

TOWN OF COTTESLOE



FULL COUNCIL MEETING

MINUTES

**ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBER, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 27 NOVEMBER, 2006**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Deputy Mayor announced the meeting opened at 7.00pm.

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

Elected Members

Cr Bryan Miller (Deputy Mayor)
Cr Patricia Carmichael
Cr Daniel Cunningham
Cr Arthur Furlong
Cr Peter Jeanes
Cr Victor Strzina
Cr John Utting
Cr Jack Walsh
Cr Ian Woodhill

Officers

Mr Stephen Tindale Chief Executive Officer
Mr Graham Pattrick Manager Corporate Services/Deputy CEO
Mr Andrew Jackson Manager Planning & Development Services
Mr Geoff Trigg Manager Engineering Services
Mrs Jodie Peers Executive Assistant

Apologies

Mayor Kevin Morgan

Leave of Absence (previously approved)

Cr Jo Dawkins

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Utting, seconded Cr Woodhill

That the paper Cr Utting provided to Councillors at the previous meeting be included in the Minutes.

Mayor Kevin Morgan

Please find attached a copy of a message to me from a member of the Council staff (attachment 1).

You will recollect that I gave a brief report on the progress of the proposed library at the recent meeting of the Corporate Affairs Committee.

In this I said that staff had refused me access to the Architects costing for the proposed Library. This document had been tabled at a previous Library Committee Meeting and showed a cost estimate about \$1,000,000 to \$2,000,000 above the previous estimate. I regret I am unable to provide a more accurate figure and other details due to the staff veto on me having access to the document, as stated above. I believe this veto extends to all Councillors.

The staff veto could prove very expensive to Council and to the library. You will see from attachment 2 that the Chairman of the Library Project Steering Committee is inviting Councillors and others to an "information update evening" in the Mosman Park Council Chambers on 9 November when "Architects will present final concept plans, Quantity Surveyor/Cost Manager will give indicative costs and information for budgetary consideration.

The Architect has presented a plan for a large single storey building. A two storey building has been ruled out with inadequate consideration.

An interested Councillor, and other ratepayers, have suggested that a two storey building may be more appropriate, sited over the existing building or in close proximity to it. There are good reasons to thoroughly investigate this option. As set out hereunder –

- The Peppermint Grove Council does not control the land on which the proposed library is to be built, State Government approval is required.*
- A Bowling Club member has stated that the club is legally contesting the ownership of the land on which the bowling greens are sited.*
- Peppermint Grove residents who live adjacent to the proposed development are objecting.*
- Community consultation has yet to take place.*
- A two storey building could be more economical than the proposed structure.*

You are requested please to direct staff to carry out a cost analysis for a two storey building as compared with the proposed single storey structure.

Additionally you are requested please to instruct staff to lift the veto on the supply of information to a Councillor. This is the first occasion that I can recollect of this kind of action occurring. It should not happen again.

Cr John Utting

Carried 6/3

Moved Cr Strzina, seconded Cr Utting

The Minutes of the Ordinary Meeting of Council held on Monday, 23 October, 2006 be confirmed with the above amendment.

Carried 8/1

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7.1 A community safety and crime prevention town meeting to discuss anti-social behaviour in the Town of Cottesloe will be held on Wednesday, 6 December, 2006. Councillors and residents are encouraged to attend.

7.2 The Annual Electors Meeting will be held on Wednesday, 13 December, 2006. Residents are encouraged to attend.

8 PUBLIC STATEMENT TIME

Ms E Thomas, 16 Federal Street, Cottesloe – Item 11.1.7, No. 16 (Lot 288) Federal Street – Proposed Carport

Ms Thomas spoke in relation to her application for a carport construction. There is a safety concern from the neighbour, however Ms Thomas stated that the carport is setback 1.9m from the boundary and the staff have agreed that it is not a safety issue. The other issue from the neighbour is aesthetics. However, if the carport was setback closer to the house this would restrict access to the rear of the property.

Mrs S Woodhill, 23A Grant Street, Cottesloe – Item 11.1.4, No. 25 (Lot 847) Grant Street – Two Storey Residence and Below-Ground Swimming Pool

As this item is due to be withdrawn, Mrs Woodhill made a statement in relation to general town planning. When Mrs Woodhill's house was built all the town planning rules were abided by. Variations from the town planning scheme shouldn't be allowed. Mrs Woodhill stated that Council should consider applications in relation to the town planning scheme in future deliberations.

Ms T Tuchaai, 18 Federal Street, Cottesloe - Item 11.1.7, No. 16 (Lot 288) Federal Street – Proposed Carport

Ms Tuchaai asked Council to consider whether the carport meets all safety requirements for all people. The 1.5m setback allows a short reaction time for pedestrians, a further setback would improve the safety of the proposed carport. Federal street is a very narrow street. Ms Tuchaai suggested that condition (g) be reinstated due to safety issues and streetscape.

Mr S Nile, 98 Grant Street, Cottesloe - Item 11.1.9, Amendment No. 41 to Town Planning Scheme No. 2 – No's 98A & 98B (Lots 1 & 2 of Lot 1) Grant Street – Recoding from residential R20 to residential R30

Both owners would like green title, which would mean a zoning of R30. Mr Nile wishes to rebuild. He understands Council's concerns and would like to discuss other solutions with Council.

Mr S Famiana, 21 Hartfield Way, Westminster - Item 11.1.9, Amendment No. 41 to Town Planning Scheme No. 2 – No's 98A & 98B (Lots 1 & 2 of Lot 1) Grant Street – Recoding from residential R20 to residential R30

This property should be zoned R30. A blanket R20 zoning has been introduced into the area with no consideration of individuals, and does not identify where there are two dwellings. The property could not be extended or redeveloped and raises an issue of equity, orderly and proper planning. Rezoning would allow for subdivision, the status quo would remain. The landowner has approached 10 neighbours in the area who have given support (written and verbal). Mr Famiana requested that council support the amendment.

Mr C Wiggins, 50 John Street, Cottesloe – Cottesloe Beach Hotel New Years Eve

Mr Wiggins spoke in relation to an article in post newspaper on 17 November, 2006 and an email sent out by the Cottesloe Beach Hotel advocating a major party at the hotel on New Year's eve. Mr Peter Watts, Approved Manager and Licensee of the Cottesloe Beach Hotel reported at the hotel meeting on Monday, 20 November, 2006 that this email was sent to several thousand patrons, targeting an age group between 18 and 25 years old.

Mr Wiggins recommended that Council send a letter expressing concern re:

- (a) the wording of the email encouraging excessive alcohol consumption; and
- (b) the comment from the WA Police appearing to condone the use of such emails to patrons for this purpose and further advising that this does not present problems for the Police. These statements were made both to the Post, and at the Cottesloe Beach Hotel meeting held on Monday, 20 November.

The letter is to be sent to:

- Multiplex
- Hon. M McGowan, Minister of Racing and Gaming
- Mr Peter Minchin, Director of Liquor Licensing
- Hon. John Kobelke, Minister for Police
- Mr Karl O'Callaghan, Commissioner for Police
- Hon. Colin Barnett, Member for Cottesloe
- Hon. Alan Carpenter, Premier.

The behaviour of the hotel and its patrons is a major community issue.

Ms P Lampropoulos, 4 Windsor Street, Cottesloe – Thank you to Council Staff

Ms Lampropoulos stated that she purchased a property in Cottesloe last year and has applied for a building licence. Ms Lampropoulos thanked the planning and building staff; Andrew Jackson (especially for his mediation skills, Lance Collison and Georgina Cooper and Sam Neale (also for his mediation skills) for their assistance.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

10 REPORTS OF COMMITTEES AND OFFICERS**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 20 NOVEMBER 2006****11.1 PLANNING****11.1.1 NO. 2A (LOT 31) NAILSWORTH STREET – TWO STOREY RESIDENCE**

File No:	2A Nailsworth Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Response by applicant to submissions Submissions (6) Plans Photo
Report Date:	13 November, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Kim Gamble
Applicant:	as above
Date of Application:	13 November, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	440m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a two storey residence on the subject site.

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

PROPOSAL

In the basement, a cellar is proposed. On the ground floor, Bed 1, a bathroom, WIR, WC, study, living, meals, laundry and a double garage are proposed.

On the upper floor two bedrooms, an ensuite and WIR are proposed.

URBAN DESIGN CONTEXT

The proposal is for a relatively modest cottage-style two-storey dwelling in a secluded street of Cottesloe. The locality is characterised by a mix of some older dwellings and a trend towards much larger modern dwellings. The proposal essentially respects the site and surrounds, being a combination of single and double storey,

seeking northern orientation and taking into account the opportunities and constraints of the site – long, narrow east-west lot; depot to rear, lane to south, approved two-storey dwelling to north. The scale, style and materials of the dwelling are compatible with similar rear buildings along the laneway. It is in this context that the proposal, as designed and modified to respond to submissions, is supported.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	8.5m maximum building height	8.78m building height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	1.5m setback ground south wall	Nil to 1.7m setback	Clause 3.3.2 – P2
No 3 Boundary Setbacks	1m setback ground rear wall	Nil to 3.5m setback	Clause 3.3.1 – P1
No 8 Privacy	4.5m cone of vision setback – bedroom	3.8m setback	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

There were 5 letters sent out. There were 6 submissions received, of which 6 were objections. Details of the submissions received are set out below:

Glenn & Marion Rondoni, 36 Napier Street

- *Will accept a 3m high wall at most.*
- *Length and height of parapet wall is unsightly.*
- *Could attract graffiti.*
- *Dangerous precedent.*
- *Views will suffer from their property and diminish their northern aspect.*
- *Need clarification on parapet wall height.*
- *Asks for clarification on overshadowing.*
- *Asks for clarification on fill allowances.*
- *Asks for clarification on overlooking from 2nd storey windows.*
- *Believes the R-Codes should not be compromised unless a redesign is unworkable.*

Dennis & Kay Neil, 40 Napier Street

- *States the parapet wall height is outside the R-Codes.*
- *Concerned over open space non-compliance.*
- *The building height exceeds 19.08m above natural ground level and states that this does not comply.*
- *Objects to the fill and its impact on the height of the boundary wall and final height of the building.*
- *Worried about a tunnel effect in that section of the lane and increase the wind and debris.*
- *Objects about the likely visual impact from their patio.*
- *Concerned that the lack of survey pegs means the land may protrude into the ROW.*
- *The wall should be graffiti-tolerant if approved and colour mutually agreed.*
- *May serve as a precedent for designs in R20 areas of Cottesloe.*
- *Believes that the side entry will provide for vehicle headlights and noise to impact the proposed entry area.*

- *Pitching the roof in the opposite direction will reduce the impact of the parapet wall.*

Neville & Leslie Shaw, 42 Napier Street

- *Concerned about the parapet wall along the ROW.*
- *Says the wall does not comply with the R-Codes and is inappropriate and out of character for the locality.*
- *Will diminish their outlook from the living areas of their home where the wall will be highly visible due to its massive bulk and scale and lack of an appropriate setback.*
- *Believes that the lot has adequate land area for R20 and could be designed to have a setback to that boundary.*
- *Does not meet solar principles and creates visual monotony.*
- *Creates an inhospitable tunnel and encourage anti-social behaviour as no windows will provide passive surveillance.*
- *The proposal does not consider the amenity of neighbours or the scale and character of the locality.*
- *Will accept a 3m high wall at most to be neighbourly.*

Mark Anthony Jones & Carol Ryan, 44 Napier Street

- *Concerned over the height and length of the parapet wall as excessive and is out of place for Cottesloe.*
- *Believes the large wall will encourage graffiti and anti-social behaviour.*
- *Questions whether the wall meets the Performance Criteria of the RDC.*

Barbara Sampson & Samuel Davis, 46 Napier Street

- *Concerned about the amenity of owners along the laneway.*
- *Could create an undesirable precedent.*
- *Objects to bulk and lack of setback.*
- *Objects to non-compliance with R-Codes for parapet walls.*
- *Loss of solar access.*
- *Creation of visual monotony.*
- *Requests that the development meets all Council planning requirements.*

EC & MT Kitchin, 48 Napier Street

- *Concern over parapet wall setting a precedent*
- *Non-compliance with R-Codes.*
- *Bulk and lack of setback.*
- *Loss of solar access.*
- *Creation of visual monotony.*
- *Tunnelling effects fostering alleyway behaviour and encouraging graffiti through a lack of surveillance.*

By way of comment, it is noted that the submissions share similar concerns and tend to be repetitive, with the proposed parapet wall to the boundary with the land the main concern. In dealing with the submissions Officers have liaised in particular with the nearest neighbours at 40 Napier Street to provide information and discuss their concerns. Officers have also liaised with the applicant and designer to consider the concerns and achieved design modifications in response. This is elaborated in the

assessment below, whereby it can be seen that the proposal now achieves improved and satisfactory compliance.

BACKGROUND

The former residence at 2 Nailsworth Street has been demolished as the lot was given survey strata subdivision approval by the Western Australian Planning Commission in July 2005. As a result 2 & 2A Nailsworth Street have been created.

STAFF COMMENT

Building Heights

The proposed roof height does not conform to the Town of Cottesloe's TPS 2 requirement of 8.5m building height. The wall heights meet the maximum 6m height.

The proposal has a building height of 8.78m, however, there appears to be no overriding design need for such as a new dwelling on a relatively flat lot. The relatively steep roof pitch can easily be modified to comply with the Scheme and a condition is proposed accordingly.

Boundary Setbacks

The following side boundary setbacks of the proposed dwelling do not meet the Acceptable Development standards of the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground south wall	All	3.5m	36m	yes	1.5m	Nil to 1.7m
Garage rear wall	All	3m	6m	no	1m	Nil to 3.5m

Hence they are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) & 3.3.2 (P2) of the RDC, which are:

3.3.1 – Buildings Set back from the Boundary

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

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

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

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*

- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

However, the RDC do also allow parapet walls as per Clause 3.3.2 A2ii as follows:

"In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;"

The intended parapet wall to the laneway has attracted the most comment from submitters. The laneway actually ameliorates the impact of the wall rather than were it to a common boundary with another dwelling, and on that basis a performance assessment could reasonably consider that variation may be allowed. Nonetheless, Officers took this matter up with the applicant and designer who have achieved a redesign to significantly improve the design of the dwelling in respect of the scale and appearance of this element.

The proposal is to have a nil to 1.7m setback to the side boundary with the laneway for the ground floor south wall. A non-parapet wall would be required to be setback 1.5m from the boundary. It is assessed that the intended setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. Importantly, the amended plans have reduced the height of the parapet wall next to the laneway, altered the roof pitch to reduce bulk/scale, introduced highlight windows for visual interest and set a large part of it back 200mm to enable planting to soften the appearance and deter graffiti. These changes are a significant improvement and supported.

In this respect it is emphasised that the objections received and reported on are in regard to the superseded plans for this wall. It is also noted that the highlight windows meet the Building Code of Australia and do not create any privacy issue.

The proposal also is to have a nil to 3.5m setback to the rear boundary for the garage, but only a short 1m section actually abuts the boundary. A non-parapet wall would be required to be setback 1m from the boundary. On assessment the garage setback meets the Performance Criteria of the RDC as it makes an effective use of space. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The garage does not present any privacy issues. The garage which abuts a portion of the boundary is supported as it is of no consequence.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC:

Room	Required	Provided
Bedroom 3	4.5m setback	3.8m setback

Hence they are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are:

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

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

The proposal asks for a variation to the bedroom 3 cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. The window faces east whereas overlooking is to the northern neighbour and only just intersects this property. The northern neighbouring lot is currently vacant. It should be noted the neighbours did not object to this minor variation.

Overshadowing

The application easily complies with the Acceptable Development provisions of the Residential Design Codes. The two storey component only covers a portion of the residence and any shadow will fall on the Right of Way.

Open Space

The revised plans comply with the Acceptable Development Provisions of the RDC for open space.

Fill

Recently a layer of fill has been placed on the site. Any fill requires prior planning approval and the Town has written to the owner in this regard, who has indicated that it will be removed. This fill is unauthorised and has the ability to complicate construction of a dwelling from the approved datum having regard to natural ground level. Hence it needs to be removed in any case and a condition making that a prerequisite to a building licence is included.

CONCLUSION

The proposed dwelling meets a majority of the planning requirements. The parapet wall along the right of way which attracted several objections has been modified and greatly improved.

It is recommended the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

A number of objections were received from neighbours regarding the height of the single storey wall to the right of way. The Manager Development Assessments also

clarified that the incidental fill on the site was conditioned to be removed as a prerequisite to a building licence.

Cr Jeanes expressed that the design was satisfactory and the parapet wall had been suitably reduced in response to concerns. He moved that the following condition be added to the recommendation:

- (l) Planting a creeper or similar in the 200mm setback from the boundary to the single storey wall to soften the appearance of the dwelling to the lane.*

This amendment was lost on a 2/3 vote.

Committee declined to support the application, on the basis of the height of the single storey wall in relation to the laneway.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

- (1) GRANT its Approval to Commence Development of a two-storey dwelling at No. 2A Nailsworth Street, Cottesloe, in accordance with the revised plans submitted on 6 November 2006, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air-conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of all boundary walls to the Right of Way shall be to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's Fencing Local Law and the subject of a separate application to Council.
 - (h) The Right of Way adjacent to the property being drained to the satisfaction of the Manager Engineering Services, with details of the

proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.

- (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) Revised plans being submitted for approval by the Manager Development Services showing the maximum building height not exceeding 8.5m in accordance with the provisions of clause 5.1.1 of the Scheme.
 - (k) Prior to the issue of a Building Licence, the landowner shall remove the unauthorised fill on the land and restore the land to its previous state, to the satisfaction of the Manager Development Services. In this respect the owner is advised that failure to remove the fill may lead to compliance action by the Town.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council REFUSE its Approval to Commence Development at No. 2A (Lot 31) Nailsworth Street, Cottesloe, in accordance with the revised plans submitted on 6 November, 2006 as Council is of the opinion that the height of the wall to the single storey portion of the dwelling in relation to the laneway is considered to be excessive.

11.1.1 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 2A Nailsworth Street to allow more time for the applicant to address the concerns raised, and that Council DEFER the item accordingly for a future report from officers.

Carried 9/0

11.1.2 NO. 14 (LOT 3) WARNHAM ROAD – ALTERATIONS & ADDITIONS TO EXISTING APARTMENT BLOCK

File No:	14 Warnham
Author:	Ms Stacey Towne, Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Plans Photos
Report Date:	18 October, 2006
Senior Officer:	Andrew Jackson
Property Owner:	Martin Steens, Micheli & Peter Maszniew, Carmel & Joseph Valanti, Jane Loring & Michael Thorpe, Greg Chatfield & Anna Sudlow
Applicant:	Greg Chatfield
Date of Application:	23 August, 2006
Zoning:	Residential
Use:	AA - A use that is not permitted unless special approval is granted by the Council
Density:	R40
Lot Area:	569m²
M.R.S. Reservation:	N/A

SUMMARY

An application has been received to carry out alterations and additions to the existing block of 5 units at No. 14 Warnham Road.

The proposal involves the general visual improvement of the building and the addition of private balconies (front balconies for all units and rear balconies for two units), a lift and improved parking layout.

Preliminary design sketches have been considered by the Design Advisory Panel (DAP). Revised plans have resulted which include most of the DAP suggestions.

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

PROPOSAL

The proposal includes:

- New balconies (to three levels) at the front facing Warnham Road for Units 1-5. Balcony for Unit 5 is to extend along most of the frontage of this unit.
- Two new triangular shaped balconies (at two levels) on the north-west corner at the rear for Units 3 and 5.
- 6 x new store areas on the ground level with parapet walls on the west and east side boundaries.

- New private courtyard areas above the roof of the new stores for Units 1, 2, 3 and 4 and a common courtyard area for all of the units.
- Increasing the size of the living room windows on the western elevation for Units 1, 3 and 5.
- Provision of air conditioning units for each dwelling to be located on the proposed balconies behind the glass balustrade.
- Reconfigured car parking with the existing 6 undercover bays remaining and 4 marked bays within the front setback area (2 for visitors).
- New remote controlled garage gate/door and visitors entry at ground level.
- New windows to the undercover parking area.
- New lift at the rear between the stair wells.
- Enclosure of the outside rear stair wells with glazing.
- Screened bin areas behind the front setback.
- A low front wall with letterboxes.

URBAN DESIGN CONTEXT

Warnham Road is characterised by a mix of dwelling types, including single residences, town houses and medium-rise apartments. The recent trend has been to improve these properties, such as the front landscaping to No. 4 and façade alterations to No. 6 (*daho*), which contribute to enhancement of the streetscape. The prospect of changes to *Constatia* has been mooted, while the apartments at 103 Broome Street to the end of Warnham Road along De Benales Walk are being completely renovated.

Council generally supports such proposals and in draft TPS3 intends to allow existing higher densities to prevail. Particular proposals are to be encouraged in principle and supported subject to appropriate design and amenity considerations. This proposal seeks to retain the existing dwellings and make only relatively minor extensions, while upgrading the overall appearance of the building in terms of both condition and architectural treatment.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
Clause 5.1.1	7m	11.33m to the top of the lift shaft. (Note that there is no increase in height for the existing building apart from the new lift shaft. Existing building approx. 10.63m).

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Council resolution	General 6m front setback	4.5m to balconies on Levels 2, 3 and 4.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Western side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Eastern side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the front balcony to Unit 5 on level 4 – 7.1m	4.7m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Eastern side setback to the front balcony to Unit 5 on level 4 – 7.1m	4.7m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Northern side setback to the rear balcony to Unit 3 on level 3 – 2.3m	2.2-4.5m	Clause 3.3.2 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Northern side setback to the rear balcony of Unit 5 on level 4 – 3.5m	2.2-4.5m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the rear balcony to Unit 5 on level 4 – 4-4.3m	3.8-6.9m	Clause 3.3.2 – P1
No 8 – Visual Privacy	Privacy setback from all front balconies on all levels to the west side – 7.5m	4.7m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all front balconies on all levels to the east side – 7.5m	4.7m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback between front balconies for Units 1 and 2; and between Units 3 and 4 – 7.5m	2.68m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all rear balconies (Units 1, 3 and 5) on levels 2, 3 and 4 to the west side – 7.5m	3.8-6.9m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all rear balconies (Units 1, 3 and 5) on levels 2, 3 and 4 to the north side – 7.5m	2.2-4.5m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from enlarged living room window for Units 3 and 5 on levels 3 and 4 to the west side – 6m	3.2m (Note: Same setback as to existing windows)	Clause 3.8.1 – P1
No 10 – Incidental Development	Clothes drying area for multiple dwellings	None shown on plans, however, space available for all units except for unit 5.	Clause 3.10.3 – P3

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering
- Health

External

- Design Advisory Panel (twice)

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners
- Letter to Surrounding Properties

Submissions

There were 18 letters sent out. No submissions have been received.

The following comments were provided by the Design Advisory Panel (DAP) in relation to the original proposal considered at its May 2006 meeting:

- *Balconies may be impractical given exposure to south-westerly winds – which may be why the original balconies have been enclosed.*
- *Open-slat flooring to balconies can be problematic in terms of rain and spills or objects falling through the cracks.*
- *The setback to the balcony is considered too little, and the design of the balcony too strong for the building and too prominent in the streetscape.*
- *An alternative may be to re-open and widen the existing balconies to say 2.5m as adequate private amenity space, affording a greater setback and less intrusion into the front yard and streetscape.*
- *Adopt a softer / more subtle design approach that respects the cubist form of the building and reads as a logical and sensitive evolution of the built form rather than a modern add-on. This should include how the front yard is treated, so that any balcony structures, walling and landscaping is not overly- dominant.*
- *In this context also, the roof should remain as is rather than a foreign form be introduced or the height increased.*

- *It was suggested that the parking inside the basement could be rearranged to be at right angles from the street with the storerooms to the rear (although it was noted that may affect access to the stairs and lift at the rear).*

To sum up, the Panel agreed that while it is desirable to maintain and upgrade the apartments building, the existing architectural qualities should be a starting-point for the design of the proposed alterations/additions and the changes should be sympathetic to the streetscape and locality generally

The revised plans for this application were presented by the Manager Development Services to the DAP in August 2006 and additional feedback was obtained as follows:

- *The panel commented that the appearance is still rather basic, and again commented that the enclosure of the existing balconies could be opened-up (although the applicants wish to retain that space as internal).*
- *The panel also cautioned to ensure that any reduced parking would not result, whereby on-street parking congestion could occur.*
- *Overall, it was considered that the revised plans indicate a more acceptable scale and form of treatments to the existing apartment block, but that attention to detail is still required.*

The following individual comments from the DAP Members were also received in relation to the revised plans (summarised):

- *Finished floor levels of the subject site and the adjoining site to the east don't seem to match. (Site survey has now been provided).*
 - *The front elevation has been much improved.*
 - *Removal of the vertical supports for the balconies would provide greater transparency and less building bulk.*
 - *Does the plot ratio comply?*
 - *Do the rear balconies to Units 3 and 5 overlook neighbours to the rear?*
 - *Has density increased? (Previous plans incorrectly showed 6 instead of 5 units).*
 - *No problem with lift overrun being higher than the existing building.*
 - *Colour elevation impressions do not match front elevation plans.*
 - *Object to the use of steel columns and beams.*
 - *The decks should be concrete tied to existing with no through columns. Columns restrict parking area and destroy the elevation.*
 - *Roof over the top floor balcony is considered unnecessary as it could facilitate illegal closure later on.*
 - *Perspective plans do not show the expanded garage/store, courtyards and bin store.*
 - *Enclosure of balconies should not be allowed.*
 - *Parking needs scrutiny.*
 - *The proposal should work within the required front setback requirements.*
 - *Parking in the street is at a premium so it is essential that all required parking is provided on site.*
 - *The columns at the front of the development should be removed to provide for better/more parking.*
-

- *Privacy between adjoining balconies should be ensured as well as between neighbouring properties.*
- *Balconies may need specific fire rating.*
- *Improvement on previous plans*

BACKGROUND

The four storey block of five multiple units was built in 1960s. The ground level comprises of car parking with the upper three levels containing the five dwelling units. The original building had balconies at the front (facing south) of the upper three levels, which over the years have been enclosed with glazing, apparently to create more internal space and for weather protection.

A block of 18 units exists to the east and north of the property and other multiple dwelling developments are located nearby in Warnham Road and Overton Gardens, at both similar densities and greater height.

Recent planning approvals will see the redevelopment of the adjacent lot to the west for a two storey single residence and a two storey four unit development diagonally to the rear (Overton Gardens), both under construction.

Initially, a proposal to improve vehicular access, provide basement storage, construct triangular shaped balconies at the front of the building, possible changes to the roof form and install a lift was considered by the Design Advisory Panel (DAP) on 17 May 2006.

The Panel agreed that whilst it is desirable to maintain and upgrade the apartment building, the existing architectural qualities should be starting point for the design of the proposed alterations and additions, and the changes should be sympathetic to the streetscape and locality in general.

More specifically:

- *The balconies were considered to be too prominent and it was suggested that a softer design approach be taken that respects the cubist form of the building.*
- *The roof should remain as is rather than introduce a foreign form or increase height.*
- *The parking could be rearranged to be at right angles with the street and store rooms be provided behind.*

The applicant has embraced a number of suggestions made by the DAP which is reflected in this application for development approval. As previously listed in the "Submissions" section of this report, comments were again sought from the DAP.

STAFF COMMENT

Front Setback

Following a resolution at its meeting held on 28 October 2002, Council has generally required a front setback of 6m for residential development, although this is the base standard for R20 areas, whilst R30 and higher density areas normally allow for lesser setbacks.

The existing building is well set back from the front boundary at approximately 7.7m. There is no proposal to construct new walls to the building within the existing front setback, however, it is proposed to construct balconies on levels 2, 3 and 4 which are to be set back 4.5m, thus encroaching Council's preferred setback by 1.5m.

The balconies are to be open on three sides with glass balustrades, therefore, the structures are not considered to be solid and obtrusive in relation to the streetscape.

The Acceptable Development Standards of the Residential Design Codes allow for a 4m minimum front setback for an R40 Coded property and balconies may further encroach on this setback by up to 1m (i.e. 3m setback to balconies).

As the proposed reduced setback is only to the balconies rather than a solid wall and given that the new balconies will add to the amenity and architectural interest of the existing building, it is considered that the aspect from the street will not be adversely affected and, indeed, may be considered to be improved.

The proposed reduced setbacks to the balconies are therefore supported.

Side Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
West Ground Floor Level 1	New stores	1.1-3.4m	10.185 m	No	1.5m	0m
East Ground Floor Level 1	New Stores	1.1-3.4m	10.185 m	No	1.5m	0m
North Level 3	Rear Balcony Unit 3	5m	3.7m	Yes	2.3m	2.2-4.5m
West Level 4	Rear Balcony Unit 5	8.1-8.7m	2.9m	Yes	4-4.3m	3.8-6.9m
North Level 4	Rear Balcony Unit 5	7.5m	3.7m	Yes	3.5m	2.2-4.5m
West Level 4	Front Balcony Unit 5	11.2-11.6m	2.77m	Yes	7.1m	4.7m
East Level 4	Front Balcony unit 5	11.2-11.6	2.77m	Yes	7.1m	4.7m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.3.1 of the RDC states the following:

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

- *Provide adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with the protection of access to direct sun for adjoining properties;*

- *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.”*

As the setback variations mostly occur on the west and east sides, the north-south orientation of the lot means that access to sunlight for adjoining properties is not adversely affected. Variation to the rear setback on the north side has no effect on the adjoining property.

The proposed reduced building setbacks for most of the building are relatively minor in nature and therefore do not contribute to additional and unnecessary building bulk.

Due to the slope of the land up from the street, the parapet walls on the west and east boundaries for the stores (on the lower level) are gradually hidden below ground level so they do not have the same impact on neighbours as parapet walls fully above ground level. Parapet walls on other nearby properties in the street (including the single residence adjacent) are evident so are not out of character with existing development within the locality.

The setbacks to the new front balconies do not affect privacy as overlooking mainly occurs over the front setback areas of adjoining properties to the west and east and other areas of these properties which are visible from the street. The two rear balconies have the potential to impinge on the privacy of adjoining properties at No. 16-18 and No. 20 Overton Gardens, however, these balconies are small in usable area and are unlikely to be used excessively for active outdoor entertainment.

It is considered that all of the building setback variations comply with the Performance Criteria of the Codes and are supported.

Visual Privacy

The following privacy (cone of vision) setbacks of the proposed additions seek variation from the Acceptable Development standards of the Codes:

Room	Required	Provided
Living Room Units 3 and 5 on level 3 and 4.	6m to west side	3.2m to west side (existing setback).
Front balconies Units 1-5 on levels 2-4	7.5m to west side	4.7m to west side
Front balconies Units 1-5 on levels 2-4	7.5m to east side	4.7m to east side
Between front balconies for Units 1 and 2 on level 2	7.5m separation	2.68m
Between front balconies for Units 3 and 4 on level 3	7.5m separation	2.68m
Rear balconies Units 3 and 5 on levels 3 and 4	7.5m to west side	3.8-6.9m to west side
Rear balconies Units 3 and 5 on levels 3 and 4	7.5m to north side	2.2-4.5m to north side

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

“P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

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

There are existing windows to the living rooms of Units 1-5 on levels 2-4 with a privacy setback of 3.2m to the west side, instead of being set back at 6m in accordance with the Acceptable Development Standards of the Codes. It is proposed to increase the size of the glazing from approximately 2m² to 6m².

A two storey residence is currently under construction at No. 12 Warnham Road. There is no adverse effect on privacy of this new residence from the window at Unit 1 on level 2, as a proposed 1.8m high fence around the courtyard area in front of this part of the building will provide adequate screening. In addition, the eastern wall of the new house which faces the units at No. 14 Warnham Road has no major openings. Views from the new living room windows at Units 3 and 5 on level 3 and 4 will only overlook the roof of the residence at No. 12 Warnham Road, so no privacy issues will arise. The new living room windows comply with Performance Criteria of the Codes and are supported.

As previously mentioned, the front balconies mainly overlook the front setback areas of the adjoining properties to the west and east and other areas which are currently visible from the street. In this regard, the proposed front balconies comply with the Performance Criteria of the Codes and are supported.

The front balconies between Units 1 and 2 on Level 2 and the balconies between Units 3 and 4 on Level 3, were they designed as part of a whole new building, would under the Acceptable Development Standards of the Codes be required to be separated from each other by 7.5m. However, as additions to the existing building they are proposed to be separated by 2.68m, given the desire to create balconies but the design constraints. As these balconies are located at the front of the building they are clearly visible from the street, so will always be exposed and offer little real privacy, hence in this context it may be considered that they comply with the Performance Criteria of the Codes. In addition, the balconies are relatively narrow and due to the southerly aspect, are not expected to be used particularly frequently for lengthy periods of time. It is also considered preferential, from a streetscape amenity point view, not to provide screening between the balconies as a more open aspect will be maintained. The balconies as proposed, therefore, are supported.

The rear balconies for Units 3 and 5 are not particularly large in area (approx 5.4m²) and are triangular in shape. The views from these balconies are orientated in a north westerly direction. To the units they offer some relief and secondary amenity space, rather than being primary viewing platforms.

Approval was granted by Council earlier this year for four x two storey grouped dwelling at No. 14-18 Overton Gardens, which is to the north west of the subject property being redeveloped. There are no major openings on the walls of the adjoining proposed development at Overton Gardens. In addition, the height of the balconies would only allow for overlooking to occur over the upper section of a blank wall and roof of the adjoining development, therefore overlooking from the proposed balconies at Units 3 and 5 is not likely have any privacy impacts on the adjoining property at No. 14-18 Overton Gardens.

At No. 20 Overton Gardens, there is a 4 level block of units to the rear (north) which includes undercroft parking. The new balconies at the rear of Units 3 and 5 of the proposed redevelopment may have the potential to overlook bedroom windows on the south west corner of the adjoining block of units on levels 2 and 3.

Due to the orientation of the balconies and the distance between the balconies and the bedroom windows of the adjoining units (5m minimum), it is unlikely that privacy will be detrimentally affected (a plan is attached to the agenda showing the approximate location of the balconies in relation to the bedroom windows of the adjoining units). Any overlooking would be minor. In addition, given the size and irregular shape of the balconies, they are unlikely to be used for extensive periods of active recreation.

As such, the proposed rear balconies are considered to comply with the Performance Criteria of the Codes and are supported. It is also noted that the general context of the locality includes long-established medium density and medium rise apartment buildings with extensive views.

Open Space

The proposal provides a total of 54.8% open space on the ground level of the site, which is substantially more than the required 45% for R40 coded properties.

In addition, areas of private open space have been allocated to Units 1-4 on level 2 together with a common courtyard area for all 5 units. Private balconies have been provided for all units which also comply with the Acceptable Development Standards of the Codes and improves the lifestyle amenity of the residents.

Parking

A total of 10 parking bays have been provided on the site. Of these, 6 are as currently exist undercover, with the remaining 4 at the front of the property within the front setback area. A total of 2 bays are provided for visitors.

Parking provision complies with the Acceptable Development Standards of the Codes.

Manoeuvrability

The 6 undercover car bays are tightly located within the existing space and Council's Manager of Engineering Services has expressed some concerns regarding manoeuvrability. This is a given as this was previously approved and must be accepted.

Although not ideal, the parking situation is existing and has proven to be workable. The proposal also includes enlarging the existing garage entry which should assist in ease of access.

Bin Storage

Original plans submitted showed bin storage at the front of the property behind a low wall. This location was not considered to be ideal as the bins would have been visible from the street, unless a high screen wall was provided which would not be in-keeping with Council's Local Law for Front Fences. In addition, the bins could be viewed from the new front balconies and other properties.

Following liaison with the applicant, revised plans have now been provided showing two bin store areas located behind screen walls behind the 6m front setback line, which is considered suitable.

Air Conditioning Units

The applicant is mindful of the impact of the location of new air conditioning units in terms of noise and visibility, particularly given that a single residence is being constructed to the west and multiple dwelling units exist to the east and north.

Rather than locate the air conditioning units on the walls facing the adjoining properties or on the roof, it is proposed to locate them on the front balconies of each dwelling unit. This is a fairly common solution which is effective subject to careful location and screening.

This appears to be an appropriate solution as the air conditioning units provided that they will not be visible from the street, however, final location will need to be determined at the building application stage.

Height of Lift Shaft

The existing building is designed with a flat roof and parapet walls. While the scheme is not specific for height of such walls, the Residential Design Codes are a guide to Council, which provide a 7.0m standard for two-storey parapet walls, and Council has applied this in practice.

If a 7m height limit is applied to the natural ground level as determined by Council officers, the maximum wall height permitted would be 26.65m AHD. The existing building height is 30.28m AHD and pre-dates current height controls.

Although no additional storeys or changes to the roof line are proposed as part of this application, the installation of a lift will increase the overall building height by approximately 0.7m at this point.

The lift is to be located at rear of the building and will not be particularly visible from the street. In order for the mechanics of the lift to work, the shaft needs to be higher than the roof line in this instance. The DAP has raised no objections to the proposed lift shaft. The lift shaft is not considered to unduly affect aesthetics, views, air flows or solar access.

The lift shaft as proposed is, therefore, supported.

DAP Comments

A number of members of the DAP suggested the deletion of the four steel columns at the front of the building which support the new front balconies. The applicant has advised that due to existing construction, it is not practical to cantilever the balconies.

Cantilevering the front balconies may provide for a slightly preferred design, however, the costs associated with this to re-engineer the building would preclude this from being able to occur.

The columns are relatively narrow and non-intrusive and can be supported.

It has also been suggested by the DAP that enclosure of the new balconies should not be permitted to occur in the future. It is possible that owners may prefer to enclose their balconies for protection of the south westerly winds some time in the future, as has previously occurred at this property with original balconies. It is recommended that a condition be included in any approval to this application advising that Council would not support the future enclosure of the front balconies because of impacts on setbacks, bulk and scale and open space.

Most other suggestions and comments from the DAP have been incorporated into the proposal and generally the DAP is satisfied with the application.

CONCLUSION

Following liaison with Council Officers and the Design Advisory Panel this application to upgrade and improve the existing block of units at No. 14 Warnham Road has been submitted which addresses most of the design issues and concerns raised.

No increase of density is proposed. Some variations to building and privacy setbacks are proposed, however, these are not excessive particularly given that the proposal involves redevelopment of an existing building, which no longer complies with modern standards. Nonetheless, the variations satisfy Performance Criteria of the Residential Design Codes and can be supported accordingly.

