register the particulars of the title under which such applicant claims and registering in his name a certificate of title to the land. Upon such registry being affected the applicant shall become the transferee of such land and be deemed to be the proprietor thereof.*

223A. Caveat against application

*A person claiming an estate or interest in the land in respect of which any such application is made, may before the granting thereof, lodge a caveat with the Registrar forbidding the granting of such application. Such caveat shall in all other respects be in the same form and shall have the same effect with respect to the application against which it is lodged, and be subject to the same conditions as an ordinary caveat against bringing land under the operation of this Act.*

Should Council resolve not to contest the claim, then through this process, the owners can obtain ownership of the land and incorporate the land into their title.

Council should determine whether there are any conditions that would need to be determined if it was prepared to support the claim under section 222 of the Transfer of Land Act 1893.

The title width of the right of way is 5.44m. The survey plan shows that the width of the right of way is 3.29m at John Street (between No. 52 and 54 John Street). However, the width of the right of way could be narrowed down to about 3.04m as the survey plan shows that the western boundary of the fence to No. 54 John Street is located within the boundaries of that site rather than on the common boundary with the right of way. Therefore, if the fence for No. 54 John Street was re-aligned correctly, then the width of the northern section of the right of way would be reduced by about 0.25m to approximately 3.04m.

The two other John Street exit points of the right of way are 2.72m in width.

The issues are:

- (a) whether consultation of affected property owners that may use the right of way should occur; and
- (b) is the right of way width adequate;

Part (a) could occur through Section 223 of the Transfer of Land Act 1893, which would require an objector to lodge a caveat against the application. Alternatively, Council could canvass property owners and ascertain their opinion before determining its final position on this matter.

In relation, to part (b), Council has already supported the closure of the right of way and therefore, it is seen as not being an issue unless it raised through a submission period.

Should Council not support the claim, then legal advice would need to be sought before objecting to the claim to determine the chances of success against such a claim.

Legal advice has not been sought on this request at this stage.

## **CONCLUSION**

Based on Council's February and March resolutions to allow for the partial closure of the right of way, it is recommended that Council not object to the closure of the right of way through section 222 of the Transfer of Land Act 1893.

## **TP48 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That Council advise MacKinlays – Solicitors, that in response to their letter dated 22 April 2002, that should a claim be made under Section 222 of the Transfer of Land Act 1893 for the fenced off portion of right of way No. 52, Council will not contest the claim.**

Carried 7/0

TP49 **POSITION PAPER – CONSOLIDATION AND STREAMLINING OF PLANNING LEGISLATION – PREPARED BY THE DEPARTMENT FOR PLANNING AND INFRASTRUCTURE**

**File No.:** X8.16  
**Author:** Mr Stephen Sullivan  
**Date of Application:** N/A  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

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**PURPOSE OF REPORT**

To provide a report on the position paper developed by the Department for Planning and Infrastructure for consideration by Council.

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Will affect various Acts
TPS Policy Implications:	N/A
Financial Implication:	May impact on Council resources
Strategic Implication:	Nil

**COMMENT**

The Department for Planning and Infrastructure has released a position paper on the “Consolidation and Streamlining of Planning Legislation” – which has previously been circulated to Councillors. The paper provides an overview of the changes that the Government is seeking to implement or seeking comment on in terms of updating and streamlining the planning legislation. The paper covers 26 different issues.

The position paper is one of the first steps in the process of bringing about change. Submissions have been requested by the 24 May, 2002. A Stakeholders forum has already been held with various peak bodies that would be affected by the changes. Following the review of submissions, a discussion paper will be developed and circulated for further comment.

The position paper identifies various matters that the Government is seeking to change or seek comment on. Some areas will not affect Council, whilst others may have a major impact on planning in the locality or on Council’s resources.

The position paper identifies issues for comment. The concept of updating and streamlining the planning process warrants support. However, it will be the detail in the changes proposed to the planning legislation that Council will need to critically assess to determine the actual impact of these changes.

There are a few issues that need to be highlighted and these are identified below:

- 4.9 Relationship between Subdivision and Town Planning Schemes  
This issue relates to Section 20(5) of the Town Planning and Development Act. This was introduced by the then Minister for

Planning – Mr R. Lewis, to allow the Western Australian Planning Commission to override Town Planning Schemes in relation to the subdivision process. Council has previously supported the repeal of this section and it should be re-iterated in this response.

4.10 Deemed Approval Pursuant to Conditions of Subdivision Approval

It is proposed that all subdivisional works should be exempt from development approval. The section does not clearly define what “subdivisional works” are. This raises major concerns in relation to established Local Authorities.

The filling of sites in a greenfield area is less likely to have an impact than filling of sites in an infill situation. Whilst the section may be trying to address the provision of services, it does have implications for an established area and may be seen as a way of by-passing the consultation and approval process under the Town Planning Scheme. For instance, the filling of sites to provide a flat building site may result in non-compliance with building heights controls and may have an adverse impact on neighbouring properties due to the construction of retaining walls.

The section makes reference to the filling of land not being a development control matter. The Western Australian Planning Commission subdivision policies do not address the matter of heritage under the Local Authority Town Planning Schemes. The issue is whether the demolition of an existing building to achieve the filling and/or subdivision of land is a matter that is considered to be a “subdivisional matter”. If so, this would then possibly exempt the applicant from obtaining planning approval for the demolition of the building under the Town Planning Scheme. If it was a heritage building in a precinct or on a Town Planning Scheme policy, then the subdivision process could be used to undermine the provisions or policies of the Town Planning Scheme.

4.18 Delegation of Some Subdivision to Local Government

The subdivision approval process is currently being reviewed.

This proposal seeks to devolve some of the decision making powers relating to specific types of subdivision to the Local Authority. It will enable the State Government staff to focus on more strategic issues.

The issue for Council is that whilst it may become the decision maker for the smaller types of subdivision proposals, there will be a resourcing issue for Council. The Local Authority staff would become the co-ordinating authority in the subdivision process – a role that is currently being undertaken by the Department for Planning and Infrastructure staff.