A slight increase in height is proposed only for the new lift shaft, which needs to be higher than the existing roofline in order for the mechanics of the lift to operate. This will not be visible from the street due to the slope of the land and the location of the shaft being at the rear of the building.

It is noted that owners may in the future seek approval to enclose the new front balconies for protection from the south westerly winds, as this has occurred in the past with previous balconies. The applicant needs to be aware that future enclosure of these balconies is unlikely to be supported.

The proposal will improve the amenity of the streetscape and is typical of the improvements starting to occur on existing blocks of units of a similar vintage within Cottesloe.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee noted that the proposal was submitted to the Design Advisory Panel for comment which led to revised plans which were supported by the Panel as much better. The Manager Development Services advised that while particular DAP comments about roofing the top balconies and the support structure were acknowledged, visually the building could accommodate the smaller balconies without detriment to the streetscape, and the overall upgrade of the building is to be encouraged.

Cr Walsh suggested additional conditions for no roofs to the top of the balconies and no enclosure of the balconies, however, given the above advice and condition (n) this was not taken up by Committee.

AMENDMENT

Moved Cr Walsh, seconded Cr Strzina

That a new condition be added to the officer and committee recommendation as follows:

- (o) That the top floor balcony shall not be roofed.

Lost 4/5

11.1.2 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Alterations & Additions to Existing Apartment Block at No 14 (Lot) Warnham Road, Cottesloe, in accordance with the revised plans submitted on 18 October, subject to the following conditions:

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

- (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) Air conditioning plant and equipment is to be installed so as to be screened from view from the street to the satisfaction of the Manager Development Services.
- (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (i) A suitable enclosure for the storage and cleaning of rubbish receptacles is required to be provided for the existing premises within the boundary of the property. Such enclosure is to be provided with:
 - (i) A tap connected to an adequate supply of water;
 - (ii) A floor area to the satisfaction of the Environmental Health Officer to accommodate all general rubbish and recycling receptacles used for the premises;
 - (iii) Smooth and impervious walls constructed of approved material not less than 1.8 metres in height;
 - (iv) An access way not less than 1 metre in width, or greater if bulk receptacles are used, fitted with a self-closing gate;
 - (v) Smooth impervious floor of not less than 75mm thickness, evenly graded and adequately drained; and
 - (vi) Easy vehicle access to allow for the collection of receptacles.
- (j) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (k) Any front boundary fencing to comply with the Town of Cottesloe's Fencing Local Law.
- (l) Revised plans being submitted at building licence stage for approval by the Manager Development Services showing:
 - (i) the provision of an open-air clothes drying facility for Units 1-4;

- (ii) the provision of an open-air clothes drying facility for Unit 5 or an alternative clothes drying facility;**
- (iii) details of lighting to pathways, communal spaces and car parking areas; and**
- (iv) a detailed landscaping plan for the proposed communal area located at the front of the property and the verge area immediately in front of the property.**
- (m) Visitor car bays being clearly marked on the ground.**
- (n) The new balconies shall remain as open structures at all times and shall not be enclosed in the future by any means including solid walls, screens, awnings, blinds or the like.**

Carried 5/4

11.1.3 NO. 40 (LOT 1002) HAWKSTONE STREET – PROPOSED TWO STOREY RESIDENCE AND A SWIMMING POOL

File No:	40 Hawkstone Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission by applicant Submissions (3) Photos Plans
Report Date:	30 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	P & H Francis
Applicant:	Glenway Homes
Date of Application:	5 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	567m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a new two storey residence and lap swimming pool on the subject site.

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

PROPOSAL

On the ground floor, a garage, main bedroom, WIR, ensuite, WC, laundry, kitchen, dining, family and theatre room are proposed. An outdoor living area and lap pool open out from the family room.

On the upper floor, three bedrooms, three WIRs, two ensuites and an activity room is proposed. A staircase is proposed to link the two levels.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Ground east wall setback 1.5m.	0-2.4m	Clause 3.3.1 – P1
No 8 – Privacy	6m cone of vision setback activity room	4.8m cone of vision setback	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Surrounding Property Owners

Submissions

There were 3 letters sent out. There was 2 submissions received, which are objections. Details of the submissions received are set out below:

Matthew Crawford & Meredith Loik of 295 Marmion Street

- Objects to the height of the parapet wall and non-compliance with the RDC
- Objects to the lap pool against the boundary and any possible implications for their property

Ian & Penny McDonald of 299 Marmion Street

- Objects to any pool machinery equipment being located near/ on the northern boundary
- Also asks that no air conditioning be located near or on the northern boundary

BACKGROUND

The lot has been created as part of a subdivision which created three lots from two previously. These blocks have been levelled and the subject lot is currently vacant.

STAFF COMMENTOverall compliance

The dwelling complies with a majority of regulations. The building heights, most setbacks and privacy requirements are met subject to the aspects assessed and resolved in this report.

Boundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground east Wall	All	3.5m	24m	Yes	1.5m	Nil-2.4m

3.3.1 – Buildings Set back from the Boundary

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

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

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

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

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

This proposal is to have a nil setback to the side boundary for a garage, 1.8m for the theatre and 2.4m for the family and outdoor living areas. The RDC requires that this wall shall be considered as one whole wall whilst the only non-complying element is the garage setback. This is usually required to be setback 1m from the boundary if the garage was considered a separate entity or 1.5m as part of the entire length of the ground eastern wall.

However, the garage setback meets the Performance Criteria of the RDC as it makes an effective use of space. Whilst it has a small adverse effect on the amenity of the adjoining eastern property due to loss of sunlight, it does appear that the neighbouring property has cut slightly into this corner of its lot to create a level floor which has accentuated this situation.

The applicant has agreed to reduce the height of the parapet wall to RL 14.24 or 3.32m above the spot level of RL 10.92. Also the parapet wall can be reduced by 1m in length to 7.64m without impacting the upper storey. These reductions in height and length are welcomed and reduce any possible impact on the neighbouring eastern property. This variation is supported.

Privacy

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

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

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

Room	Required	Provided
Activity room	6m setback	4.8m setback

The proposal asks for a variation to the activity room's cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC as the positioning of the windows mean that any overlooking would be at a large angle, the activity room faces north and any possible looking within the 6m cone of vision is to the western neighbour. This is only a small area of the cone of vision projecting into the neighbouring property and it should be noted the neighbours did not object to this minor variation.

Swimming pool & retaining wall

An objection was received in relation to the proposed below ground lap swimming pool against the eastern boundary. Council has no setback requirements for swimming pools. The neighbour objecting requested that structural details be given in relation to the boundary/ retaining wall and the adjacent swimming pool.

Structural details are generally given with receipt of the building licence and the applicant has guaranteed their works. Any structures in close proximity on the neighbours side, would have to be protected and this would again be addressed by the Structural Engineer. The building process provides for proper management of boundary construction techniques.

In addition, pools are permitted on the boundary.

It can also be assumed that any dividing fence adjacent to the swimming pool will meet pool barrier regulations. Dividing fences are not part of this planning application and details of pool barrier fencing shall be received with the building licence application.

Pool & air conditioning equipment

Any pool and or air conditioning equipment shall meet the requirements of the proposed conditions (e) and (j) below.

CONCLUSION

The issue of the garage parapet wall has been raised by a neighbouring property. Whilst the height of the parapet wall does not meet the Acceptable Development provisions of the RDC, the applicant has agreed to lower this height and reduce the length and any amenity loss should be minimal to the neighboring property.

The application meets a majority of RDC and Scheme requirements. It is recommended that the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee requested that condition (j) be amended and at the suggestion of the Manager Development Services condition (o) be added to address the lap pool on the boundary, along the following lines:

- (j) be amended to include reference to the pool plant being closer to the proposed dwelling rather than the neighbours.
- (o) The applicant to comply with the Building Codes of Australia when installing the lap pool and liaising with the neighbour prior to this being commenced.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) The pool pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.

- (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
-

- (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) The pool pump and filter are to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
 - (o) The applicant complying with all necessary Building Code of Australia procedures and requirements in respect of construction of the lap pool up to the property boundary and liaising with the neighbouring owners accordingly.
- (2) Advise submitters of the decision.

AMENDMENT

Moved Cr Furlong, seconded Cr Walsh

That condition (j) be amended to read:

- (j) The pool pump and filter are to be located closest to the proposed dwelling rather than adjoining dwellings, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.

Carried 8/1

11.1.3 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Walsh

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.**
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.**
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
 - (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.**

- (j) The pool pump and filter are to be located closest to the proposed dwelling rather than adjoining dwellings, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
 - (o) The applicant complying with all necessary Building Code of Australia procedures and requirements in respect of construction of the lap pool up to the property boundary and liaising with the neighbouring owners accordingly.
- (2) Advise submitters of the decision.

Carried 9/0

11.1.4 NO. 25 (LOT 847) GRANT STREET – TWO STOREY RESIDENCE AND BELOW-GROUND SWIMMING POOL

File No:	25 Grant
Author:	Mrs Stacey Towne, Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Photos Plans
Report Date:	25 September, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Deidre Best
Applicant:	Sharp and Van Rhyn Architects
Date of Application:	25 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	572m²
M.R.S. Reservation:	N/A

SUMMARY

An application has been received to demolish the existing two storey render and tile residence and construct a new two storey render and skillion roofed residence with below-ground swimming pool at 25 Grant Street.

Original plans showed some variations with regard to height, setbacks and landfill to which neighbours objected on the basis of the privacy, bulk and scale impacts.

Following liaison with the applicant, revised plans have been submitted addressing most of the concerns raised. A small portion of the building still exceeds Council's height limit, however, the building has a staggered alignment (not a box design) and falls in height in relation to the slope of the land, being stepped down the lot. It is recognised that there is some degree of difficulty complying with height requirements due to the levels of the subject site, and that in some ways the proposed design would have a lesser impact than a complying house with a 6m wall height and an 8.5m pitched roof design.

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

PROPOSAL

The proposal includes:

- Demolition of the existing two storey residence and high masonry front fence.
- A ramp down to a basement garage, store and cellar.
- Ground level comprising of a sitting room, dining room, kitchen, lounge, bathroom, laundry and alfresco area.

- Upper level comprising of front and rear balconies, main bedroom with ensuite, study, three other bedrooms, bathroom, toilet and activity room.
- Below-ground swimming pool.
- Landfill at the rear of the site at approximately 0.5m, with a minor portion at 0.6m maximum.
- New open aspect front fence.

URBAN DESIGN CONTEXT

Comparatively, the proposal is a quality architectural design which responds fairly well to the constraints of the site and the surrounds and has the following attributes:

- True two storeys.
- Does not force the garage onto the street.
- Simple lines echo the existing square dwelling and reflect the geometric form and mass of the adjacent *Bel Air* landmark.
- Layout makes effective use of the odd-shaped lot.
- Setbacks are essentially respectful of neighbouring dwellings and allow breathing space between buildings with only one parapet wall.
- Sustainable design utilises northern orientation and cross-ventilation.
- Slim-line roof and indented side and rear elevations ameliorate bulk to the neighbours.

Nonetheless, the proposal must undergo assessment against the planning parameters and any neighbour comments before being determined, as set out in this report.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	7m wall height (parapet with skillion roof)	6.17-7.87m as agreed (only a small portion at the front of the house is over 7m)

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Setback from the ground floor parapet to the western side boundary – 1m	Nil	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Setback from the upper floor study/ensuite/balcony to the western side boundary – 1.8m	1.5-2.5m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Setback from the upper floor 2 beds/bath to the eastern side boundary – 1.7-1.9m	1.8m	Clause 3.3.2 – P1
No. 6 – Site Works	Filling behind the front setback and within 1m of a common boundary not exceed 0.5m above natural ground level.	Small section on west side up to 0.6m.	Clause 3.6.1 – P1
No. 6 – Site Works	Retaining wall more than 0.5m high to be set back 1m from boundary.	Small section (less than 1m long) on west side up to 0.6m high with nil setback.	Clause 3.6.1 – P2
No 8 – Visual Privacy	Setback from the bedroom window to the west side 4.5m	2.7m to the west side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the bedroom window to the east side 4.5m	2.7m to the east side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the rear balcony to the east side 7.5m	5m to the east side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the rear balcony to the west side 7.5m	5m to the west side	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of a letter to Adjoining Property Owners

Submissions

There were 7 letters sent out. There was one submission received, which was an objection. (Please note the objection relates to the original plans submitted, which have now been revised). Details of the submission are set out below:

Submission 1 - No. 23A Grant Street - Woodhill

- *The building appears to be 1.32m above what is permitted under the Codes. How was NGL calculated?*
- *Retaining walls exceed 0.5m within 1m of the common boundary.*
- *Landfill is proposed greater than 0.5m (0.60-0.65m).*
- *Privacy setbacks from front and rear balconies do not comply (3m to east and 3.5m to west shown, 7.5m required) which affects our garden and outdoor entertainment area.*
- *Privacy setback from upper bedroom on the western side does not comply (2.7m shown, 4.5m required).*
- *Privacy setback from study on the western side does not comply (1.7m shown, 6m required) and will overlook our dining area and outdoor entertainment area.*
- *Due to the additional height due to infill and design, the window to the stairs on the western side will overlook our dining room. The plans show a 3.1m set back whilst 6m is required.*
- *Setbacks lower floor on the western side should be 1.5m, however, the plans only scale the setback at 1.2m.*
- *The bulk of the building will have great impact on our property. The bulk is noticeable because our block is narrow and most of our natural light source comes from the east, much of our living/entertainment areas are on the east side of our house where we spend most time; and is exacerbated by the level of land fill proposed which increases height.*
- *The height and length of the parapet wall is unnecessary and overwhelming.*

- *Our amenity will be severely affected by the number of variations being sought.*
- *We request that the architect for 25 Grant Street submit elevations (to scale) from the west, north and south of the proposal showing the relative heights of 25 Grant Street and our home at 23A Grant Street.*
- *Our architect's advice on this matter is to object to overall height (clarification of NGL required); the height of the parapet wall, landfill and overlooking issues that arise from this; upper storey overlooking and overlooking from the stairs window (could be overcome by blinds, obscure glass, landscaping or similar).*

In response to the submission and following Officer liaison, the applicant has provided amended plans which now address many of the issues raised. The applicant has written as follows (summarised):

- *Calculating natural ground level at the centre of the site by using the four corner method, results in a level of 24.63m. This is approximately 1m below footpath level as the site slopes away from the street (i.e. underground on the site). We therefore propose that building heights be measured from NGL directly related to the wall or roof above, as per R Codes. We have attempted to design a building where floor levels are stepped down the site and the roof line follows the contours in order to minimise building height.*
- *Basement garaging has been proposed to avoid imposing garage doors on the narrow frontage. Our revised submission has reduced the main floor level and associated fill thus reducing the height of boundary retaining walls and avoiding overlooking from ground floor windows. The main floor level is now close to natural ground level and only 100mm higher than the floor level of the existing house.*
- *Front balcony - Privacy screens and translucent glass now provided.*
- *Rear balcony – Privacy screens reduce overlooking and large mature trees to the east prevent views.*
- *Bedroom 4 – We seek a variation for this privacy setback from this minor room.*
- *Study – Revised plans now show translucent glass to prevent overlooking.*
- *Lower Living Room – Revised plans now show a reduced finished floor level, therefore the privacy setback is no longer required.*
- *The front fence is to be 900mm solid with open steel railing above. Some solid sections at the side are proposed.*
- *We have reduced the building height and floor levels with associated fill which will reduce the impact of the building on the neighbours. The stepping down of floor levels and the roof line following the site contours is a conscious design decision to reduce the impact of the building on neighbours and comply with the town planning scheme requirements. A traditional roof pitch would result in an even higher building. (The applicant has provided a sketch showing the greater impact from a pitched roof. This is attached to the agenda).*
- *The west parapet wall has been reduced in length to match the existing garage parapet adjoining.*
- *The courtyard has been positioned to the east to take advantage of climatic elements, as have the neighbours adjoining. This means that the courtyards are further away from each other.*
- *We propose to plant screen trees to reduce overlooking from the stairs window.*

Subsequently, the neighbours at No. 23A Grant Street viewed the revised plans and in discussion with s requested further clarification and consideration on a number of matters including levels/height, the proposed western parapet wall and privacy.

Following further Officer liaison, the applicant has agreed to the following additional changes (revised plans can be required as a condition of approval):

- Provide obscure glazing to the stairs window instead of landscaping to improve privacy (Note: this is a goodwill gesture as it is not a requirement of the RDCs as Privacy from this window currently complies).
- Provide obscure glazing to 1.65m to the widow to the bedroom on the upper west side.
- Rationalisation of the parapet wall on the western boundary so that, for the most part, the height corresponds with the existing wall on the adjoining neighbours' property and is only higher where the entrance is located.
- The finished level for the ground floor being lowered approximately 100mm to equate to the finished floor level of the residence currently existing on the property. This will also reduce the overall height of the building by 100mm (to between 6.17-7.87m).

It is considered that the above changes will assist the adjoining neighbours and addresses the impacts previously identified as well as assist streetscape.

BACKGROUND

No. 25 Grant Street is 572m² and zoned Residential R20 (a single residential property). The lot is an irregular shape as it narrows at the rear on the western side.

The land is basically flat at the front, however, it slopes down by approximately 1.5m from the middle of the site to the rear.

A two storey residence currently exists on the site. A two storey block of 4 units is located to the east (Bel Air) and a two storey single residence is located to the west.

STAFF COMMENT

Side Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
East Upper Level	2 bedrooms and bathroom	6.5-7.2m	13m	Nil	1.7-1.9m	1.8m
West Ground Level	Parapet	3.5-3.6m	6.7m	Nil	1m	Nil
West Upper Level	Study/ensuite/balcony	6.5m	12.5m	Nil	1.7m	1.5 – 2.5m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.3.1 of the RDC states the following:

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

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

Due to the north-south orientation of the lot, the setback variations do not affect adjoining properties in terms of access to sunlight. The reduced setbacks proposed all involve minor variations and are not considered to affect adjoining properties in terms of bulk. No direct overlooking of active habitable spaces will occur as a result of the reduced setbacks.

In most instances the departures are small and in some instances the minimum setback is actually partially exceeded. The proposed setback variations, therefore, comply with the Performance Criteria of the Codes and are supported.

Privacy

The following privacy (cone of vision) setbacks of the proposed additions seek variation from the Acceptable Development standards of the Codes:

Room	Required	Provided
Bedroom	4.5m to west side	2.7m to west side
Bedroom	4.5m to east side	2.7m to east side
Balcony (Upper Rear)	7.5m to east and west sides	5m to east and west sides

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

“P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

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

Overlooking from the upper bedroom windows to the east and west is minor. As both of these windows face south, overlooking is not direct and the small areas affected by the overlooking are not active habitable spaces or windows to habitable rooms.

Screening of the east and west sides of the balcony as well as a portion of the south side greatly restricts viewing.

The neighbours to the west, however, have expressed concerns regarding privacy from the south-facing window of the upper bedroom on the west side. Following Officer liaison, the applicant has now agreed to provide obscure glazing to this window to a height of 1.65m. This is recommended to be imposed as a condition.

The overlooking from the rear balcony and bedroom windows comply with Performance Criteria of the Codes and are supported as proposed. In these ways the proposal avoids serious overlooking and applies appropriate screening in accordance with the requirements of the Codes. In addition, the neighbours to the west are satisfied that the screening will provide sufficient privacy in this instance as no balcony and a large window would be more exposed.

Bulk

Concerns raised by the neighbours in terms of overall general building bulk have been addressed by the changes to the original plans.

The residence has been designed such that the building line is staggered along the boundaries, rather than being constructed as a square box. By having indents along the boundaries for courtyards and open space, the impact of bulk is greatly reduced. The building is also designed at varying levels to correspond with the natural lay of the land. This results in the height of the building also varying along the length of the lot, rather than it being a single horizontal form.

It is noted that the neighbours to the west have expressed concerns regarding the bulk of the proposed residence. The main living area of the neighbours' residence is at single storey level at the rear of the house. It is likely that any new two storey development at No. 25 Grant Street would be likely to create a sense of "bulk", particularly after being able to enjoy the feeling of space currently experienced.

In relation to the amended plans, the length of western parapet wall on the common boundary has been reduced to match the length of the parapet wall on the property adjoining at No. 23A Grant Street, the setback of the lower storey on the western side has been increased, retaining walls and landfill have been reduced and the overall height of the building has been lowered.

Whilst the neighbours to the west commended the reduced length of the parapet wall, they still expressed some concerns in relation to its height. As a result of Officer liaison, the applicant has agreed to further amend the plans to rationalise this wall such that it is lowered to match the height of the neighbours' parapet wall for the most part and that it only be raised higher in one smaller section to accommodate the new entrance area. This will result in an improved streetscape presentation as well as lessening the impact of bulk on the neighbours. It is recommended that a condition be imposed to address this.

These changes have reduced the impact of bulk on the neighbouring properties to an acceptable standard. These are worthwhile improvements to lessen the effect of introducing a new dwelling into an established area.

Height

The building is designed with a skillion roof and parapet walls. While the Scheme is not specific for height of such walls, the Residential Design Codes are a guide to Council, which provide a 7.0m standard for two-storey parapet walls, and Council has applied this in practice.

Clause 5.5.1(a) of Town Planning Scheme No. 2 states that Council will not regard as a storey, undercroft space where (amongst other things) that space is not higher than 1m above the footpath level. The proposal includes cutting into the front of the site to provide access to basement car parking, store and cellar. The height of the undercroft complies with requirements of Clause 5.5.1(a).

There are some difficulties involved with determining a figure for natural ground level from which to measure general building height.

Clause 5.5.1(c) of Town Planning Scheme No. 2 generally states that natural ground level should be measured at the centre of the site. It is difficult to calculate the natural ground level at the centre of the site because of the presence of existing development. Averaging the existing levels of the four corners of the site, however, results in a measurement of 24.63m AHD. This approach is supported by Council guidelines.

If a 7m height limit is applied to the natural ground level as determined by Council s, the maximum wall height permitted is 31.63m AHD.

The most recent revised plans shows the majority of the proposed building falling within the 31.63m AHD height limit, however, a small section at the front of the residence is 32.6m AHD (i.e. 0.97m over height in this section).

It is noted that the neighbours to the west have expressed concerns in relation to the building being over height in this respect.

Following Officer liaison, however, the applicant has stated that he is able to further reduce the finished level of the ground floor by 100mm to equate with the finished ground floor level of the existing residence on the site. This would mean that the residence would be up to 32.5m AHD (i.e. 0.87m over height in one section).

It is noted, however, that the actual height of the building measured at the front would only be 6.9m above ground level at that particular point on the ground, which is less than the 7m standard and lower than an 8.5m high pitched roof.

Because of the style of the house and the desire to have an undercroft garage rather than a garage at the front of the residence, it is not possible to further drop the finished levels and maintain acceptable access gradients to the undercroft area.

The parapet wall / hidden roof has been designed to have a lesser impact than a pitched roof development and, as previously mentioned, the applicant has provided a sketch showing the greater impact from a pitched roof (attached to the agenda).

There is discretion within TPS2 in terms of the height provisions being expressed as a general policy and that Council may consider the circumstances and merits of each

case. Variations may be considered in relation to topography and extensions to buildings. Specifically, Clause 5.1.1(c) states that Council can consider granting a variation to building height requirements in particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished. The test of height is tied to privacy, views and amenity. The scheme also refers to overshadowing and air flows.

It is considered that the height variations would not adversely impact on the streetscape or the amenity of adjoining neighbours. Furthermore, flat or skillion roof forms exist nearby in new approved dwellings in Grant Street as well as to Bel Air which has a bold parapet facade.

Given that only a small section of the residence does not comply with the height requirements of the Scheme, that the majority of the residence does comply and that amenity is not adversely affected, the height of the building with a further 100mm reduction is supported. A condition to impose this is recommended accordingly.

Front Fence

The existing fence within the front setback is of solid construction to height of approximately 1.8m along the front boundary and on the east and west sides.

Council's Local Law generally requires fences in the front setback to be of open aspect construction where it is above 0.9m, to a maximum height of 1.8m.

This application proposes to improve the existing front fence and increase visual permeability by bringing it into line with Council's Local Law requirements. The front fence will generally be solid to 0.9m with open aspect railing above to 1.8m and is supported as proposed. This is a positive contribution to the streetscape.

Open Space

The proposal complies with the Acceptable Development Standards of the Residential Design Codes with regard to open space provision.

Land Fill

Where the land slopes down at the rear of the property, it is proposed to provide fill to raise the ground level by up to approximately 0.5m. There is a small section where fill is proposed at 0.6m. The Acceptable Development Standards of the codes only allows for fill up to 0.5m above natural ground level.

As the proposed landfill does not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.6.1 of the RDC states the following:

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

Most of the landfill proposed complies with the Acceptable Development Standards of the Codes, however, the small section where the fill is proposed at up to 0.6m maximum is minor and can not be seen from the street or from the adjoining property. The original plans have been amended to show the reduced landfill as proposed.

The proposed fill complies with the Performance Criteria of the Codes and is supported.

Retaining Walls

Walls to retain the proposed landfill are shown with nil setback constructed on the east, west and south boundaries. The setbacks for these retaining walls comply with the Acceptable Development Standards setback requirements of the Codes with the exception of a small section (less than 1m length) of wall on the western side boundary.

Acceptable Development Standards of the Codes allow for retaining walls of up to 0.5m to be situated on the boundary. The proposal shows a section of the wall being up to 0.6m high on the boundary.

As the proposed retaining wall setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.6.2 of the RDC states the following:

“Retaining walls designed or set back to minimise the impact on adjoining property.”

The retaining wall of the height proposed is to allow for raising of the ground level of the approach to the entrance to the new residence. A common boundary fence of 1.8m over the retaining wall will ensure that privacy is maintained between the two properties.

Given that the variation is minor and no adverse impacts will be made on the adjoining property to the west, the retaining wall is supported as proposed.

CONCLUSION

The proposal involves some relatively minor variations to the Acceptable Development Standards of the RD Codes in relation to setbacks, privacy, landfill and retaining walls. All variations are considered to be quite minor with minimal impacts on amenity and as they are considered to comply with the Performance Criteria of the Codes, are supported.

The proposal does not fully comply with the overall height requirement of the Scheme. The skillion roof which is highest at the front of the building exceeds the 7m height limitation by up to 0.97m from natural ground level in a small section. The excess of height in this location is not considered to be detrimental to the streetscape or the adjoining neighbours and is an integral part of the contemporary design of the residence. Given that a pitched roof may have a greater impact than what is proposed and given that the height variation is only for a section of the building, the height as proposed is supported in this instance.

A number of aspects initially raised by Council Officers and neighbours have been addressed by the submission of amended plans. Officer liaison with the neighbours and architects has achieved a number of design revisions to address neighbour concerns in particular and the planning parameters generally.

Therefore, on this overall basis it is assessed that the design suits the context of the locality and that the technical and amenity aspects of the Scheme and Codes have been satisfied through the revisions, and for these reasons the proposal is supported.

Finally, it is advised that the western neighbours have lodged a further letter dated 15 November 2006 elaborating on their concerns in relation to the proposal, albeit revised. This letter, together with Officer comments, will be circulated to Councillors with the agenda and should be read in conjunction with the report.

VOTING

Simple Majority

COMMITTEE COMMENT

That conditions (h) and (l), regarding air-conditioning and pool plant respectively, refer to this equipment being closest to the proposed dwellings.

That the following condition be added:

(p) The building being lowered at the front to comply with the 7m wall height.

Cr Furlong moved the officers' recommendation and that the minor amendments to conditions (h) and (l) be included.

This recommendation was passed by Committee with Cr Furlong using his casting vote.

DECLARATION OF INTEREST

Cr Ian Woodhill declared a proximity interest in this matter and left the chamber at 7.43pm, did not participate in the debate and did not vote.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Residence and Below-Ground Swimming Pool at No 25 (Lot) Grant Street, Cottesloe in accordance with the revised plans submitted on 19 October 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the

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

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, and be approved by the Manager, Engineering Services or the authorised officer.
- (f) The existing redundant crossover in Grant Street being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) The screens to the upper front and rear balconies being a minimum of 1.65m high from the finished floor level and visually obscure in accordance with the Residential Design Codes and to the satisfaction of the Manager Development Services.
- (j) Revised plans being submitted for approval by the Manager of Development Services, showing:
 - (i) The south facing window to the upper single bedroom being modified to prevent overlooking into the adjoining property by being constructed of fixed obscure glazing or screening to a height of at least 1650mm above the FFL.
 - (ii) The finished floor levels and the overall height of the proposed development being reduced a further 100mm.
 - (iii) The parapet wall to the western boundary shall not exceed the height of the adjacent parapet wall to No. 23A Grant Street, except for a section forming part of the entry hall to the dwelling. The redesign of the entry hall should limit the extent of the higher parapet wall sufficient for the structure of the dwelling, and

should optimise the extent of the lower parapet wall flanking the entry hall to the front and rear.

- (k) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (l) The pool pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (m) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (n) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (o) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation
- (2) Advise the submitters of this decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Residence and Below-Ground Swimming Pool at No 25 (Lot) Grant Street, Cottesloe in accordance with the revised plans submitted on 19 October 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, and be

- approved by the Manager, Engineering Services or the authorised officer.
- (f) The existing redundant crossover in Grant Street being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
 - (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (h) Air conditioning plant and equipment is to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (i) The screens to the upper front and rear balconies being a minimum of 1.65m high from the finished floor level and visually obscure in accordance with the Residential Design Codes and to the satisfaction of the Manager Development Services.
 - (j) Revised plans being submitted for approval by the Manager of Development Services, showing:
 - (i) The south facing window to the upper single bedroom being modified to prevent overlooking into the adjoining property by being constructed of fixed obscure glazing or screening to a height of at least 1650mm above the FFL.
 - (ii) The finished floor levels and the overall height of the proposed development being reduced a further 100mm.
 - (iii) The parapet wall to the western boundary shall not exceed the height of the adjacent parapet wall to No. 23A Grant Street, except for a section forming part of the entry hall to the dwelling. The redesign of the entry hall should limit the extent of the higher parapet wall sufficient for the structure of the dwelling, and should optimise the extent of the lower parapet wall flanking the entry hall to the front and rear.
 - (k) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (l) The pool pump and filter are to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (m) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
-

- (n) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (o) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation
- (2) Advise the submitters of this decision.

11.1.4 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 25 Grant Street to allow more time for the applicant to address the concerns raised, and that Council DEFER the item accordingly for a future report from officers.

Carried 8/0

Cr Ian Woodhill returned to the chamber at 7.44pm.

11.1.5 NO. 43 (LOT 49) CURTIN AVENUE – ADDITIONS TO A TWO STOREY RESIDENCE INCLUDING THIRD LEVEL LOFT, PLUS NEW CARPORT

File No: 43 Curtin Avenue
Author: Mr Lance Collison / Mr Andrew Jackson
Author Disclosure of Interest: Nil
Attachments: Location plan
Correspondence from applicant (2)
Submission (1)
Photo
Plans
Report Date: 3 November, 2006
Senior Officer: Mr Andrew Jackson

Property Owner: Justin Davies & Angela Quin

Applicant: as above
Date of Application: 26 September, 2006

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 372m²
M.R.S. Reservation: N/A

SUMMARY

Council is in receipt of an application for additions to a two storey residence including a third level loft within the roof space as well as a new carport on the subject site.

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

PROPOSAL

On the ground floor internal alterations and a bedroom addition are proposed. Externally on the ground floor a double carport, an ornamental pond and a 2.2m side boundary screen wall are also proposed. The rear garage is to be removed.

On the first floor, internal alterations as well as two new balconies, a pergola and an open kitchen/living/dining area is proposed.

On the new roof space level a study, ensuite, master bedroom and balcony are proposed. Two staircases are proposed to link the three levels.

URBAN DESIGN CONTEXT

The site is at the southern end of Cottesloe in an area characterised by small lots and narrow dwellings, including some unique architectural expressions of generally modernist aesthetic featuring curved, angular and flat roof forms. The dwellings are accessed by a service road alongside Curtin Avenue so do not present as a

conventional streetscape opposite other dwellings, but rather their interrelationship is confined to adjacent dwellings.

Also in this case, the built-up lots, solid high fences and closeness of dwellings create a dense urban environment where there are more mutual amenity impacts between dwellings than on larger lots. Several new dwellings and major renovations are underway, with ageing housing stock being replaced or refreshed. The opportunity afforded by the older, basic dwellings to be transformed into contemporary homes of today's standards and to take advantage of views can be appreciated, as with this proposal. How this design approach is assessed against the relevant planning parameters is set out below.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	Maximum 6m wall height and 8.5m roof height.	7m effective wall height southern elevation; 8.5m effective wall and roof height, north, west and east elevations.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.5m setback, ground north wall	1m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	1m setback Carport side boundary	nil	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	2.7m setback Upper north wall	1m setback	Clause 3.3.1 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	4.7m setback Balcony to stair	0.8m to 0.95m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	4.7m setback, North loft level wall	3m setback	Clause 3.3.1 – P1
No 8 – Privacy	4.5m setback for a bedroom	1m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m from a kitchen	1m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m from a study	3m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	1.8m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	4.3m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	2m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	4.4m setback	Clause 3.8.1 – P1
No 9 – Design for Climate	Maximum of 35% overshadowing	47% overshadowing	Clause 3.9.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. There was 1 submission received, which was an objection. Details of the submission received are set out below:

Paulla & Gavin Abrahams of 41 Curtin Avenue

- *Objects to overshadowing not complying with Council regulations*
- *Their entry on the northern boundary requires light to prevent moss/ mould on pavers*
- *Says a clothesline would be affected by overshadowing*
- *Concerned that a loss of heat and light into their rooms on northern side will mean lighting and heating needed*
- *Concerned house will tower over all other houses*
- *Requests the roof to look like a roof*
- *Requests roof comply with regulations*
- *Requests that overlooking is not possible into the rear swimming pool area and that existing overlooking should not be allowed to increase*
- *Objects to 2.2 metre wall on northern boundary*

BACKGROUND

An existing 1960s two storey residence exists on the residence. The residence is elevated above street level. A driveway leads to the house but currently offers no undercover parking.

The intention is to recycle this existing dwelling stock by renovation, which is a noticeable trend in this part of Cottesloe where older cottages or rudimentary beachside houses warrant upgrading. The proposal seeks to optimise the new home in the context of the neighbourhood and locality.

STAFF COMMENTBuilding Heights

Clause 5.1.1 of TPS2 guides height control and the core provisions applicable to this proposal are as follows:

- (b) *Specific Policy*
 (ii) *Residential Zone*

The maximum building height shall be two storeys except that Council may permit a third storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity. (etc)

- (c) *Measurement of Building Height*

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

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

Variations may be permitted in the case of extension to existing buildings.

The key aspects here are:

- A true third storey or level may be allowed (it does not have to be a mezzanine, loft or attic, which are not mentioned) but must be located within the roof space.
- The provisos are that the maximum wall and roof heights stipulated for two-storey development must apply; that Council considers the dwelling will look like a two-storey dwelling; and that Council considers local amenity will not be adversely affected.
- Variations may be permitted for extensions to existing buildings.
- The Council discretions in these provisions are: the permission to have a third storey; the appearance of the roof; the assessment of amenity; and the flexibility for extensions.
- The non-discretionary aspects are the requirement for the third storey to be in the roof and the height limits.
- The Scheme does not elaborate on any detail of or criteria for these discretions, such as the roof shapes, so there may be a variety of design approaches.
- The Scheme does not explain in what way discretion may be allowed for extensions, so this is also open to various design solutions.
- Note that the Scheme also allows discretion in height by reason of topography, but that is not applicable in this case.

Over the years Council has aimed to apply these height provisions reasonably and has been able to accommodate a small number of dwellings with third levels contained within their roof spaces, while the roof forms have varied. Examples are: 174 Little Marine Parade (French chateau mansard-style roof); 184 and 186 Little Marine Parade (curved roofs); 244 Marine Parade (barn-type roof). At the same time, emerging contemporary architecture around Cottesloe includes a number of other curved roofs (eg: 16 Margaret Street, dwellings on western side of Hamersley Street, and 3 Curtin Avenue not far from the proposal), while some lofts have been allowed in conventional roofs (eg: 9 Geraldine Street). A further example of this theme is the current proposal for 9 Grant Street.

In terms of the wall and roof height measures, it is apparent that the crown of the roof can be easily determined for a range of roof forms, whereby a third level can be achieved. Experience is that wall height, however, has had to incorporate some design freedom. Most commonly, any gable-ended roof equates to a greater wall height to the apex, which is a typical residential design feature and is generally not an issue or disputed as allowable. In other words, it would be unduly restrictive to accept only pitched roofs with no gables as satisfying the wall height, so that all dwellings looked the same with hat-like roofs. Moreover, in considering parapet wall / flat roof designs greater wall heights have been allowed in accordance with the RD Codes provision. Therefore, with respect to the range of roof designs put forward, the differentiation or transition between the walls and the roof of a dwelling has required some judgement in relation to form, function, appearance and amenity.

Turning to the proposal, the wall heights do not automatically conform to the 6m standard, as they are designed with a curved roof, however, the applicant and designer have conceived the design to house the third level within the roof space. The south elevation wall starts to curve at a height of 7m above natural ground level on the boundary. The effective maximum wall heights for the remaining three elevations are 8.5m from natural ground level where they meet the crown of the roof, and that height complies with TPS2.

To help assess this proposal, in addition to the properties identified above, comparison may be made with more recent planning applications for two storey dwellings with third levels in their roof spaces. In May 2005 Council approved a third level of 49sqm atop a two storey dwelling for 2/1 Pearse Street, which had walls slanted to appear as part of the overall roof structure. In February 2002 Council approved greater wall heights for a dwelling with a third level in the roof space at 186 Little Marine Parade. Like the proposal, this is an east-west lot which overshadows the southern neighbouring property and the curve of the roof for the third level on one elevation is very similar to this proposal.

Given all of this analysis, it is assessed that the southern elevation wall height be limited to a maximum of 6m (RL of 30.77), from which point the roof shall begin curving to a maximum height of 8.5m (RL of 33.27). This will comply with the Scheme standards and mean that the dwelling appears as a two storey dwelling from the neighbouring southern property.

The remaining walls to the other elevations are setback further from the boundaries and are vertical. To begin with, the eastern wall for the roof space level is setback further from the northern boundary than the ground and second floor levels, which have setbacks of 3m and 1m respectively. To the eastern (street) elevation the roof space level is setback an additional 7.3m behind the ground and second floor levels, amounting to a large setback of some 20m from the front boundary. In this way the effect of the third level is not only to be contained in the roof space but also to recede from the boundaries and to be the lesser element of the overall building bulk and scale.

On the western elevation the roof space level wall is setback in line with the second floor level (apart from the second level balcony which is closer to the western boundary). The setback from this boundary is 6.7m to the roof space level balcony and the immediate adjacent property is a Right of Way rather than a residential neighbour. The effect of these walls in themselves is assessed as insignificant, however, if they are considered to appear more like a third storey, then they could be sloped slightly inwards to create the impression of a roof form, and perhaps even clad so as to represent the roof structure to the building.

Regarding the criterion that the roof space level will not adversely affect local amenity, as the roof space contains a study, bedroom, balcony and bathroom its use can be considered low-key. The balcony is not considered to be an entertaining area due to its small size and remote location as it can be accessed only through the master bedroom. As the rooms at this level are non-entertaining rooms noise will not be an issue. Overall privacy is further assessed in a separate section below.

Regarding other amenity aspects, the overshadowing does not meet the Acceptable Development provisions of the RDC, as discussed in a separate section below. However, by limiting the southern elevation wall height to 6m then curving the roof, it is considered that the overshadowing effect of the proposed roof form will be not too dissimilar from a dwelling with ordinary walls 6m high and a traditional pitched roof 8.5m high.

Boundary Setbacks

The following side boundary setbacks of the proposed new additions don't comply with the Acceptable Development standards of the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground North Wall	All except carport	3m	15.5m	Yes	1.5m	1m
Ground north wall	Carport	3m	6m	N/A	1m	Nil
Upper north wall	All	6.5m	21m	No	2.7m	1m
Upper South Wall	Balcony 2 stair	6m	19m	Yes	4.7m	0.8-0.95m
Roof space North Wall	All	8.5m	12m	Yes	4.7m	3m

Therefore, the setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC, which are:

3.3.1 – Buildings Set back from the Boundary

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

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

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

This proposal is to have a 1m setback for the ground north wall to the side boundary. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space. There are no adverse impacts and the proposal simply extends the existing wall.

The upper north wall is proposed to be setback 1m where 2.7m is required under the Acceptable Development Provisions of the RDC. The proposal will still allow direct sun and ventilation to the building and adjoining properties. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway. The proposal does not impact the direct sun on the neighbouring northern property. It can be argued that the proposal does not ameliorate the impacts of building bulk on adjoining properties however as there are no major openings in this wall, it assists in protecting privacy between adjoining properties. The setback variation generally meets the Performance Criteria of the RDC.

The upper south wall is proposed to be setback from 0.8 to 0.95m, whereas 4.7m is required under the Acceptable Development Provisions of the RDC. The proposal will reduce direct sun to the southern adjoining property. However, several of these windows on that property are obscure glazed and already receive reduced light. The proposal will provide adequate ventilation to the property and its neighbours. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway.

It can be argued that the proposal does not ameliorate the impacts of building bulk on adjoining properties, nevertheless the neighbouring southern neighbour has a long two storey wall on their northern boundary. The plans show that the kitchen window overlooks the neighbouring property. A proposed condition requiring this window to be a minor opening will assist in protecting privacy between adjoining properties and the wall would then be considered a wall with no major openings and require a lesser setback of 2.2m from the boundary. The setback variation partially meets the Performance Criteria of the RDC and is supported providing for overlooking being negated from the kitchen.

The north loft level wall is setback 4.7m from the northern boundary whereas the Acceptable Development provisions of the RDC. The proposal will still allow direct sun and ventilation to the building and adjoining properties. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway. The proposal does not impact the direct sun on the neighbouring northern property. It can be argued that the proposal partially ameliorates the impacts of building bulk on adjoining properties. It is argued there are major openings in this wall; these windows appear to be 1.5m above floor level whereas they are required to be a minimum 1.65m above finished floor levels to be considered minor openings. A condition requiring this will then allow the proposal to meet the criterion in *protecting privacy between adjoining properties*. The setback variation generally meets the Performance Criteria of the RDC.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC:

Room	Required	Provided
Master Bedroom	4.5m setback	0.95m setback
Master Bedroom	4.5m setback	3.3m setback
Kitchen	6m setback	0.95m setback
Study	6m setback	3.3m setback
Upper floor balcony	7.5m setback	1.8m setback

Upper floor balcony	7.5m setback	1.5m setback
Roof space balcony	7.5m setback	1.8m setback
Roof space balcony	7.5m setback	4.3m setback

Therefore, the setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are:

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

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

The proposal asks for a variation to the master bedroom's cone of vision setbacks. The RDC do not specify any provisions for windows in a roof, however, the windows still present a privacy issue. The window is only 1.3 wide by 0.5m high and therefore is not a major opening by size, however, another window in this roof on this elevation results in this being considered a major opening as per the RDC as the combined aggregate of windows on this elevation at this level is larger than 1m². The proposal does not comply with the Performance Criteria of the RDC, as it provides an opportunity to overlook the southern neighbour. The window is recommended to be obscured.

The master bedroom western elevation window also does not comply with the Acceptable Development provisions of the RDC. This window which opens out to the balcony is setback 3.3m on a 45 degree angle to the southern neighbour where the requirement is a 4.5m setback. This window does meet the Performance Criteria of the RDC, as possible overlooking to the southern neighbour will be negated by the balcony which will reduce downward overlooking. Proposed screening measures which are described later in this section will further reduce possible overlooking to the south.

The kitchen requires a 6m cone of vision setback whereas 1m is provided. The kitchen window does allow direct overlooking to the neighbouring property. Windows on the southern neighbouring property are generally obscure on the upper floor and clear on the ground floor. Due to the small setback, it is recommended this window be a minimum height of 1650mm above finished floor level or obscure to alleviate any privacy concern.

The study within the roof space is facing east whereas the potential cone of vision is toward the southern neighbour. The study window is approximately 1.2m wide by 600mm high and is 1.2m above finished floor level. Due to the low head heights from this area where the roof curves and that the window is not positioned to directly look at any major openings on the neighbouring southern property, this window is considered to meet the Performance Criteria for privacy.

The upper floor rear balcony requires a 7.5m cone of vision setback under the Acceptable Development Provisions of the RDC. To the southern neighbour a 1.8m

cone of vision setback is provided and to the north it is 1.5m. Whilst the existing residence already overlooks the yards of both neighbours, the RDC do not encourage “new” overlooking to occur. Screening is proposed on the northern boundary of the balcony and is seen as an acceptable measure to reduce overlooking to the north. Due to the shape of the blocks and existing vegetation, any overlooking to the north is limited and no additional screening is recommended.

To the southern neighbour, overlooking will occur. This could possibly extend into the pool area, however a 1.65m screen is a condition of approval on the neighbouring southern property being built which will restrict this view (attached photos refer). Nevertheless, additional screening is recommended to this neighbour in accordance with the RDC. Due to the odd shape of the balcony the applicant has requested consideration of mature tree planting along the southern boundary within the 7.5m cone of vision will satisfy the privacy requirement. Planting treatment is included in the RD Codes as one potential way of addressing privacy and has been applied effectively elsewhere by Council. In this instance, however, it is considered that the narrow lots with limited side setbacks and smaller yard spaces would mean that planting would be problematic, and there is always the factor that the permanency of planting is uncertain. Moreover, while planting may work well at lower levels, it is less likely to be satisfactory for a second and third storey balcony. Therefore, fixed screening at the point of overlooking is the preferred solution.

The roof space level balcony can be considered a variation as it constitutes an active habitable space. While at 0.8m deep it is less than the threshold of 1m deep to require privacy assessment, because its total area is greater than 3sqm it is required to be assessed for privacy. The setback to the northern boundary is 4.3m and to the southern boundary is 1.8m. Due to the shape of the lots and existing vegetation, any overlooking to the north is limited and no additional screening is recommended. To the southern property tree planting is recommended as a solution to reduce overlooking concerns to the southern neighbouring property.

In regards to the first floor deck on the northern elevation, the proposed screening satisfies the Performance Criteria of the RDC.

Overshadowing

As the overshadowing of the proposed residence on a neighbouring residence doesn't comply with the Acceptable Development standards of the RDC, the variation is required to be assessed under the Performance Criteria of Clause 3.9.1 (P1) of the RDC, which are:

P1 Development designed with regard for solar access for neighbouring properties taking account the potential to overshadow:

- *outdoor living areas;*
- *major openings to habitable rooms;*
- *solar heating devices; or*
- *balconies or verandahs.*

The Acceptable Development provisions allow a maximum 35% overshadowing on a neighbouring property in an R30 coded area. The proposal asks for 47% overshadowing, inclusive of possible overshadowing from the proposed double

carport. This calculation is based on the shadow cast at midday June 21 when the maximum shadow can be expected for the year. The application proposes 172m² of overshadowing out of the 365m² southern neighbouring lot at 41 Curtin Avenue at that time. The area of new shadow caused by the proposed dwelling extensions is some 84sqm and falls roughly to the central portion of the adjacent lot, plus some 16sqm for the proposed carport which affects the front.

The proposal does not readily meet the Performance Criteria of the RDC. There is current considerable overshadowing generated by the existing dwelling, and the additions will overshadow the northern windows of the neighbouring property, however, some of those windows are actually obscure glazed to comply with their overlooking requirements.

Although this amount of overshadowing is generally not acceptable, discretion could be applied here as all two storey developments in this area on the western side of Curtin Avenue are unlikely to easily satisfy the Performance Criteria. This is because of small lot sizes and the east-west orientation. The width between the north and south boundaries is only 8.8m and inevitably any development greater than single storey will cause significant overshadowing.

Council has generally recognised these constraints in other such situations and noted that when a westerly exposure and outlook to the ocean are the main aims, that solar access predominates whereby virtually unavoidable overshadowing is tolerated to a greater degree.

Front Fence

The applicant has indicated that they wish to modify the existing solid front fence to a fence with an open aspect. Whilst no elevations have been received this is commended and encouraged. A new planning application will be needed for this alteration, via a condition of planning approval.

Double carport

An existing single driveway allows cars to be parked in the front setback area. However, a double carport is proposed in the front setback and if the applicant wishes to alter the crossover, a condition of approval requiring an application for a new crossover is proposed. The carport will not require a change in levels and meets front setback requirements.

Rear garage

This is proposed to be removed. The application would still meet open space requirements if not removed.

Water Feature

A water feature is proposed along the southern boundary. Council has no requirements in relation to these features however the neighbour did oppose the new wall being 2.2m height. Whilst overshadowing is more likely to occur from the proposed additions to the residence than the boundary fence abutting the water feature, it is recommended the fence be reduced to the standard 1.8m boundary fence height.

CONCLUSION

Design-wise the proposal is considered logical and creative in relation to the existing property. The additions, while relatively extensive, are also fairly modest and sustainable in design terms in respect of the setting and streetscape. The Cottesloe coastal style is reflective of similar modern dwellings in the district and this locality.

Nonetheless, assessment against the Scheme height controls and RD Code amenity measures suggests design amendments to ensure appropriate compliance and reasonable management of impacts, with relevant conditions to address the concerns raised in the single submission. In this regard it should be appreciated that the site is constrained by its size and orientation whereby almost any proposal is going to have some degree of impact. In this instance, with the design refinements and conditions as presented, the resultant amenity and built form are considered to be acceptable.

On balance, having regard to the applicable planning parameters, other examples and the Council's approach to dwellings with a third level in the roof space, it is concluded that the application can be supported.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed various aspects regarding the proposal, including the size and height of the extensions; third storey and roof form; overshadowing and previous similar proposals. The Manager Development Services explained how small lots of this orientation were always problematic re shadow, which Council had accepted in previous approvals with some relaxation on performance assessment. In conclusion, Committee did not support the officers' recommendation, on the grounds of concerns regarding a third storey, bulk and scale, overshadowing and sustainable design.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for additions to a two-storey residence, including a third level in the roof space and a new carport, at No. 43

(Lot 49) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 September 2006 and revised plans dated 24 October 2006, subject to the following conditions:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture or otherwise except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) Air-conditioning plant and equipment is to be located away from the boundary of adjoining properties and closest to the proposed dwelling, and suitable housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) If the existing front fence is proposed to be modified a separate planning application will be required and the fence should comply with Council's Fencing Local Law which favours open-aspect fencing. The applicant should liaise with Officers in this regard.
- (g) If the crossover is proposed to be altered, the applicant shall apply to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) Revised plans being submitted for approval by the Manager Development Services, showing:
 - (i) In accordance with the provisions of clause 5.1.1 the Scheme, the maximum building height shall not exceed 8.5m (RL 33.27), the maximum wall height on the southern elevation shall not exceed 6m (RL 30.77), and the curve of the roof to the southern elevation shall commence from no more than the 6m wall height.
 - (j) The kitchen window being modified to prevent overlooking into the adjoining property, by either having a minimum sill height of 1650mm above the finished floor level or having fixed and obscure glazing to a minimum height of 1650mm above the finished floor level.
 - (k) The master bedroom southern elevation window being modified to prevent overlooking into the adjoining property, by either having a minimum sill height of 1650mm above the finished floor level or having

fixed and obscure glazing to a minimum height of 1650mm above the finished floor level. Alternatively, this window may be deleted.

- (l) The rear balconies to the second and third levels being modified to reduce overlooking into the adjoining southern property, by redesign of their layout and construction including the following options: the provision of solid wing walls to the side elevations; and/or the provision of fixed screening to the side elevations at a minimum height of 1650mm above the finished floor levels; and/or the provision of vertical, horizontal or angled screens projecting beyond the balconies; all sufficient so as to limit sideways views but to allow westward views. The applicant should liaise with Officers to satisfy this condition.
- (m) The proposed fencing along the southern boundary shall be limited to 1.8m in height.

(2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council REFUSE its Approval to Commence Development at No. 43 (Lot 49) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 September 2006 and revised plans submitted on 24 October, 2006 as Council is of the opinion:

- (a) The proposal is not considered to adequately quality as a dwelling including a third level contained within the roof space.
- (b) The proposal is considered to represent a three-storey dwelling, the design of which is considered to create undesirable scale and bulk.
- (c) The extent of overshadowing is considered to be excessive.
- (d) It is considered that the design of the dwelling does not adequately address sustainability.

11.1.5 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 43 Curtin Avenue to allow more time for the applicant to address the concerns raised, and that Council DEFER the tem accordingly for a future report from officers.

Carried 9/0

11.1.6 NO. 2 (LOT 50) REGINALD STREET – TWO STOREY RESIDENCE

File No:	2 Reginald Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission by applicant Submissions (3) Plans
Report Date:	1 November, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Peter & Rosie Davidson
Applicant:	Atrium Homes
Date of Application:	1 November, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	402m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a new two storey residence on the subject site.

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

PROPOSAL

On the ground floor a garage, gym/bed 4, ensuite, powder, laundry, kitchen, scullery, meals and family rooms are proposed internally. An undercover alfresco area opens out from the family room whilst a porch is located next to the entry. A small courtyard area is also proposed in the front setback which is enclosed by an open aspect fence.

On the upper floor a front balcony, 4 WIRs, 3 ensuites, 3 bedrooms and two planter areas are proposed. A lift and a staircase will link the two levels.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	6m maximum wall height	6.3m wall height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Upper east wall, 1.9m setback.	1.2 to 2.8m setback	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

There were 6 letters sent out. There were 3 submissions received, of which 2 were objections. Details of the submissions received are set out below:

Caron Merrison of 4 Reginald Street

- *Believes house will be an eye-sore*
- *Believes the rear garden will be in shadow majority of the day*
- *Says it will block out western sea breeze*
- *Says that her rear neighbour already towers over her house*
- *Concerned regarding overlooking from windows from upper storey staircase*

Natalie Kendal & Peter Watson of 2A Reginald Street

- *Believes the development is very positive and enhance the street*
- *Says they want to redevelop their property and want to ensure this development will not stop them redeveloping in the future*
- *Want to ensure that privacy is maintained for the future*
- *Request screening from the front boundary to the west*
- *Want to ensure that air conditioners/ spa motors are not located externally on the western side*

Karen Phillips & Robert Firth of 1 Lillian Street

- *Objects to the planter being used for habitable purposes as well as possible noise and visual privacy impacts*
- *Requests Council to consider screening*
- *Thinks the development does not meet open space requirements and requests that the development conforms*
- *Requests they are notified if any air conditioning or swimming pool equipment is proposed and to their location, strongly objects if located in an area affecting them*

BACKGROUND

An existing single storey cottage exists on the property and will be demolished to make way for the two storey residence.

STAFF COMMENTOverall Compliance

The proposal meets a majority of Scheme and RDC requirements. Privacy, open space and overshadowing are in compliance whilst there are only one variation to heights and setback.

Boundary Setbacks

The following side boundary setback of the proposed residence doesn't comply with the Acceptable Development standards of the RDC. The setback variation below is required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC which are:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Upper east Wall	Stair to front planter	6m	15m	No	1.9m	1.2-2.8m

3.3.1 – Buildings Set back from the Boundary

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

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

The upper east wall is setback 1.2m to the planter, bedroom 2 and part of the hall and between 1.2m and 2.8m from part of the hall to the staircase. Figure 2D of the RDC requires “where the side of the building includes two or more portions of a wall without a major opening their setbacks shall be determined independently of each other provided they are separated from one another by a distance of more than four metres”. In this circumstance the upper floor eastern elevation can be separated into three sections of wall: staircase to front planter, WIR 2 to Bed 1 and the 4193mm length of the hallway between WIR 2 and the staircase. The applicant believes that the staircase wall can be considered as a separate entity, however it is argued that this curved wall does not strictly meet Figure 2D of the RDC and the wall from the stair to the front planter can be treated as a variation.

However the wall does meet the Performance Criteria. The building will provide adequate direct sun and ventilation to the building and appurtenant open spaces. The direct sun when coming from the west will be reduced to the eastern neighbouring property however this neighbouring property is not orientated to capture sufficient westerly sun. Ventilation is acceptable to this property and neighbours. Due to the curved section of wall it also meets the criterion of “Assist in ameliorating the impacts of building bulk on adjoining properties.” Also it meets privacy considerations as there are no major openings in this length of the wall. Therefore this setback is supported.

Building Heights

The wall heights do not conform to the Town of Cottesloe TPS 2 requirement of a 6m wall height.

The proposal has a maximum 6.3m wall height, where the Scheme allows for a maximum 6m height from natural ground level at the centre of the site.

The wall height variation only concerns a portion of the bed 2 and planter wall height. An architectural “turret” feature requires the wall height to be 6.3m of the left hand edge of the upper floor eastern elevation (2.7m wide) and the right hand edge of the upper floor southern elevation (2.7m wide). The feature provides additional interest to the property and the reduction to the amenity of the eastern neighbour could only be to loss of any western sun; however the eastern neighbouring property is not orientated to capture this sun. In this circumstance, a variation is supported.

The application otherwise meets building heights as per the Scheme.

Overshadowing

An objection has been received in relation to overshadowing to the eastern neighbouring property. The RDC considers overshadowing to be calculated at noon at winter solstice (June 21). In this circumstance overshadowing to the eastern neighbour will be 0% and therefore easily complies with the acceptable development provisions of the RDC.

Any overshadowing to the eastern property from this development could occur just prior to a sunset; however the RDC has no requirements in this regard.

Any overshadowing as at midday on June 21 will fall on the front yard of this property (2 Reginald Street).

Privacy

The planter which opens out from the north of Bed 1 is not considered an active habitable space. The planter is at 43 courses height while the floor level of the bedroom is at 36 courses height. The planter floor is 600mm above the bedroom floor and the planter floor to ceiling height is only approximately 1.9m which is not considered a standard floor height. It therefore can be assumed it is a planter and not a balcony and does not need to be assessed for privacy. A condition is proposed to ensure that this planter cannot be converted to an area for habitable space.

The setback from the bedroom 1 window to the boundary is 5m which meets the Acceptable Development Provisions of the RDC.

In regards to the south facing window from Bed 3, this is described as a casement window. Whilst it is unlikely this will be a major opening, a condition requiring this window to be a minimum of 1.65m above finished floor level of the bedroom 3 will ensure that privacy requirements are met is proposed.

An objection is raised toward the windows from the staircase. A staircase is not considered an active habitable space and privacy is not required to be assessed. The windows are not large and measure 1.3m height by 0.6m length.

An objection is raised to overlooking from the front balcony. The amended plans show that screening to a height of 1.6m to the west, and this will alleviate overlooking to the western property. Overlooking shall be limited to the front setback areas of this and neighbouring properties. These areas are already open to the street.

Open Space

The application meets open space requirements. The alfresco area underneath the bed 1 is considered as open space. The porch, courtyard and driveway areas also are considered as open space. The proposal has 52% open space which meets the minimum requirement of 50% for a property within a R20 coded area.

Front Fencing

The fencing meets open aspect requirements of the Town of Cottesloe Fencing Local Law.

Air conditioning & pool equipment

An objection was raised due to possible air conditioning and pool equipment. These provisions are covered by a condition regarding air conditioning motors. There is no pool proposed.

CONCLUSION

The designers have designed a large house that meets the majority of RDC and Scheme requirements. The sole wall height variation can be attributed to a design feature with little consequence to the neighbouring property. Whilst objection to the planter areas cannot be upheld as the physical space should ensure it is not used as an active habitable space. It is recommended that the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee moved that condition (e) be amended to include the words closer to the owners house and remove where practicable.

Condition (j) to be altered for the window to comply with the Residential Design Codes and clarify that it is a minor opening.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
 - (j) The south-facing window to Bedroom 3 shall have a sill height a minimum of 1.65m above the finished floor level of that room.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be located away from the boundary of adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as

approved by the Manager Engineering Services or an authorised officer.

- (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
- (j) The south-facing window to Bedroom 3 to comply with the Residential Design Codes.

(2) Advise submitters of the decision.

AMENDMENT

Moved Cr Walsh, seconded Cr Carmichael

That condition (e) be amended to read:

- (e) Air conditioning plant and equipment is to be located closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

Carried 8/1

11.1.6 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**

- (e) Air conditioning plant and equipment is to be located closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
- (j) The south-facing window to Bedroom 3 to comply with the Residential Design Codes.

(2) Advise submitters of the decision.

Carried 7/2

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Miller	Cr Utting
Cr Carmichael	Cr Walsh
Cr Cunningham	
Cr Furlong	
Cr Jeanes	
Cr Strzina	
Cr Woodhill	

11.1.7 NO. 16 (LOT 288) FEDERAL STREET – PROPOSED CARPORT

File No:	16 Federal Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission (1) Response to objection by applicant Photos Plans
Report Date:	19 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Simon Miller & Elizabeth Thomas
Applicant:	as above
Date of Application:	5 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	605m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a double carport.

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

PROPOSAL

The proposed carport is to be within the front setback area being 1.5m from the front boundary setback including the eaves. The dimensions of the carport are 6.9m across by 6.7m long inclusive of eaves.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

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

HERITAGE LISTING

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

- National Trust

N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	Carport eastern setback 1m	0.3m	Clause 3.3.1 – P1

Town Planning Scheme Policy/Policies

Policy	Required	Provided
TPSP 003- Garages and Carports in Front Setback Area	4.5m setback for carports where vehicles are parked at right angles to the primary street alignment	1.9m setback (1.5m to eaves), vehicles parked at right angles to primary street alignment

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letter to Adjoining Property Owners

Submissions

There were 2 letters sent out. There was 1 submission received, which was an objection. Details of the submission received are set out below:

Dr M & Mrs T Tuchaai of 18 Federal Street, Cottesloe

- *Believes the setback is a danger to traffic users*
- *Believes it will create a blind spot*
- *Says it does not enhance the streetscape and the protrusion impacts their home*
- *Believes that existing carports built very close to the boundary were under different regulations*
- *Requests the carport be setback 4.5m from the front boundary to align it with their garage*

BACKGROUND

A well established single-storey residence can be found on the lot. The property has a driveway to the front verandah with no undercover car parking.

STAFF COMMENT

Front Setback

The carport is proposed to be setback 1.5m from the front boundary to the eaves and 1.9m to the posts. This is a variation to the requirements of the Garages & Carports in Front Setback Area Policy which requires carports to be setback 4.5m from the front boundary where vehicles are parked at right angles to the street alignment.

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

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

The Council shall also have regard to:

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

An objection was made toward the proposal affecting the view lines of the adjacent southern property. It is the officer's opinion that view lines would be satisfactory from the proposal. The carport is an open structure and would still afford adequate view/sight lines from driveway of the adjacent southern property. It is common to assume that all cars must stop before the pedestrian path and road. This point is closer than the proposed front setback of the carport. Furthermore, the only fencing in the front setback is a low open aspect picket fence which still provides visual permeability. Also, for the same reasons it shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.

The carport partially meets the objectives of the RDC. The RDC specify *"that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent"*. The carport is 6.9m (41.8%) wide of a 16.47m wide frontage and complies.

The RDC also require two spaces per single house and meet standard bay dimensions, this application meets this criteria.

It can be argued that this application also meets the criteria "*The amenity of the adjoining lot or deter future development on adjoining lots*". A new two storey residence is under construction adjacent to the proposed carport on the southern boundary and it is unlikely that any other development will take place or be approved in front of the parapet garage on the adjacent to the southern boundary. The parapet wall of the garage setback is 4.5m from this boundary. For the same reasons the application meets "*the existing and potential future use and development of any adjoining lots*"

Also as mentioned previously the proposed carport still provides good ingress and egress and adequate view lines for this property and the immediate southern property.

However, the application does not meet the final criteria being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport being setback 1.5m from the front boundary is 3m in front of the garage which on the southern neighbouring property. This garage is setback 4.5m from the front boundary.

Whilst a garage can be seen as a bulkier intrusion into the front setback, the carport being setback 1.5m to the front boundary is a large projection and interrupts the streetscape. This is not desirable and alternative solutions should be explored.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 7.5m to the verandah and 9.5m to the eaves of the front bedrooms from the front boundary. A standard carport is generally 6x6m in dimension so a maximum setback of 3.5m from the front boundary could be entertained. However the eaves proposed and to allowing the carport to be detached will require a minimum 3m setback to be recommended from the front boundary. Unfortunately this setback would reduce light penetration to the front bedroom.

The alternative of having the double carport at the rear of the property is not feasible as the side setback of the house is 2.5m and would leave little margin for error if a new driveway was required. This also would be costly and severely detract from the outlook provided into the rear yard area from the rear rooms.

Relocating the carport to the northern end of the front setback area is also not feasible as this would ruin a well kept-garden. Furthermore, the maximum setback could only be 1.5m to achieve a standard carport dimension and would not utilise the existing driveway on the southern boundary within the front setback.

The proposed materials of the carport include a new Colorbond roof, which matches the existing pitch and this is commended.

However, a consequence of the recommended 3m setback is the height of the carport may also need to be increased. An increase of up to 500mm in height to allow

a suitable clearance between the verandahs stairs and the carport is recommended providing the materials and pitch compliment the existing dwelling

The recommended 3m front setback for the carport, which will also be located on the southern boundary, is seen as the best solution for a site constrained by the existing built envelope. The setback would result in limited light penetrating the front bedroom but is the best solution for the streetscape whilst still allowing undercover parking.

Side Boundary Setbacks

The eastern side boundary setback of the proposed carport seeks variation from the Acceptable Development standards of the RDC and therefore is required to be assessed under the Performance Criteria of Clause 3.3.1 (P1):

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Carport east	All	3m	6m	N/A	1m	Nil

The RDC provide:

3.3.1 – Buildings Set back from the Boundary

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

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

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

CONCLUSION

It is recommended that the application be approved subject to conditions requiring the applicant to setback the carport a minimum of 3m from the front setback inclusive of any eaves. This distance was arrived at as the car bays cannot be pushed back further due to the existing residence behind the carport. A setback greater than 3m may not maintain the size and dimensions of a standard double carport and no other alternative solution can be recommended due to the existing constraints of the site.

The proposed double carport in the front boundary would ensure that cars would also be removed from a narrow road carriageway; which is an objective of the Residential Design Codes.

VOTING

Simple Majority

COMMITTEE COMMENT

After some discussion Committee moved to remove condition (f) from the recommendation as the increased setback would inhibit the access to the front and rear of the property.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
 - (f) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback 3m from the front boundary inclusive of any eaves and a maximum width of 6.2m . This carport may not be converted into a garage.
- (2) Advise submitters of Council's decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the

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

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.

(2) Advise submitters of Council's decision.

AMENDMENT

Moved Cr Cunningham, seconded Cr Walsh

That condition (f) from the Officer Recommendation be reinserted with the setback being amended from 3m to 2m, as follows:

- (f) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback 2m from the front boundary inclusive of any eaves and a maximum width of 6.2m . This carport may not be converted into a garage.

Lost 1/8

11.1.7 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**

- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (2) Advise submitters of Council's decision.

Carried 8/1

11.1.8 NO. 104 (LOT 72) NAPIER STREET – CARPORT, FRONT FENCE & ADDITIONS

File No:	104 Napier Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission from applicant Photos Plans
Report Date:	24 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Jon & Catherine Maslen
Applicant:	as above
Date of Application:	24 October, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	707m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a carport, front fence and single storey additions to an existing residence.

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

PROPOSAL

The proposal involves two new bedrooms, ensuite, WC and bathroom on the western boundary towards the front of the house. A new laundry and WC are proposed near the eastern boundary of the house.

A proposed double carport is proposed to be located 1m from the front boundary and against the eastern boundary.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

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

HERITAGE LISTING

- State Register of Heritage Places N/A
-

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	Setback to ground west wall boundary 1.5m	1m	Clause 3.3.1 – P1
No 3 Boundary Setbacks	Setback to ground east wall boundary 1.5m	0.9m	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

The western and eastern neighbours both signed off the plans in support of this application.

BACKGROUND

A well established single-storey residence can be found on the lot. The residence currently has a single garage; this will be removed and replaced with additions to the residence.

STAFF COMMENT

Carport

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

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

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

The Council shall also have regard to:

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

View lines would be satisfactory from the proposal. The carport is an open structure and would still afford adequate view/sight lines from driveway of the adjacent southern property. A proposed front fence will be open aspect apart from a pier which is 500mm wide adjacent to the carport. An open aspect gate being 900mm wide adjacent to this pier should ensure a cone of vision to the west. To the east a low 900mm high wall on the eastern boundary should ensure an adequate view line. Also, the proposal shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.

The carport partially meets the objectives of the RDC. The RDC specify *“that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent”*. The carport is 6m (39.8%) wide of a 15.09m wide frontage and complies.

The RDC also require two spaces per single house and to meet standard bay dimensions. This application meets these criteria. The existing dwelling has space for

1 car and this existing single garage will be transformed to become part of the residential additions.

The RDC also prefer any walls and fences to be reduced to no higher than 0.75m within 1.5m of where a driveway meets a public street. The proposed front fence does not strictly conform, however apart from the 500mm wide pier; the gate is proposed to be open aspect which will provide a suitable view line.

It can be argued that the carport also meets the criterion "*The amenity of the adjoining lot or deter future development on adjoining lots*". An existing driveway is adjacent to the proposed carport on the eastern boundary. The applicant believes that the eastern neighbour will propose to build a carport adjacent to this carport also being 1m from the front boundary. Council has not received an application at 106 Napier Street for a carport to date.

Also as mentioned previously the proposed carport still provides good ingress and egress and adequate view lines for this property and the immediate eastern property.

However, the application does not meet the final criterion being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport being 1m setback from the front boundary is well in front of the eastern and western neighbouring properties which are setback approximately 8m from the street boundary.

The carport being setback 1m to the front boundary is a large projection and interrupts the streetscape. This is not desirable and alternative solutions should be explored.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 10.3m to the garage and 9.3m to the porch and between 10.8m and 12.3m to the remainder of the front elevation. This porch is elevated so it is common to accept steps leading up to it. The owners propose a carport 5.5m deep by 6.1m wide in dimension so a maximum setback of 2.5m from the front boundary could be entertained. This setback would bring the carport up to the boundary of the porch steps. However the owners have asked to be able to wheel or move equipment from the carport area to the rear of the residence.

This is only possible by setting back the carport a minimum of 700mm from the steps. The proposed additions prevent items being wheeled around the western side of the property to the rear. Similarly, having the carport adjacent to the porch steps would not allow items being wheeled around to the rear of the property without backing the cars out from the carport. Also the applicant has argued that moving the proposed steps to the east of the porch will not look attractive and is less functional. There are no other alternative locations as the proposed additions will remove any opportunity to have the carport at the rear or the western side of the residence.

The recommended proposed setback to the street is 1.8m. This distance will allow the front setback area be functional to the owners of the residence and will reduce the interruption to the streetscape.

In terms of streetscape, a wide 16m verge lessens the impact of the setback concession. The roof material of the carport is tiles that will match the roof the existing residence and this is commended.

Boundary Setbacks

The following side boundary setbacks of the proposed additions seek variation from the Acceptable Development standards of the RDC and therefore are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) and 3.3.2 (P2):

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Ground east Wall	All	3m	12m	No	1.5m	0.9m
Ground west wall	All	3.5m	14m	No	1.5m	Nil

The RDC provide:

3.3.1 – Buildings Set back from the Boundary

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

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

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

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

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

The west ground floor wall has a boundary setback of nil where the required setback is 1.5m. It has a wall height between 2.5 and 3.5m above NGL at the boundary. This wall is penalized by the RDC as it requires walls to be measured to its highest point. The proposal makes an effective use of space and enhances privacy. Also, skylights provide light to rooms abutting the parapet wall. It is considered that the proposed western ground side boundary setback variation satisfies the above Performance

Criteria of the RDC. It should be remembered the neighbour has agreed to this proposal.

The east ground floor wall has a boundary setback of 0.9m to the extension. It has a wall height of 3m for the laundry and WC extension. This wall is penalized by the RDC as it requires walls to be considered an extension of the existing wall. If this wall was considered as a separate entity the setback required would be only 1m. The proposal makes an effective use of space and enhances privacy. It is considered that the proposed eastern ground side boundary setback variations satisfy the above Performance Criteria of the RDC and the neighbour has agreed to this proposal.

Front Fence

The front fence shall be open-aspect and is in accordance with the fencing local law.

CONCLUSION

It is recommended that the application be approved subject to conditions requiring the applicant to setback the carport a minimum of 1.8m from the front setback. This distance was arrived as the carport cannot be pushed back further due to the existing residence behind the carport. A setback of greater than 1.8m may not maintain the functionality and convenience of the front setback area and no other solution can be recommended due to the owners desire to have a large portion of the additions in the front setback as well as the existing constraints of the site.

The additions and the front fence are both also recommended for approval and the neighbours have signed off on the plans in regards to the development.

VOTING

Simple Majority

COMMITTEE COMMENT

The Planning Officer presented a memo to Committee including an additional condition (g) re fencing as follows:

It has been noted that amended plans received on 17 November 2006 have not been issued to Councillors. The plans are identical to the plans received on 19 October 2006 except for a proposed wrought iron open-aspect fence on the northern and western sides of the proposed carport. As a result it is requested the OFFICER RECOMMENDATION be changed to include an additional condition as follows::

(g) Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with Council's Fencing Local Law.

The Committee recommended that the front setback be reduced to a minimum of 1.6m as this would impact less on the access to the front and rear of the property.

OFFICER RECOMMENDATION

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (f) The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.8m from the front boundary. This carport may not be converted into a garage.

COMMITTEE RECOMMENDATION

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.

- (f) The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with the Council's Fencing Local Law.
- (h) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.6m from the front boundary. This carport may not be converted into a garage.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That condition (h) be amended to a setback of 1.8m from the front boundary.

Carried 6/3

11.1.8 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (f) The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with the Council's Fencing Local Law.
- (h) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.8m from the front boundary. This carport may not be converted into a garage.

Carried 9/0

11.1.9 AMENDMENT NO. 41 TO TOWN PLANNING SCHEME NO. 2 – NOS 98A & 98B (LOTS 1 & 2 OF LOT 1) GRANT STREET – RECODING FROM RESIDENTIAL R 20 TO RESIDENTIAL R30

File No:	D2.4 Amendment 41
Author:	Mrs Stacey Towne
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Photos Rezoning Submission from Applicant
Report Date:	18 September, 2006
Senior Officer:	Mr Andrew Jackson

SUMMARY

The owners of the existing attached duplex dwelling units at 98A and 98B Grant Street are seeking Council's support to recode the built strata title property from Residential R20 to Residential R30. The recoding will allow for survey strata titles over of the land, whilst also allowing for an improved lot configuration and greater flexibility for the improvement of the built form over the property.

The recoding will maintain the "status quo" in relation to residential density currently enjoyed by the subject land (i.e. no more than two dwellings can be accommodated on the site).

The proposal is the outcome of liaison between Officers, the owners and consultants over an extended period and the recommendation is for Council to initiate an amendment to the Scheme to recode 98A and 98B (Lot 1) Grant Street from Residential R20 to Residential R30.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Residential Design Codes
- Planning and Development Act 2005

POLICY IMPLICATIONS

The amendment proposal does not relate to any particular local policy, however, it is essentially reflective of broad regional planning policies in relation to residential densities and public transport.

STRATEGIC IMPLICATIONS

The amendment proposal echoes Council and community consideration regarding residential densities in the locality during the formulation of draft TPS3 and is broadly consistent a longer term outlook to possible density increases. At the same time this specific proposal is in recognition of the special circumstances, while the density increase sought is compatible with the existing development and intended redevelopment of the site. In this way, as for other one-off minor recodings, the proposal is justified and non-prejudicial to the overall density regime.

FINANCIAL IMPLICATIONS

Administrative staff costs associated with preparation and processing amending documentation. Costs will be recouped from the applicant.

BACKGROUND

The site is situated on the corner of Grant Street and Elizabeth Street and is zoned Residential R20. It comprises of two built strata title land parcels, known as 98A and 98B Grant Street. Vehicular access to 98A is from Grant Street, whilst 98B has access from Elizabeth Street. Elizabeth Street does not physically intersect with Grant Street as it is a cul-de-sac at this point.

In the mid 1980s, Council approved alterations and additions to the existing single residence at the property then known as 98 Grant Street. The additions included a self-contained living unit attached to the western side of the dwelling. In late 1985, the then Town Planning Board granted approval to built strata subdivision of the lot such that the main residence and the new unit could be held in separate ownership. The property then became known as 98A and 98B Grant Street.