It is also anticipated that Council will need to administer the Western Australian Planning Commission policies as if they were the Commission. Further, any appeals to the Minister for Planning and Infrastructure or Town Planning Appeal Tribunal against a decision, would probably need to be defended by the Local Authority.



The details of this change and the resource implication to Council would need to be scrutinised closely.

4.22 Call-in Power for Developments of State Significance

This will allow the Minister for Planning and Infrastructure to become the decision maker in terms of a development application that would be deemed to be of State Significance. The definition of state significance and how that definition can be changed would need to be spelt out clearly before a position on this aspect could be made. It is considered that this would not be likely to impact greatly on Cottesloe.

**CONCLUSION**

Cautious support for the changes are warranted and it won't be until the details of the changes that have been published, will all groups be in a position to form a position and provide definitive support or objection to the proposals.

**Voting Requirements**      Simple Majority

**OFFICER RECOMMENDATION**

That Council

- (1) advise the Department for Planning and Infrastructure that:
  - (a) Council notes the contents of the position Paper and supports in principle the objectives of the changes;
  - (b) will not be in a position to provide a comprehensive response to the proposed changes until the details of those changes have been clearly identified;
  - (c) as the proposals could have wide ranging effects, it believes that a comprehensive consultation process and submission period should be undertaken to allow all stakeholders an opportunity to comment on the detail of the proposed changes.
  - (d) it expresses its:
    - (i) concern in relation to part 4.10 and 4.18 of the Position Paper; and
    - (ii) support for the repeal of section 20(5) of the Town Planning and Development Act.
- (2) the Administration send a copy of the report on the Position Paper to the Department for Planning and Infrastructure as part of its submission.

**COMMITTEE COMMENT**

The Chairperson of the Development Services Committee raised a couple of issues that were discussed at the May meeting of the Western Suburbs District Planning Committee. It was agreed that an part (1)(d)(i) should be modified by including reference to part 4.22 of the position paper, which related to the call in powers of the Minister. The concern related to the definition of what type of development applications could fit within the term, of "state significance".

**COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Miller

That Council

- (1) advise the Department for Planning and Infrastructure that Council:
  - (a) notes the contents of the position Paper and supports in principle the objectives of the changes;
  - (b) will not be in a position to provide a comprehensive response to the proposed changes until the details of those changes have been clearly identified;
  - (c) believes that a comprehensive consultation process and submission period should be undertaken to allow all stakeholders an opportunity to comment on the detail of the proposed changes, as the proposals could have wide ranging effects;
  - (d) expresses its:
    - (i) concern in relation to part 4.10, 4.18 and 4.22 of the Position Paper; and
    - (ii) support for the repeal of section 20(5) of the Town Planning and Development Act.
- (2) Request Administration send a copy of the report on the Position Paper to the Department for Planning and Infrastructure as part of its submission.

**AMENDMENT**

Moved Cr. Morgan, seconded Cr. Ewing

That the motion be amended by adding the following:

*“(3) Request the Chief Executive Officer to write to the Minister expressing Council’s concern that insufficient time was given to the Council’s limited human resources to respond to this important Position Paper.”*

Carried 7/0

The amended motion was put.

TP49

**COUNCIL RESOLUTION**

**That Council:**

- (1) **Advise the Department for Planning and Infrastructure that Council:**
  - (a) **notes the contents of the position Paper and supports in principle the objectives of the changes;**
  - (b) **will not be in a position to provide a comprehensive response to the proposed changes until the details of those changes have been clearly identified;**
  - (c) **believes that a comprehensive consultation process and submission period should be undertaken to allow all stakeholders an opportunity to comment on the detail of the proposed changes, as the proposals could have wide ranging effects;**
  - (d) **expresses its:**
    - (i) **concern in relation to part 4.10, 4.18 and 4.22 of the Position Paper; and**

- (ii) support for the repeal of section 20(5) of the Town Planning and Development Act.
- (2) Request Administration send a copy of the report on the Position Paper to the Department for Planning and Infrastructure as part of its submission.
- (3) Request the Chief Executive Officer to write to the Minister expressing Council's concern that insufficient time was given to the Council's limited human resources to respond to this important Position Paper.

Carried 7/0

TP50

**NO. 343 (LOT 42) MARMION STREET – TWO STOREY BRICK AND TILE SINGLE HOUSE**

File No.: No. 343 Marmion Street  
Author: Ms. Maria Bonini  
Date of Application: 23 April, 2002  
Report Date: 16 May, 2002  
Author Disclosure of Interest: Nil

**PURPOSE OF REPORT**

To make a determination on an application for planning consent for a two storey brick and tile single house.

**PROPERTY INFORMATION**

Owner: Mr. H. Sacks  
Applicant: Neil Robertson - Architect  
Zoning: Residential  
Density: R20  
Lot Area: 645m<sup>2</sup>  
Heritage: State Register of Heritage Places - N/A  
TPS - N/A  
Municipal Inventory: N/A  
National Trust - N/A  
Draft Heritage Report - N/A  
Proposed TPSP No. 12 - N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Residential Planning Codes No. 2 Town Planning Scheme
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

**AREAS OF NON-COMPLIANCE**

<b>Discretionary Provisions</b>	<b>Min/Required</b>	<b>Proposed</b>
Side setback to north wall for upper Balcony 1, Bedroom 1, Balcony 2.	3.2m	1.53m

**Submissions Received**

The only submission received was from the owners of 341 Marmion Street. The main concern expressed is based on overshadowing and the impact the proposed residence will impose on their property.

**Background**

No property file exists for the property, therefore, no history on the property is obtainable

**Staff Comment**

The applicants are proposing to construct a two storey residence with vehicular access from the right of way.

Comments on Submissions

The submission received from 341 Marmion Street is based upon the concern of overshadowing that the proposed residence may cause to their property. A Shadow Plan was requested from the applicant. The result of those calculations is that the proposed building cast a shadow of 38% over the adjoining property.

The Residential Planning Codes stipulate:

*“No development shall cause more than 50% of an adjoining lot to be in shadow at noon on June 21...”*

The proposed residence is within the requirements as set out in the Residential Planning Codes and is therefore seen to comply.