The parent lot (Lot 1) is 844m² in area. No. 98A (Strata Lot 1 of Lot 1) totals 314m² and comprises of a 59m² built strata area with the remaining 255m² for garden and access. No. 98B (Strata Lot 2 of Lot 1) is larger at 530m², with 91m² built strata area and the remaining 439m² for garden and access. The original main residence is located at 98B Grant Street, whilst the latter dwelling is located at 98A Grant Street.

In 1998 the owners of 98A and 98B Grant Street made application to the Western Australian Planning Commission (WAPC) to re-subdivide the property to create two strata title lots (352m² and 505m²) in a more regular configuration. The larger lot was proposed to include the existing residential buildings and have frontage to both Grant Street and Elizabeth Street, with the remaining lot having frontage to Elizabeth Street. This application was refused on the grounds that there was a shortfall in the land area required for strata subdivision as nominated by the Residential Codes for an R20 zone and approval would set an undesirable precedent for further subdivision of surrounding lots.

In December 2003, approval was granted to demolish the residence at 98A Grant Street, however, demolition did not occur and approval has now expired. Due to the restrictive nature of the titles over the land, demolition of the buildings would have meant that new development could only have been constructed in the exact position as the building previously removed.

Given this ongoing situation and resulting from Officer liaison with successive owners and their representatives to explore solutions, the amendment proposal has been conceived as a reasonable and practical method of addressing the matter.

AMENDMENT SUBMISSION

A full copy of the applicant's submission for this proposed amendment to the Scheme is attached to the agenda. This was prepared in response to liaison with Officers.

In summary, the submission provides the following justification:

- Recoding the subject site will formalise the two strata title lots, that currently exist and the 'door' opens for the landowners to extend their property, or preferably demolish the existing dwellings to permit re-subdivision of the lot.
- The subject site has access to two separate street frontages making re-subdivision ideal with each lot having the potential for separate street frontage.
- The recoding of the property to R30 is necessary to ensure that the current lot area of 314m² and 530m² meets the minimum and average lot area requirements of 270m² and 300m² respectively, as set by Table 1 of the Residential Design Codes.
- By recoding the property to R30, the development potential that currently exists will remain.
- The proposed development that would result from any re-subdivision of the site would be in keeping with development in the surrounding area.
- The alternative to subdivision, being to extend the existing dwelling (98B for example) is only possible if the property is recoded and the existing strata lots formalised. The proposed additions aim to maintain and reflect the style of more recent development within the area.
- The accommodation of residential housing at a density of R30, near Cottesloe District Town Centre or Grant Street Train Station is an objective of Liveable Neighbourhoods and an essential element in the creation of good community formation.
- The accommodation of residential housing at a density of R30 nearby Grant Street Train Station is an objective of WAPC Policy 1.6 – '*Planning to Support Transit Orientated Development*' to encourage increased use of public transport and to offer people the option to use public transport.
- The proposed development that would result from the re-subdivision of the subject site would serve the changing demographic in the area, with the ageing population requiring moderately sized homes on smaller lots.
- Maintaining the current development potential of the site would support local shops in the area.
- The introduction of an R30 density in this unique circumstance would not compromise the level of amenity enjoyed in the area.

In regard to these points, it is considered correct that the amendment proposal fits in with both regional strategic planning as well as local area planning and development control. Although the amendment proposal is really about overcoming the anomaly of the property, importantly it is acceptable in these wider contexts.

STAFF COMMENT

The applicant's rationale for the proposed amendment as stated in the amendment report is generally supported.

Regarding subdivision standards under the current R20 density coding, a minimum lot size of 1000m² (average 500m², minimum 440m²) is required for a two-lot green title subdivision, or a minimum lot size of 900m² for a two-lot strata title subdivision (450m² average).

The subject property is only 844m² in area, therefore, the land falls short of subdivision potential by at least 156m² for green title lots and 56m² for strata lots.

Draft Town Planning Scheme No. 3 also proposes a Residential R20 zoning over the land at 98A and 98B Grant Street. However, Clause 5.3.5 of proposed TPS No. 3 allows for redevelopment of land which has an existing approved density higher than that for which it is currently coded (non-conforming residential density) to be redeveloped at a higher density than its current coding.

Clause 5.3.5 of TPS No. 3 states:

"5.3.5. Redevelopment of existing grouped dwellings or multiple dwellings

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme may, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map if, in the opinion of the local government, the redevelopment would —

- a) be in keeping with the character of the streetscape;*
- b) contribute positively to the amenity of the surrounding properties and locality;*
- c) not detrimentally increase the mass, scale or surface area of the development relative to existing development on surrounding properties;*
- d) result in improved landscaping of the land;*
- e) provide adequate and safe means of vehicular and pedestrian access to the land; and*
- f) provide an adequate number of car parking spaces on the land."*

If approved as part of the new scheme, Clause 5.3.5 could allow for the requirements of the R20 code to be relaxed and enable the property at 98A and 98B Grant Street to be redeveloped at the same density (i.e. two residential dwellings), and on that basis strata or green title subdivision could be supported.

The owners of the property are aware of this, however, both are keen to commence improvements and prefer not to wait for the finalisation of TPS No. 3 which could take more time than the finalisation of a single amendment to TPS No. 2 to allow for a similar outcome and as there is no real certainty regarding draft Town Planning Scheme No. 3 at this stage.

The proposal to recode the land to R30 would still only accommodate the development of the property for two dwellings. Under the R30 code, an average lot size of 300m², minimum of 270m², is required for a green title or survey strata subdivision.

It is noted that an R25 Coding would also allow for green title or survey strata subdivision of the land. The applicant is seeking a slightly higher density, however, because the minimum lot size under the R25 Code is 320m², compared to the minimum lot area of 270m² under the R30 Code. The higher density will allow for the property to be divided into similar sized parcels of land as those existing (i.e. 314m² and 530m²) such that it would not be necessary to exchange, sell or purchase small sections of land between the two existing landowners.

An R25 or R30 Code over the land would make no difference in the density capacity of the property, and would not increase the total land parcel. It would, however, allow some reduced development parameters which would facilitate feasible redevelopment.

Successive new and prospective owners over the past few years have regularly approached Council to investigate possible future development of the residential sites both individually and combined, but have been restricted by the nature of the title and density coding over the land. The proposal to recode the land will allow for the site to be improved and brought up to a better standard of development.

Council has previously supported a similar proposal for a property at No. 14 Edwards Street. In that instance, Council supported the rezoning of the land from Place of Public Assembly to Residential with a coding of R20 and R25. That allowed for the property to be subdivided into three lots with the main church building being retained and used for purposes consistent with Residential Zone. A Concept Plan of Development was approved by Council as part of the amendment.

The applicant has not provided a substantial concept plan for consideration as part of this amendment, however, an indicative plan of the future development of No. 98B Grant Street has been provided. This plan shows two storey additions to the existing residence at 98B Grant Street, however, it does not show how future subdivision may occur or how the property at 98A Grant Street may be developed. It is considered necessary that some indication be given as to how the land is proposed to be subdivided in the future and it is recommended that a subdivision concept plan be provided as part of the amendment documentation, prior to the commencement of advertising.

CONCLUSION

It is clear that the subject property involves a long-standing problem that needs to be addressed in order to provide parameters for improvements to the site, which would benefit the landowners as well as the general locality.

It is recognised that the historical situation of the property at 98A and 98B Grant Street is unusual within the Town of Cottesloe. The principle of maintaining the existing density of the two established dwellings on the land, however, is provided

within Draft Town Planning Scheme No. 3 to cater for such unique situations and anomalies of the past.

The actual number of dwellings on the site will not alter with a recoding from R20 to R30, whereas the built form will change, together with enhancing the capability of the site to accommodate two dwellings (size of the land remains the same, yet the required site per dwelling unit decreases). The increase in density is only marginally greater and is in area where increased densities may come under further review.

The site also has an advantage of having a dual street frontage (Grant Street and Elizabeth Street) which assists in design for access and streetscapes. The proposed recoding will allow for consideration of redevelopment options and subdivision arrangements.

VOTING

Simple majority

COMMITTEE COMMENT

Committee did not support a spot density re-coding and considered that the owners should either approach the WAPC for approval to survey strata or subdivide the property or pursue changes on a broader basis under future TPS3.

OFFICER RECOMMENDATION

That Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:
 - (i) Recoding 98A (Lot 1 of Lot 1) and 98B (Lot 2 of Lot 1) Grant Street, Cottesloe, from Residential R20 to Residential R30 in accordance with the Scheme Amendment Map.
- (2) Upon payment of the Scheme Amendment fee by the applicant and preparation of the Scheme Amendment documents to the satisfaction of the Manager Development Services, including the preparation of a concept plan demonstrating how the property may be re-subdivided and/or redeveloped, the Chief Executive Officer shall adopt and endorse the Scheme Amendment documents on behalf of the Council.
- (3) Refer the proposed amendment to the Department of Environment and Conservation pursuant to section 81 of the Planning and Development Act 2005.
- (4) Advertise the proposed Town Planning Scheme amendment for public comment for a period of 42 days by:
 - (a) Placing a copy of the notice:
 - (i) in The Post newspaper;
 - (ii) on the Council notice boards at the Council Offices and the Town Centre; and

- (iii) in the Library.
- (b) Placing a copy of the proposed amendment on display at the:
 - (i) Council Offices; and
 - (ii) Library.
- (c) Notifying nearby landowners by letter as determined by the Manager Development Services.
- (d) Placing a sign on the property.
- (5) Provide the Western Australian Planning Commission with a copy of proposed Town Planning Scheme Amendment No. 41.
- (6) Advises the applicant/owners of 98A and 98B Grant Street of Council's decision accordingly.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council **DECLINE TO SUPPORT** the request to initiate an amendment to the Town Planning Scheme No. 2:

- (a) Council does not favour density increase re-codings for individual lots, which should preferably be considered as part of wider reviews such as under the draft Town Planning Scheme No. 3 process.
- (b) There are potential alternatives available such as renovation of the dwellings or re-subdivision of the land, which the owners could consider pursuing rather than a Scheme Amendment.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That the original officer recommendation be adopted.

Carried 5/4

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Miller	Cr Carmichael
Cr Cunningham	Cr Utting
Cr Furlong	Cr Walsh
Cr Jeanes	Cr Woodhill
Cr Strzina	

11.1.9 COUNCIL RESOLUTION

Moved Cr Cunningham, seconded Cr Strzina

That Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:**
 - (i) Recoding 98A (Lot 1 of Lot 1) and 98B (Lot 2 of Lot 1) Grant Street, Cottesloe, from Residential R20 to Residential R30 in accordance with the Scheme Amendment Map.**
- (2) Upon payment of the Scheme Amendment fee by the applicant and preparation of the Scheme Amendment documents to the satisfaction of the Manager Development Services, including the preparation of a concept plan demonstrating how the property may be re-subdivided and/or redeveloped, the Chief Executive Officer shall adopt and endorse the Scheme Amendment documents on behalf of the Council.**
- (3) Refer the proposed amendment to the Department of Environment and Conservation pursuant to section 81 of the Planning and Development Act 2005.**
- (4) Advertise the proposed Town Planning Scheme amendment for public comment for a period of 42 days by:**
 - (a) Placing a copy of the notice:**
 - (i) in The Post newspaper;**
 - (ii) on the Council notice boards at the Council Offices and the Town Centre; and**
 - (iii) in the Library.**
 - (b) Placing a copy of the proposed amendment on display at the:**
 - (i) Council Offices; and**
 - (ii) Library.**
 - (c) Notifying nearby landowners by letter as determined by the Manager Development Services.**
 - (d) Placing a sign on the property.**
- (5) Provide the Western Australian Planning Commission with a copy of proposed Town Planning Scheme Amendment No. 41.**
- (6) Advises the applicant/owners of 98A and 98B Grant Street of Council's decision accordingly.**

Carried 5/4

11.1.10 DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE CHRISTMAS PERIOD RECESS OF COUNCIL

File No: X4.6
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil.
Report Date: 15 November 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to delegate authority to the Manager Development Services and Chief Executive Officer to make determinations on those applications for planning consent that are received during the period from Tuesday 19 December 2006 to Friday 2 February 2007 while the Council is in recess.

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The following resolution was passed by Council at its December 2005 meeting:

That Council

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2), Council hereby further delegates to the Manager of Development Services under Clause 7.10.1 of the No. 2 Town Planning Scheme Text, authority to make a determination on those applications for Planning Consent that are beyond his current delegated powers for the period from Tuesday, 13 December, 2005 to Friday, 3 February, 2006.*
- (2) The exercise of those powers referred to in (1) is granted subject to:*
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the application; and*
 - (b) A list of items to be dealt with under this delegation is to be identified and included in the weekly list of Delegated Authority Items that:*
 - (i) is to be circulated on a weekly basis to all Councillors; and*
 - (ii) subject to the current call in arrangements for Delegated Authority Items.*

STAFF COMMENT

It is requested that the Manager Development Services and the Chief Executive Officer be granted additional delegated authority to determine applications beyond their current delegation powers in consultation with the Development Services Chairperson during the Christmas and January recess.

VOTING

Simple Majority

11.1.10 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, Council hereby further delegates to the Manager Development Services and the Chief Executive Officer under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 19 December 2006 to Friday 2 February 2007.**
- (2) The exercise of those powers referred to in (1) is granted subject to:**
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and**
 - (b) A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:**
 - (i) circulated on a weekly basis to all Councillors; and**
 - (ii) subject to the current call in arrangements for Delegated Authority Items.**

Carried 9/0

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 21 NOVEMBER 2006

Moved Cr Miller, seconded Cr Strzina

That items 12.1.1, 12.1.2, 12.2.2 and 12.2.3 be withdrawn from en-bloc voting.

Carried 9/0

The above items were dealt with first before items 12.1.3 - 12.1.7, 12.2.1, 12.2.4 and 12.3.1 – 12.3.5 were dealt with en-bloc.

12.1 ADMINISTRATION**12.1.1 SHADY CHARACTERS - BEACH HIRE**

File No:	C 2. 1
Author:	Mr Graham Patrick
Author Disclosure of Interest:	Nil
Report Date:	9 October, 2006
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made not to allow Shady Characters Beach Hire access to trade on Cottesloe Beach.

STATUTORY ENVIRONMENT

Beaches and Beach Reserves Local Law:

Division 2, Section 5 – Quiet Amenity

In order to protect the quiet and amenity of the defined area, no person shall:

5.10 hire, or offer for hire, any vehicle, bicycle, watercraft, kite or other item of equipment for sport, entertainment, or amusement except with the written permission of council;

POLICY IMPLICATIONS

Section 7 (Strategies) of the *Beach* policy applies:

n. Other

(ii) Commercial Activity

In general, commercial activity on the beach is permitted only at the fixed facilities. Any other commercial activity may only be undertaken with the approval of Town of Cottesloe.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no fees specified in our budget for a beach hire business. There is a trader's licence of \$200/month or a stall holder's permit of \$50/week.

BACKGROUND

John Hughes, the proprietor of 'Shady Characters Beach Hire', sent in a submission to trade on Cottesloe Beach. The business would operate from a portable stall dispensing a variety of goods and services.

CONSULTATION

I discussed the matter with our Senior Ranger who doesn't support the proposal.

STAFF COMMENT

There are a number of concerns that I have with this proposal. The area already is well serviced with existing facilities and we are endeavouring to reduce, rather than increase, the amount of clutter on the beach. If this trader is allowed access to the beach it may be difficult to prevent other would-be traders from doing the same. He stated that he had support from the local surf club but didn't include anything that substantiated his claims.

The goods and services proposed are either duplicates of those provided by the life savers (beach safety, sunscreen/cancer awareness) or local businesses (toys, towels, thongs). There is no specific area mentioned rather a number of sites, at least one that appears to encroach on the dunes.

The new lessee of Indiana Tea House is also keen to maximise utilisation of the facility and this could extend to servicing the broad needs of beach goers through the cafeteria. The approval of John Hughes proposal would result in an unnecessary intrusion on the beach and complicate potential development for the new lessee of Indiana's.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council reject the application of John Hughes 'Shady Characters Beach Hire'.

12.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That council not accept the application from John Hughes for 'Shady Characters Beach Hire'.

Carried 9/0

12.1.2 COTTESLOE TENNIS CLUB RENEWAL

File No: E10.11& E10.8
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 11 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the Mayor and CEO to sign a lease agreement between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act applies.

3.58. Disposing of property

(1) In this section -

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

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

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

(a) the highest bidder at public auction; or

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

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

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

(i) describing the property concerned;

(ii) giving details of the proposed disposition; and

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

and

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

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

- (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to -
- (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

Regulation 30 of the Local Government (Functions and General) Regulations 1996 says;

30. Dispositions of property to which section 3.58 of Act does not apply

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if -
- (a) the land is disposed of to an owner of adjoining land (in this paragraph called **the transferee**~) and -
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - (b) the land is disposed of to a body, whether incorporated or not -
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
 - (c) the land is disposed of to -
 - (i) the Crown in right of the State or the Commonwealth;
 - (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
 - (iii) another local government or a regional local government;
 - (d) it is the leasing of land to an employee of the local government for use as the employee's residence;

(e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;

(f) it is the leasing of land to a medical practitioner (as defined in section 3 of the *Medical Act 1894*) to be used for carrying on his or her medical practice; or

(g) it is the leasing of residential property to a person.

(2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been

(a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;

(b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or

(c) the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including

(i) the names of all other parties concerned;

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

(iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.

(2b) Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.

(3) A disposition of property other than land is an exempt disposition if

(a) its market value is less than \$20 000; or

(b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.

In accordance with Regulation 30 (2) (b) Council may deal directly with the Cottesloe Tennis Club on this matter without the restrictions of Section 3.58 of the Local Government Act.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The discrepancy between the previous and proposed arrangement between the Cottesloe Tennis Club and the Town of Cottesloe is approximately \$150pa.

BACKGROUND

The Chief Executive Officer has indicated a preference for lease income based on rate payments rather than rent for our sporting clubs. This would result in a simple and objective basis for increases in income over time that would require minimal argument and justification.

CONSULTATION

I had meetings with Matthew McFarlane, Secretary of the Cottesloe Tennis Club and Michael Tudori, President of the Cottesloe Rugby Club. I also contacted several other local governments including Mosman Park, Peppermint Grove, Claremont, Subiaco, Cambridge and Vincent to determine how they treated their tennis and other sporting club leases.

There is no requirement for public consultation. Under the Town of Cottesloe Community Consultation policy the lease constitutes an extension of an existing agreement and does not involve a significant change in policy or the provision of new works and services.

STAFF COMMENT

The application of full rates to the tennis club was going to result in a significant increase (approx 500%). The tennis club was initially receptive to the increase but changed its view after reviewing the circumstances of other tennis clubs in the area. After I reviewed the alternative treatments from the other councils a compromise was determined. It is intended that the tennis club will be charged full rates with an 80% rebate. This results in the Council receiving approximately the same income as the previous agreement (there is a shortfall of around \$150 due to the ESL). Note: There is no exemption for the ESL for non-profit organisations. The shortfall is compensated by the Cottesloe Tennis Club's agreement to assume responsibility for the up-keep of the bore.

It is important to note that other councils in the region treat individual clubs based on their unique circumstances. For example, in the Town of Vincent, each club has a negotiated arrangement based on a combination of the level of council financial involvement in ground maintenance, historical agreements and type of premises.

The committee of the tennis club is satisfied with the proposed lease as it provides long term security and does not have an adverse impact on the finances of the clubs. The term of the lease has been set at 21 years.

VOTING

Simple Majority

DECLARATION OF IMPARTIALITY

Cr Furlong made a declaration of impartiality in that his wife is a member of the Tennis Club.

OFFICER RECOMMENDATION

That Council authorise the Mayor and CEO to sign a lease agreements between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

COMMITTEE RECOMMENDATION

That the matter be held over to full Council meeting pending clarification of whether draft clauses 7(6) – 7(7) are to be included in the final lease agreement.

The meeting was informed by the CEO that it was not intended to include draft clauses 7(6) – 7(7) (as shown in the draft Rugby Club lease) in the final lease agreement.

12.1.2 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council authorise the Mayor and CEO to sign a lease agreements between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

Carried 7/2

12.1.3 INDIANA TEA HOUSE & BARCHETTA - TOILET CLEANING

File No: 91 Marine Parade
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 9 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to approve additional cleaning of the public toilets at the Indiana Tea House and Barchetta Restaurant for Summer 2006/2007.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Beach policy, section (c) of 'Secondary Objectives' applies:

To provide a level of essential amenity on the beach reserves which meets the expectations of the residents of Cottesloe, the people of Western Australia and visitors to the metropolitan region.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The quotes received from the various cleaning companies for the period 1/11/2006 to 30/4/2007 are as follows (all GST exclusive):

\$30,940 Charles Cleaning Company (for the 6 months)
\$26,000 Liberation Cleaning Services (\$1,000 per week for 26 weeks)
\$45,169 Petra Clean (\$273 per day for 182 days)
\$30,000 Delron (\$5,000 per month for 6 months)
\$17,420 Orbit Group (\$670 per week for 26 weeks)

This additional cleaning has not been provided in the budget.

BACKGROUND

The cleanliness of the beachfront restaurant toilets, the Indiana Tea House in particular, has been an ongoing cause of complaints. The lease agreement requires that the lessee cleans the toilets daily. This has resulted in the toilets being cleaned once a day, usually first thing in the morning. During summer this has proven to be inadequate. The combination of additional usage of the facilities by local patrons, petty vandalism and unusual ablution practices of tourists mean that by mid-morning the change rooms are a mess.

Council requested that quotes be obtained to determine the feasibility of additional cleaning.

CONSULTATION

The report is predicated on the numerous complaints received by the Council and its officers during summer.

STAFF COMMENT

I started working at the Town of Cottesloe at the end of last summer and received approximately two calls a day for the next few weeks complaining about the condition of the toilets at Indiana Tea House.

Following a request from Council I contacted a number of professional cleaners to get quotes for additional cleaning of the toilets. The quotes cover two additional cleaning services seven days a week at the change rooms at Indiana Tea House and Barchetta Restaurant for the six months from November, 2006 to April, 2007.

The new lessee assumes control over the Indiana Tea House in November, 2006. I recommend that the cleaning be approved for this summer as a goodwill gesture from the council. Future arrangements can be negotiated with the new lessee as part of a holistic approach to the facility.

VOTING

Absolute Majority

12.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council approve the additional toilet cleaning by Orbit Group at Indiana Tea House and Barchetta Restaurant for summer 2006/2007 (finishing date 30/4/2007).

Carried 9/0

12.1.4 COUNCIL MEETING DATES FOR 2007

File No: X4.3
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 6 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A resolution setting out the ordinary Council meeting dates for 2007 is required.

STATUTORY ENVIRONMENT

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

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

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

POLICY IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

Nil.

VOTING

Simple Majority

12.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) **Observe a recess in January 2007, with no ordinary meeting of Council to be held;**
- (2) **Advertise the ordinary Council meeting dates for 2007 as the fourth Monday in the month commencing at 7.00 pm with the exception of December when the meeting is to be advanced to 17th December;**
- (3) **Advertise the Development Services Committee meeting dates for 2007 as the third Monday in the month commencing at 6.00 pm with the exception of December when the meeting is to be advanced to 10th December;**
- (4) **Advertise the Works & Corporate Services Committee meeting dates for 2007 as being held on the day after the Development Services Committee meeting commencing at 7.00 pm; and**
- (5) **Advertise the Strategic Planning Committee meeting dates for 2007 as being held on the fifth Monday in the month commencing at 7.00 pm. with the exception of the first meeting in 2007 when the meeting is to be advanced to 21st February 2007.**

Carried 9/0

12.1.5 ANNUAL ELECTORS MEETING - ACCEPTANCE OF ANNUAL REPORT

File No: C 7. 1
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 17 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to accept the annual report for the 2005/06 financial year and to hold the annual electors meeting on Wednesday, 13 December, 2006.

STATUTORY ENVIRONMENT

The relevant sections of the *Local Government Act 1995* read as follows:

5.27. Electors' general meetings

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

5.53. Annual reports

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain ?*
 - (a) *a report from the mayor or president;*
 - (b) *a report from the CEO;*
 - [(c), (d) deleted]
 - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;*
 - (f) *the financial report for the financial year;*
 - (g) *such information as may be prescribed in relation to the payments made to employees;*
 - (h) *the auditor's report for the financial year;*
 - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
 - (i) *such other information as may be prescribed.*

5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

** Absolute majority required.*

- (2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

5.56. Planning for the future

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Regulations 15 and 19B of the *Local Government (Administration) Regulations, 1996* require that:

15. Matters for discussion at general electors' meetings s. 5.27(3)

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

19B. Annual report to contain information on payments to employees ? s. 5.53(2)(g)

For the purposes of section 5.53(2)(g) the annual report of a local government for a financial year is to contain the following information ?

- (a) *the number of employees of the local government entitled to an annual salary of \$100 000 or more;*
- (b) *the number of those employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000.*

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Council is required to hold a general meeting of electors once in each financial year and this meeting is to be held not more than 56 days after Council accepts the annual report.

The annual report is to be accepted by the Council no later than 31 December, 2006.

CONSULTATION

N/A

STAFF COMMENT

The annual report (see attached) is made up of a number of reports including those of the Mayor and CEO, an overview of the plan for the future, the annual financial statements, the auditor's report and other prescribed reports and information.

The last Annual General Meeting of Electors was held on 23 November, 2005.

Subject to Council's acceptance of the Annual Report, the earliest suitable date to hold the electors meeting will be Wednesday, 13 December, 2006.

VOTING

Simple Majority

12.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Accept the Annual Report for the 2005/06 Financial Year, subject to the section relating to the Future Plan being updated; and**
- (2) Call the Annual Meeting of Electors, to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 13 December, 2006 commencing at 7.00pm.**

Carried 9/0

12.1.6 FUTURE PLAN

File No: X12.4
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 13 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A Council decision is required on the timing and extent to which community consultation is undertaken on a draft "Future Plan" for Cottesloe.

STATUTORY ENVIRONMENT

Section 5.56 of the *Local Government Act 1995* requires the following:

5.56. Planning for the future

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Regulation 19C of the *Local Government (Administration) Regulations 1996* requires the following:

19C. Planning for the future S. 5.56

- (1) *In this regulation and regulation 19D*

"plan for the future" means a plan made under section 5.56.

- (2) *A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).*
- (3) *A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.*
- (4) *A local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.*
- (5) *A council is to consider a plan, or modifications, submitted to it and is to determine* whether or not to adopt the plan, or the modifications, as is relevant.*

**Absolute majority required.*

- (6) *If a plan, or modified plan, is adopted by the council then the plan or modified plan is to apply to the district for the period of time specified in the plan.*
- (7) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future of the district, and when preparing any modifications of a plan.*
- (8) *A plan for the future of a district is to contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.*

- (9) *A local government is to ensure that a plan for the future made in accordance with this regulation applies in respect of each financial year after the financial year ending 30 June 2006.*

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

As and when adopted, the "Future Plan" (see Attachment 1) will become the overarching strategic plan for the Town of Cottesloe and will replace Councils existing Strategic Plan (see Attachment 2).

FINANCIAL IMPLICATIONS

The cost of community consultation depends on the extent of consultation undertaken but in any event should not exceed two thousand dollars.

BACKGROUND

As required under the *Local Government Act, 1995*, Council is required to prepare a plan for the future that sets out the broad objectives of the Town of Cottesloe for a period of not less than two financial years.

Electors and ratepayers of its district must be consulted during the development of a plan for the future of the district and when preparing any modifications of a plan.

The plan for the future of a district must also contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.

Over the last three months, Council staff and elected members have held several meetings to develop a draft plan.

CONSULTATION

Under Council's *Community Consultation Policy* the draft *Future Plan* is considered to be a major strategic document.

The level of consultation for a major strategic document demands that at the **minimum**, consultation include;

- The invitation of submissions with the placement of advertisements in the local newspaper.
- Information being placed on the Internet at www.cottesloe.wa.gov.au together with an invitation for submissions,
- An article in *Cottesloe Council News* about the draft *Future Plan* with the article informing and encouraging feedback.
- Consultation with ratepayer groups such as SOS Cottesloe Inc as a valuable means of receiving feedback on a range of strategic issues.

The policy also requires that in **most circumstances** Council would also:

- Issue media releases and conduct interviews with local journalists.
- Undertake a statistically correct survey of particular attitudes, beliefs or information in relation to the draft plan. This may be done by phone, written survey or door-knock of individual households.
- Conduct discussion groups of around 15-20 invited people, usually led by a trained facilitator.

Depending on the circumstances Council **might** also want to:

- Issue a non-addressed leaflet or flyer that summarises the issues and invites feedback to Council. The flyer indicates how that feedback can be given.
- Undertake personal briefings. These are held at the request of a member of members of the local community to discuss a particular issue with a responsible officer. They may include the Mayor and/or Councillors.
- Conduct community information sessions in the Lesser Hall. Invitations can be extended by advertising in the local papers, by letterbox drop and/or advertisements in the local newspaper.

STAFF COMMENT

Perhaps the only limiting factor on the level of community consultation to be undertaken relates to a question of timing.

With the Christmas recess almost upon us, it is highly unlikely that the issue of properly constructed surveys, collation of survey results and the conduct of discussion groups could be reasonably undertaken until February/March/April of next year.

While surveys and discussion groups are not critical to the adoption of the *Future Plan* under the *Community Consultation Policy*, they may nonetheless result in stronger community ownership of the end product and a better *Future Plan*.

In order to keep things moving it is recommended that:

1. Undertake at least the minimum requirement of community consultation as required under Council's *Community Consultation Policy* in relation the draft *Future Plan* over the next two months, and
2. Reconsider, at its February 2007 meeting, the matter of further community consultation (by way of discussion groups and community surveys) dependent on the level and nature of community feedback received to that point in time.

VOTING

Simple Majority

12.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Undertake at least the minimum requirement of community consultation as required under Council's *Community Consultation Policy* in relation the draft *Future Plan* over the next two months; and**
- (2) Reconsider, at its February 2007 meeting, the matter of further community consultation (by way of discussion groups and community surveys) dependent on the level and nature of community feedback received to that point in time.**

Carried 9/0

12.1.7 COTTESLOE SURF LIFE SAVING CLUB - DISCHARGE OF MORTGAGE

File No: E2.5
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the use of the Common Seal of the Town of Cottesloe in the execution of the Discharge of Mortgage document for Cottesloe Lot 322.

STATUTORY ENVIRONMENT

Council's Standing Order 21.3 provides that:

Except as required by law, or in the exercise of the express authority of the council, the chief executive officer shall not use the common seal of the council.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In 1993 the Town of Cottesloe obtained a self-supporting loan (Loan No.83) of \$125,000 from the Western Australian Treasury Corporation on behalf of the Cottesloe Surf Life Saving Club.

The loan was to be repaid to the Town of Cottesloe by the Cottesloe Surf Life Saving Club over period of twelve years with the last instalment falling due on 1st July 2005.

As security for the repayment of the loan, the Town of Cottesloe took a mortgage over the land owned by the Cottesloe Surf Life Saving Club on Marine Parade (Cottesloe Lot 322).

The loan has been repaid in full and the Cottesloe Surf Life Saving Club has now written to the Town of Cottesloe enclosing a Discharge of Mortgage form for execution by the Town of Cottesloe and seeking the return of the Duplicate Certificate of Title for Cottesloe Lot 322.

A Council resolution authorising the use of the Town's Common Seal on the Discharge of Mortgage form is now required.

CONSULTATION

Nil.

STAFF COMMENT

Nil.

VOTING

Simple Majority

12.1.7 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council authorise the use of the Common Seal of the Town of Cottesloe in the execution of the Discharge of Mortgage document for Cottesloe Lot 322.

Carried 9/0

12.2 ENGINEERING**12.2.1 PART ROAD RESERVE CLOSURE, BARSDEN STREET/FINEY STREET, COTTESLOE**

File No: 12 Barsden St
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A request has been received from the owners of 12 Barsden Street, located at the intersection of Barsden Street and Finey Street, for the truncation area on the corner of their property, associated with the junction of the two road reserves, to be closed, for amalgamation into their property.

This report recommends that Council:

- (1) Support, in principle, the proposed closure of the truncation area on the Barsden Street/Finey Street road reserve intersection adjacent to the south west corner of 12 Barsden Street, Cottesloe, totalling approximately 18m², to be amalgamated into the area of 12 Barsden Street;
- (2) Agree to commence the process of closure covered under Section 58 of the *Land Administration Act, 1997* once the owners of 12 Barsden Street, Cottesloe agree in writing to fund the cost of the public newspaper advertisement to begin the mandatory 35 day objection period for public consultation; and
- (3) Inform the owners of 12 Barsden Street, Cottesloe of Council's decision on this matter.

STATUTORY ENVIRONMENT

This matter concerns a small portion of road reserve, which cannot be claimed by adverse possession.

For any permanent road closure, regardless of scale, Section 58 of the *Land Administration Act, 1997* is applicable. This process includes a statutory objection period being advertised and all service authorities being asked for comment, prior to council reconsidering the proposal.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Finey Street is a cul-de-sac road which is not built as a connection to Barsden Street. The area which could be used as a connection is a developed drainage soak pit and sump area which is designed to dispose of drainage water from the general area.

The wall built on the south west corner of 12 Barsden Street is built over the 45° normal road junction boundary truncation. There appears to be no service authority junction pits.

The wall enclosing this truncation appears to have been there for many years, as has the Barsden Street slab footpath and the well established verge lawn.

There is a well developed drainage system on the unbuilt western end of Finey Street. This was built in 2001 when Barsden Street was rebuilt, to improve inadequate drainage down Finey Street.

CONSULTATION

Nil, to date. If Council resolves to support the closure of the truncation area, approximately 18m², a 35 day objection period will apply, for public comment, after the proposal has been advertised.

STAFF COMMENT

The area of approximately 18m² for the legal truncation provision has effectively been denied to the public and service authorities for many years. There are no Council plans to make use of the site in future. If there had been service authority problems with the right angle boundary wall then it would have been modified, with obvious service pits on the site.

The only cost to Council with this proposal is the staff time required for the administrative steps and the cost of the single newspaper advertisement for the proposed closure.

VOTING

Simple Majority

12.2.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Support, in principle, the proposed closure of the truncation area on the Barsden Street/Finey Street road reserve intersection adjacent to the south west corner of 12 Barsden Street, Cottesloe, totalling approximately 18m², to be amalgamated into the area of 12 Barsden Street;**

- (2) **Agree to commence the process of closure covered under Section 58 of the *Land Administration Act, 1997* once the owners of 12 Barsden Street, Cottesloe agree in writing to fund the cost of the public newspaper advertisement to begin the mandatory 35 day objection period for public consultation; and**
- (3) **Inform the owners of 12 Barsden Street, Cottesloe of Council's decision on this matter.**

Carried 9/0

12.2.2 PEARSE STREET ROAD RESERVE: SEA VIEW GOLF CLUB ENCROACHMENT

File No: E17.10.75 & 2 Jarrad St
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

At its August, 2006 meeting Council resolved to:

- (1) Request the Minister to permanently close the section of the Jarrad Street road reserve between Marine Parade and 20 metres east from the north west corner of Lot 6271 and 1664, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve be amalgamated into "A" Class Reserve 6613; and
- (2) Require a report from staff, on the matter of the Sea View Golf Club golf course encroaching on a portion of the Pearse Street road reserve.

This item supplies the requested report (Item 2) and recommends:

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to 240.5m east of Marine Parade, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act 1997*, and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

STATUTORY ENVIRONMENT

Any closure, permanently, of a portion of road reserve would be covered by Section 58 of the *Land Administration Act, 1997* (attached).

Council's Local Law *Activities on Thoroughfares and Trading in Thoroughfares and Public Places* also applies (see attached).

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

During its recent discussions regarding the proposed closure of Jarrad Street between Broome Street and Marine Parade, Council became aware of a portion of the north side verge of Pearse Street, to the east of Marine Parade, which has been part of the Sea View Golf Club playing area for many years, with a pine log fence closing off this area for general public use.

This is in conflict with the Town of Cottesloe's local law *Activities on Thoroughfares and Trading in Thoroughfares and Public Places*, which includes the provision:

"A person shall not: ...

- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.

It would appear that for many years, apart from a width allowed for a pedestrian slab footpath, the majority of the north side road reserve of Pearse Street, from Marine Parade to a point 240.5m east of Marine Parade has been fenced into the area played on and maintained by the Sea View Golf Club.

CONSULTATION

Discussions have been held with the Sea View Golf Club on this matter.

Public consultation will be undertaken and will include advertising in a local newspaper, on Council's web page and noticeboards, along with the statutory advertising requirements.

STAFF COMMENT

The Pearse Street road reserve is 40m wide, with private properties on the south side and the golf club plus Council ovals on the north side, between Marine Parade and Broome Street.

For the section of concern, Council staff only maintain the fronting footpath strip, with the remainder of the verge width mowed by the Sea View Golf Club.

There have been no complaints found in the files regarding the existing situation, however, a permanent, legal basis needs to be established to meet Council's local law requirements as well as to clarify liability responsibilities, if an accident or injury occurs within the area of concern.

It is proposed to close off the portion of road reserve affected, amalgamate it into the adjacent Crown Reserve No. 1664, and modify the area covered by the Sea View Golf Club lease area to formally include the site, once the closure has occurred.

The other alternative is to have the golf club remove its activities from the site and move the boundary fence back to the legal boundary.

VOTING

Simple Majority

DECLARATION OF IMPARTIALITY

Cr Strzina made a declaration of impartiality in that he is a member of the Se View Golf Club.

Cr Furlong made a declaration of impartiality in that he is a social member of the Sea View Golf Club.

OFFICER RECOMMENDATION

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to 240.5m east of Marine Parade, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

12.2.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to the western boundary of Cottesloe Lot 113, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

Carried 7/2

12.2.3 LIMESTONE RETAINING WALL, NO. 1 CARPARK - STRUCTURAL SUPPORT

File No: E 9. 1
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

After receiving comments from a resident, staff inspected cracking in a portion of limestone retaining wall adjacent to steps at the south west corner of No. 1 carpark. A short report was obtained from a consultant on the extent and reasons for the cracking.

This report recommends that Council:

- (1) Install two steel support columns on the outside retaining wall of the steps leading down from the south west corner of No. 1 carpark, with these columns to be masonry filled and coloured to match the limestone walls; and
- (2) Consider the funding of a structural engineering report on all limestone structural retaining walls on the foreshore area when framing the 2007/08 draft budget.

STATUTORY ENVIRONMENT

The affected infrastructure has been installed by the Town of Cottesloe on reserve land vested in Council for the purposes of Recreation. Council is liable for all repair or reconstruction works required.

POLICY IMPLICATIONS

Council's *Beach* policy applies (see attached).

STRATEGIC IMPLICATIONS

The main Strategic Plan objective for this beach area is covered under:

District Development/Environment/Beach Precinct – A clean safe beach precinct which is sustainably managed with no new developments West of Marine Parade and proactive conservation of the dune and marine environs.

FINANCIAL IMPLICATIONS

Short term installation of supports, approximately \$4,000 – funded from maintenance provision.

Long term – study of all structural support/retaining walls in the beach precinct and required repair/replacement works, possible \$20,000+.

BACKGROUND

The limestone steps and retaining walls on the foreshore areas, particularly around No. 1 carpark and the Indiana Tea House, have been installed and maintained at various times over many years. Some are in good condition while others have received a variety of treatments or replacements, in varying colours and materials.

The consultant's report explains the probable causes of the cracking and movement of this portion of retaining wall, with a recommendation for short term 'holding action' restoration of structural capacity while a larger study is made of the other structural retaining walls within the foreshore area.

CONSULTATION

This matter relates to infrastructure maintenance. Public consultation is not required.

STAFF COMMENT

The cracks in this wall are serious enough to require at least a short term installation of the two 150mm deep steel columns to ensure structural support to the wall for the remainder of this financial year. Other wall sections in this area are cracked and require further investigation to determine the reasons for cracking and options for long-term solutions.

As recommended by the consultant, the two proposed steel columns could be filled with masonry to duplicate a limestone 'look' to match the existing wall blocks.

There is also a need to consider extra wall rehabilitation to replace sections of face blocks which have weathered or been vandalised in excess of expectation. These could be weak sections or soft portions of limestone.

The retaining walls around the terraces near the Indiana Tea House vary greatly in terms of the quality of stonework, with different qualities and colours of repair efforts.

VOTING

Simple Majority

12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Install two steel support columns on the outside retaining wall of the steps leading down from the south west corner of No. 1 carpark, with these columns to be masonry filled and coloured to match the limestone walls; and**
- (2) Consider the funding of a structural engineering report on all limestone structural retaining walls on the foreshore area when framing the 2007/08 draft budget.**

Carried 8/1

12.2.4 RIGHTS OF WAY/LANEWAYS - EXISTING NAME LEGALITY

File No: E13. 1
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in August, 2006, Council resolved.

That Council:

- (1) Change item No. 13 of the *Rights of Way/Laneways* policy, to read:
 - (A) On request Council will consider the naming of right-of-ways/laneways under the care, control and management of the Town of Cottesloe on the understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular right-of-way/laneway or services to same.
- (2) Advise property owners adjacent to ROW 29 (between Nailsworth Street and Broome Street) of a proposal to name ROW 29 "Marchant Walk" and requesting submissions on the proposal in writing by the 12th September 2006 to enable further consideration by Council at its September, 2006 meeting.
- (3) Have staff prepare a report on the legality of accepted names currently used on ROWs/Laneways within the Town of Cottesloe, including alternatives for any laneways with no legal name but for which the local use name is unlikely to achieve approval from the Geographic Names Committee.

This report recommends that Council either:

- (1) Give further thought to a suitable name with a view to selecting a name from a shortlist in December, 2006; or
- (2) Seek public submissions on a name.

STATUTORY ENVIRONMENT

Rights of Way (ROWs)/Laneways in the Town of Cottesloe are either Crown land, privately owned by the Town of Cottesloe or privately owned by a number of individuals or companies.

Those which are Crown land or owned by the Town of Cottesloe are maintained by Council and Council has control over the naming of such accesses, with the Department of Land Information having to approve, through the Geographical Names Committee, the choices made regarding suitable names.

POLICY IMPLICATIONS

Council's *Rights of Way/Laneways* policy, section 13 applies.

13. On request Council will consider the naming of right-of-ways/laneways under the care, control and management of the Town of Cottesloe on the

understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular right-of-way/laneway or services to same.

STRATEGIC IMPLICATIONS

Governance/Consistency: All decisions made are consistent with relevant statutes, Council policy and the aims of the Strategic Plan.

Management/Statutory Compliance: All procedures and decisions comply with external and internal statutes.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At its meeting in August, 2006 Council considered information from the Department of Land Information stating that the name "Napoleon" should not be applied to a laneway so close to Napoleon Street, because of legislation governing the control of duplicated road or laneway names.

Council resolved to have all other laneway names checked for legality before deciding further on Napoleon Lane.

CONSULTATION

Nil, other than verbal discussions with ProCott and letters to and from the Department of Land Information/Geographic Names Committee.

STAFF COMMENT

The received letter from the Geographic Names Committee informs Council that Clapham Lane, Fig Tree Lane, Rockett Lane and De Bernales Walk are legally named.

McNamara Way, Joinery Way and Pennefeather Lane are underwidth public streets and legally named.

Therefore, the only name not originally approved and unlikely to be approved is Napoleon Lane/Close, because of the existence of Napoleon Street nearby.

In regards to an alternative to "Napoleon" as a laneway name replacement, the names "Wellington" and "Waterloo" come to mind. Wellington Street is in Mosman Park, within 10km of this site. There are no streets known of using the name "Waterloo" within 10km of Napoleon Street.

There may, as alternatives, be names of prominent past residents who should be remembered via a street name.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Give further thought to a suitable name with a view to selecting a name from a shortlist in December, 2006.

Or

- (2) Seek public submissions on a name.

12.2.4 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council seek approval from the Geographic Names Committee to name the lane 'De Nardi Lane' in memory of Bruno De Nardi – a former Cottesloe greengrocer.

Carried 9/0

12.3 FINANCE**12.3.1 FINANCIAL REPORT FOR OCTOBER, 2006**

File No: C 1. 2
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

It is recommended that Council accept the Financial Report for October 31, 2006.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The manager Corporate Services provides a report to Council as required.

CONSULTATION

Nil.

STAFF COMMENT

October 2006	Actual YTD	Budget YTD	Variance \$	Variance %
Total Revenue (excluding rates)	\$887,909	\$810,607	\$77,302	9.5
Total Expenses	\$(2,223,248)	\$(2,527,997)	\$304,749	12.1
Capital Expenditure	\$(1,081,978)	\$(1,116,000)	\$34,022	3.0
Other	\$171,788	\$165,293	\$6,495	0.8

Financial Commentary and Analysis

There are few significant variances. Revenue includes a \$20,000 grant from the Office of Crime Prevention that was not in the budget. Expenses are favourable to budget with the causes for the variance in Community Amenities. Timing differences relating to lower than budgeted expenditure on contractors in the area of sanitation

(\$97,509) and provisional amounts totalling \$74,947 in the budget for legal expenses, consultants and contractors that may not be expended making up the majority of the variance.

IT Steering Committee

TRIM Context has been purchased as our new Electronic Document Management System (EDMS). Our current system using F:\Records does not allow for easy storage and retrieval of information, but this is all about to change! As we have never utilised an EDMS, there is a lot of work that needs to be undertaken behind the scenes before we can go live ensuring we comply with the legislation outlined in the State Records Act 2000.

There will be more detail in subsequent reports keeping you updated on the TRIM Implementation program.

Achievements - October 2006

- All training sessions provided with implementation package have been conducted. Customised and refresher courses to be held in December 2006 or January 2007
- Keywords for Council (New Thesaurus terms) has been purchased and uploaded into the LIVE version of TRIM
- General Disposal Authority for Local Governments (GDA) has been purchased and uploaded into the LIVE version of TRIM
- Postal Codes have been uploaded into the LIVE version of TRIM
- Internal Locations & Security entered into the LIVE version of TRIM
- Physical Locations & Security entered into the LIVE version of TRIM

What to expect over the next month.....November 2006

- Record Types to be created in LIVE version of TRIM
- Locations to be created in LIVE version of TRIM (external contacts from Prospect)
- Consultancy – change management/implementation options
- New Filing Structure to be approved
- Commence work on User Manuals and Quick Reference Guides
- Commence work policy and procedure documents

Universal Beach Access Group

There has been a significant amount of effort in establishing a pilot project to improve the access to the beach for disabled. The partners in the project have expanded to include the following organisations:

- Cities of Fremantle and Nedlands
- WALGA
- Disability Services Commission
- Surf Life Saving WA
- Disabled Surfers Association
- Lotterywest
- Curtin University (School of Occupational Therapy)
- Department of Sport and Recreation

I have attached copies of the project plan and the Curtin Uni students' project outline.

Community Safety and Crime Prevention

There has been a lot of activity in preparation for capturing information relating to anti-social behaviour at the beach front during this summer. The Rangers and Depot staff are preparing weekly reports containing evidence of problems.

The fridge magnets and letters to residents are being distributed next week (w/c 20/11/2006) and there will be adverts for the Town Meeting in the next 3 issues of the Cottesloe Post.

VOTING

Simple Majority

12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council accept the Financial Report for October, 2006.

Carried 9/0

12.3.2 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C 7. 4
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Operating Statement on page 17 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$380,772 as at 31 October 2006. Operating Revenue is ahead of budget by \$76,023(1%). Operating Expenditure is \$304,749 (12%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 October 2006 is shown on page 38.

The main cause of the lower than anticipated expenditure is lower than budgeted expenditure on contractors in the area of sanitation.

The Capital Works Program is listed on pages 23 to 24 and shows total expenditure of \$964,220. This includes \$171,853 of capital expenditure related to projects funded with grant money received in the last financial year. The other items of capital are budgeted with some timing differences.

VOTING

Simple Majority

12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.3 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C12 and C13
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

The Schedule of Investments on page 47 of the Financial Statements shows that \$4,043,163 was invested as at 31 October, 2006.

Reserve Funds make up \$692,019 of the total invested and are restricted funds. Approximately 55% of the funds are invested with the National Australia Bank, 30% with Home Building Society and 15% with BankWest.

The Schedule of Loans on page 48 shows a balance of \$339,198.62 as at 31 October 2006. There is \$168,521.51 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.4 ACCOUNTS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C 7. 8
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

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

- \$12,581.34 to WA Local Govt Super Fund for staff deductions
- \$43,411.00 to Sigma Data Solutions for TRIM software and training
- \$13,062.27 to WA Local Govt Super for staff deductions
- \$12,612.40 to ATO for GST for September 2006
- \$11,550.00 to Civica for instalment of council software purchase
- \$52,268.00 to Pro-Cott for 2005/2006 special rates
- \$65,639.90 to Shacks Holden for purchase of 2 passenger vehicles
- \$37,867.00 to Trum P/L for waste collection
- \$19,870.40 to WMRC for disposal and tipping fees
- \$11,793.54 to B & N Waste for green waste collection
- \$20,029.39 to Municipal Property Scheme for instalment of Property Insurance premium
- \$88,184.80 to Shire of Peppermint Grove for quarterly library contributions

- \$56,890.46 to Town of Mosman Park for various drainage installations
- \$30,456.41 to Trum P/L for waste collection
- \$23,144.04 to WMRC for disposal and tipping fees
- \$13,345.45 to WA Treasury for loan repayment
- \$51,487.88, and \$52,653.68 for staff payroll

VOTING

Simple Majority

12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

**12.3.5 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 OCTOBER, 2006**

File No:	C 7. 9
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Period Ending:	31 October, 2006
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Sundry Debtors Report on pages 44 to 45 of the Financial Statements shows a balance of \$192,980.23 of which \$59,015.52 relates to the current month. The balance of aged debt greater than 30 days stood at \$133,964.71 of which \$83,316.32 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

The Property Debtors Report on page 46 of the Financial Statements shows a balance of \$1,590,285.86. Of this amount \$158,207.19 and \$8,894.08 are deferred rates and deferred ESL respectively. As can be seen on the Balance Sheet on page 18 of the Financial Statements, rates as a current asset are \$1,423,184 in 2006 compared to \$1,311,089 last year.

VOTING

Simple Majority

12.3.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 31 October, 2006; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 October, 2006.**

Carried 9/0

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

Nil

14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**14.1 BARCHETTA BINS**

Cr Woodhill spoke in relation to the odours from the bins at Barchetta.

14.1 COUNCIL RESOLUTION

Moved Cr Woodhill, seconded Cr Carmichael

That this matter be dealt with as an item of urgent business.

Carried 6/3

Moved Cr Woodhill, seconded Cr Carmichael

That the Principal Environmental Health Officer report to Council on the odours associated with the rubbish bins at Barchetta.

Carried 6/3

14.2 COTTESLOE BEACH HOTEL – NEW YEARS EVE

The Cottesloe Beach Hotel has sent an email to a number of its patrons providing details for New Years Eve celebrations at the hotel. Following this an article was printed in the Post Newspaper on 17 November, 2006. Councillors discussed the promotion of the event and the message that it sent.

14.2 COUNCIL RESOLUTION

Moved Cr Carmichael, seconded Cr Strzina

That this matter be dealt with as an item of urgent business.

Carried 8/1

Moved Cr Carmichael, seconded Cr Utting

That Council write to Multiplex, Hon. M McGowan - Minister of Racing and Gaming, Mr Peter Minchin – Director of Liquor Licensing, Hon. John Kobelke – Minister for Police, Mr Karl O’Callaghan – Commissioner for Police, Hon. Colin Barnett – Member for Cottesloe and Hon. Alan Carpenter – Premier in relation to the email, highlighting it as irresponsible and the creation of major problems, particularly excessive alcohol consumption.

Lost 4/5

15 MEETING CLOSURE

The Deputy Mayor announced the closure of the meeting at 9.00pm.

TOWN OF COTTESLOE



FULL COUNCIL MEETING

MINUTES

**ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBER, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 27 NOVEMBER, 2006**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Deputy Mayor announced the meeting opened at 7.00pm.

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

Cr Bryan Miller (Deputy Mayor)
Cr Patricia Carmichael
Cr Daniel Cunningham
Cr Arthur Furlong
Cr Peter Jeanes
Cr Victor Strzina
Cr John Utting
Cr Jack Walsh
Cr Ian Woodhill

Officers

Mr Stephen Tindale Chief Executive Officer
Mr Graham Pattrick Manager Corporate Services/Deputy CEO
Mr Andrew Jackson Manager Planning & Development Services
Mr Geoff Trigg Manager Engineering Services
Mrs Jodie Peers Executive Assistant

Apologies

Mayor Kevin Morgan

Leave of Absence (previously approved)

Cr Jo Dawkins

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Utting, seconded Cr Woodhill

That the paper Cr Utting provided to Councillors at the previous meeting be included in the Minutes.

Mayor Kevin Morgan

Please find attached a copy of a message to me from a member of the Council staff (attachment 1).

You will recollect that I gave a brief report on the progress of the proposed library at the recent meeting of the Corporate Affairs Committee.

In this I said that staff had refused me access to the Architects costing for the proposed Library. This document had been tabled at a previous Library Committee Meeting and showed a cost estimate about \$1,000,000 to \$2,000,000 above the previous estimate. I regret I am unable to provide a more accurate figure and other details due to the staff veto on me having access to the document, as stated above. I believe this veto extends to all Councillors.

The staff veto could prove very expensive to Council and to the library. You will see from attachment 2 that the Chairman of the Library Project Steering Committee is inviting Councillors and others to an "information update evening" in the Mosman Park Council Chambers on 9 November when "Architects will present final concept plans, Quantity Surveyor/Cost Manager will give indicative costs and information for budgetary consideration.

The Architect has presented a plan for a large single storey building. A two storey building has been ruled out with inadequate consideration.

An interested Councillor, and other ratepayers, have suggested that a two storey building may be more appropriate, sited over the existing building or in close proximity to it. There are good reasons to thoroughly investigate this option. As set out hereunder –

- The Peppermint Grove Council does not control the land on which the proposed library is to be built, State Government approval is required.*
- A Bowling Club member has stated that the club is legally contesting the ownership of the land on which the bowling greens are sited.*
- Peppermint Grove residents who live adjacent to the proposed development are objecting.*
- Community consultation has yet to take place.*
- A two storey building could be more economical than the proposed structure.*

You are requested please to direct staff to carry out a cost analysis for a two storey building as compared with the proposed single storey structure.

Additionally you are requested please to instruct staff to lift the veto on the supply of information to a Councillor. This is the first occasion that I can recollect of this kind of action occurring. It should not happen again.

Cr John Utting

Carried 6/3

Moved Cr Strzina, seconded Cr Utting

The Minutes of the Ordinary Meeting of Council held on Monday, 23 October, 2006 be confirmed with the above amendment.

Carried 8/1

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7.1 A community safety and crime prevention town meeting to discuss anti-social behaviour in the Town of Cottesloe will be held on Wednesday, 6 December, 2006. Councillors and residents are encouraged to attend.

7.2 The Annual Electors Meeting will be held on Wednesday, 13 December, 2006. Residents are encouraged to attend.

8 PUBLIC STATEMENT TIME

Ms E Thomas, 16 Federal Street, Cottesloe – Item 11.1.7, No. 16 (Lot 288) Federal Street – Proposed Carport

Ms Thomas spoke in relation to her application for a carport construction. There is a safety concern from the neighbour, however Ms Thomas stated that the carport is setback 1.9m from the boundary and the staff have agreed that it is not a safety issue. The other issue from the neighbour is aesthetics. However, if the carport was setback closer to the house this would restrict access to the rear of the property.

Mrs S Woodhill, 23A Grant Street, Cottesloe – Item 11.1.4, No. 25 (Lot 847) Grant Street – Two Storey Residence and Below-Ground Swimming Pool

As this item is due to be withdrawn, Mrs Woodhill made a statement in relation to general town planning. When Mrs Woodhill's house was built all the town planning rules were abided by. Variations from the town planning scheme shouldn't be allowed. Mrs Woodhill stated that Council should consider applications in relation to the town planning scheme in future deliberations.

Ms T Tuchaai, 18 Federal Street, Cottesloe - Item 11.1.7, No. 16 (Lot 288) Federal Street – Proposed Carport

Ms Tuchaai asked Council to consider whether the carport meets all safety requirements for all people. The 1.5m setback allows a short reaction time for pedestrians, a further setback would improve the safety of the proposed carport. Federal street is a very narrow street. Ms Tuchaai suggested that condition (g) be reinstated due to safety issues and streetscape.

Mr S Nile, 98 Grant Street, Cottesloe - Item 11.1.9, Amendment No. 41 to Town Planning Scheme No. 2 – No's 98A & 98B (Lots 1 & 2 of Lot 1) Grant Street – Recoding from residential R20 to residential R30

Both owners would like green title, which would mean a zoning of R30. Mr Nile wishes to rebuild. He understands Council's concerns and would like to discuss other solutions with Council.

Mr S Famiana, 21 Hartfield Way, Westminster - Item 11.1.9, Amendment No. 41 to Town Planning Scheme No. 2 – No's 98A & 98B (Lots 1 & 2 of Lot 1) Grant Street – Recoding from residential R20 to residential R30

This property should be zoned R30. A blanket R20 zoning has been introduced into the area with no consideration of individuals, and does not identify where there are two dwellings. The property could not be extended or redeveloped and raises an issue of equity, orderly and proper planning. Rezoning would allow for subdivision, the status quo would remain. The landowner has approached 10 neighbours in the area who have given support (written and verbal). Mr Famiana requested that council support the amendment.

Mr C Wiggins, 50 John Street, Cottesloe – Cottesloe Beach Hotel New Years Eve

Mr Wiggins spoke in relation to an article in post newspaper on 17 November, 2006 and an email sent out by the Cottesloe Beach Hotel advocating a major party at the hotel on New Year's eve. Mr Peter Watts, Approved Manager and Licensee of the Cottesloe Beach Hotel reported at the hotel meeting on Monday, 20 November, 2006 that this email was sent to several thousand patrons, targeting an age group between 18 and 25 years old.

Mr Wiggins recommended that Council send a letter expressing concern re:

- (a) the wording of the email encouraging excessive alcohol consumption; and
- (b) the comment from the WA Police appearing to condone the use of such emails to patrons for this purpose and further advising that this does not present problems for the Police. These statements were made both to the Post, and at the Cottesloe Beach Hotel meeting held on Monday, 20 November.

The letter is to be sent to:

- Multiplex
- Hon. M McGowan, Minister of Racing and Gaming
- Mr Peter Minchin, Director of Liquor Licensing
- Hon. John Kobelke, Minister for Police
- Mr Karl O'Callaghan, Commissioner for Police
- Hon. Colin Barnett, Member for Cottesloe
- Hon. Alan Carpenter, Premier.

The behaviour of the hotel and its patrons is a major community issue.

Ms P Lampropoulos, 4 Windsor Street, Cottesloe – Thank you to Council Staff

Ms Lampropoulos stated that she purchased a property in Cottesloe last year and has applied for a building licence. Ms Lampropoulos thanked the planning and building staff; Andrew Jackson (especially for his mediation skills, Lance Collison and Georgina Cooper and Sam Neale (also for his mediation skills) for their assistance.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

10 REPORTS OF COMMITTEES AND OFFICERS**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 20 NOVEMBER 2006****11.1 PLANNING****11.1.1 NO. 2A (LOT 31) NAILSWORTH STREET – TWO STOREY RESIDENCE**

File No:	2A Nailsworth Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Response by applicant to submissions Submissions (6) Plans Photo
Report Date:	13 November, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Kim Gamble
Applicant:	as above
Date of Application:	13 November, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	440m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a two storey residence on the subject site.

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

PROPOSAL

In the basement, a cellar is proposed. On the ground floor, Bed 1, a bathroom, WIR, WC, study, living, meals, laundry and a double garage are proposed.

On the upper floor two bedrooms, an ensuite and WIR are proposed.

URBAN DESIGN CONTEXT

The proposal is for a relatively modest cottage-style two-storey dwelling in a secluded street of Cottesloe. The locality is characterised by a mix of some older dwellings and a trend towards much larger modern dwellings. The proposal essentially respects the site and surrounds, being a combination of single and double storey,

seeking northern orientation and taking into account the opportunities and constraints of the site – long, narrow east-west lot; depot to rear, lane to south, approved two-storey dwelling to north. The scale, style and materials of the dwelling are compatible with similar rear buildings along the laneway. It is in this context that the proposal, as designed and modified to respond to submissions, is supported.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	8.5m maximum building height	8.78m building height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	1.5m setback ground south wall	Nil to 1.7m setback	Clause 3.3.2 – P2
No 3 Boundary Setbacks	1m setback ground rear wall	Nil to 3.5m setback	Clause 3.3.1 – P1
No 8 Privacy	4.5m cone of vision setback – bedroom	3.8m setback	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

There were 5 letters sent out. There were 6 submissions received, of which 6 were objections. Details of the submissions received are set out below:

Glenn & Marion Rondoni, 36 Napier Street

- *Will accept a 3m high wall at most.*
- *Length and height of parapet wall is unsightly.*
- *Could attract graffiti.*
- *Dangerous precedent.*
- *Views will suffer from their property and diminish their northern aspect.*
- *Need clarification on parapet wall height.*
- *Asks for clarification on overshadowing.*
- *Asks for clarification on fill allowances.*
- *Asks for clarification on overlooking from 2nd storey windows.*
- *Believes the R-Codes should not be compromised unless a redesign is unworkable.*

Dennis & Kay Neil, 40 Napier Street

- *States the parapet wall height is outside the R-Codes.*
- *Concerned over open space non-compliance.*
- *The building height exceeds 19.08m above natural ground level and states that this does not comply.*
- *Objects to the fill and its impact on the height of the boundary wall and final height of the building.*
- *Worried about a tunnel effect in that section of the lane and increase the wind and debris.*
- *Objects about the likely visual impact from their patio.*
- *Concerned that the lack of survey pegs means the land may protrude into the ROW.*
- *The wall should be graffiti-tolerant if approved and colour mutually agreed.*
- *May serve as a precedent for designs in R20 areas of Cottesloe.*
- *Believes that the side entry will provide for vehicle headlights and noise to impact the proposed entry area.*

- *Pitching the roof in the opposite direction will reduce the impact of the parapet wall.*

Neville & Leslie Shaw, 42 Napier Street

- *Concerned about the parapet wall along the ROW.*
- *Says the wall does not comply with the R-Codes and is inappropriate and out of character for the locality.*
- *Will diminish their outlook from the living areas of their home where the wall will be highly visible due to its massive bulk and scale and lack of an appropriate setback.*
- *Believes that the lot has adequate land area for R20 and could be designed to have a setback to that boundary.*
- *Does not meet solar principles and creates visual monotony.*
- *Creates an inhospitable tunnel and encourage anti-social behaviour as no windows will provide passive surveillance.*
- *The proposal does not consider the amenity of neighbours or the scale and character of the locality.*
- *Will accept a 3m high wall at most to be neighbourly.*

Mark Anthony Jones & Carol Ryan, 44 Napier Street

- *Concerned over the height and length of the parapet wall as excessive and is out of place for Cottesloe.*
- *Believes the large wall will encourage graffiti and anti-social behaviour.*
- *Questions whether the wall meets the Performance Criteria of the RDC.*

Barbara Sampson & Samuel Davis, 46 Napier Street

- *Concerned about the amenity of owners along the laneway.*
- *Could create an undesirable precedent.*
- *Objects to bulk and lack of setback.*
- *Objects to non-compliance with R-Codes for parapet walls.*
- *Loss of solar access.*
- *Creation of visual monotony.*
- *Requests that the development meets all Council planning requirements.*

EC & MT Kitchin, 48 Napier Street

- *Concern over parapet wall setting a precedent*
- *Non-compliance with R-Codes.*
- *Bulk and lack of setback.*
- *Loss of solar access.*
- *Creation of visual monotony.*
- *Tunnelling effects fostering alleyway behaviour and encouraging graffiti through a lack of surveillance.*

By way of comment, it is noted that the submissions share similar concerns and tend to be repetitive, with the proposed parapet wall to the boundary with the land the main concern. In dealing with the submissions Officers have liaised in particular with the nearest neighbours at 40 Napier Street to provide information and discuss their concerns. Officers have also liaised with the applicant and designer to consider the concerns and achieved design modifications in response. This is elaborated in the

assessment below, whereby it can be seen that the proposal now achieves improved and satisfactory compliance.

BACKGROUND

The former residence at 2 Nailsworth Street has been demolished as the lot was given survey strata subdivision approval by the Western Australian Planning Commission in July 2005. As a result 2 & 2A Nailsworth Street have been created.

STAFF COMMENT

Building Heights

The proposed roof height does not conform to the Town of Cottesloe's TPS 2 requirement of 8.5m building height. The wall heights meet the maximum 6m height.

The proposal has a building height of 8.78m, however, there appears to be no overriding design need for such as a new dwelling on a relatively flat lot. The relatively steep roof pitch can easily be modified to comply with the Scheme and a condition is proposed accordingly.

Boundary Setbacks

The following side boundary setbacks of the proposed dwelling do not meet the Acceptable Development standards of the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground south wall	All	3.5m	36m	yes	1.5m	Nil to 1.7m
Garage rear wall	All	3m	6m	no	1m	Nil to 3.5m

Hence they are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) & 3.3.2 (P2) of the RDC, which are:

3.3.1 – Buildings Set back from the Boundary

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

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

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

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*

- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

However, the RDC do also allow parapet walls as per Clause 3.3.2 A2ii as follows:

“In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;”

The intended parapet wall to the laneway has attracted the most comment from submitters. The laneway actually ameliorates the impact of the wall rather than were it to a common boundary with another dwelling, and on that basis a performance assessment could reasonably consider that variation may be allowed. Nonetheless, Officers took this matter up with the applicant and designer who have achieved a redesign to significantly improve the design of the dwelling in respect of the scale and appearance of this element.

The proposal is to have a nil to 1.7m setback to the side boundary with the laneway for the ground floor south wall. A non-parapet wall would be required to be setback 1.5m from the boundary. It is assessed that the intended setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. Importantly, the amended plans have reduced the height of the parapet wall next to the laneway, altered the roof pitch to reduce bulk/scale, introduced highlight windows for visual interest and set a large part of it back 200mm to enable planting to soften the appearance and deter graffiti. These changes are a significant improvement and supported.

In this respect it is emphasised that the objections received and reported on are in regard to the superseded plans for this wall. It is also noted that the highlight windows meet the Building Code of Australia and do not create any privacy issue.

The proposal also is to have a nil to 3.5m setback to the rear boundary for the garage, but only a short 1m section actually abuts the boundary. A non-parapet wall would be required to be setback 1m from the boundary. On assessment the garage setback meets the Performance Criteria of the RDC as it makes an effective use of space. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The garage does not present any privacy issues. The garage which abuts a portion of the boundary is supported as it is of no consequence.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC:

Room	Required	Provided
Bedroom 3	4.5m setback	3.8m setback

Hence they are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are:

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

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

The proposal asks for a variation to the bedroom 3 cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. The window faces east whereas overlooking is to the northern neighbour and only just intersects this property. The northern neighbouring lot is currently vacant. It should be noted the neighbours did not object to this minor variation.

Overshadowing

The application easily complies with the Acceptable Development provisions of the Residential Design Codes. The two storey component only covers a portion of the residence and any shadow will fall on the Right of Way.

Open Space

The revised plans comply with the Acceptable Development Provisions of the RDC for open space.

Fill

Recently a layer of fill has been placed on the site. Any fill requires prior planning approval and the Town has written to the owner in this regard, who has indicated that it will be removed. This fill is unauthorised and has the ability to complicate construction of a dwelling from the approved datum having regard to natural ground level. Hence it needs to be removed in any case and a condition making that a prerequisite to a building licence is included.

CONCLUSION

The proposed dwelling meets a majority of the planning requirements. The parapet wall along the right of way which attracted several objections has been modified and greatly improved.

It is recommended the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

A number of objections were received from neighbours regarding the height of the single storey wall to the right of way. The Manager Development Assessments also

clarified that the incidental fill on the site was conditioned to be removed as a prerequisite to a building licence.

Cr Jeanes expressed that the design was satisfactory and the parapet wall had been suitably reduced in response to concerns. He moved that the following condition be added to the recommendation:

- (l) Planting a creeper or similar in the 200mm setback from the boundary to the single storey wall to soften the appearance of the dwelling to the lane.*

This amendment was lost on a 2/3 vote.

Committee declined to support the application, on the basis of the height of the single storey wall in relation to the laneway.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

- (1) GRANT its Approval to Commence Development of a two-storey dwelling at No. 2A Nailsworth Street, Cottesloe, in accordance with the revised plans submitted on 6 November 2006, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air-conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of all boundary walls to the Right of Way shall be to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's Fencing Local Law and the subject of a separate application to Council.
 - (h) The Right of Way adjacent to the property being drained to the satisfaction of the Manager Engineering Services, with details of the

proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.

- (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) Revised plans being submitted for approval by the Manager Development Services showing the maximum building height not exceeding 8.5m in accordance with the provisions of clause 5.1.1 of the Scheme.
 - (k) Prior to the issue of a Building Licence, the landowner shall remove the unauthorised fill on the land and restore the land to its previous state, to the satisfaction of the Manager Development Services. In this respect the owner is advised that failure to remove the fill may lead to compliance action by the Town.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council REFUSE its Approval to Commence Development at No. 2A (Lot 31) Nailsworth Street, Cottesloe, in accordance with the revised plans submitted on 6 November, 2006 as Council is of the opinion that the height of the wall to the single storey portion of the dwelling in relation to the laneway is considered to be excessive.

11.1.1 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 2A Nailsworth Street to allow more time for the applicant to address the concerns raised, and that Council DEFER the item accordingly for a future report from officers.

Carried 9/0

11.1.2 NO. 14 (LOT 3) WARNHAM ROAD – ALTERATIONS & ADDITIONS TO EXISTING APARTMENT BLOCK

File No:	14 Warnham
Author:	Ms Stacey Towne, Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Plans Photos
Report Date:	18 October, 2006
Senior Officer:	Andrew Jackson
Property Owner:	Martin Steens, Micheli & Peter Maszniew, Carmel & Joseph Valanti, Jane Loring & Michael Thorpe, Greg Chatfield & Anna Sudlow
Applicant:	Greg Chatfield
Date of Application:	23 August, 2006
Zoning:	Residential
Use:	AA - A use that is not permitted unless special approval is granted by the Council
Density:	R40
Lot Area:	569m²
M.R.S. Reservation:	N/A

SUMMARY

An application has been received to carry out alterations and additions to the existing block of 5 units at No. 14 Warnham Road.

The proposal involves the general visual improvement of the building and the addition of private balconies (front balconies for all units and rear balconies for two units), a lift and improved parking layout.

Preliminary design sketches have been considered by the Design Advisory Panel (DAP). Revised plans have resulted which include most of the DAP suggestions.

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

PROPOSAL

The proposal includes:

- New balconies (to three levels) at the front facing Warnham Road for Units 1-5. Balcony for Unit 5 is to extend along most of the frontage of this unit.
- Two new triangular shaped balconies (at two levels) on the north-west corner at the rear for Units 3 and 5.
- 6 x new store areas on the ground level with parapet walls on the west and east side boundaries.

- New private courtyard areas above the roof of the new stores for Units 1, 2, 3 and 4 and a common courtyard area for all of the units.
- Increasing the size of the living room windows on the western elevation for Units 1, 3 and 5.
- Provision of air conditioning units for each dwelling to be located on the proposed balconies behind the glass balustrade.
- Reconfigured car parking with the existing 6 undercover bays remaining and 4 marked bays within the front setback area (2 for visitors).
- New remote controlled garage gate/door and visitors entry at ground level.
- New windows to the undercover parking area.
- New lift at the rear between the stair wells.
- Enclosure of the outside rear stair wells with glazing.
- Screened bin areas behind the front setback.
- A low front wall with letterboxes.

URBAN DESIGN CONTEXT

Warnham Road is characterised by a mix of dwelling types, including single residences, town houses and medium-rise apartments. The recent trend has been to improve these properties, such as the front landscaping to No. 4 and façade alterations to No. 6 (*daho*), which contribute to enhancement of the streetscape. The prospect of changes to *Constatia* has been mooted, while the apartments at 103 Broome Street to the end of Warnham Road along De Benales Walk are being completely renovated.

Council generally supports such proposals and in draft TPS3 intends to allow existing higher densities to prevail. Particular proposals are to be encouraged in principle and supported subject to appropriate design and amenity considerations. This proposal seeks to retain the existing dwellings and make only relatively minor extensions, while upgrading the overall appearance of the building in terms of both condition and architectural treatment.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
Clause 5.1.1	7m	11.33m to the top of the lift shaft. (Note that there is no increase in height for the existing building apart from the new lift shaft. Existing building approx. 10.63m).

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Council resolution	General 6m front setback	4.5m to balconies on Levels 2, 3 and 4.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Western side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Eastern side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the front balcony to Unit 5 on level 4 – 7.1m	4.7m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Eastern side setback to the front balcony to Unit 5 on level 4 – 7.1m	4.7m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Northern side setback to the rear balcony to Unit 3 on level 3 – 2.3m	2.2-4.5m	Clause 3.3.2 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Northern side setback to the rear balcony of Unit 5 on level 4 – 3.5m	2.2-4.5m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the rear balcony to Unit 5 on level 4 – 4-4.3m	3.8-6.9m	Clause 3.3.2 – P1
No 8 – Visual Privacy	Privacy setback from all front balconies on all levels to the west side – 7.5m	4.7m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all front balconies on all levels to the east side – 7.5m	4.7m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback between front balconies for Units 1 and 2; and between Units 3 and 4 – 7.5m	2.68m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all rear balconies (Units 1, 3 and 5) on levels 2, 3 and 4 to the west side – 7.5m	3.8-6.9m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all rear balconies (Units 1, 3 and 5) on levels 2, 3 and 4 to the north side – 7.5m	2.2-4.5m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from enlarged living room window for Units 3 and 5 on levels 3 and 4 to the west side – 6m	3.2m (Note: Same setback as to existing windows)	Clause 3.8.1 – P1
No 10 – Incidental Development	Clothes drying area for multiple dwellings	None shown on plans, however, space available for all units except for unit 5.	Clause 3.10.3 – P3

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering
- Health

External

- Design Advisory Panel (twice)

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners
- Letter to Surrounding Properties

Submissions

There were 18 letters sent out. No submissions have been received.

The following comments were provided by the Design Advisory Panel (DAP) in relation to the original proposal considered at its May 2006 meeting:

- *Balconies may be impractical given exposure to south-westerly winds – which may be why the original balconies have been enclosed.*
- *Open-slat flooring to balconies can be problematic in terms of rain and spills or objects falling through the cracks.*
- *The setback to the balcony is considered too little, and the design of the balcony too strong for the building and too prominent in the streetscape.*
- *An alternative may be to re-open and widen the existing balconies to say 2.5m as adequate private amenity space, affording a greater setback and less intrusion into the front yard and streetscape.*
- *Adopt a softer / more subtle design approach that respects the cubist form of the building and reads as a logical and sensitive evolution of the built form rather than a modern add-on. This should include how the front yard is treated, so that any balcony structures, walling and landscaping is not overly- dominant.*
- *In this context also, the roof should remain as is rather than a foreign form be introduced or the height increased.*

- *It was suggested that the parking inside the basement could be rearranged to be at right angles from the street with the storerooms to the rear (although it was noted that may affect access to the stairs and lift at the rear).*

To sum up, the Panel agreed that while it is desirable to maintain and upgrade the apartments building, the existing architectural qualities should be a starting-point for the design of the proposed alterations/additions and the changes should be sympathetic to the streetscape and locality generally

The revised plans for this application were presented by the Manager Development Services to the DAP in August 2006 and additional feedback was obtained as follows:

- *The panel commented that the appearance is still rather basic, and again commented that the enclosure of the existing balconies could be opened-up (although the applicants wish to retain that space as internal).*
- *The panel also cautioned to ensure that any reduced parking would not result, whereby on-street parking congestion could occur.*
- *Overall, it was considered that the revised plans indicate a more acceptable scale and form of treatments to the existing apartment block, but that attention to detail is still required.*

The following individual comments from the DAP Members were also received in relation to the revised plans (summarised):

- *Finished floor levels of the subject site and the adjoining site to the east don't seem to match. (Site survey has now been provided).*
- *The front elevation has been much improved.*
- *Removal of the vertical supports for the balconies would provide greater transparency and less building bulk.*
- *Does the plot ratio comply?*
- *Do the rear balconies to Units 3 and 5 overlook neighbours to the rear?*
- *Has density increased? (Previous plans incorrectly showed 6 instead of 5 units).*
- *No problem with lift overrun being higher than the existing building.*
- *Colour elevation impressions do not match front elevation plans.*
- *Object to the use of steel columns and beams.*
- *The decks should be concrete tied to existing with no through columns. Columns restrict parking area and destroy the elevation.*
- *Roof over the top floor balcony is considered unnecessary as it could facilitate illegal closure later on.*
- *Perspective plans do not show the expanded garage/store, courtyards and bin store.*
- *Enclosure of balconies should not be allowed.*
- *Parking needs scrutiny.*
- *The proposal should work within the required front setback requirements.*
- *Parking in the street is at a premium so it is essential that all required parking is provided on site.*
- *The columns at the front of the development should be removed to provide for better/more parking.*

- *Privacy between adjoining balconies should be ensured as well as between neighbouring properties.*
- *Balconies may need specific fire rating.*
- *Improvement on previous plans*

BACKGROUND

The four storey block of five multiple units was built in 1960s. The ground level comprises of car parking with the upper three levels containing the five dwelling units. The original building had balconies at the front (facing south) of the upper three levels, which over the years have been enclosed with glazing, apparently to create more internal space and for weather protection.