Furthermore, the initial plans submitted to Council indicated a Finished Floor Level (FFL) of 9.6RL. This resulted in over height walls and therefore increased the potential for overshadowing. This was addressed by the Architect through lowering the FFL to 9.2m. The proposed residence is deemed to be acceptable through the modifications made as well as the compliance with the Residential Planning Code.

**CONCLUSION**

The application for a new two storey residence at No. 343 Marmion Street, Cottesloe is recommended for approval, subject to conditions.

Compliance has been met in all areas. Overshadowing calculations of the proposed residence to 341 Marmion Street clearly demonstrates compliance with the Residential Planning Codes. The Architect has also endeavoured to address the issue of overshadowing through reducing the FFL. On this basis Council is encouraged to support this application.

**Voting**

Simple Majority.

**OFFICER RECOMMENDATION**

That Council:

- (1) GRANT Planning Consent for the new two storey single house at No. 343 (Lot 42) Marmion St, Cottesloe, as shown on the revised plans received on 9 May, 2002, subject to the following conditions:
  - (a) All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.
  - (c) The existing crossover and kerb into Marmion Street is to be removed at the applicant costs before the conclusion of the works and all surfaces made good to the satisfaction of the Manager of Engineering Services.
  - (d) The Right of Way located at the rear (adjacent to the property) shall be paved and drained to the satisfaction of the Manager of Engineering Services. Details of the proposed works shall be submitted in accordance with the guidelines and approved prior to commencement of works.
  - (e) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.
  - (f) Revised plans shall be submitted by the applicant for approval by the Manager of Development Services, such plans showing details of the front boundary fence and the water feature;
  - (g) The owner of 343 Marmion Street to approach the owner/s of the privately owned Right of Way (ROW) prior to Building Licence Application to ensure that they are permitted to use the ROW for primary access to the property;
  - (h) The applicant is required to submit detailed plans and specifications to Council's Environmental Health Officer, for any proposed grey water and rainwater facilities proposed for the site. The details should be incorporated into the Building Licence Application. Approval of such facilities is required prior to the commencement of development.
- (2) Advise submitters of Council's decision.

**COMMITTEE COMMENT**

The Committee expressed concern (under clauses 1.7.1(f) of the Residential Planning Codes and 5.1.2(f) and (j) of the Town Planning Scheme text) in relation to the overshadowing impact that the proposed development would have on the building located to the south.

TP50 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

- (1) That a decision on this matter be deferred to the June Development Services Committee Meeting; and
- (2) the applicant be requested to submit revised plans which will address the overshadowing issue of the property at No. 341 Marmion Street as set out in clause 1.7.1(f) of the Residential Planning Codes and Clauses 5.1.2 (f) and (j) of the No. 2 Town Planning Scheme Text.

Carried 6/1

TP51 **NO.14 (LOT 101) FORREST STREET – UPPER FLOOR STAIRWELL WINDOW ON WESTERN WALL**

**File No.:** No. 14 (Lot 101) Forrest Street  
**Author:** Ms. Maria Bonini  
**Date of Application:** 10 April, 2002  
**Report Date:** 14 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

To make a determination on an upper floor stairwell window on the western wall based on the plans dated 10 April 2002.

**PROPERTY INFORMATION**

**Owner:** Keith and Barbara Campbell  
**Applicant:** Craig Deans Architectural Design and Drafting  
**Zoning:** Residential  
**Density:** R20  
**Lot Area:** 380m<sup>2</sup>  
**Heritage:** State Register of Heritage Places - N/A  
 TPS - N/A  
 Municipal Inventory: N/A  
 National Trust - N/A  
 Draft Heritage Report - N/A  
 Proposed TPSP No. 12 - N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Town Planning Scheme No. 2 Residential Planning Codes
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

**NEIGHBOUR NOTIFICATION**

Neighbour at 12 Forrest Street was notified in writing by the owners of the subject property – an objection was received.

### COMMENT ON SUBMISSION RECEIVED

The stairwell window represents an inclusion to already approved plans for a two storey residence at 14 Forrest Street. A submission has been received from the owner of 12 Forrest Street, which is located to the South of the subject property. It raises concern in relation to overlooking into his residence.

A site inspection was conducted on 14 May 2002 to investigate and determine the likely impact of the stairwell window on 12 Forrest Street. Based on the observations made, it was determined that when standing at various points in the lounge room on the upper floor, a view to 12 Forrest Street would occur towards the front yard and a wall with no major openings to habitable rooms.

The owner of 12 Forrest Street expressed concerns about overlooking into the main living areas of his residence. However, this will not be possible due to the internal wall of the study at 14 Forrest Street preventing the ability to view at that angle. Furthermore, there is no potential for overlooking to occur from the stairs as the sill height is 2.4m high above the treads.

It is also important to note that the additional window does not result in a non-compliance with the setback requirement for that wall as per the Residential Planning Codes.

### CONCLUSION

It is recommended that the upper stairwell window on the western wall at No. 14 Forrest Street be approved. The stairwell window is not considered to cause any overlooking that will impact on the amenity and privacy of 12 Forrest Street.

**Voting Requirements**      Simple Majority

### TP51      OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Miller

- (1) **That the application for Planning Consent be GRANTED for the upper floor stairwell window on the western wall at No. 14 (Lot 101) Forrest Street Cottesloe, as shown on the plans received on 10 April, 2002, subject to the following conditions: the external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.**
- (2) **The submitter be advised of this decision.**

Carried 7/0

**TP52 NO. 8 (LOT 77) MARINE PARADE – TWO STOREY RENDER AND METAL RESIDENCE**

**File No.:** No. 8 (Lot 77) Marine Parade  
**Author:** Ms. Maria Bonini  
**Date of Application:** 12 April, 2002  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

**PURPOSE OF REPORT**

To make a determination on an application for planning consent for a two storey render and metal residence.

**PROPERTY INFORMATION**

Owner: Mr. G. Dodds  
Applicant: Webb and Brown-Neaves  
Zoning: Residential  
Density: R20  
Lot Area: 286m<sup>2</sup>  
Heritage: State Register of Heritage Places - N/A  
 TPS - N/A  
 Municipal Inventory: N/A  
 National Trust - N/A  
 Draft Heritage Report - N/A  
 Proposed TPSP No. 12 - N/A

**PLANNING FRAMEWORK AND IMPLICATIONS**

Statutory Environment:	Residential Planning Codes No. 2 Town Planning Scheme
TPS Policy Implications:	N/A
Financial Implication:	Nil
Strategic Implication:	Nil

**AREAS OF NON-COMPLIANCE**

<b>Discretionary Provisions</b>	<b>Min/Required</b>	<b>Proposed</b>
Rear setback	6.0m av	7.0m av calculated from the centre of the right of way
Side setback to southern ground floor garage wall – height 2.9m, length 9.0m, no major openings	1.0m	Nil
Side setback to southern ground floor ensuite wall – height 3.0m, length 14.0m, no major openings	1.5m	1.0m
Side setback to northern first floor dining room wall – height 6.2m, length 13.2m, no major openings	1.7m	1.5m



## NEIGHBOUR NOTIFICATION

Neighbours contacted by Registered Post – 1 submission was received.

## STAFF COMMENT

### Background

The property at 8 Marine Parade is currently a vacant lot. The previous residence was demolished in 1995. The current application is for a two storey render and metal residence.

### Rear Setback

The rear setback of the proposed residence does not meet the 6m setback requirement measured from the lot boundary to the garage as stipulated in Table 1 of the Residential Planning Codes. However, the Residential Planning Codes also state:

*“Where a lot adjoins a right of way, pedestrian accessway or similar the required setback may be reduced by half the width of the right of way or accessway. The effect of this is that the setback is measured from the centreline of the right of way...”*

When applying the above, the 6m rear setback does average and therefore complies with the identified variation in the Residential Planning Codes. Council is encouraged to acknowledge this compliance and apply discretion to the rear setback variation.

### Side Setbacks

The wall of the garage and store is proposed to be located on the southern boundary at the rear of the property. Clause 1.5.8 (f) of the Residential Planning Codes allows Council to permit walls to be located on the boundary based on the height and length of wall. The proposed parapet wall for the subject property meets the specifications of this clause. Furthermore, no comments have been received from 6 Marine Parade objecting to the parapet wall.

A variation is sought for the setback of the southern ground floor ensuite wall. Whilst a 1.5m setback is required under the Residential Planning Codes, Council has the ability to vary this provision. In the opinion of Administration, the wall setback at 1m is not seen to pose a negative impact upon the amenity of 6 Marine Parade. The windows are at a sill height of 1.65m from the Finished Floor Level (FFL) and to non-habitable rooms.

There is a variation to the setback of the northern first floor dining room wall. A setback of 1.5m is proposed. The required setback is 1.7m as per the Residential Planning Codes. The wall does not contain major openings and is considered to be a very minor variation. There was no objection received from 10 Marine Parade regarding this.

### Comments on Submissions

A submission has been received from the owners of 11 Curtin Avenue. It raises concern in relation to the upper floor kitchen window facing east and the potential to compromise the privacy to the rear of their property. In the letter, it was suggested that the window be moved to the north wall or reduced in size to two smaller windows. There was also a suggestion for a tree to be planted in the south-east corner of the courtyard to improve privacy levels.

In the opinion of Administration, the placement of the kitchen window would cause more potential for overlooking to 10 Marine Parade if it were placed on the north wall as the distance between the window and 10 Marine Parade would only be 3.7m. The kitchen window facing east is a considerable distance away from 11 Curtin Avenue. It is setback 3.4m from the boundary and there is a further 6.2m separation due to the right of way. In total the window is setback 9.6m from the rear neighbour. At that distance, the window is not considered to pose an overlooking concern into 11 Curtin Avenue and therefore it is not necessary to be reduced in size.

It is also important to note that the general application of the Residential Planning Codes favour the location of windows facing the front and rear of the property. It is considered to have less impact to front and rear neighbours due to the adequate distances provided by the front and rear setback requirements. The owners of 8 Marine Parade are requested to give consideration to placing a tree in the rear of their property to enhance the level of privacy between the adjoining properties.

### CONCLUSION

It is recommended that the proposed residence at 8 Marine Parade be approved subject to conditions.

The east facing window is recommended for approval as proposed as it is located a considerable distance away from 11 Curtin Avenue.

The parapet wall on the southern boundary complies with clause 1.5.8 (f) of the Residential Planning Codes in relation to boundary walls with no objection received. The remaining setback variations are considered to be minor with no adverse impacts to adjoining properties and there have been no objections received. They are recommended for approval.

**Voting Requirements**     Simple Majority

### OFFICER RECOMMENDATION

- (1) That the application for Planning Consent be GRANTED for the two storey render and metal residence at No. 8 (Lot 77) Marine Parade Cottesloe, as shown on the plans received on the 12 April, 2002, subject to the following conditions:
  - (a) All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the

- disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.
- (c) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.
  - (d) The owner shall treat the roof surface to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (e) The Right of Way located to the rear of the site shall be paved and drained to the satisfaction of the Manager of Works and Special Projects. Details of the proposed works shall be submitted for approval by the Manager of Works and Special Projects.
  - (f) Any front boundary fencing to Marine Parade shall be of an 'Open Aspect' design and subject of a separate application to Council.
- (2) The submitters be advised of this decision.

### **COMMITTEE COMMENT**

Concern was expressed in relation to the:

- (a) request for a variation to the rear setback (measured from the centre of the right of way); and
- (b) difficulty in manoeuvring the turning area into and out of the garages, having regard to the right of way which terminates at the southern boundary of this site.

To address these issues, the Committee added condition (1)(g) which required compliance with the rear setback which would then help in terms of the turning path of vehicles into and out of the property.