A block of 18 units exists to the east and north of the property and other multiple dwelling developments are located nearby in Warnham Road and Overton Gardens, at both similar densities and greater height.

Recent planning approvals will see the redevelopment of the adjacent lot to the west for a two storey single residence and a two storey four unit development diagonally to the rear (Overton Gardens), both under construction.

Initially, a proposal to improve vehicular access, provide basement storage, construct triangular shaped balconies at the front of the building, possible changes to the roof form and install a lift was considered by the Design Advisory Panel (DAP) on 17 May 2006.

The Panel agreed that whilst it is desirable to maintain and upgrade the apartment building, the existing architectural qualities should be starting point for the design of the proposed alterations and additions, and the changes should be sympathetic to the streetscape and locality in general.

More specifically:

- *The balconies were considered to be too prominent and it was suggested that a softer design approach be taken that respects the cubist form of the building.*
- *The roof should remain as is rather than introduce a foreign form or increase height.*
- *The parking could be rearranged to be at right angles with the street and store rooms be provided behind.*

The applicant has embraced a number of suggestions made by the DAP which is reflected in this application for development approval. As previously listed in the "Submissions" section of this report, comments were again sought from the DAP.

STAFF COMMENT

Front Setback

Following a resolution at its meeting held on 28 October 2002, Council has generally required a front setback of 6m for residential development, although this is the base standard for R20 areas, whilst R30 and higher density areas normally allow for lesser setbacks.

The existing building is well set back from the front boundary at approximately 7.7m. There is no proposal to construct new walls to the building within the existing front setback, however, it is proposed to construct balconies on levels 2, 3 and 4 which are to be set back 4.5m, thus encroaching Council's preferred setback by 1.5m.

The balconies are to be open on three sides with glass balustrades, therefore, the structures are not considered to be solid and obtrusive in relation to the streetscape.

The Acceptable Development Standards of the Residential Design Codes allow for a 4m minimum front setback for an R40 Coded property and balconies may further encroach on this setback by up to 1m (i.e. 3m setback to balconies).

As the proposed reduced setback is only to the balconies rather than a solid wall and given that the new balconies will add to the amenity and architectural interest of the existing building, it is considered that the aspect from the street will not be adversely affected and, indeed, may be considered to be improved.

The proposed reduced setbacks to the balconies are therefore supported.

Side Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
West Ground Floor Level 1	New stores	1.1-3.4m	10.185 m	No	1.5m	0m
East Ground Floor Level 1	New Stores	1.1-3.4m	10.185 m	No	1.5m	0m
North Level 3	Rear Balcony Unit 3	5m	3.7m	Yes	2.3m	2.2-4.5m
West Level 4	Rear Balcony Unit 5	8.1-8.7m	2.9m	Yes	4-4.3m	3.8-6.9m
North Level 4	Rear Balcony Unit 5	7.5m	3.7m	Yes	3.5m	2.2-4.5m
West Level 4	Front Balcony Unit 5	11.2-11.6m	2.77m	Yes	7.1m	4.7m
East Level 4	Front Balcony unit 5	11.2-11.6	2.77m	Yes	7.1m	4.7m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.3.1 of the RDC states the following:

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

- *Provide adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with the protection of access to direct sun for adjoining properties;*

- *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.”*

As the setback variations mostly occur on the west and east sides, the north-south orientation of the lot means that access to sunlight for adjoining properties is not adversely affected. Variation to the rear setback on the north side has no effect on the adjoining property.

The proposed reduced building setbacks for most of the building are relatively minor in nature and therefore do not contribute to additional and unnecessary building bulk.

Due to the slope of the land up from the street, the parapet walls on the west and east boundaries for the stores (on the lower level) are gradually hidden below ground level so they do not have the same impact on neighbours as parapet walls fully above ground level. Parapet walls on other nearby properties in the street (including the single residence adjacent) are evident so are not out of character with existing development within the locality.

The setbacks to the new front balconies do not affect privacy as overlooking mainly occurs over the front setback areas of adjoining properties to the west and east and other areas of these properties which are visible from the street. The two rear balconies have the potential to impinge on the privacy of adjoining properties at No. 16-18 and No. 20 Overton Gardens, however, these balconies are small in usable area and are unlikely to be used excessively for active outdoor entertainment.

It is considered that all of the building setback variations comply with the Performance Criteria of the Codes and are supported.

Visual Privacy

The following privacy (cone of vision) setbacks of the proposed additions seek variation from the Acceptable Development standards of the Codes:

Room	Required	Provided
Living Room Units 3 and 5 on level 3 and 4.	6m to west side	3.2m to west side (existing setback).
Front balconies Units 1-5 on levels 2-4	7.5m to west side	4.7m to west side
Front balconies Units 1-5 on levels 2-4	7.5m to east side	4.7m to east side
Between front balconies for Units 1 and 2 on level 2	7.5m separation	2.68m
Between front balconies for Units 3 and 4 on level 3	7.5m separation	2.68m
Rear balconies Units 3 and 5 on levels 3 and 4	7.5m to west side	3.8-6.9m to west side
Rear balconies Units 3 and 5 on levels 3 and 4	7.5m to north side	2.2-4.5m to north side

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

“P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

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

There are existing windows to the living rooms of Units 1-5 on levels 2-4 with a privacy setback of 3.2m to the west side, instead of being set back at 6m in accordance with the Acceptable Development Standards of the Codes. It is proposed to increase the size of the glazing from approximately 2m² to 6m².

A two storey residence is currently under construction at No. 12 Warnham Road. There is no adverse effect on privacy of this new residence from the window at Unit 1 on level 2, as a proposed 1.8m high fence around the courtyard area in front of this part of the building will provide adequate screening. In addition, the eastern wall of the new house which faces the units at No. 14 Warnham Road has no major openings. Views from the new living room windows at Units 3 and 5 on level 3 and 4 will only overlook the roof of the residence at No. 12 Warnham Road, so no privacy issues will arise. The new living room windows comply with Performance Criteria of the Codes and are supported.

As previously mentioned, the front balconies mainly overlook the front setback areas of the adjoining properties to the west and east and other areas which are currently visible from the street. In this regard, the proposed front balconies comply with the Performance Criteria of the Codes and are supported.

The front balconies between Units 1 and 2 on Level 2 and the balconies between Units 3 and 4 on Level 3, were they designed as part of a whole new building, would under the Acceptable Development Standards of the Codes be required to be separated from each other by 7.5m. However, as additions to the existing building they are proposed to be separated by 2.68m, given the desire to create balconies but the design constraints. As these balconies are located at the front of the building they are clearly visible from the street, so will always be exposed and offer little real privacy, hence in this context it may be considered that they comply with the Performance Criteria of the Codes. In addition, the balconies are relatively narrow and due to the southerly aspect, are not expected to be used particularly frequently for lengthy periods of time. It is also considered preferential, from a streetscape amenity point view, not to provide screening between the balconies as a more open aspect will be maintained. The balconies as proposed, therefore, are supported.

The rear balconies for Units 3 and 5 are not particularly large in area (approx 5.4m²) and are triangular in shape. The views from these balconies are orientated in a north westerly direction. To the units they offer some relief and secondary amenity space, rather than being primary viewing platforms.

Approval was granted by Council earlier this year for four x two storey grouped dwelling at No. 14-18 Overton Gardens, which is to the north west of the subject property being redeveloped. There are no major openings on the walls of the adjoining proposed development at Overton Gardens. In addition, the height of the balconies would only allow for overlooking to occur over the upper section of a blank wall and roof of the adjoining development, therefore overlooking from the proposed balconies at Units 3 and 5 is not likely have any privacy impacts on the adjoining property at No. 14-18 Overton Gardens.

At No. 20 Overton Gardens, there is a 4 level block of units to the rear (north) which includes undercroft parking. The new balconies at the rear of Units 3 and 5 of the proposed redevelopment may have the potential to overlook bedroom windows on the south west corner of the adjoining block of units on levels 2 and 3.

Due to the orientation of the balconies and the distance between the balconies and the bedroom windows of the adjoining units (5m minimum), it is unlikely that privacy will be detrimentally affected (a plan is attached to the agenda showing the approximate location of the balconies in relation to the bedroom windows of the adjoining units). Any overlooking would be minor. In addition, given the size and irregular shape of the balconies, they are unlikely to be used for extensive periods of active recreation.

As such, the proposed rear balconies are considered to comply with the Performance Criteria of the Codes and are supported. It is also noted that the general context of the locality includes long-established medium density and medium rise apartment buildings with extensive views.

Open Space

The proposal provides a total of 54.8% open space on the ground level of the site, which is substantially more than the required 45% for R40 coded properties.

In addition, areas of private open space have been allocated to Units 1-4 on level 2 together with a common courtyard area for all 5 units. Private balconies have been provided for all units which also comply with the Acceptable Development Standards of the Codes and improves the lifestyle amenity of the residents.

Parking

A total of 10 parking bays have been provided on the site. Of these, 6 are as currently exist undercover, with the remaining 4 at the front of the property within the front setback area. A total of 2 bays are provided for visitors.

Parking provision complies with the Acceptable Development Standards of the Codes.

Manoeuvrability

The 6 undercover car bays are tightly located within the existing space and Council's Manager of Engineering Services has expressed some concerns regarding manoeuvrability. This is a given as this was previously approved and must be accepted.

Although not ideal, the parking situation is existing and has proven to be workable. The proposal also includes enlarging the existing garage entry which should assist in ease of access.

Bin Storage

Original plans submitted showed bin storage at the front of the property behind a low wall. This location was not considered to be ideal as the bins would have been visible from the street, unless a high screen wall was provided which would not be in-keeping with Council's Local Law for Front Fences. In addition, the bins could be viewed from the new front balconies and other properties.

Following liaison with the applicant, revised plans have now been provided showing two bin store areas located behind screen walls behind the 6m front setback line, which is considered suitable.

Air Conditioning Units

The applicant is mindful of the impact of the location of new air conditioning units in terms of noise and visibility, particularly given that a single residence is being constructed to the west and multiple dwelling units exist to the east and north.

Rather than locate the air conditioning units on the walls facing the adjoining properties or on the roof, it is proposed to locate them on the front balconies of each dwelling unit. This is a fairly common solution which is effective subject to careful location and screening.

This appears to be an appropriate solution as the air conditioning units provided that they will not be visible from the street, however, final location will need to be determined at the building application stage.

Height of Lift Shaft

The existing building is designed with a flat roof and parapet walls. While the scheme is not specific for height of such walls, the Residential Design Codes are a guide to Council, which provide a 7.0m standard for two-storey parapet walls, and Council has applied this in practice.

If a 7m height limit is applied to the natural ground level as determined by Council officers, the maximum wall height permitted would be 26.65m AHD. The existing building height is 30.28m AHD and pre-dates current height controls.

Although no additional storeys or changes to the roof line are proposed as part of this application, the installation of a lift will increase the overall building height by approximately 0.7m at this point.

The lift is to be located at rear of the building and will not be particularly visible from the street. In order for the mechanics of the lift to work, the shaft needs to be higher than the roof line in this instance. The DAP has raised no objections to the proposed lift shaft. The lift shaft is not considered to unduly affect aesthetics, views, air flows or solar access.

The lift shaft as proposed is, therefore, supported.

DAP Comments

A number of members of the DAP suggested the deletion of the four steel columns at the front of the building which support the new front balconies. The applicant has advised that due to existing construction, it is not practical to cantilever the balconies.

Cantilevering the front balconies may provide for a slightly preferred design, however, the costs associated with this to re-engineer the building would preclude this from being able to occur.

The columns are relatively narrow and non-intrusive and can be supported.

It has also been suggested by the DAP that enclosure of the new balconies should not be permitted to occur in the future. It is possible that owners may prefer to enclose their balconies for protection of the south westerly winds some time in the future, as has previously occurred at this property with original balconies. It is recommended that a condition be included in any approval to this application advising that Council would not support the future enclosure of the front balconies because of impacts on setbacks, bulk and scale and open space.

Most other suggestions and comments from the DAP have been incorporated into the proposal and generally the DAP is satisfied with the application.

CONCLUSION

Following liaison with Council Officers and the Design Advisory Panel this application to upgrade and improve the existing block of units at No. 14 Warnham Road has been submitted which addresses most of the design issues and concerns raised.

No increase of density is proposed. Some variations to building and privacy setbacks are proposed, however, these are not excessive particularly given that the proposal involves redevelopment of an existing building, which no longer complies with modern standards. Nonetheless, the variations satisfy Performance Criteria of the Residential Design Codes and can be supported accordingly.

A slight increase in height is proposed only for the new lift shaft, which needs to be higher than the existing roofline in order for the mechanics of the lift to operate. This will not be visible from the street due to the slope of the land and the location of the shaft being at the rear of the building.

It is noted that owners may in the future seek approval to enclose the new front balconies for protection from the south westerly winds, as this has occurred in the past with previous balconies. The applicant needs to be aware that future enclosure of these balconies is unlikely to be supported.

The proposal will improve the amenity of the streetscape and is typical of the improvements starting to occur on existing blocks of units of a similar vintage within Cottesloe.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee noted that the proposal was submitted to the Design Advisory Panel for comment which led to revised plans which were supported by the Panel as much better. The Manager Development Services advised that while particular DAP comments about roofing the top balconies and the support structure were acknowledged, visually the building could accommodate the smaller balconies without detriment to the streetscape, and the overall upgrade of the building is to be encouraged.

Cr Walsh suggested additional conditions for no roofs to the top of the balconies and no enclosure of the balconies, however, given the above advice and condition (n) this was not taken up by Committee.

AMENDMENT

Moved Cr Walsh, seconded Cr Strzina

That a new condition be added to the officer and committee recommendation as follows:

- (o) That the top floor balcony shall not be roofed.

Lost 4/5

11.1.2 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Alterations & Additions to Existing Apartment Block at No 14 (Lot) Warnham Road, Cottesloe, in accordance with the revised plans submitted on 18 October, subject to the following conditions:

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

- (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) Air conditioning plant and equipment is to be installed so as to be screened from view from the street to the satisfaction of the Manager Development Services.
- (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (i) A suitable enclosure for the storage and cleaning of rubbish receptacles is required to be provided for the existing premises within the boundary of the property. Such enclosure is to be provided with:

 - (i) A tap connected to an adequate supply of water;
 - (ii) A floor area to the satisfaction of the Environmental Health Officer to accommodate all general rubbish and recycling receptacles used for the premises;
 - (iii) Smooth and impervious walls constructed of approved material not less than 1.8 metres in height;
 - (iv) An access way not less than 1 metre in width, or greater if bulk receptacles are used, fitted with a self-closing gate;
 - (v) Smooth impervious floor of not less than 75mm thickness, evenly graded and adequately drained; and
 - (vi) Easy vehicle access to allow for the collection of receptacles.
- (j) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (k) Any front boundary fencing to comply with the Town of Cottesloe's Fencing Local Law.
- (l) Revised plans being submitted at building licence stage for approval by the Manager Development Services showing:

 - (i) the provision of an open-air clothes drying facility for Units 1-4;

- (ii) the provision of an open-air clothes drying facility for Unit 5 or an alternative clothes drying facility;
 - (iii) details of lighting to pathways, communal spaces and car parking areas; and
 - (iv) a detailed landscaping plan for the proposed communal area located at the front of the property and the verge area immediately in front of the property.
- (m) Visitor car bays being clearly marked on the ground.
- (n) The new balconies shall remain as open structures at all times and shall not be enclosed in the future by any means including solid walls, screens, awnings, blinds or the like.

Carried 5/4

11.1.3 NO. 40 (LOT 1002) HAWKSTONE STREET – PROPOSED TWO STOREY RESIDENCE AND A SWIMMING POOL

File No:	40 Hawkstone Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission by applicant Submissions (3) Photos Plans
Report Date:	30 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	P & H Francis
Applicant:	Glenway Homes
Date of Application:	5 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	567m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a new two storey residence and lap swimming pool on the subject site.

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

PROPOSAL

On the ground floor, a garage, main bedroom, WIR, ensuite, WC, laundry, kitchen, dining, family and theatre room are proposed. An outdoor living area and lap pool open out from the family room.

On the upper floor, three bedrooms, three WIRs, two ensuites and an activity room is proposed. A staircase is proposed to link the two levels.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Ground east wall setback 1.5m.	0-2.4m	Clause 3.3.1 – P1
No 8 – Privacy	6m cone of vision setback activity room	4.8m cone of vision setback	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Surrounding Property Owners

Submissions

There were 3 letters sent out. There was 2 submissions received, which are objections. Details of the submissions received are set out below:

Matthew Crawford & Meredith Loik of 295 Marmion Street

- *Objects to the height of the parapet wall and non-compliance with the RDC*
- *Objects to the lap pool against the boundary and any possible implications for their property*

Ian & Penny McDonald of 299 Marmion Street

- *Objects to any pool machinery equipment being located near/ on the northern boundary*
- *Also asks that no air conditioning be located near or on the northern boundary*

BACKGROUND

The lot has been created as part of a subdivision which created three lots from two previously. These blocks have been levelled and the subject lot is currently vacant.

STAFF COMMENTOverall compliance

The dwelling complies with a majority of regulations. The building heights, most setbacks and privacy requirements are met subject to the aspects assessed and resolved in this report.

Boundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground east Wall	All	3.5m	24m	Yes	1.5m	Nil-2.4m

3.3.1 – Buildings Set back from the Boundary

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

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

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

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

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

This proposal is to have a nil setback to the side boundary for a garage, 1.8m for the theatre and 2.4m for the family and outdoor living areas. The RDC requires that this wall shall be considered as one whole wall whilst the only non-complying element is the garage setback. This is usually required to be setback 1m from the boundary if the garage was considered a separate entity or 1.5m as part of the entire length of the ground eastern wall.

However, the garage setback meets the Performance Criteria of the RDC as it makes an effective use of space. Whilst it has a small adverse effect on the amenity of the adjoining eastern property due to loss of sunlight, it does appear that the neighbouring property has cut slightly into this corner of its lot to create a level floor which has accentuated this situation.

The applicant has agreed to reduce the height of the parapet wall to RL 14.24 or 3.32m above the spot level of RL 10.92. Also the parapet wall can be reduced by 1m in length to 7.64m without impacting the upper storey. These reductions in height and length are welcomed and reduce any possible impact on the neighbouring eastern property. This variation is supported.

Privacy

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

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

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

Room	Required	Provided
Activity room	6m setback	4.8m setback

The proposal asks for a variation to the activity room's cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC as the positioning of the windows mean that any overlooking would be at a large angle, the activity room faces north and any possible looking within the 6m cone of vision is to the western neighbour. This is only a small area of the cone of vision projecting into the neighbouring property and it should be noted the neighbours did not object to this minor variation.

Swimming pool & retaining wall

An objection was received in relation to the proposed below ground lap swimming pool against the eastern boundary. Council has no setback requirements for swimming pools. The neighbour objecting requested that structural details be given in relation to the boundary/ retaining wall and the adjacent swimming pool.

Structural details are generally given with receipt of the building licence and the applicant has guaranteed their works. Any structures in close proximity on the neighbours side, would have to be protected and this would again be addressed by the Structural Engineer. The building process provides for proper management of boundary construction techniques.

In addition, pools are permitted on the boundary.

It can also be assumed that any dividing fence adjacent to the swimming pool will meet pool barrier regulations. Dividing fences are not part of this planning application and details of pool barrier fencing shall be received with the building licence application.

Pool & air conditioning equipment

Any pool and or air conditioning equipment shall meet the requirements of the proposed conditions (e) and (j) below.

CONCLUSION

The issue of the garage parapet wall has been raised by a neighbouring property. Whilst the height of the parapet wall does not meet the Acceptable Development provisions of the RDC, the applicant has agreed to lower this height and reduce the length and any amenity loss should be minimal to the neighboring property.

The application meets a majority of RDC and Scheme requirements. It is recommended that the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee requested that condition (j) be amended and at the suggestion of the Manager Development Services condition (o) be added to address the lap pool on the boundary, along the following lines:

- (j) be amended to include reference to the pool plant being closer to the proposed dwelling rather than the neighbours.
- (o) The applicant to comply with the Building Codes of Australia when installing the lap pool and liaising with the neighbour prior to this being commenced.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) The pool pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.

- (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
-

- (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) The pool pump and filter are to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
 - (o) The applicant complying with all necessary Building Code of Australia procedures and requirements in respect of construction of the lap pool up to the property boundary and liaising with the neighbouring owners accordingly.
- (2) Advise submitters of the decision.

AMENDMENT

Moved Cr Furlong, seconded Cr Walsh

That condition (j) be amended to read:

- (j) The pool pump and filter are to be located closest to the proposed dwelling rather than adjoining dwellings, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.

Carried 8/1

11.1.3 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Walsh

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.**
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.**
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
 - (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.**

- (j) The pool pump and filter are to be located closest to the proposed dwelling rather than adjoining dwellings, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
 - (o) The applicant complying with all necessary Building Code of Australia procedures and requirements in respect of construction of the lap pool up to the property boundary and liaising with the neighbouring owners accordingly.
- (2) Advise submitters of the decision.

Carried 9/0

11.1.4 NO. 25 (LOT 847) GRANT STREET – TWO STOREY RESIDENCE AND BELOW-GROUND SWIMMING POOL

File No:	25 Grant
Author:	Mrs Stacey Towne, Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Photos Plans
Report Date:	25 September, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Deidre Best
Applicant:	Sharp and Van Rhyn Architects
Date of Application:	25 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	572m²
M.R.S. Reservation:	N/A

SUMMARY

An application has been received to demolish the existing two storey render and tile residence and construct a new two storey render and skillion roofed residence with below-ground swimming pool at 25 Grant Street.

Original plans showed some variations with regard to height, setbacks and landfill to which neighbours objected on the basis of the privacy, bulk and scale impacts.

Following liaison with the applicant, revised plans have been submitted addressing most of the concerns raised. A small portion of the building still exceeds Council's height limit, however, the building has a staggered alignment (not a box design) and falls in height in relation to the slope of the land, being stepped down the lot. It is recognised that there is some degree of difficulty complying with height requirements due to the levels of the subject site, and that in some ways the proposed design would have a lesser impact than a complying house with a 6m wall height and an 8.5m pitched roof design.

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

PROPOSAL

The proposal includes:

- Demolition of the existing two storey residence and high masonry front fence.
 - A ramp down to a basement garage, store and cellar.
 - Ground level comprising of a sitting room, dining room, kitchen, lounge, bathroom, laundry and alfresco area.
-

- Upper level comprising of front and rear balconies, main bedroom with ensuite, study, three other bedrooms, bathroom, toilet and activity room.
- Below-ground swimming pool.
- Landfill at the rear of the site at approximately 0.5m, with a minor portion at 0.6m maximum.
- New open aspect front fence.

URBAN DESIGN CONTEXT

Comparatively, the proposal is a quality architectural design which responds fairly well to the constraints of the site and the surrounds and has the following attributes:

- True two storeys.
- Does not force the garage onto the street.
- Simple lines echo the existing square dwelling and reflect the geometric form and mass of the adjacent *Bel Air* landmark.
- Layout makes effective use of the odd-shaped lot.
- Setbacks are essentially respectful of neighbouring dwellings and allow breathing space between buildings with only one parapet wall.
- Sustainable design utilises northern orientation and cross-ventilation.
- Slim-line roof and indented side and rear elevations ameliorate bulk to the neighbours.

Nonetheless, the proposal must undergo assessment against the planning parameters and any neighbour comments before being determined, as set out in this report.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	7m wall height (parapet with skillion roof)	6.17-7.87m as agreed (only a small portion at the front of the house is over 7m)

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Setback from the ground floor parapet to the western side boundary – 1m	Nil	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Setback from the upper floor study/ensuite/balcony to the western side boundary – 1.8m	1.5-2.5m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Setback from the upper floor 2 beds/bath to the eastern side boundary – 1.7-1.9m	1.8m	Clause 3.3.2 – P1
No. 6 – Site Works	Filling behind the front setback and within 1m of a common boundary not exceed 0.5m above natural ground level.	Small section on west side up to 0.6m.	Clause 3.6.1 – P1
No. 6 – Site Works	Retaining wall more than 0.5m high to be set back 1m from boundary.	Small section (less than 1m long) on west side up to 0.6m high with nil setback.	Clause 3.6.1 – P2
No 8 – Visual Privacy	Setback from the bedroom window to the west side 4.5m	2.7m to the west side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the bedroom window to the east side 4.5m	2.7m to the east side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the rear balcony to the east side 7.5m	5m to the east side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the rear balcony to the west side 7.5m	5m to the west side	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of a letter to Adjoining Property Owners

Submissions

There were 7 letters sent out. There was one submission received, which was an objection. (Please note the objection relates to the original plans submitted, which have now been revised). Details of the submission are set out below:

Submission 1 - No. 23A Grant Street - Woodhill

- *The building appears to be 1.32m above what is permitted under the Codes. How was NGL calculated?*
- *Retaining walls exceed 0.5m within 1m of the common boundary.*
- *Landfill is proposed greater than 0.5m (0.60-0.65m).*
- *Privacy setbacks from front and rear balconies do not comply (3m to east and 3.5m to west shown, 7.5m required) which affects our garden and outdoor entertainment area.*
- *Privacy setback from upper bedroom on the western side does not comply (2.7m shown, 4.5m required).*
- *Privacy setback from study on the western side does not comply (1.7m shown, 6m required) and will overlook our dining area and outdoor entertainment area.*
- *Due to the additional height due to infill and design, the window to the stairs on the western side will overlook our dining room. The plans show a 3.1m set back whilst 6m is required.*
- *Setbacks lower floor on the western side should be 1.5m, however, the plans only scale the setback at 1.2m.*
- *The bulk of the building will have great impact on our property. The bulk is noticeable because our block is narrow and most of our natural light source comes from the east, much of our living/entertainment areas are on the east side of our house where we spend most time; and is exacerbated by the level of land fill proposed which increases height.*
- *The height and length of the parapet wall is unnecessary and overwhelming.*

- *Our amenity will be severely affected by the number of variations being sought.*
- *We request that the architect for 25 Grant Street submit elevations (to scale) from the west, north and south of the proposal showing the relative heights of 25 Grant Street and our home at 23A Grant Street.*
- *Our architect's advice on this matter is to object to overall height (clarification of NGL required); the height of the parapet wall, landfill and overlooking issues that arise from this; upper storey overlooking and overlooking from the stairs window (could be overcome by blinds, obscure glass, landscaping or similar).*

In response to the submission and following Officer liaison, the applicant has provided amended plans which now address many of the issues raised. The applicant has written as follows (summarised):

- *Calculating natural ground level at the centre of the site by using the four corner method, results in a level of 24.63m. This is approximately 1m below footpath level as the site slopes away from the street (i.e. underground on the site). We therefore propose that building heights be measured from NGL directly related to the wall or roof above, as per R Codes. We have attempted to design a building where floor levels are stepped down the site and the roof line follows the contours in order to minimise building height.*
- *Basement garaging has been proposed to avoid imposing garage doors on the narrow frontage. Our revised submission has reduced the main floor level and associated fill thus reducing the height of boundary retaining walls and avoiding overlooking from ground floor windows. The main floor level is now close to natural ground level and only 100mm higher than the floor level of the existing house.*
- *Front balcony - Privacy screens and translucent glass now provided.*
- *Rear balcony – Privacy screens reduce overlooking and large mature trees to the east prevent views.*
- *Bedroom 4 – We seek a variation for this privacy setback from this minor room.*
- *Study – Revised plans now show translucent glass to prevent overlooking.*
- *Lower Living Room – Revised plans now show a reduced finished floor level, therefore the privacy setback is no longer required.*
- *The front fence is to be 900mm solid with open steel railing above. Some solid sections at the side are proposed.*
- *We have reduced the building height and floor levels with associated fill which will reduce the impact of the building on the neighbours. The stepping down of floor levels and the roof line following the site contours is a conscious design decision to reduce the impact of the building on neighbours and comply with the town planning scheme requirements. A traditional roof pitch would result in an even higher building. (The applicant has provided a sketch showing the greater impact from a pitched roof. This is attached to the agenda).*
- *The west parapet wall has been reduced in length to match the existing garage parapet adjoining.*
- *The courtyard has been positioned to the east to take advantage of climatic elements, as have the neighbours adjoining. This means that the courtyards are further away from each other.*
- *We propose to plant screen trees to reduce overlooking from the stairs window.*

Subsequently, the neighbours at No. 23A Grant Street viewed the revised plans and in discussion with s requested further clarification and consideration on a number of matters including levels/height, the proposed western parapet wall and privacy.

Following further Officer liaison, the applicant has agreed to the following additional changes (revised plans can be required as a condition of approval):

- Provide obscure glazing to the stairs window instead of landscaping to improve privacy (Note: this is a goodwill gesture as it is not a requirement of the RDCs as Privacy from this window currently complies).
- Provide obscure glazing to 1.65m to the widow to the bedroom on the upper west side.
- Rationalisation of the parapet wall on the western boundary so that, for the most part, the height corresponds with the existing wall on the adjoining neighbours' property and is only higher where the entrance is located.
- The finished level for the ground floor being lowered approximately 100mm to equate to the finished floor level of the residence currently existing on the property. This will also reduce the overall height of the building by 100mm (to between 6.17-7.87m).

It is considered that the above changes will assist the adjoining neighbours and addresses the impacts previously identified as well as assist streetscape.

BACKGROUND

No. 25 Grant Street is 572m² and zoned Residential R20 (a single residential property). The lot is an irregular shape as it narrows at the rear on the western side.

The land is basically flat at the front, however, it slopes down by approximately 1.5m from the middle of the site to the rear.

A two storey residence currently exists on the site. A two storey block of 4 units is located to the east (Bel Air) and a two storey single residence is located to the west.

STAFF COMMENT

Side Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
East Upper Level	2 bedrooms and bathroom	6.5-7.2m	13m	Nil	1.7-1.9m	1.8m
West Ground Level	Parapet	3.5-3.6m	6.7m	Nil	1m	Nil
West Upper Level	Study/ensuite/balcony	6.5m	12.5m	Nil	1.7m	1.5 – 2.5m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.3.1 of the RDC states the following:

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

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

Due to the north-south orientation of the lot, the setback variations do not affect adjoining properties in terms of access to sunlight. The reduced setbacks proposed all involve minor variations and are not considered to affect adjoining properties in terms of bulk. No direct overlooking of active habitable spaces will occur as a result of the reduced setbacks.

In most instances the departures are small and in some instances the minimum setback is actually partially exceeded. The proposed setback variations, therefore, comply with the Performance Criteria of the Codes and are supported.

Privacy

The following privacy (cone of vision) setbacks of the proposed additions seek variation from the Acceptable Development standards of the Codes:

Room	Required	Provided
Bedroom	4.5m to west side	2.7m to west side
Bedroom	4.5m to east side	2.7m to east side
Balcony (Upper Rear)	7.5m to east and west sides	5m to east and west sides

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

“P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

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

Overlooking from the upper bedroom windows to the east and west is minor. As both of these windows face south, overlooking is not direct and the small areas affected by the overlooking are not active habitable spaces or windows to habitable rooms.

Screening of the east and west sides of the balcony as well as a portion of the south side greatly restricts viewing.

The neighbours to the west, however, have expressed concerns regarding privacy from the south-facing window of the upper bedroom on the west side. Following Officer liaison, the applicant has now agreed to provide obscure glazing to this window to a height of 1.65m. This is recommended to be imposed as a condition.

The overlooking from the rear balcony and bedroom windows comply with Performance Criteria of the Codes and are supported as proposed. In these ways the proposal avoids serious overlooking and applies appropriate screening in accordance with the requirements of the Codes. In addition, the neighbours to the west are satisfied that the screening will provide sufficient privacy in this instance as no balcony and a large window would be more exposed.

Bulk

Concerns raised by the neighbours in terms of overall general building bulk have been addressed by the changes to the original plans.

The residence has been designed such that the building line is staggered along the boundaries, rather than being constructed as a square box. By having indents along the boundaries for courtyards and open space, the impact of bulk is greatly reduced. The building is also designed at varying levels to correspond with the natural lay of the land. This results in the height of the building also varying along the length of the lot, rather than it being a single horizontal form.

It is noted that the neighbours to the west have expressed concerns regarding the bulk of the proposed residence. The main living area of the neighbours' residence is at single storey level at the rear of the house. It is likely that any new two storey development at No. 25 Grant Street would be likely to create a sense of "bulk", particularly after being able to enjoy the feeling of space currently experienced.

In relation to the amended plans, the length of western parapet wall on the common boundary has been reduced to match the length of the parapet wall on the property adjoining at No. 23A Grant Street, the setback of the lower storey on the western side has been increased, retaining walls and landfill have been reduced and the overall height of the building has been lowered.

Whilst the neighbours to the west commended the reduced length of the parapet wall, they still expressed some concerns in relation to its height. As a result of Officer liaison, the applicant has agreed to further amend the plans to rationalise this wall such that it is lowered to match the height of the neighbours' parapet wall for the most part and that it only be raised higher in one smaller section to accommodate the new entrance area. This will result in an improved streetscape presentation as well as lessening the impact of bulk on the neighbours. It is recommended that a condition be imposed to address this.

These changes have reduced the impact of bulk on the neighbouring properties to an acceptable standard. These are worthwhile improvements to lessen the effect of introducing a new dwelling into an established area.

Height

The building is designed with a skillion roof and parapet walls. While the Scheme is not specific for height of such walls, the Residential Design Codes are a guide to Council, which provide a 7.0m standard for two-storey parapet walls, and Council has applied this in practice.

Clause 5.5.1(a) of Town Planning Scheme No. 2 states that Council will not regard as a storey, undercroft space where (amongst other things) that space is not higher than 1m above the footpath level. The proposal includes cutting into the front of the site to provide access to basement car parking, store and cellar. The height of the undercroft complies with requirements of Clause 5.5.1(a).

There are some difficulties involved with determining a figure for natural ground level from which to measure general building height.

Clause 5.5.1(c) of Town Planning Scheme No. 2 generally states that natural ground level should be measured at the centre of the site. It is difficult to calculate the natural ground level at the centre of the site because of the presence of existing development. Averaging the existing levels of the four corners of the site, however, results in a measurement of 24.63m AHD. This approach is supported by Council guidelines.

If a 7m height limit is applied to the natural ground level as determined by Council s, the maximum wall height permitted is 31.63m AHD.

The most recent revised plans shows the majority of the proposed building falling within the 31.63m AHD height limit, however, a small section at the front of the residence is 32.6m AHD (i.e. 0.97m over height in this section).

It is noted that the neighbours to the west have expressed concerns in relation to the building being over height in this respect.

Following Officer liaison, however, the applicant has stated that he is able to further reduce the finished level of the ground floor by 100mm to equate with the finished ground floor level of the existing residence on the site. This would mean that the residence would be up to 32.5m AHD (i.e. 0.87m over height in one section).

It is noted, however, that the actual height of the building measured at the front would only be 6.9m above ground level at that particular point on the ground, which is less than the 7m standard and lower than an 8.5m high pitched roof.

Because of the style of the house and the desire to have an undercroft garage rather than a garage at the front of the residence, it is not possible to further drop the finished levels and maintain acceptable access gradients to the undercroft area.

The parapet wall / hidden roof has been designed to have a lesser impact than a pitched roof development and, as previously mentioned, the applicant has provided a sketch showing the greater impact from a pitched roof (attached to the agenda).

There is discretion within TPS2 in terms of the height provisions being expressed as a general policy and that Council may consider the circumstances and merits of each

case. Variations may be considered in relation to topography and extensions to buildings. Specifically, Clause 5.1.1(c) states that Council can consider granting a variation to building height requirements in particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished. The test of height is tied to privacy, views and amenity. The scheme also refers to overshadowing and air flows.

It is considered that the height variations would not adversely impact on the streetscape or the amenity of adjoining neighbours. Furthermore, flat or skillion roof forms exist nearby in new approved dwellings in Grant Street as well as to Bel Air which has a bold parapet facade.

Given that only a small section of the residence does not comply with the height requirements of the Scheme, that the majority of the residence does comply and that amenity is not adversely affected, the height of the building with a further 100mm reduction is supported. A condition to impose this is recommended accordingly.

Front Fence

The existing fence within the front setback is of solid construction to height of approximately 1.8m along the front boundary and on the east and west sides.

Council's Local Law generally requires fences in the front setback to be of open aspect construction where it is above 0.9m, to a maximum height of 1.8m.

This application proposes to improve the existing front fence and increase visual permeability by bringing it into line with Council's Local Law requirements. The front fence will generally be solid to 0.9m with open aspect railing above to 1.8m and is supported as proposed. This is a positive contribution to the streetscape.

Open Space

The proposal complies with the Acceptable Development Standards of the Residential Design Codes with regard to open space provision.

Land Fill

Where the land slopes down at the rear of the property, it is proposed to provide fill to raise the ground level by up to approximately 0.5m. There is a small section where fill is proposed at 0.6m. The Acceptable Development Standards of the codes only allows for fill up to 0.5m above natural ground level.

As the proposed landfill does not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.6.1 of the RDC states the following:

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

Most of the landfill proposed complies with the Acceptable Development Standards of the Codes, however, the small section where the fill is proposed at up to 0.6m maximum is minor and can not be seen from the street or from the adjoining property. The original plans have been amended to show the reduced landfill as proposed.

The proposed fill complies with the Performance Criteria of the Codes and is supported.

Retaining Walls

Walls to retain the proposed landfill are shown with nil setback constructed on the east, west and south boundaries. The setbacks for these retaining walls comply with the Acceptable Development Standards setback requirements of the Codes with the exception of a small section (less than 1m length) of wall on the western side boundary.

Acceptable Development Standards of the Codes allow for retaining walls of up to 0.5m to be situated on the boundary. The proposal shows a section of the wall being up to 0.6m high on the boundary.

As the proposed retaining wall setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.6.2 of the RDC states the following:

“Retaining walls designed or set back to minimise the impact on adjoining property.”

The retaining wall of the height proposed is to allow for raising of the ground level of the approach to the entrance to the new residence. A common boundary fence of 1.8m over the retaining wall will ensure that privacy is maintained between the two properties.

Given that the variation is minor and no adverse impacts will be made on the adjoining property to the west, the retaining wall is supported as proposed.

CONCLUSION

The proposal involves some relatively minor variations to the Acceptable Development Standards of the RD Codes in relation to setbacks, privacy, landfill and retaining walls. All variations are considered to be quite minor with minimal impacts on amenity and as they are considered to comply with the Performance Criteria of the Codes, are supported.

The proposal does not fully comply with the overall height requirement of the Scheme. The skillion roof which is highest at the front of the building exceeds the 7m height limitation by up to 0.97m from natural ground level in a small section. The excess of height in this location is not considered to be detrimental to the streetscape or the adjoining neighbours and is an integral part of the contemporary design of the residence. Given that a pitched roof may have a greater impact than what is proposed and given that the height variation is only for a section of the building, the height as proposed is supported in this instance.

A number of aspects initially raised by Council Officers and neighbours have been addressed by the submission of amended plans. Officer liaison with the neighbours and architects has achieved a number of design revisions to address neighbour concerns in particular and the planning parameters generally.

Therefore, on this overall basis it is assessed that the design suits the context of the locality and that the technical and amenity aspects of the Scheme and Codes have been satisfied through the revisions, and for these reasons the proposal is supported.

Finally, it is advised that the western neighbours have lodged a further letter dated 15 November 2006 elaborating on their concerns in relation to the proposal, albeit revised. This letter, together with Officer comments, will be circulated to Councillors with the agenda and should be read in conjunction with the report.

VOTING

Simple Majority

COMMITTEE COMMENT

That conditions (h) and (l), regarding air-conditioning and pool plant respectively, refer to this equipment being closest to the proposed dwellings.

That the following condition be added:

(p) The building being lowered at the front to comply with the 7m wall height.

Cr Furlong moved the officers' recommendation and that the minor amendments to conditions (h) and (l) be included.

This recommendation was passed by Committee with Cr Furlong using his casting vote.

DECLARATION OF INTEREST

Cr Ian Woodhill declared a proximity interest in this matter and left the chamber at 7.43pm, did not participate in the debate and did not vote.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Residence and Below-Ground Swimming Pool at No 25 (Lot) Grant Street, Cottesloe in accordance with the revised plans submitted on 19 October 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the

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

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, and be approved by the Manager, Engineering Services or the authorised officer.
- (f) The existing redundant crossover in Grant Street being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) The screens to the upper front and rear balconies being a minimum of 1.65m high from the finished floor level and visually obscure in accordance with the Residential Design Codes and to the satisfaction of the Manager Development Services.
- (j) Revised plans being submitted for approval by the Manager of Development Services, showing:
 - (i) The south facing window to the upper single bedroom being modified to prevent overlooking into the adjoining property by being constructed of fixed obscure glazing or screening to a height of at least 1650mm above the FFL.
 - (ii) The finished floor levels and the overall height of the proposed development being reduced a further 100mm.
 - (iii) The parapet wall to the western boundary shall not exceed the height of the adjacent parapet wall to No. 23A Grant Street, except for a section forming part of the entry hall to the dwelling. The redesign of the entry hall should limit the extent of the higher parapet wall sufficient for the structure of the dwelling, and

should optimise the extent of the lower parapet wall flanking the entry hall to the front and rear.

- (k) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (l) The pool pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (m) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (n) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (o) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation
- (2) Advise the submitters of this decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Residence and Below-Ground Swimming Pool at No 25 (Lot) Grant Street, Cottesloe in accordance with the revised plans submitted on 19 October 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, and be

- approved by the Manager, Engineering Services or the authorised officer.
- (f) The existing redundant crossover in Grant Street being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
 - (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (h) Air conditioning plant and equipment is to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (i) The screens to the upper front and rear balconies being a minimum of 1.65m high from the finished floor level and visually obscure in accordance with the Residential Design Codes and to the satisfaction of the Manager Development Services.
 - (j) Revised plans being submitted for approval by the Manager of Development Services, showing:
 - (i) The south facing window to the upper single bedroom being modified to prevent overlooking into the adjoining property by being constructed of fixed obscure glazing or screening to a height of at least 1650mm above the FFL.
 - (ii) The finished floor levels and the overall height of the proposed development being reduced a further 100mm.
 - (iii) The parapet wall to the western boundary shall not exceed the height of the adjacent parapet wall to No. 23A Grant Street, except for a section forming part of the entry hall to the dwelling. The redesign of the entry hall should limit the extent of the higher parapet wall sufficient for the structure of the dwelling, and should optimise the extent of the lower parapet wall flanking the entry hall to the front and rear.
 - (k) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (l) The pool pump and filter are to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (m) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
-

- (n) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (o) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation
- (2) Advise the submitters of this decision.

11.1.4 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 25 Grant Street to allow more time for the applicant to address the concerns raised, and that Council DEFER the item accordingly for a future report from officers.

Carried 8/0

Cr Ian Woodhill returned to the chamber at 7.44pm.

11.1.5 NO. 43 (LOT 49) CURTIN AVENUE – ADDITIONS TO A TWO STOREY RESIDENCE INCLUDING THIRD LEVEL LOFT, PLUS NEW CARPORT

File No: 43 Curtin Avenue
Author: Mr Lance Collison / Mr Andrew Jackson
Author Disclosure of Interest: Nil
Attachments: Location plan
Correspondence from applicant (2)
Submission (1)
Photo
Plans
Report Date: 3 November, 2006
Senior Officer: Mr Andrew Jackson

Property Owner: Justin Davies & Angela Quin

Applicant: as above
Date of Application: 26 September, 2006

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 372m²
M.R.S. Reservation: N/A

SUMMARY

Council is in receipt of an application for additions to a two storey residence including a third level loft within the roof space as well as a new carport on the subject site.

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

PROPOSAL

On the ground floor internal alterations and a bedroom addition are proposed. Externally on the ground floor a double carport, an ornamental pond and a 2.2m side boundary screen wall are also proposed. The rear garage is to be removed.

On the first floor, internal alterations as well as two new balconies, a pergola and an open kitchen/living/dining area is proposed.

On the new roof space level a study, ensuite, master bedroom and balcony are proposed. Two staircases are proposed to link the three levels.

URBAN DESIGN CONTEXT

The site is at the southern end of Cottesloe in an area characterised by small lots and narrow dwellings, including some unique architectural expressions of generally modernist aesthetic featuring curved, angular and flat roof forms. The dwellings are accessed by a service road alongside Curtin Avenue so do not present as a

conventional streetscape opposite other dwellings, but rather their interrelationship is confined to adjacent dwellings.

Also in this case, the built-up lots, solid high fences and closeness of dwellings create a dense urban environment where there are more mutual amenity impacts between dwellings than on larger lots. Several new dwellings and major renovations are underway, with ageing housing stock being replaced or refreshed. The opportunity afforded by the older, basic dwellings to be transformed into contemporary homes of today's standards and to take advantage of views can be appreciated, as with this proposal. How this design approach is assessed against the relevant planning parameters is set out below.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	Maximum 6m wall height and 8.5m roof height.	7m effective wall height southern elevation; 8.5m effective wall and roof height, north, west and east elevations.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.5m setback, ground north wall	1m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	1m setback Carport side boundary	nil	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	2.7m setback Upper north wall	1m setback	Clause 3.3.1 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	4.7m setback Balcony to stair	0.8m to 0.95m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	4.7m setback, North loft level wall	3m setback	Clause 3.3.1 – P1
No 8 – Privacy	4.5m setback for a bedroom	1m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m from a kitchen	1m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m from a study	3m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	1.8m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	4.3m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	2m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	4.4m setback	Clause 3.8.1 – P1
No 9 – Design for Climate	Maximum of 35% overshadowing	47% overshadowing	Clause 3.9.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. There was 1 submission received, which was an objection. Details of the submission received are set out below:

Paulla & Gavin Abrahams of 41 Curtin Avenue

- *Objects to overshadowing not complying with Council regulations*
- *Their entry on the northern boundary requires light to prevent moss/ mould on pavers*
- *Says a clothesline would be affected by overshadowing*
- *Concerned that a loss of heat and light into their rooms on northern side will mean lighting and heating needed*
- *Concerned house will tower over all other houses*
- *Requests the roof to look like a roof*
- *Requests roof comply with regulations*
- *Requests that overlooking is not possible into the rear swimming pool area and that existing overlooking should not be allowed to increase*
- *Objects to 2.2 metre wall on northern boundary*

BACKGROUND

An existing 1960s two storey residence exists on the residence. The residence is elevated above street level. A driveway leads to the house but currently offers no undercover parking.

The intention is to recycle this existing dwelling stock by renovation, which is a noticeable trend in this part of Cottesloe where older cottages or rudimentary beachside houses warrant upgrading. The proposal seeks to optimise the new home in the context of the neighbourhood and locality.

STAFF COMMENTBuilding Heights

Clause 5.1.1 of TPS2 guides height control and the core provisions applicable to this proposal are as follows:

- (b) *Specific Policy*
(ii) *Residential Zone*

The maximum building height shall be two storeys except that Council may permit a third storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity. (etc)

- (c) *Measurement of Building Height*

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

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

Variations may be permitted in the case of extension to existing buildings.

The key aspects here are:

- A true third storey or level may be allowed (it does not have to be a mezzanine, loft or attic, which are not mentioned) but must be located within the roof space.
- The provisos are that the maximum wall and roof heights stipulated for two-storey development must apply; that Council considers the dwelling will look like a two-storey dwelling; and that Council considers local amenity will not be adversely affected.
- Variations may be permitted for extensions to existing buildings.
- The Council discretions in these provisions are: the permission to have a third storey; the appearance of the roof; the assessment of amenity; and the flexibility for extensions.
- The non-discretionary aspects are the requirement for the third storey to be in the roof and the height limits.
- The Scheme does not elaborate on any detail of or criteria for these discretions, such as the roof shapes, so there may be a variety of design approaches.
- The Scheme does not explain in what way discretion may be allowed for extensions, so this is also open to various design solutions.
- Note that the Scheme also allows discretion in height by reason of topography, but that is not applicable in this case.

Over the years Council has aimed to apply these height provisions reasonably and has been able to accommodate a small number of dwellings with third levels contained within their roof spaces, while the roof forms have varied. Examples are: 174 Little Marine Parade (French chateau mansard-style roof); 184 and 186 Little Marine Parade (curved roofs); 244 Marine Parade (barn-type roof). At the same time, emerging contemporary architecture around Cottesloe includes a number of other curved roofs (eg: 16 Margaret Street, dwellings on western side of Hamersley Street, and 3 Curtin Avenue not far from the proposal), while some lofts have been allowed in conventional roofs (eg: 9 Geraldine Street). A further example of this theme is the current proposal for 9 Grant Street.

In terms of the wall and roof height measures, it is apparent that the crown of the roof can be easily determined for a range of roof forms, whereby a third level can be achieved. Experience is that wall height, however, has had to incorporate some design freedom. Most commonly, any gable-ended roof equates to a greater wall height to the apex, which is a typical residential design feature and is generally not an issue or disputed as allowable. In other words, it would be unduly restrictive to accept only pitched roofs with no gables as satisfying the wall height, so that all dwellings looked the same with hat-like roofs. Moreover, in considering parapet wall / flat roof designs greater wall heights have been allowed in accordance with the RD Codes provision. Therefore, with respect to the range of roof designs put forward, the differentiation or transition between the walls and the roof of a dwelling has required some judgement in relation to form, function, appearance and amenity.

Turning to the proposal, the wall heights do not automatically conform to the 6m standard, as they are designed with a curved roof, however, the applicant and designer have conceived the design to house the third level within the roof space. The south elevation wall starts to curve at a height of 7m above natural ground level on the boundary. The effective maximum wall heights for the remaining three elevations are 8.5m from natural ground level where they meet the crown of the roof, and that height complies with TPS2.

To help assess this proposal, in addition to the properties identified above, comparison may be made with more recent planning applications for two storey dwellings with third levels in their roof spaces. In May 2005 Council approved a third level of 49sqm atop a two storey dwelling for 2/1 Pearse Street, which had walls slanted to appear as part of the overall roof structure. In February 2002 Council approved greater wall heights for a dwelling with a third level in the roof space at 186 Little Marine Parade. Like the proposal, this is an east-west lot which overshadows the southern neighbouring property and the curve of the roof for the third level on one elevation is very similar to this proposal.

Given all of this analysis, it is assessed that the southern elevation wall height be limited to a maximum of 6m (RL of 30.77), from which point the roof shall begin curving to a maximum height of 8.5m (RL of 33.27). This will comply with the Scheme standards and mean that the dwelling appears as a two storey dwelling from the neighbouring southern property.

The remaining walls to the other elevations are setback further from the boundaries and are vertical. To begin with, the eastern wall for the roof space level is setback further from the northern boundary than the ground and second floor levels, which have setbacks of 3m and 1m respectively. To the eastern (street) elevation the roof space level is setback an additional 7.3m behind the ground and second floor levels, amounting to a large setback of some 20m from the front boundary. In this way the effect of the third level is not only to be contained in the roof space but also to recede from the boundaries and to be the lesser element of the overall building bulk and scale.

On the western elevation the roof space level wall is setback in line with the second floor level (apart from the second level balcony which is closer to the western boundary). The setback from this boundary is 6.7m to the roof space level balcony and the immediate adjacent property is a Right of Way rather than a residential neighbour. The effect of these walls in themselves is assessed as insignificant, however, if they are considered to appear more like a third storey, then they could be sloped slightly inwards to create the impression of a roof form, and perhaps even clad so as to represent the roof structure to the building.

Regarding the criterion that the roof space level will not adversely affect local amenity, as the roof space contains a study, bedroom, balcony and bathroom its use can be considered low-key. The balcony is not considered to be an entertaining area due to its small size and remote location as it can be accessed only through the master bedroom. As the rooms at this level are non-entertaining rooms noise will not be an issue. Overall privacy is further assessed in a separate section below.

Regarding other amenity aspects, the overshadowing does not meet the Acceptable Development provisions of the RDC, as discussed in a separate section below. However, by limiting the southern elevation wall height to 6m then curving the roof, it is considered that the overshadowing effect of the proposed roof form will be not too dissimilar from a dwelling with ordinary walls 6m high and a traditional pitched roof 8.5m high.

Boundary Setbacks

The following side boundary setbacks of the proposed new additions don't comply with the Acceptable Development standards of the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground North Wall	All except carport	3m	15.5m	Yes	1.5m	1m
Ground north wall	Carport	3m	6m	N/A	1m	Nil
Upper north wall	All	6.5m	21m	No	2.7m	1m
Upper South Wall	Balcony 2 stair	6m	19m	Yes	4.7m	0.8-0.95m
Roof space North Wall	All	8.5m	12m	Yes	4.7m	3m

Therefore, the setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC, which are:

3.3.1 – Buildings Set back from the Boundary

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

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

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

This proposal is to have a 1m setback for the ground north wall to the side boundary. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space. There are no adverse impacts and the proposal simply extends the existing wall.

The upper north wall is proposed to be setback 1m where 2.7m is required under the Acceptable Development Provisions of the RDC. The proposal will still allow direct sun and ventilation to the building and adjoining properties. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway. The proposal does not impact the direct sun on the neighbouring northern property. It can be argued that the proposal does not ameliorate the impacts of building bulk on adjoining properties however as there are no major openings in this wall, it assists in protecting privacy between adjoining properties. The setback variation generally meets the Performance Criteria of the RDC.

The upper south wall is proposed to be setback from 0.8 to 0.95m, whereas 4.7m is required under the Acceptable Development Provisions of the RDC. The proposal will reduce direct sun to the southern adjoining property. However, several of these windows on that property are obscure glazed and already receive reduced light. The proposal will provide adequate ventilation to the property and its neighbours. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway.

It can be argued that the proposal does not ameliorate the impacts of building bulk on adjoining properties, nevertheless the neighbouring southern neighbour has a long two storey wall on their northern boundary. The plans show that the kitchen window overlooks the neighbouring property. A proposed condition requiring this window to be a minor opening will assist in protecting privacy between adjoining properties and the wall would then be considered a wall with no major openings and require a lesser setback of 2.2m from the boundary. The setback variation partially meets the Performance Criteria of the RDC and is supported providing for overlooking being negated from the kitchen.

The north loft level wall is setback 4.7m from the northern boundary whereas the Acceptable Development provisions of the RDC. The proposal will still allow direct sun and ventilation to the building and adjoining properties. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway. The proposal does not impact the direct sun on the neighbouring northern property. It can be argued that the proposal partially ameliorates the impacts of building bulk on adjoining properties. It is argued there are major openings in this wall; these windows appear to be 1.5m above floor level whereas they are required to be a minimum 1.65m above finished floor levels to be considered minor openings. A condition requiring this will then allow the proposal to meet the criterion in *protecting privacy between adjoining properties*. The setback variation generally meets the Performance Criteria of the RDC.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC:

Room	Required	Provided
Master Bedroom	4.5m setback	0.95m setback
Master Bedroom	4.5m setback	3.3m setback
Kitchen	6m setback	0.95m setback
Study	6m setback	3.3m setback
Upper floor balcony	7.5m setback	1.8m setback

Upper floor balcony	7.5m setback	1.5m setback
Roof space balcony	7.5m setback	1.8m setback
Roof space balcony	7.5m setback	4.3m setback

Therefore, the setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are:

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

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

The proposal asks for a variation to the master bedroom's cone of vision setbacks. The RDC do not specify any provisions for windows in a roof, however, the windows still present a privacy issue. The window is only 1.3 wide by 0.5m high and therefore is not a major opening by size, however, another window in this roof on this elevation results in this being considered a major opening as per the RDC as the combined aggregate of windows on this elevation at this level is larger than 1m². The proposal does not comply with the Performance Criteria of the RDC, as it provides an opportunity to overlook the southern neighbour. The window is recommended to be obscured.

The master bedroom western elevation window also does not comply with the Acceptable Development provisions of the RDC. This window which opens out to the balcony is setback 3.3m on a 45 degree angle to the southern neighbour where the requirement is a 4.5m setback. This window does meet the Performance Criteria of the RDC, as possible overlooking to the southern neighbour will be negated by the balcony which will reduce downward overlooking. Proposed screening measures which are described later in this section will further reduce possible overlooking to the south.

The kitchen requires a 6m cone of vision setback whereas 1m is provided. The kitchen window does allow direct overlooking to the neighbouring property. Windows on the southern neighbouring property are generally obscure on the upper floor and clear on the ground floor. Due to the small setback, it is recommended this window be a minimum height of 1650mm above finished floor level or obscure to alleviate any privacy concern.

The study within the roof space is facing east whereas the potential cone of vision is toward the southern neighbour. The study window is approximately 1.2m wide by 600mm high and is 1.2m above finished floor level. Due to the low head heights from this area where the roof curves and that the window is not positioned to directly look at any major openings on the neighbouring southern property, this window is considered to meet the Performance Criteria for privacy.

The upper floor rear balcony requires a 7.5m cone of vision setback under the Acceptable Development Provisions of the RDC. To the southern neighbour a 1.8m

cone of vision setback is provided and to the north it is 1.5m. Whilst the existing residence already overlooks the yards of both neighbours, the RDC do not encourage “new” overlooking to occur. Screening is proposed on the northern boundary of the balcony and is seen as an acceptable measure to reduce overlooking to the north. Due to the shape of the blocks and existing vegetation, any overlooking to the north is limited and no additional screening is recommended.

To the southern neighbour, overlooking will occur. This could possibly extend into the pool area, however a 1.65m screen is a condition of approval on the neighbouring southern property being built which will restrict this view (attached photos refer). Nevertheless, additional screening is recommended to this neighbour in accordance with the RDC. Due to the odd shape of the balcony the applicant has requested consideration of mature tree planting along the southern boundary within the 7.5m cone of vision will satisfy the privacy requirement. Planting treatment is included in the RD Codes as one potential way of addressing privacy and has been applied effectively elsewhere by Council. In this instance, however, it is considered that the narrow lots with limited side setbacks and smaller yard spaces would mean that planting would be problematic, and there is always the factor that the permanency of planting is uncertain. Moreover, while planting may work well at lower levels, it is less likely to be satisfactory for a second and third storey balcony. Therefore, fixed screening at the point of overlooking is the preferred solution.

The roof space level balcony can be considered a variation as it constitutes an active habitable space. While at 0.8m deep it is less than the threshold of 1m deep to require privacy assessment, because its total area is greater than 3sqm it is required to be assessed for privacy. The setback to the northern boundary is 4.3m and to the southern boundary is 1.8m. Due to the shape of the lots and existing vegetation, any overlooking to the north is limited and no additional screening is recommended. To the southern property tree planting is recommended as a solution to reduce overlooking concerns to the southern neighbouring property.

In regards to the first floor deck on the northern elevation, the proposed screening satisfies the Performance Criteria of the RDC.

Overshadowing

As the overshadowing of the proposed residence on a neighbouring residence doesn't comply with the Acceptable Development standards of the RDC, the variation is required to be assessed under the Performance Criteria of Clause 3.9.1 (P1) of the RDC, which are:

P1 Development designed with regard for solar access for neighbouring properties taking account the potential to overshadow:

- *outdoor living areas;*
- *major openings to habitable rooms;*
- *solar heating devices; or*
- *balconies or verandahs.*

The Acceptable Development provisions allow a maximum 35% overshadowing on a neighbouring property in an R30 coded area. The proposal asks for 47% overshadowing, inclusive of possible overshadowing from the proposed double

carport. This calculation is based on the shadow cast at midday June 21 when the maximum shadow can be expected for the year. The application proposes 172m² of overshadowing out of the 365m² southern neighbouring lot at 41 Curtin Avenue at that time. The area of new shadow caused by the proposed dwelling extensions is some 84sqm and falls roughly to the central portion of the adjacent lot, plus some 16sqm for the proposed carport which affects the front.

The proposal does not readily meet the Performance Criteria of the RDC. There is current considerable overshadowing generated by the existing dwelling, and the additions will overshadow the northern windows of the neighbouring property, however, some of those windows are actually obscure glazed to comply with their overlooking requirements.

Although this amount of overshadowing is generally not acceptable, discretion could be applied here as all two storey developments in this area on the western side of Curtin Avenue are unlikely to easily satisfy the Performance Criteria. This is because of small lot sizes and the east-west orientation. The width between the north and south boundaries is only 8.8m and inevitably any development greater than single storey will cause significant overshadowing.

Council has generally recognised these constraints in other such situations and noted that when a westerly exposure and outlook to the ocean are the main aims, that solar access predominates whereby virtually unavoidable overshadowing is tolerated to a greater degree.

Front Fence

The applicant has indicated that they wish to modify the existing solid front fence to a fence with an open aspect. Whilst no elevations have been received this is commended and encouraged. A new planning application will be needed for this alteration, via a condition of planning approval.

Double carport

An existing single driveway allows cars to be parked in the front setback area. However, a double carport is proposed in the front setback and if the applicant wishes to alter the crossover, a condition of approval requiring an application for a new crossover is proposed. The carport will not require a change in levels and meets front setback requirements.

Rear garage

This is proposed to be removed. The application would still meet open space requirements if not removed.

Water Feature

A water feature is proposed along the southern boundary. Council has no requirements in relation to these features however the neighbour did oppose the new wall being 2.2m height. Whilst overshadowing is more likely to occur from the proposed additions to the residence than the boundary fence abutting the water feature, it is recommended the fence be reduced to the standard 1.8m boundary fence height.

CONCLUSION

Design-wise the proposal is considered logical and creative in relation to the existing property. The additions, while relatively extensive, are also fairly modest and sustainable in design terms in respect of the setting and streetscape. The Cottesloe coastal style is reflective of similar modern dwellings in the district and this locality.

Nonetheless, assessment against the Scheme height controls and RD Code amenity measures suggests design amendments to ensure appropriate compliance and reasonable management of impacts, with relevant conditions to address the concerns raised in the single submission. In this regard it should be appreciated that the site is constrained by its size and orientation whereby almost any proposal is going to have some degree of impact. In this instance, with the design refinements and conditions as presented, the resultant amenity and built form are considered to be acceptable.

On balance, having regard to the applicable planning parameters, other examples and the Council's approach to dwellings with a third level in the roof space, it is concluded that the application can be supported.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed various aspects regarding the proposal, including the size and height of the extensions; third storey and roof form; overshadowing and previous similar proposals. The Manager Development Services explained how small lots of this orientation were always problematic re shadow, which Council had accepted in previous approvals with some relaxation on performance assessment. In conclusion, Committee did not support the officers' recommendation, on the grounds of concerns regarding a third storey, bulk and scale, overshadowing and sustainable design.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for additions to a two-storey residence, including a third level in the roof space and a new carport, at No. 43

(Lot 49) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 September 2006 and revised plans dated 24 October 2006, subject to the following conditions:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture or otherwise except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) Air-conditioning plant and equipment is to be located away from the boundary of adjoining properties and closest to the proposed dwelling, and suitable housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) If the existing front fence is proposed to be modified a separate planning application will be required and the fence should comply with Council's Fencing Local Law which favours open-aspect fencing. The applicant should liaise with Officers in this regard.
- (g) If the crossover is proposed to be altered, the applicant shall apply to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) Revised plans being submitted for approval by the Manager Development Services, showing:
 - (i) In accordance with the provisions of clause 5.1.1 the Scheme, the maximum building height shall not exceed 8.5m (RL 33.27), the maximum wall height on the southern elevation shall not exceed 6m (RL 30.77), and the curve of the roof to the southern elevation shall commence from no more than the 6m wall height.
 - (j) The kitchen window being modified to prevent overlooking into the adjoining property, by either having a minimum sill height of 1650mm above the finished floor level or having fixed and obscure glazing to a minimum height of 1650mm above the finished floor level.
 - (k) The master bedroom southern elevation window being modified to prevent overlooking into the adjoining property, by either having a minimum sill height of 1650mm above the finished floor level or having

fixed and obscure glazing to a minimum height of 1650mm above the finished floor level. Alternatively, this window may be deleted.

- (l) The rear balconies to the second and third levels being modified to reduce overlooking into the adjoining southern property, by redesign of their layout and construction including the following options: the provision of solid wing walls to the side elevations; and/or the provision of fixed screening to the side elevations at a minimum height of 1650mm above the finished floor levels; and/or the provision of vertical, horizontal or angled screens projecting beyond the balconies; all sufficient so as to limit sideways views but to allow westward views. The applicant should liaise with Officers to satisfy this condition.
- (m) The proposed fencing along the southern boundary shall be limited to 1.8m in height.

(2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council REFUSE its Approval to Commence Development at No. 43 (Lot 49) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 September 2006 and revised plans submitted on 24 October, 2006 as Council is of the opinion:

- (a) The proposal is not considered to adequately quality as a dwelling including a third level contained within the roof space.
- (b) The proposal is considered to represent a three-storey dwelling, the design of which is considered to create undesirable scale and bulk.
- (c) The extent of overshadowing is considered to be excessive.
- (d) It is considered that the design of the dwelling does not adequately address sustainability.

11.1.5 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 43 Curtin Avenue to allow more time for the applicant to address the concerns raised, and that Council DEFER the tem accordingly for a future report from officers.

Carried 9/0

11.1.6 NO. 2 (LOT 50) REGINALD STREET – TWO STOREY RESIDENCE

File No:	2 Reginald Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission by applicant Submissions (3) Plans
Report Date:	1 November, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Peter & Rosie Davidson
Applicant:	Atrium Homes
Date of Application:	1 November, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	402m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a new two storey residence on the subject site.

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

PROPOSAL

On the ground floor a garage, gym/bed 4, ensuite, powder, laundry, kitchen, scullery, meals and family rooms are proposed internally. An undercover alfresco area opens out from the family room whilst a porch is located next to the entry. A small courtyard area is also proposed in the front setback which is enclosed by an open aspect fence.

On the upper floor a front balcony, 4 WIRs, 3 ensuites, 3 bedrooms and two planter areas are proposed. A lift and a staircase will link the two levels.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	6m maximum wall height	6.3m wall height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Upper east wall, 1.9m setback.	1.2 to 2.8m setback	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

There were 6 letters sent out. There were 3 submissions received, of which 2 were objections. Details of the submissions received are set out below:

Caron Merrison of 4 Reginald Street

- *Believes house will be an eye-sore*
- *Believes the rear garden will be in shadow majority of the day*
- *Says it will block out western sea breeze*
- *Says that her rear neighbour already towers over her house*
- *Concerned regarding overlooking from windows from upper storey staircase*

Natalie Kendal & Peter Watson of 2A Reginald Street

- *Believes the development is very positive and enhance the street*
- *Says they want to redevelop their property and want to ensure this development will not stop them redeveloping in the future*
- *Want to ensure that privacy is maintained for the future*
- *Request screening from the front boundary to the west*
- *Want to ensure that air conditioners/ spa motors are not located externally on the western side*

Karen Phillips & Robert Firth of 1 Lillian Street

- *Objects to the planter being used for habitable purposes as well as possible noise and visual privacy impacts*
- *Requests Council to consider screening*
- *Thinks the development does not meet open space requirements and requests that the development conforms*
- *Requests they are notified if any air conditioning or swimming pool equipment is proposed and to their location, strongly objects if located in an area affecting them*

BACKGROUND

An existing single storey cottage exists on the property and will be demolished to make way for the two storey residence.

STAFF COMMENTOverall Compliance

The proposal meets a majority of Scheme and RDC requirements. Privacy, open space and overshadowing are in compliance whilst there are only one variation to heights and setback.

Boundary Setbacks

The following side boundary setback of the proposed residence doesn't comply with the Acceptable Development standards of the RDC. The setback variation below is required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC which are:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Upper east Wall	Stair to front planter	6m	15m	No	1.9m	1.2-2.8m

3.3.1 – Buildings Set back from the Boundary

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

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

The upper east wall is setback 1.2m to the planter, bedroom 2 and part of the hall and between 1.2m and 2.8m from part of the hall to the staircase. Figure 2D of the RDC requires “where the side of the building includes two or more portions of a wall without a major opening their setbacks shall be determined independently of each other provided they are separated from one another by a distance of more than four metres”. In this circumstance the upper floor eastern elevation can be separated into three sections of wall: staircase to front planter, WIR 2 to Bed 1 and the 4193mm length of the hallway between WIR 2 and the staircase. The applicant believes that the staircase wall can be considered as a separate entity, however it is argued that this curved wall does not strictly meet Figure 2D of the RDC and the wall from the stair to the front planter can be treated as a variation.

However the wall does meet the Performance Criteria. The building will provide adequate direct sun and ventilation to the building and appurtenant open spaces. The direct sun when coming from the west will be reduced to the eastern neighbouring property however this neighbouring property is not orientated to capture sufficient westerly sun. Ventilation is acceptable to this property and neighbours. Due to the curved section of wall it also meets the criterion of “Assist in ameliorating the impacts of building bulk on adjoining properties.” Also it meets privacy considerations as there are no major openings in this length of the wall. Therefore this setback is supported.

Building Heights

The wall heights do not conform to the Town of Cottesloe TPS 2 requirement of a 6m wall height.

The proposal has a maximum 6.3m wall height, where the Scheme allows for a maximum 6m height from natural ground level at the centre of the site.

The wall height variation only concerns a portion of the bed 2 and planter wall height. An architectural “turret” feature requires the wall height to be 6.3m of the left hand edge of the upper floor eastern elevation (2.7m wide) and the right hand edge of the upper floor southern elevation (2.7m wide). The feature provides additional interest to the property and the reduction to the amenity of the eastern neighbour could only be to loss of any western sun; however the eastern neighbouring property is not orientated to capture this sun. In this circumstance, a variation is supported.

The application otherwise meets building heights as per the Scheme.

Overshadowing

An objection has been received in relation to overshadowing to the eastern neighbouring property. The RDC considers overshadowing to be calculated at noon at winter solstice (June 21). In this circumstance overshadowing to the eastern neighbour will be 0% and therefore easily complies with the acceptable development provisions of the RDC.

Any overshadowing to the eastern property from this development could occur just prior to a sunset; however the RDC has no requirements in this regard.

Any overshadowing as at midday on June 21 will fall on the front yard of this property (2 Reginald Street).

Privacy

The planter which opens out from the north of Bed 1 is not considered an active habitable space. The planter is at 43 courses height while the floor level of the bedroom is at 36 courses height. The planter floor is 600mm above the bedroom floor and the planter floor to ceiling height is only approximately 1.9m which is not considered a standard floor height. It therefore can be assumed it is a planter and not a balcony and does not need to be assessed for privacy. A condition is proposed to ensure that this planter cannot be converted to an area for habitable space.

The setback from the bedroom 1 window to the boundary is 5m which meets the Acceptable Development Provisions of the RDC.

In regards to the south facing window from Bed 3, this is described as a casement window. Whilst it is unlikely this will be a major opening, a condition requiring this window to be a minimum of 1.65m above finished floor level of the bedroom 3 will ensure that privacy requirements are met is proposed.

An objection is raised toward the windows from the staircase. A staircase is not considered an active habitable space and privacy is not required to be assessed. The windows are not large and measure 1.3m height by 0.6m length.

An objection is raised to overlooking from the front balcony. The amended plans show that screening to a height of 1.6m to the west, and this will alleviate overlooking to the western property. Overlooking shall be limited to the front setback areas of this and neighbouring properties. These areas are already open to the street.

Open Space

The application meets open space requirements. The alfresco area underneath the bed 1 is considered as open space. The porch, courtyard and driveway areas also are considered as open space. The proposal has 52% open space which meets the minimum requirement of 50% for a property within a R20 coded area.

Front Fencing

The fencing meets open aspect requirements of the Town of Cottesloe Fencing Local Law.

Air conditioning & pool equipment

An objection was raised due to possible air conditioning and pool equipment. These provisions are covered by a condition regarding air conditioning motors. There is no pool proposed.

CONCLUSION

The designers have designed a large house that meets the majority of RDC and Scheme requirements. The sole wall height variation can be attributed to a design feature with little consequence to the neighbouring property. Whilst objection to the planter areas cannot be upheld as the physical space should ensure it is not used as an active habitable space. It is recommended that the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee moved that condition (e) be amended to include the words closer to the owners house and remove where practicable.

Condition (j) to be altered for the window to comply with the Residential Design Codes and clarify that it is a minor opening.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
 - (j) The south-facing window to Bedroom 3 shall have a sill height a minimum of 1.65m above the finished floor level of that room.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be located away from the boundary of adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as

approved by the Manager Engineering Services or an authorised officer.

- (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
- (j) The south-facing window to Bedroom 3 to comply with the Residential Design Codes.

(2) Advise submitters of the decision.

AMENDMENT

Moved Cr Walsh, seconded Cr Carmichael

That condition (e) be amended to read:

- (e) Air conditioning plant and equipment is to be located closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

Carried 8/1

11.1.6 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**

- (e) Air conditioning plant and equipment is to be located closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
- (j) The south-facing window to Bedroom 3 to comply with the Residential Design Codes.

(2) Advise submitters of the decision.

Carried 7/2

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Miller	Cr Utting
Cr Carmichael	Cr Walsh
Cr Cunningham	
Cr Furlong	
Cr Jeanes	
Cr Strzina	
Cr Woodhill	

11.1.7 NO. 16 (LOT 288) FEDERAL STREET – PROPOSED CARPORT

File No:	16 Federal Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission (1) Response to objection by applicant Photos Plans
Report Date:	19 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Simon Miller & Elizabeth Thomas
Applicant:	as above
Date of Application:	5 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	605m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a double carport.

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

PROPOSAL

The proposed carport is to be within the front setback area being 1.5m from the front boundary setback including the eaves. The dimensions of the carport are 6.9m across by 6.7m long inclusive of eaves.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

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

HERITAGE LISTING

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

- National Trust

N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	Carport eastern setback 1m	0.3m	Clause 3.3.1 – P1

Town Planning Scheme Policy/Policies

Policy	Required	Provided
TPSP 003- Garages and Carports in Front Setback Area	4.5m setback for carports where vehicles are parked at right angles to the primary street alignment	1.9m setback (1.5m to eaves), vehicles parked at right angles to primary street alignment

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letter to Adjoining Property Owners

Submissions

There were 2 letters sent out. There was 1 submission received, which was an objection. Details of the submission received are set out below:

Dr M & Mrs T Tuchaai of 18 Federal Street, Cottesloe

- *Believes the setback is a danger to traffic users*
- *Believes it will create a blind spot*
- *Says it does not enhance the streetscape and the protrusion impacts their home*
- *Believes that existing carports built very close to the boundary were under different regulations*
- *Requests the carport be setback 4.5m from the front boundary to align it with their garage*

BACKGROUND

A well established single-storey residence can be found on the lot. The property has a driveway to the front verandah with no undercover car parking.

STAFF COMMENT

Front Setback

The carport is proposed to be setback 1.5m from the front boundary to the eaves and 1.9m to the posts. This is a variation to the requirements of the Garages & Carports in Front Setback Area Policy which requires carports to be setback 4.5m from the front boundary where vehicles are parked at right angles to the street alignment.

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

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

The Council shall also have regard to:

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

An objection was made toward the proposal affecting the view lines of the adjacent southern property. It is the officer's opinion that view lines would be satisfactory from the proposal. The carport is an open structure and would still afford adequate view/sight lines from driveway of the adjacent southern property. It is common to assume that all cars must stop before the pedestrian path and road. This point is closer than the proposed front setback of the carport. Furthermore, the only fencing in the front setback is a low open aspect picket fence which still provides visual permeability. Also, for the same reasons it shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.