### **COMMITTEE RECOMMENDATION**

Moved Cr. Ewing, seconded Cr. Miller

- (1) That the application for Planning Consent be GRANTED for the two storey render and metal residence at No. 8 (Lot 77) Marine Parade Cottesloe, as shown on the plans received on the 12 April, 2002, subject to the following conditions:
  - (a) All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.
  - (c) The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.
  - (d) The owner shall treat the roof surface to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of

- adjoining or nearby neighbours following completion of the development.
- (e) The Right of Way located to the rear of the site shall be paved and drained to the satisfaction of the Manager of Works and Special Projects. Details of the proposed works shall be submitted for approval by the Manager of Works and Special Projects.
  - (f) Any front boundary fencing to Marine Parade shall be of an 'Open Aspect' design and subject of a separate application to Council.
  - (g) Revised plans shall be submitted for approval by the Manager of Development Services, such plans showing the:
    - (i) proposed building being modified by complying with a 6.0m rear average setback;
    - (ii) modifications to the rear fence in order to improve vehicular access to the property.
- (2) The submitters be advised of this decision.

### AMENDMENT

Moved Cr. Morgan, seconded Cr. Utting

That the motion be amended by the addition of:

*“(3) The east facing window have a sill height of 1.6m and be fitted with obscure glass.”*

Lost 2/5

### TP52 COUNCIL RESOLUTION

- (1) **That the application for Planning Consent be GRANTED for the two storey render and metal residence at No. 8 (Lot 77) Marine Parade Cottesloe, as shown on the plans received on the 12 April, 2002, subject to the following conditions:**
- (a) **All construction work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.**
  - (b) **Stormwater runoff from the driveway or any other paved portion of the site is not permitted to be discharged onto the street reserve or adjoining properties. Details on the method to be used for the disposal of the stormwater runoff within the boundaries of the site shall be included within the working drawings.**
  - (c) **The external profile of the development as shown on the approved plans, shall not, except with the written consent of Council, be added to, amended or changed whether by the addition of any service plant, fitting, fixture or otherwise.**
  - (d) **The owner shall treat the roof surface to reduce glare if, in the opinion of Council, the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**

- (e) The Right of Way located to the rear of the site shall be paved and drained to the satisfaction of the Manager of Works and Special Projects. Details of the proposed works shall be submitted for approval by the Manager of Works and Special Projects.
  - (f) Any front boundary fencing to Marine Parade shall be of an 'Open Aspect' design and subject of a separate application to Council.
  - (g) Revised plans shall be submitted for approval by the Manager of Development Services, such plans showing the:
    - (i) proposed building being modified by complying with a 6.0m rear average setback;
    - (ii) modifications to the rear fence in order to improve vehicular access to the property.
- (2) The submitters be advised of this decision.

Carried 5/2

### HEALTH

#### H1 NO. 104 (LOT 39) MARINE PARADE – COTTESLOE BEACH HOTEL

File No.: No. 104 Marine Parade  
Author: Ms Ruth Levett  
Report Date: 13 May, 2002  
Author Disclosure of Interest: Nil

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#### **PURPOSE OF REPORT**

The purpose of the report is to recommend a course of action to Council based on the history of events, such as complaints and reported incidents, in relation to the Cottesloe Beach Hotel over the summer period from November, 2001 to April 2002.

#### **Statutory Environment**

Nil.

#### **Policy Implications**

Nil.

#### **Strategic Implications**

Nil.

#### **Financial Implications**

Nil.

#### **BACKGROUND**

At the September, 2001 meeting of Full Council it was resolved to adopt a Community Response Plan to monitor activities associated with the Cottesloe Beach Hotel in order to determine if there is sufficient cause for Council to proceed with a Section 117 Complaint pursuant to the Liquor Licensing Act.

The Plan, which covers the following issues, requires the Administration to report to Council with a proposed course of action based on complaints received over the summer period:

- Standard Complaint Form
- Informal Reporting
- Keeping of Records
- Consultation
- Reporting
- Action.

### CONSULTATION

Regular meetings are held with the Licensee of the Hotel, Police, Liquor Licensing Division, residents and Council.

### STAFF COMMENT

The following table lists the complaints received in writing and verbally since October, 2001. Residents are encouraged to lodge complaints about specific incidents in writing.

Complaint	Date	Action
Damage to garden	Sat 6/7 Oct	Not reported at time.
Parking blocking property access	Sun 14 Oct	Ranger unavailable, hotel has no power. Matter resolved with new parking laws.
Buses in John St	Sun 14 Oct	Hotel to advise all bus drivers to use Jarrad St. Matter resolved at meeting.
No security personnel at John/Broome St	Sun 28 Oct	Hotel will ensure that security is present. Matter resolved at meeting.
Buses in John St	Sun 28 Oct	Hotel will address drivers again. Now satisfactorily resolved.
Street drinking	Sun 28 Oct	Police acted on.
Drunks coming from hotel	Mon 29 Oct	Not reported at time.
Noise from crowd and music in beer garden	Sundays	Noise monitoring undertaken.
Parking on lawn and footpath	Sun 11 Nov	Ranger contacted. Responded to incorrect location.
Parking on verge and abusive language	Sun 11 Nov	Reported to hotel and police. No Action taken.
Antisocial behaviour and dangerous driving in Napier St carpark	Sun 11 Nov	Reported to hotel and police. No Action taken.
Street drinking	Sun 11 Nov	Not reported at time.
Antisocial behaviour in street	Sun 11 Nov	Not reported at time.
Damage to gate in Forrest St by car leaving at approx. 10.45pm	Sun 18 Nov	Reported to Police & Hotel. EHO noted Reg. No. of vehicle and passed on for Police action.
2 men urinating on limestone wall at entrance to apartments.	Sun 16 Dec	Not reported at time.
2 cars parked in apartment carpark.	Sun 16 Dec	Rangers issued infringement notices and will patrol in future. Resident advised of procedure to issue tenants with resident's stickers.
People using apartment	Sun 16 Dec	Not reported at time and information

<b>Complaint</b>	<b>Date</b>	<b>Action</b>
carpark and gardens as thoroughfare.		not specific.
Noise from speakers in Hotel Beer Garden	New Years Eve	Not reported at the time.
Damage in Overton Gardens over weekend.	Weekend 16 & 17 Feb	Not reported at the time.
Large group of teenagers in John St, exhibiting antisocial behaviour.	Sat 2 March	Not reported at the time. Neighbours may have reported to Police.
Youths drinking next to car opposite tennis courts and urinating in public view.	Sun 3 March	Not reported at the time.
Group of youths in John St, exhibiting antisocial behaviour.	Sat 16 March	Not reported at the time.
Group of youths in Forrest St, exhibiting antisocial behaviour and smashing glass.	Sun 14 April	Police attended. Pursued youths to the train station and took action as deemed necessary.

One additional general letter of complaint has been received. The 24 complaints listed above are from 17 separate complaints lodged with council. Of the 24 incidents, 11 of these were not reported at the time of the incident and therefore, could not be addressed immediately by the Police or the Hotel. Approximately half of the incidents could reasonably be connected to the Hotel with others being too remote or the information provided is not specific enough to make a determination.

Those complaints relating to buses using John Street, the position of Security personnel and patrons consuming excessive alcohol on the licensed premises, can all be resolved immediately by the Hotel. Complaints concerning parking can be addressed by Council's Rangers and other issues, such as anti-social behaviour and drinking in the streets, are Police matters.

Following the initial investigation of noise levels from the Garden Bar, attempts were made to obtain permission from a neighbour to monitor from a more representative location. The original complainant's residence was not satisfactory as they are away from Perth frequently on Sunday. Attempts to find a suitable location have been unsuccessful.

As outlined in the informal report to Councillors in May 2002, two random visits have been made to the Hotel on Sunday evenings and another visit has since been made on Sunday, 5 May, when crowds numbers were less than usual due to the cooler weather. Observations from the first visits revealed that patrons were generally orderly both inside and within the vicinity of the Hotel.

The Cottesloe Police have indicated that they are satisfied that incidents associated with the Hotels are not so substantial that additional resourcing and surveillance is warranted.

## CONCLUSION

Based on the reports received by Council, in my opinion, there is insufficient evidence for Council to proceed with a Section 117 Complaint. Although there is a small minority of people who are causing a problem, whilst the Hotels remain popular meeting places for young people, this minority will continue to disrupt the community. It is evident that a large number of young people are attracted to Cottesloe to visit the Cottesloe Beach and the Ocean Beach Hotels.

Despite the number of Complaint Forms distributed to residents in the vicinity of all the hotels, only 17 complaints were lodged over the summer period. In my opinion, the efforts of the Hotel management, the Police and Council have been successful in reducing the impact of the hotels on the community. However, as the problems have not been eliminated, it is recommended that Council continue to monitor activities associated with all the hotels and to meet with all parties to discuss and resolve issues. As parking surveillance has significantly contributed to the reduction in problems, it is also recommended that parking surveillance continue on Sunday afternoon and evenings in the vicinity of the hotels from November 2002 to April 2003.

**Voting Requirements**     Simple Majority

### H1     **OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

#### **That Council:**

- (1) **continue to monitor activities associated with the hotels by following the procedure outlined in the Community Response Plan;**
- (2) **continue to conduct random inspections of the hotels on Sunday evenings and monitor the impact of visitors to the beach and hotel patron behaviour on residents; and**
- (3) **continue with parking surveillance on Sunday afternoon and evenings in the vicinity of the hotels from November 2002 to April 2003.**

Carried 7/0

Cr. Whitby left the Council Chamber at 8.20pm.

### **TP53     PROPOSED URBAN DESIGN STUDY - STATION STREET**

<b>File No.:</b>	<b>Station Street</b>
<b>Author:</b>	<b>Mr Stephen Sullivan</b>
<b>Date of Application:</b>	<b>N/A</b>
<b>Report Date:</b>	<b>16 May, 2002</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

Station Street is scheduled for pavement rehabilitation in 2002/2003 and that this would be a good time to review the streetscape proposals for this area.



There is a proposal in the proposed No. 3 Town Planning Scheme, however, this will take a substantial period of time for it to be gazette. Therefore, should Council now engage the services of an urban design consultant to review the previous study "Cottesloe Village Design Development Report 1985" as a prelude to any work being carried out in Station Street. The study could either be reviewed by the authors of the previous report – Donaldson Smith and Odden Coulter Etherington Jones.

An additional issue is whether the study is commenced this financial year or 2002/2003.

**COMMITTEE COMMENT**

The committee were of the opinion that the previous report should be circulated to all councillors and the matter should be reviewed at the June meeting of Council.

**TP53 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

- (1) That consideration of this matter be deferred to the June 2002 meeting of the Development Services Committee; and**
- (2) The Administration circulate to Councillors a copy of the 1985 Cottesloe Village Design development report and other related documents.**

Carried 6/0

**TP54 NO. 138 MARINE PARADE – THREE STOREY HOUSE**

**File No.:** 138 Marine Parade, Cottesloe  
**Author:** Mr Stephen Sullivan  
**Date of Application:** 24 April, 2002  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

An application for a three (3) storey dwelling on the subject land was received on 24 April 2002. Advertising of the application ended on 16 May 2002 – following the closure of this Agenda.

The proposal raises a number of issues:

- Loss of privacy and views from adjoining land (noting that Town Planning Scheme No. 2 compels the Council to contemplate these matters in relation to the Special Development Zone);
- The desirability of developing a single residential dwelling on the site;
- The application proposes a plot ratio of 1.0:1.0 rather than 0.5:1.0 as is required under the R50 coding however, it is consistent with the plot ratio prescribed for the zone; and
- Significant reduction in all setbacks compared with the R50 coding.

It is further noted that a submission against the proposal was received on 16 May, 2002.

Administration has chosen to present this application to the June round of meetings given the above issues. To assist in the determination process however, the proposal will be presented to Committee for its preliminary comment, thus allowing any Committee comments to be directed to the applicant for their consideration.

The applicant has verbally agreed to this approach. Formal acceptance will be forwarded by the applicant in due course.

TP54 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That consideration of this matter be deferred to the June 2002 meeting of the Development Services Committee.**

Carried 6/0

TP55 **NO. 38 CONGDON STREET – GROUPED DWELLING AND AGED OR DEPENDENT PERSONS DWELLING**

**File No.:** 38 Congdon Street, Cottesloe  
**Author:** Mr Stephen Sullivan  
**Date of Application:** 24 April, 2002  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

An application for an 'eco-compound' consisting of a grouped dwelling and an aged persons dwelling on the subject land was received on 24 April, 2002. Advertising of the application ended on 9 May, 2002. No submissions have been received.

The proposal raises a number of issues:

- Proposal being inconsistent with Council's position on determining the aged persons dwelling bonus; and
- Council exercising its discretion to a number of setbacks;
- Heritage implications;
- Various setback variations;
- Intention to subdivide the aged persons dwelling.

Administration has chosen to present this application to the June round of meetings given the above issues (particularly to allow further investigation of the dwelling bonus and heritage issues). To assist in the determination process however, the proposal will be presented to Committee for its preliminary comment, thus allowing any Committee comments to be directed to the applicant for their consideration.

The applicant has verbally agreed to this approach. Formal acceptance will be forwarded by the applicant in due course.

The Heritage Consultant has been advised of this and her response to the design in the heritage setting will now be sent to Council at a later date.

TP55 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That consideration of this matter be deferred to the June 2002 meeting of the Development Services Committee.**

Carried 6/0

TP56 **NO. 15 ROSENDO STREET – PROPOSED TWO STOREY SINGLE HOUSE**

**File No.:** 15 Rosendo Street, Cottesloe  
**Author:** Mr Stephen Sullivan  
**Date of Application:** 12 April, 2002  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

This involves a new two storey house. An objection has been received from the neighbour concerning certain matters. The development complies in all respects to the Town Planning Scheme and the Residential Planning Codes.

TP56 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That the Manager, Development Services be delegated authority to make a determination on the application for Planning Consent.**

Carried 6/0

TP57 **NO. 12D GADSDON STREET – ADDITIONS TO AN EXISTING GROUPE DWELLING**

**File No.:** 12D Gadsdon Street, Cottesloe  
**Author:** Mr Stephen Sullivan  
**Date of Application:** 22 April, 2002  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

This development involves additions to an existing unit. A submission has been received from the owners to the west. The development will involve building matters under the BCA.

TP57 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr. Ewing, seconded Cr. Miller

**That consideration of this matter be deferred to the June 2002 meeting of the Development Services Committee.**

Carried 6/0

TP58 **NO. 3 WINDSOR – PROPOSED ADDITIONS AND ALTERATIONS TO AN EXISTING SINGLE HOUSE**

The development includes alterations to the existing tower on the building and other additions and alterations at the lower level.

**COMMITTEE COMMENT**

The committee felt that the application should be referred to the June meeting of the Development Services Committee meeting and comments from Council's heritage consultant should be obtained on this proposal.

TP58 **COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

The Mayor announced that this matter would be dealt with in two parts.

Moved Cr. Ewing, seconded Cr. Miller

- (1) **That consideration of this matter be deferred to the June 2002 meeting of the Development Services Committee.**

Carried 6/0

Cr. Whitby returned to the Chamber at 8.24pm.

Moved Cr. Ewing, seconded Cr. Miller

- (2) the application be referred to McDougall and Vines for comment.

Lost 3/4

TP59 **NO 47 GRIVER – PROPOSED SINGLE STOREY ADDITIONS TO AN EXISTING SINGLE HOUSE.**

**File No.:** 47 Griver Street, Cottesloe  
**Author:** Mr Stephen Sullivan  
**Date of Application:** 24 April, 2002  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

Single storey additions to the existing house and proposed conversion of the garage into habitable space. The applicants are not proposing to provide any new car parking, including roof covered carparking. The Residential Planning Codes require two onsite parking spaces to be provided and council is required to determine how many shall be provided with roof cover.

**COMMITTEE COMMENT**

The committee is prepared to allow the Manager, Development Services to make a determination on the application for Planning Consent provided two conditions were imposed and these were:

- (a) the boundary wall being set back from the side boundary in accordance with the Residential Planning Codes;
- (b) two car parking spaces being provided, of which, one of those two parking spaces is to be covered and located behind the 6.0m building setback line.

If the applicants were not satisfied with the imposition of those conditions, the matter was to be referred to the June meeting of the Development Services Committee for further consideration.

## COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr. Ewing, seconded Cr. Miller

That:

- (1) the Manager, Development Services be delegated authority to make a determination on the application for Planning Consent, subject to the imposition of the following conditions:
  - (a) the boundary wall being set back from the side boundary in accordance with the Residential Planning Codes;
  - (b) two car parking spaces being provided, of which, one of those two parking spaces is to be covered and located behind the 6.0m building setback line.
- (2) In exercising that delegated authority, the Manager, Development Services is required to liaise with the applicant in relation to the conditions set out in parts (1)(a) and (b).
- (3) Should the applicant feel that the conditions are unacceptable, the matter be referred to the June 2002 meeting of the Development Services Committee.

## AMENDMENT

Moved Cr. Miller, seconded Cr. Birnbrauer

That the motion be deleted and substituted with the following:

*“That the Manager, Development Services be authorised to make a determination on the application for Planning Consent for No. 47 Griver Street on the basis that the:*

- (1) proposed boundary wall is supported; and*
- (2) revised plan showing the car parking layout is acceptable.”*

Carried 7/0

The amended motion was put.

TP59

## COUNCIL RESOLUTION

**That the Manager, Development Services be authorised to make a determination on the application for Planning Consent for No. 47 Griver Street on the basis that the:**

- (1) proposed boundary wall is supported; and**
- (2) revised plan showing the car parking layout is acceptable.**

Carried 7/0

Note: Revised information was submitted which Council accepted.

## 12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF THE MEETING – ADVERTISING BILLBOARDS

**12.1 RAILWAY RESERVE LAND – ADVERTISING BILLBOARDS**

**File No.:** D4.2  
**Applicant:** Cr. Whitby

**Summary**

Cr. Whitby reported on the billboard that had been erected on railway reserve land, near the Curtin Avenue/Salvado Road intersection.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

The Mayor announced that each part would be dealt with separately.

Moved Cr. Miller, seconded Cr. Whitby

**That Council:**

- (1) **Demand the urgent removal of the unauthorised billboard on railway reserve land near the corner of Salvado Road and Curtin Avenue and express its firm opposition to the placement of additional advertising displays along the reserve;**

Carried 7/0

Moved Cr. Miller, seconded Cr. Whitby

- (2) **Endorse the concept of a natural ‘green strip’ for the railway reserve and work to reduce development and structures on the reserve;**

**AMENDMENT**

Moved Cr. Morgan, seconded Cr. Birnbrauer

That the motion be amended by deleting all the words after “*reserve*” in first line and substitute with “*free of advertising*”.

Lost 2/5

Moved Cr. Miller, seconded Cr. Whitby

- (2) **Endorse the concept of a natural ‘green strip’ for the railway reserve and work to reduce development and structures on the reserve;**  
 (3) **Inform the Member for Cottesloe, the Minister for Planning and Infrastructure and the Department of Planning and Infrastructure of its resolve in this matter.**

Carried 6/1

**13 ELECTED MEMBERS’ MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****13.1 SHENTON SUSTAINABILITY PARK – “CLOSING THE LOOP ON WASTE” - NOTICE OF MOTION – NO. 3/2002**

**File No.:** X4.10 & X11.20  
**Applicant:** Cr. Utting  
**Author:** Mr Stephen Tindale  
**Report Date:** 16 May, 2002  
**Author Disclosure of Interest:** Nil

### **Summary**

Cr. Utting has given notice of the following motion.

*That a critical letter be sent to the Water Corporation regarding their misleading publication.*

The publication referred to is a summary of the Shenton Sustainability Park Pre-feasibility Study entitled "*Closing the Loop on Waste*".

### **Statutory Environment**

Nil.

### **Policy Implications**

Nil.

### **Strategic Implications**

Nil.

### **Financial Implications**

Nil.

### **Background**

At the commencement of the last meeting of Council, the Mayor drew the attention of Councillors to a summary of the Shenton Sustainability Park Pre-feasibility Study entitled "*Closing the Loop on Waste*".

After some discussion, it was agreed that report needed to be read in depth and discussed in detail before the Town of Cottesloe could reasonably make an informed submission to the Water Corporation on the report.

However the imminent closing date for submissions (10th May 2002) precluded the preparation of a response from Council. It was therefore left to each Councillor to make his/her own submission to the Water Corporation.

### **Consultation**

Cr. Utting has indicated that Mr Mike Hollett from the Water Corporation is happy to make a ½ hour presentation to Councillors immediately before the commencement of the May Full Council meeting.

### **Staff Comment**

Cr Utting advises that:

*"The Report appears to be misleading due to items omitted from it e.g.*

- (1) The 60 million litres everyday of domestic wastewater is discharged into the ocean by a pipeline off Swanbourne.*
- (2) The "West Australian" Newspaper of 14 May, 2002, top of page 3, has severe criticism – "... was touted as a green alternative to existing sewage treatment, promising to convert dried sewage sludge to oil, which would be used to power the plant's diesel electricity generators. But the quality of the oil produced by the plant is too poor to be used in generators...."*
- (3) A heated swimming pool is pictured. What does this imply?*
- (4) There are other matters which appear to be a bit dodgy."*

While the closing date for submissions has come and gone, there may be case for dispatching a late submission to the Water Corporation - if Council feels that it is a matter of some importance.

**Voting**

Simple majority.

**13.1 NOTICE OF MOTION**

Moved Cr. Utting

That a letter be sent to the Water Corporation regarding its misleading publication.

Lost for Want of a Seconder

**13.2 COUNCIL SUBSIDY TO LOCAL SPORTING CLUBS**

<b>File No.:</b>	<b>X4.10</b>
<b>Applicant:</b>	<b>Crs Utting and Morgan</b>
<b>Report Date:</b>	<b>22 May, 2002</b>

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**Background Notes from Crs Utting and Morgan**

The purpose of this motion is to encourage and financially assist the children and young people of our community so that they can actively participate in the playing and enjoyment of the various sports which are played within our community.

Our sporting clubs are an essential and important segment of the fabric of our community and it is considered to be essential that our children and grandchildren participate in sport. It is hoped that this participation can then carry on throughout the person's whole life.

Cottesloe is fortunate in that there are several well established sporting clubs which actively promote the participation of children from an early age.

Crs Utting & Morgan are recommending that Council subsidise sporting club fees by \$20 each to all Cottesloe residents aged 19 years and under.

**Background**

Cr. Utting has therefore given notice that he intends to move the motion at the May Full Council meeting and Cr. Morgan has indicated that he will second the motion:

**Consultation**

Nil.

**Voting**

Simple majority.



### COMMITTEE RECOMMENDATION

Moved Utting, seconded Cr. Morgan

That Council pay to the appropriate Cottesloe clubs a contribution of \$20 each towards club fees of all persons below the age of 20 years who are residents of Cottesloe in order to assist the clubs with their community building activities.

### AMENDMENT

Moved Cr. Morgan, seconded Cr. Utting

That the motion be amended by

- (1) deleting the words "*the appropriate Cottesloe clubs*" and replacing with "*sporting cubs which have their clubhouse in Cottesloe*"; and
- (2) adding after "*building activities*" the following words: "*or such lesser sum as will ensure equal contribution to the fees of such persons, but so that the total expenditure by the Council does not exceed \$5,000 in any one year*".

Lost 2/5

The original motion was put.

That Council pay to the appropriate Cottesloe clubs a contribution of \$20 each towards club fees of all persons below the age of 20 years who are residents of Cottesloe in order to assist the clubs with their community building activities.

Lost 2/5

### 13.3 CIVIC CENTRE BUILDINGS & SURROUNDS - RESTORATION

**File No.:** C4.6  
**Applicant:** Cr. Morgan

Moved Mayor Hammond, seconded Cr. Miller that Cr. Morgan be permitted to put forward his foreshadowed motion regarding conservation works at the Civic Centre.

Carried 7/0

Moved Cr. Morgan, seconded Cr. Birnbrauer

**That Administration prepare a report for Council consideration on the following matters:**

- (1) an estimate of cost for the repairs on the building and surrounds with a programme for the carrying out of the works;**
- (2) An outline of the scope for financing the project from the sale of the whole, or a section, of the Council Depot; and**
- (3) An outline of some of the additional or alternative means for financing the project.**

Carried 7/0

**14 MEETING CLOSURE**

*The Mayor announced the closure of the meeting at 8.50pm.*

CONFIRMED: MAYOR \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_