The carport partially meets the objectives of the RDC. The RDC specify *"that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent"*. The carport is 6.9m (41.8%) wide of a 16.47m wide frontage and complies.

The RDC also require two spaces per single house and meet standard bay dimensions, this application meets this criteria.

It can be argued that this application also meets the criteria "*The amenity of the adjoining lot or deter future development on adjoining lots*". A new two storey residence is under construction adjacent to the proposed carport on the southern boundary and it is unlikely that any other development will take place or be approved in front of the parapet garage on the adjacent to the southern boundary. The parapet wall of the garage setback is 4.5m from this boundary. For the same reasons the application meets "*the existing and potential future use and development of any adjoining lots*"

Also as mentioned previously the proposed carport still provides good ingress and egress and adequate view lines for this property and the immediate southern property.

However, the application does not meet the final criteria being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport being setback 1.5m from the front boundary is 3m in front of the garage which on the southern neighbouring property. This garage is setback 4.5m from the front boundary.

Whilst a garage can be seen as a bulkier intrusion into the front setback, the carport being setback 1.5m to the front boundary is a large projection and interrupts the streetscape. This is not desirable and alternative solutions should be explored.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 7.5m to the verandah and 9.5m to the eaves of the front bedrooms from the front boundary. A standard carport is generally 6x6m in dimension so a maximum setback of 3.5m from the front boundary could be entertained. However the eaves proposed and to allowing the carport to be detached will require a minimum 3m setback to be recommended from the front boundary. Unfortunately this setback would reduce light penetration to the front bedroom.

The alternative of having the double carport at the rear of the property is not feasible as the side setback of the house is 2.5m and would leave little margin for error if a new driveway was required. This also would be costly and severely detract from the outlook provided into the rear yard area from the rear rooms.

Relocating the carport to the northern end of the front setback area is also not feasible as this would ruin a well kept-garden. Furthermore, the maximum setback could only be 1.5m to achieve a standard carport dimension and would not utilise the existing driveway on the southern boundary within the front setback.

The proposed materials of the carport include a new Colorbond roof, which matches the existing pitch and this is commended.

However, a consequence of the recommended 3m setback is the height of the carport may also need to be increased. An increase of up to 500mm in height to allow

a suitable clearance between the verandahs stairs and the carport is recommended providing the materials and pitch compliment the existing dwelling

The recommended 3m front setback for the carport, which will also be located on the southern boundary, is seen as the best solution for a site constrained by the existing built envelope. The setback would result in limited light penetrating the front bedroom but is the best solution for the streetscape whilst still allowing undercover parking.

Side Boundary Setbacks

The eastern side boundary setback of the proposed carport seeks variation from the Acceptable Development standards of the RDC and therefore is required to be assessed under the Performance Criteria of Clause 3.3.1 (P1):

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Carport east	All	3m	6m	N/A	1m	Nil

The RDC provide:

3.3.1 – Buildings Set back from the Boundary

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

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

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

CONCLUSION

It is recommended that the application be approved subject to conditions requiring the applicant to setback the carport a minimum of 3m from the front setback inclusive of any eaves. This distance was arrived at as the car bays cannot be pushed back further due to the existing residence behind the carport. A setback greater than 3m may not maintain the size and dimensions of a standard double carport and no other alternative solution can be recommended due to the existing constraints of the site.

The proposed double carport in the front boundary would ensure that cars would also be removed from a narrow road carriageway; which is an objective of the Residential Design Codes.

VOTING

Simple Majority

COMMITTEE COMMENT

After some discussion Committee moved to remove condition (f) from the recommendation as the increased setback would inhibit the access to the front and rear of the property.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
 - (f) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback 3m from the front boundary inclusive of any eaves and a maximum width of 6.2m . This carport may not be converted into a garage.
- (2) Advise submitters of Council's decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the

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

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.

(2) Advise submitters of Council's decision.

AMENDMENT

Moved Cr Cunningham, seconded Cr Walsh

That condition (f) from the Officer Recommendation be reinserted with the setback being amended from 3m to 2m, as follows:

- (f) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback 2m from the front boundary inclusive of any eaves and a maximum width of 6.2m . This carport may not be converted into a garage.

Lost 1/8

11.1.7 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**

- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (2) Advise submitters of Council's decision.

Carried 8/1

11.1.8 NO. 104 (LOT 72) NAPIER STREET – CARPORT, FRONT FENCE & ADDITIONS

File No:	104 Napier Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission from applicant Photos Plans
Report Date:	24 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Jon & Catherine Maslen
Applicant:	as above
Date of Application:	24 October, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	707m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a carport, front fence and single storey additions to an existing residence.

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

PROPOSAL

The proposal involves two new bedrooms, ensuite, WC and bathroom on the western boundary towards the front of the house. A new laundry and WC are proposed near the eastern boundary of the house.

A proposed double carport is proposed to be located 1m from the front boundary and against the eastern boundary.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

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

HERITAGE LISTING

- State Register of Heritage Places N/A
-

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	Setback to ground west wall boundary 1.5m	1m	Clause 3.3.1 – P1
No 3 Boundary Setbacks	Setback to ground east wall boundary 1.5m	0.9m	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

The western and eastern neighbours both signed off the plans in support of this application.

BACKGROUND

A well established single-storey residence can be found on the lot. The residence currently has a single garage; this will be removed and replaced with additions to the residence.

STAFF COMMENT

Carport

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

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

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

The Council shall also have regard to:

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

View lines would be satisfactory from the proposal. The carport is an open structure and would still afford adequate view/sight lines from driveway of the adjacent southern property. A proposed front fence will be open aspect apart from a pier which is 500mm wide adjacent to the carport. An open aspect gate being 900mm wide adjacent to this pier should ensure a cone of vision to the west. To the east a low 900mm high wall on the eastern boundary should ensure an adequate view line. Also, the proposal shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.

The carport partially meets the objectives of the RDC. The RDC specify *“that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent”*. The carport is 6m (39.8%) wide of a 15.09m wide frontage and complies.

The RDC also require two spaces per single house and to meet standard bay dimensions. This application meets these criteria. The existing dwelling has space for

1 car and this existing single garage will be transformed to become part of the residential additions.

The RDC also prefer any walls and fences to be reduced to no higher than 0.75m within 1.5m of where a driveway meets a public street. The proposed front fence does not strictly conform, however apart from the 500mm wide pier; the gate is proposed to be open aspect which will provide a suitable view line.

It can be argued that the carport also meets the criterion "*The amenity of the adjoining lot or deter future development on adjoining lots*". An existing driveway is adjacent to the proposed carport on the eastern boundary. The applicant believes that the eastern neighbour will propose to build a carport adjacent to this carport also being 1m from the front boundary. Council has not received an application at 106 Napier Street for a carport to date.

Also as mentioned previously the proposed carport still provides good ingress and egress and adequate view lines for this property and the immediate eastern property.

However, the application does not meet the final criterion being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport being 1m setback from the front boundary is well in front of the eastern and western neighbouring properties which are setback approximately 8m from the street boundary.

The carport being setback 1m to the front boundary is a large projection and interrupts the streetscape. This is not desirable and alternative solutions should be explored.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 10.3m to the garage and 9.3m to the porch and between 10.8m and 12.3m to the remainder of the front elevation. This porch is elevated so it is common to accept steps leading up to it. The owners propose a carport 5.5m deep by 6.1m wide in dimension so a maximum setback of 2.5m from the front boundary could be entertained. This setback would bring the carport up to the boundary of the porch steps. However the owners have asked to be able to wheel or move equipment from the carport area to the rear of the residence.

This is only possible by setting back the carport a minimum of 700mm from the steps. The proposed additions prevent items being wheeled around the western side of the property to the rear. Similarly, having the carport adjacent to the porch steps would not allow items being wheeled around to the rear of the property without backing the cars out from the carport. Also the applicant has argued that moving the proposed steps to the east of the porch will not look attractive and is less functional. There are no other alternative locations as the proposed additions will remove any opportunity to have the carport at the rear or the western side of the residence.

The recommended proposed setback to the street is 1.8m. This distance will allow the front setback area be functional to the owners of the residence and will reduce the interruption to the streetscape.

In terms of streetscape, a wide 16m verge lessens the impact of the setback concession. The roof material of the carport is tiles that will match the roof the existing residence and this is commended.

Boundary Setbacks

The following side boundary setbacks of the proposed additions seek variation from the Acceptable Development standards of the RDC and therefore are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) and 3.3.2 (P2):

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Ground east Wall	All	3m	12m	No	1.5m	0.9m
Ground west wall	All	3.5m	14m	No	1.5m	Nil

The RDC provide:

3.3.1 – Buildings Set back from the Boundary

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

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

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

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

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

The west ground floor wall has a boundary setback of nil where the required setback is 1.5m. It has a wall height between 2.5 and 3.5m above NGL at the boundary. This wall is penalized by the RDC as it requires walls to be measured to its highest point. The proposal makes an effective use of space and enhances privacy. Also, skylights provide light to rooms abutting the parapet wall. It is considered that the proposed western ground side boundary setback variation satisfies the above Performance

Criteria of the RDC. It should be remembered the neighbour has agreed to this proposal.

The east ground floor wall has a boundary setback of 0.9m to the extension. It has a wall height of 3m for the laundry and WC extension. This wall is penalized by the RDC as it requires walls to be considered an extension of the existing wall. If this wall was considered as a separate entity the setback required would be only 1m. The proposal makes an effective use of space and enhances privacy. It is considered that the proposed eastern ground side boundary setback variations satisfy the above Performance Criteria of the RDC and the neighbour has agreed to this proposal.

Front Fence

The front fence shall be open-aspect and is in accordance with the fencing local law.

CONCLUSION

It is recommended that the application be approved subject to conditions requiring the applicant to setback the carport a minimum of 1.8m from the front setback. This distance was arrived as the carport cannot be pushed back further due to the existing residence behind the carport. A setback of greater than 1.8m may not maintain the functionality and convenience of the front setback area and no other solution can be recommended due to the owners desire to have a large portion of the additions in the front setback as well as the existing constraints of the site.

The additions and the front fence are both also recommended for approval and the neighbours have signed off on the plans in regards to the development.

VOTING

Simple Majority

COMMITTEE COMMENT

The Planning Officer presented a memo to Committee including an additional condition (g) re fencing as follows:

It has been noted that amended plans received on 17 November 2006 have not been issued to Councillors. The plans are identical to the plans received on 19 October 2006 except for a proposed wrought iron open-aspect fence on the northern and western sides of the proposed carport. As a result it is requested the OFFICER RECOMMENDATION be changed to include an additional condition as follows::

(g) Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with Council's Fencing Local Law.

The Committee recommended that the front setback be reduced to a minimum of 1.6m as this would impact less on the access to the front and rear of the property.

OFFICER RECOMMENDATION

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (f) The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.8m from the front boundary. This carport may not be converted into a garage.

COMMITTEE RECOMMENDATION

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.

- (f) The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with the Council's Fencing Local Law.
- (h) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.6m from the front boundary. This carport may not be converted into a garage.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That condition (h) be amended to a setback of 1.8m from the front boundary.

Carried 6/3

11.1.8 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (c) **The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (e) **The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.**
- (f) **The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.**
- (g) **Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with the Council's Fencing Local Law.**
- (h) **Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.8m from the front boundary. This carport may not be converted into a garage.**

Carried 9/0

11.1.9 AMENDMENT NO. 41 TO TOWN PLANNING SCHEME NO. 2 – NOS 98A & 98B (LOTS 1 & 2 OF LOT 1) GRANT STREET – RECODING FROM RESIDENTIAL R 20 TO RESIDENTIAL R30

File No:	D2.4 Amendment 41
Author:	Mrs Stacey Towne
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Photos Rezoning Submission from Applicant
Report Date:	18 September, 2006
Senior Officer:	Mr Andrew Jackson

SUMMARY

The owners of the existing attached duplex dwelling units at 98A and 98B Grant Street are seeking Council's support to recode the built strata title property from Residential R20 to Residential R30. The recoding will allow for survey strata titles over of the land, whilst also allowing for an improved lot configuration and greater flexibility for the improvement of the built form over the property.

The recoding will maintain the "status quo" in relation to residential density currently enjoyed by the subject land (i.e. no more than two dwellings can be accommodated on the site).

The proposal is the outcome of liaison between Officers, the owners and consultants over an extended period and the recommendation is for Council to initiate an amendment to the Scheme to recode 98A and 98B (Lot 1) Grant Street from Residential R20 to Residential R30.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Residential Design Codes
- Planning and Development Act 2005

POLICY IMPLICATIONS

The amendment proposal does not relate to any particular local policy, however, it is essentially reflective of broad regional planning policies in relation to residential densities and public transport.

STRATEGIC IMPLICATIONS

The amendment proposal echoes Council and community consideration regarding residential densities in the locality during the formulation of draft TPS3 and is broadly consistent a longer term outlook to possible density increases. At the same time this specific proposal is in recognition of the special circumstances, while the density increase sought is compatible with the existing development and intended redevelopment of the site. In this way, as for other one-off minor recodings, the proposal is justified and non-prejudicial to the overall density regime.

FINANCIAL IMPLICATIONS

Administrative staff costs associated with preparation and processing amending documentation. Costs will be recouped from the applicant.

BACKGROUND

The site is situated on the corner of Grant Street and Elizabeth Street and is zoned Residential R20. It comprises of two built strata title land parcels, known as 98A and 98B Grant Street. Vehicular access to 98A is from Grant Street, whilst 98B has access from Elizabeth Street. Elizabeth Street does not physically intersect with Grant Street as it is a cul-de-sac at this point.

In the mid 1980s, Council approved alterations and additions to the existing single residence at the property then known as 98 Grant Street. The additions included a self-contained living unit attached to the western side of the dwelling. In late 1985, the then Town Planning Board granted approval to built strata subdivision of the lot such that the main residence and the new unit could be held in separate ownership. The property then became known as 98A and 98B Grant Street.

The parent lot (Lot 1) is 844m² in area. No. 98A (Strata Lot 1 of Lot 1) totals 314m² and comprises of a 59m² built strata area with the remaining 255m² for garden and access. No. 98B (Strata Lot 2 of Lot 1) is larger at 530m², with 91m² built strata area and the remaining 439m² for garden and access. The original main residence is located at 98B Grant Street, whilst the latter dwelling is located at 98A Grant Street.

In 1998 the owners of 98A and 98B Grant Street made application to the Western Australian Planning Commission (WAPC) to re-subdivide the property to create two strata title lots (352m² and 505m²) in a more regular configuration. The larger lot was proposed to include the existing residential buildings and have frontage to both Grant Street and Elizabeth Street, with the remaining lot having frontage to Elizabeth Street. This application was refused on the grounds that there was a shortfall in the land area required for strata subdivision as nominated by the Residential Codes for an R20 zone and approval would set an undesirable precedent for further subdivision of surrounding lots.

In December 2003, approval was granted to demolish the residence at 98A Grant Street, however, demolition did not occur and approval has now expired. Due to the restrictive nature of the titles over the land, demolition of the buildings would have meant that new development could only have been constructed in the exact position as the building previously removed.

Given this ongoing situation and resulting from Officer liaison with successive owners and their representatives to explore solutions, the amendment proposal has been conceived as a reasonable and practical method of addressing the matter.

AMENDMENT SUBMISSION

A full copy of the applicant's submission for this proposed amendment to the Scheme is attached to the agenda. This was prepared in response to liaison with Officers.

In summary, the submission provides the following justification:

- Recoding the subject site will formalise the two strata title lots, that currently exist and the 'door' opens for the landowners to extend their property, or preferably demolish the existing dwellings to permit re-subdivision of the lot.
- The subject site has access to two separate street frontages making re-subdivision ideal with each lot having the potential for separate street frontage.
- The recoding of the property to R30 is necessary to ensure that the current lot area of 314m² and 530m² meets the minimum and average lot area requirements of 270m² and 300m² respectively, as set by Table 1 of the Residential Design Codes.
- By recoding the property to R30, the development potential that currently exists will remain.
- The proposed development that would result from any re-subdivision of the site would be in keeping with development in the surrounding area.
- The alternative to subdivision, being to extend the existing dwelling (98B for example) is only possible if the property is recoded and the existing strata lots formalised. The proposed additions aim to maintain and reflect the style of more recent development within the area.
- The accommodation of residential housing at a density of R30, near Cottesloe District Town Centre or Grant Street Train Station is an objective of Liveable Neighbourhoods and an essential element in the creation of good community formation.
- The accommodation of residential housing at a density of R30 nearby Grant Street Train Station is an objective of WAPC Policy 1.6 – '*Planning to Support Transit Orientated Development*' to encourage increased use of public transport and to offer people the option to use public transport.
- The proposed development that would result from the re-subdivision of the subject site would serve the changing demographic in the area, with the ageing population requiring moderately sized homes on smaller lots.
- Maintaining the current development potential of the site would support local shops in the area.
- The introduction of an R30 density in this unique circumstance would not compromise the level of amenity enjoyed in the area.

In regard to these points, it is considered correct that the amendment proposal fits in with both regional strategic planning as well as local area planning and development control. Although the amendment proposal is really about overcoming the anomaly of the property, importantly it is acceptable in these wider contexts.

STAFF COMMENT

The applicant's rationale for the proposed amendment as stated in the amendment report is generally supported.

Regarding subdivision standards under the current R20 density coding, a minimum lot size of 1000m² (average 500m², minimum 440m²) is required for a two-lot green title subdivision, or a minimum lot size of 900m² for a two-lot strata title subdivision (450m² average).

The subject property is only 844m² in area, therefore, the land falls short of subdivision potential by at least 156m² for green title lots and 56m² for strata lots.

Draft Town Planning Scheme No. 3 also proposes a Residential R20 zoning over the land at 98A and 98B Grant Street. However, Clause 5.3.5 of proposed TPS No. 3 allows for redevelopment of land which has an existing approved density higher than that for which it is currently coded (non-conforming residential density) to be redeveloped at a higher density than its current coding.

Clause 5.3.5 of TPS No. 3 states:

"5.3.5. Redevelopment of existing grouped dwellings or multiple dwellings

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme may, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map if, in the opinion of the local government, the redevelopment would —

- a) be in keeping with the character of the streetscape;*
- b) contribute positively to the amenity of the surrounding properties and locality;*
- c) not detrimentally increase the mass, scale or surface area of the development relative to existing development on surrounding properties;*
- d) result in improved landscaping of the land;*
- e) provide adequate and safe means of vehicular and pedestrian access to the land; and*
- f) provide an adequate number of car parking spaces on the land."*

If approved as part of the new scheme, Clause 5.3.5 could allow for the requirements of the R20 code to be relaxed and enable the property at 98A and 98B Grant Street to be redeveloped at the same density (i.e. two residential dwellings), and on that basis strata or green title subdivision could be supported.

The owners of the property are aware of this, however, both are keen to commence improvements and prefer not to wait for the finalisation of TPS No. 3 which could take more time than the finalisation of a single amendment to TPS No. 2 to allow for a similar outcome and as there is no real certainty regarding draft Town Planning Scheme No. 3 at this stage.

The proposal to recode the land to R30 would still only accommodate the development of the property for two dwellings. Under the R30 code, an average lot size of 300m², minimum of 270m², is required for a green title or survey strata subdivision.

It is noted that an R25 Coding would also allow for green title or survey strata subdivision of the land. The applicant is seeking a slightly higher density, however, because the minimum lot size under the R25 Code is 320m², compared to the minimum lot area of 270m² under the R30 Code. The higher density will allow for the property to be divided into similar sized parcels of land as those existing (i.e. 314m² and 530m²) such that it would not be necessary to exchange, sell or purchase small sections of land between the two existing landowners.

An R25 or R30 Code over the land would make no difference in the density capacity of the property, and would not increase the total land parcel. It would, however, allow some reduced development parameters which would facilitate feasible redevelopment.

Successive new and prospective owners over the past few years have regularly approached Council to investigate possible future development of the residential sites both individually and combined, but have been restricted by the nature of the title and density coding over the land. The proposal to recode the land will allow for the site to be improved and brought up to a better standard of development.

Council has previously supported a similar proposal for a property at No. 14 Edwards Street. In that instance, Council supported the rezoning of the land from Place of Public Assembly to Residential with a coding of R20 and R25. That allowed for the property to be subdivided into three lots with the main church building being retained and used for purposes consistent with Residential Zone. A Concept Plan of Development was approved by Council as part of the amendment.

The applicant has not provided a substantial concept plan for consideration as part of this amendment, however, an indicative plan of the future development of No. 98B Grant Street has been provided. This plan shows two storey additions to the existing residence at 98B Grant Street, however, it does not show how future subdivision may occur or how the property at 98A Grant Street may be developed. It is considered necessary that some indication be given as to how the land is proposed to be subdivided in the future and it is recommended that a subdivision concept plan be provided as part of the amendment documentation, prior to the commencement of advertising.

CONCLUSION

It is clear that the subject property involves a long-standing problem that needs to be addressed in order to provide parameters for improvements to the site, which would benefit the landowners as well as the general locality.

It is recognised that the historical situation of the property at 98A and 98B Grant Street is unusual within the Town of Cottesloe. The principle of maintaining the existing density of the two established dwellings on the land, however, is provided

within Draft Town Planning Scheme No. 3 to cater for such unique situations and anomalies of the past.

The actual number of dwellings on the site will not alter with a recoding from R20 to R30, whereas the built form will change, together with enhancing the capability of the site to accommodate two dwellings (size of the land remains the same, yet the required site per dwelling unit decreases). The increase in density is only marginally greater and is in area where increased densities may come under further review.

The site also has an advantage of having a dual street frontage (Grant Street and Elizabeth Street) which assists in design for access and streetscapes. The proposed recoding will allow for consideration of redevelopment options and subdivision arrangements.

VOTING

Simple majority

COMMITTEE COMMENT

Committee did not support a spot density re-coding and considered that the owners should either approach the WAPC for approval to survey strata or subdivide the property or pursue changes on a broader basis under future TPS3.

OFFICER RECOMMENDATION

That Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:
 - (i) Recoding 98A (Lot 1 of Lot 1) and 98B (Lot 2 of Lot 1) Grant Street, Cottesloe, from Residential R20 to Residential R30 in accordance with the Scheme Amendment Map.
- (2) Upon payment of the Scheme Amendment fee by the applicant and preparation of the Scheme Amendment documents to the satisfaction of the Manager Development Services, including the preparation of a concept plan demonstrating how the property may be re-subdivided and/or redeveloped, the Chief Executive Officer shall adopt and endorse the Scheme Amendment documents on behalf of the Council.
- (3) Refer the proposed amendment to the Department of Environment and Conservation pursuant to section 81 of the Planning and Development Act 2005.
- (4) Advertise the proposed Town Planning Scheme amendment for public comment for a period of 42 days by:
 - (a) Placing a copy of the notice:
 - (i) in The Post newspaper;
 - (ii) on the Council notice boards at the Council Offices and the Town Centre; and

- (iii) in the Library.
- (b) Placing a copy of the proposed amendment on display at the:
 - (i) Council Offices; and
 - (ii) Library.
- (c) Notifying nearby landowners by letter as determined by the Manager Development Services.
- (d) Placing a sign on the property.
- (5) Provide the Western Australian Planning Commission with a copy of proposed Town Planning Scheme Amendment No. 41.
- (6) Advises the applicant/owners of 98A and 98B Grant Street of Council's decision accordingly.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council **DECLINE TO SUPPORT** the request to initiate an amendment to the Town Planning Scheme No. 2:

- (a) Council does not favour density increase re-codings for individual lots, which should preferably be considered as part of wider reviews such as under the draft Town Planning Scheme No. 3 process.
- (b) There are potential alternatives available such as renovation of the dwellings or re-subdivision of the land, which the owners could consider pursuing rather than a Scheme Amendment.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That the original officer recommendation be adopted.

Carried 5/4

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Miller	Cr Carmichael
Cr Cunningham	Cr Utting
Cr Furlong	Cr Walsh
Cr Jeanes	Cr Woodhill
Cr Strzina	

11.1.9 COUNCIL RESOLUTION

Moved Cr Cunningham, seconded Cr Strzina

That Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:**
 - (i) Recoding 98A (Lot 1 of Lot 1) and 98B (Lot 2 of Lot 1) Grant Street, Cottesloe, from Residential R20 to Residential R30 in accordance with the Scheme Amendment Map.**
- (2) Upon payment of the Scheme Amendment fee by the applicant and preparation of the Scheme Amendment documents to the satisfaction of the Manager Development Services, including the preparation of a concept plan demonstrating how the property may be re-subdivided and/or redeveloped, the Chief Executive Officer shall adopt and endorse the Scheme Amendment documents on behalf of the Council.**
- (3) Refer the proposed amendment to the Department of Environment and Conservation pursuant to section 81 of the Planning and Development Act 2005.**
- (4) Advertise the proposed Town Planning Scheme amendment for public comment for a period of 42 days by:**
 - (a) Placing a copy of the notice:**
 - (i) in The Post newspaper;**
 - (ii) on the Council notice boards at the Council Offices and the Town Centre; and**
 - (iii) in the Library.**
 - (b) Placing a copy of the proposed amendment on display at the:**
 - (i) Council Offices; and**
 - (ii) Library.**
 - (c) Notifying nearby landowners by letter as determined by the Manager Development Services.**
 - (d) Placing a sign on the property.**
- (5) Provide the Western Australian Planning Commission with a copy of proposed Town Planning Scheme Amendment No. 41.**
- (6) Advises the applicant/owners of 98A and 98B Grant Street of Council's decision accordingly.**

Carried 5/4

11.1.10 DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE CHRISTMAS PERIOD RECESS OF COUNCIL

File No: X4.6
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil.
Report Date: 15 November 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to delegate authority to the Manager Development Services and Chief Executive Officer to make determinations on those applications for planning consent that are received during the period from Tuesday 19 December 2006 to Friday 2 February 2007 while the Council is in recess.

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The following resolution was passed by Council at its December 2005 meeting:

That Council

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2), Council hereby further delegates to the Manager of Development Services under Clause 7.10.1 of the No. 2 Town Planning Scheme Text, authority to make a determination on those applications for Planning Consent that are beyond his current delegated powers for the period from Tuesday, 13 December, 2005 to Friday, 3 February, 2006.*
- (2) The exercise of those powers referred to in (1) is granted subject to:*
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the application; and*
 - (b) A list of items to be dealt with under this delegation is to be identified and included in the weekly list of Delegated Authority Items that:*
 - (i) is to be circulated on a weekly basis to all Councillors; and*
 - (ii) subject to the current call in arrangements for Delegated Authority Items.*

STAFF COMMENT

It is requested that the Manager Development Services and the Chief Executive Officer be granted additional delegated authority to determine applications beyond their current delegation powers in consultation with the Development Services Chairperson during the Christmas and January recess.

VOTING

Simple Majority

11.1.10 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, Council hereby further delegates to the Manager Development Services and the Chief Executive Officer under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 19 December 2006 to Friday 2 February 2007.**
- (2) The exercise of those powers referred to in (1) is granted subject to:**
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and**
 - (b) A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:**
 - (i) circulated on a weekly basis to all Councillors; and**
 - (ii) subject to the current call in arrangements for Delegated Authority Items.**

Carried 9/0

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 21 NOVEMBER 2006

Moved Cr Miller, seconded Cr Strzina

That items 12.1.1, 12.1.2, 12.2.2 and 12.2.3 be withdrawn from en-bloc voting.

Carried 9/0

The above items were dealt with first before items 12.1.3 - 12.1.7, 12.2.1, 12.2.4 and 12.3.1 – 12.3.5 were dealt with en-bloc.

12.1 ADMINISTRATION**12.1.1 SHADY CHARACTERS - BEACH HIRE**

File No:	C 2. 1
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Report Date:	9 October, 2006
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made not to allow Shady Characters Beach Hire access to trade on Cottesloe Beach.

STATUTORY ENVIRONMENT

Beaches and Beach Reserves Local Law:

Division 2, Section 5 – Quiet Amenity

In order to protect the quiet and amenity of the defined area, no person shall:

5.10 hire, or offer for hire, any vehicle, bicycle, watercraft, kite or other item of equipment for sport, entertainment, or amusement except with the written permission of council;

POLICY IMPLICATIONS

Section 7 (Strategies) of the *Beach* policy applies:

n. Other

(ii) Commercial Activity

In general, commercial activity on the beach is permitted only at the fixed facilities. Any other commercial activity may only be undertaken with the approval of Town of Cottesloe.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no fees specified in our budget for a beach hire business. There is a trader's licence of \$200/month or a stall holder's permit of \$50/week.

BACKGROUND

John Hughes, the proprietor of 'Shady Characters Beach Hire', sent in a submission to trade on Cottesloe Beach. The business would operate from a portable stall dispensing a variety of goods and services.

CONSULTATION

I discussed the matter with our Senior Ranger who doesn't support the proposal.

STAFF COMMENT

There are a number of concerns that I have with this proposal. The area already is well serviced with existing facilities and we are endeavouring to reduce, rather than increase, the amount of clutter on the beach. If this trader is allowed access to the beach it may be difficult to prevent other would-be traders from doing the same. He stated that he had support from the local surf club but didn't include anything that substantiated his claims.

The goods and services proposed are either duplicates of those provided by the life savers (beach safety, sunscreen/cancer awareness) or local businesses (toys, towels, thongs). There is no specific area mentioned rather a number of sites, at least one that appears to encroach on the dunes.

The new lessee of Indiana Tea House is also keen to maximise utilisation of the facility and this could extend to servicing the broad needs of beach goers through the cafeteria. The approval of John Hughes proposal would result in an unnecessary intrusion on the beach and complicate potential development for the new lessee of Indiana's.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council reject the application of John Hughes 'Shady Characters Beach Hire'.

12.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That council not accept the application from John Hughes for 'Shady Characters Beach Hire'.

Carried 9/0

12.1.2 COTTESLOE TENNIS CLUB RENEWAL

File No: E10.11& E10.8
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 11 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the Mayor and CEO to sign a lease agreement between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act applies.

3.58. Disposing of property

(1) In this section -

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

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

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

(a) the highest bidder at public auction; or

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

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

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

(i) describing the property concerned;

(ii) giving details of the proposed disposition; and

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

and

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

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

- (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to -
- (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

Regulation 30 of the Local Government (Functions and General) Regulations 1996 says;

30. Dispositions of property to which section 3.58 of Act does not apply

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if -
- (a) the land is disposed of to an owner of adjoining land (in this paragraph called **the transferee**~) and -
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - (b) the land is disposed of to a body, whether incorporated or not -
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
 - (c) the land is disposed of to -
 - (i) the Crown in right of the State or the Commonwealth;
 - (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
 - (iii) another local government or a regional local government;
 - (d) it is the leasing of land to an employee of the local government for use as the employee's residence;

(e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;

(f) it is the leasing of land to a medical practitioner (as defined in section 3 of the *Medical Act 1894*) to be used for carrying on his or her medical practice; or

(g) it is the leasing of residential property to a person.

(2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been

(a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;

(b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or

(c) the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including

(i) the names of all other parties concerned;

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

(iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.

(2b) Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.

(3) A disposition of property other than land is an exempt disposition if

(a) its market value is less than \$20 000; or

(b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.

In accordance with Regulation 30 (2) (b) Council may deal directly with the Cottesloe Tennis Club on this matter without the restrictions of Section 3.58 of the Local Government Act.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The discrepancy between the previous and proposed arrangement between the Cottesloe Tennis Club and the Town of Cottesloe is approximately \$150pa.

BACKGROUND

The Chief Executive Officer has indicated a preference for lease income based on rate payments rather than rent for our sporting clubs. This would result in a simple and objective basis for increases in income over time that would require minimal argument and justification.

CONSULTATION

I had meetings with Matthew McFarlane, Secretary of the Cottesloe Tennis Club and Michael Tudori, President of the Cottesloe Rugby Club. I also contacted several other local governments including Mosman Park, Peppermint Grove, Claremont, Subiaco, Cambridge and Vincent to determine how they treated their tennis and other sporting club leases.

There is no requirement for public consultation. Under the Town of Cottesloe Community Consultation policy the lease constitutes an extension of an existing agreement and does not involve a significant change in policy or the provision of new works and services.

STAFF COMMENT

The application of full rates to the tennis club was going to result in a significant increase (approx 500%). The tennis club was initially receptive to the increase but changed its view after reviewing the circumstances of other tennis clubs in the area. After I reviewed the alternative treatments from the other councils a compromise was determined. It is intended that the tennis club will be charged full rates with an 80% rebate. This results in the Council receiving approximately the same income as the previous agreement (there is a shortfall of around \$150 due to the ESL). Note: There is no exemption for the ESL for non-profit organisations. The shortfall is compensated by the Cottesloe Tennis Club's agreement to assume responsibility for the up-keep of the bore.

It is important to note that other councils in the region treat individual clubs based on their unique circumstances. For example, in the Town of Vincent, each club has a negotiated arrangement based on a combination of the level of council financial involvement in ground maintenance, historical agreements and type of premises.

The committee of the tennis club is satisfied with the proposed lease as it provides long term security and does not have an adverse impact on the finances of the clubs. The term of the lease has been set at 21 years.

VOTING

Simple Majority

DECLARATION OF IMPARTIALITY

Cr Furlong made a declaration of impartiality in that his wife is a member of the Tennis Club.

OFFICER RECOMMENDATION

That Council authorise the Mayor and CEO to sign a lease agreements between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

COMMITTEE RECOMMENDATION

That the matter be held over to full Council meeting pending clarification of whether draft clauses 7(6) – 7(7) are to be included in the final lease agreement.

The meeting was informed by the CEO that it was not intended to include draft clauses 7(6) – 7(7) (as shown in the draft Rugby Club lease) in the final lease agreement.

12.1.2 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council authorise the Mayor and CEO to sign a lease agreements between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

Carried 7/2

12.1.3 INDIANA TEA HOUSE & BARCHETTA - TOILET CLEANING

File No: 91 Marine Parade
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 9 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to approve additional cleaning of the public toilets at the Indiana Tea House and Barchetta Restaurant for Summer 2006/2007.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Beach policy, section (c) of 'Secondary Objectives' applies:

To provide a level of essential amenity on the beach reserves which meets the expectations of the residents of Cottesloe, the people of Western Australia and visitors to the metropolitan region.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The quotes received from the various cleaning companies for the period 1/11/2006 to 30/4/2007 are as follows (all GST exclusive):

\$30,940 Charles Cleaning Company (for the 6 months)
\$26,000 Liberation Cleaning Services (\$1,000 per week for 26 weeks)
\$45,169 Petra Clean (\$273 per day for 182 days)
\$30,000 Delron (\$5,000 per month for 6 months)
\$17,420 Orbit Group (\$670 per week for 26 weeks)

This additional cleaning has not been provided in the budget.

BACKGROUND

The cleanliness of the beachfront restaurant toilets, the Indiana Tea House in particular, has been an ongoing cause of complaints. The lease agreement requires that the lessee cleans the toilets daily. This has resulted in the toilets being cleaned once a day, usually first thing in the morning. During summer this has proven to be inadequate. The combination of additional usage of the facilities by local patrons, petty vandalism and unusual ablution practices of tourists mean that by mid-morning the change rooms are a mess.

Council requested that quotes be obtained to determine the feasibility of additional cleaning.

CONSULTATION

The report is predicated on the numerous complaints received by the Council and its officers during summer.

STAFF COMMENT

I started working at the Town of Cottesloe at the end of last summer and received approximately two calls a day for the next few weeks complaining about the condition of the toilets at Indiana Tea House.

Following a request from Council I contacted a number of professional cleaners to get quotes for additional cleaning of the toilets. The quotes cover two additional cleaning services seven days a week at the change rooms at Indiana Tea House and Barchetta Restaurant for the six months from November, 2006 to April, 2007.

The new lessee assumes control over the Indiana Tea House in November, 2006. I recommend that the cleaning be approved for this summer as a goodwill gesture from the council. Future arrangements can be negotiated with the new lessee as part of a holistic approach to the facility.

VOTING

Absolute Majority

12.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council approve the additional toilet cleaning by Orbit Group at Indiana Tea House and Barchetta Restaurant for summer 2006/2007 (finishing date 30/4/2007).

Carried 9/0

12.1.4 COUNCIL MEETING DATES FOR 2007

File No: X4.3
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 6 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A resolution setting out the ordinary Council meeting dates for 2007 is required.

STATUTORY ENVIRONMENT

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

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

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

POLICY IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

Nil.

VOTING

Simple Majority

12.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) **Observe a recess in January 2007, with no ordinary meeting of Council to be held;**
- (2) **Advertise the ordinary Council meeting dates for 2007 as the fourth Monday in the month commencing at 7.00 pm with the exception of December when the meeting is to be advanced to 17th December;**
- (3) **Advertise the Development Services Committee meeting dates for 2007 as the third Monday in the month commencing at 6.00 pm with the exception of December when the meeting is to be advanced to 10th December;**
- (4) **Advertise the Works & Corporate Services Committee meeting dates for 2007 as being held on the day after the Development Services Committee meeting commencing at 7.00 pm; and**
- (5) **Advertise the Strategic Planning Committee meeting dates for 2007 as being held on the fifth Monday in the month commencing at 7.00 pm. with the exception of the first meeting in 2007 when the meeting is to be advanced to 21st February 2007.**

Carried 9/0

12.1.5 ANNUAL ELECTORS MEETING - ACCEPTANCE OF ANNUAL REPORT

File No: C 7. 1
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 17 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to accept the annual report for the 2005/06 financial year and to hold the annual electors meeting on Wednesday, 13 December, 2006.

STATUTORY ENVIRONMENT

The relevant sections of the *Local Government Act 1995* read as follows:

5.27. Electors' general meetings

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

5.53. Annual reports

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain ?*
 - (a) *a report from the mayor or president;*
 - (b) *a report from the CEO;*
 - [(c), (d) deleted]
 - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;*
 - (f) *the financial report for the financial year;*
 - (g) *such information as may be prescribed in relation to the payments made to employees;*
 - (h) *the auditor's report for the financial year;*
 - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
 - (i) *such other information as may be prescribed.*

5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

** Absolute majority required.*

- (2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

5.56. Planning for the future

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Regulations 15 and 19B of the *Local Government (Administration) Regulations, 1996* require that:

15. Matters for discussion at general electors' meetings s. 5.27(3)

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

19B. Annual report to contain information on payments to employees ? s. 5.53(2)(g)

For the purposes of section 5.53(2)(g) the annual report of a local government for a financial year is to contain the following information ?

- (a) *the number of employees of the local government entitled to an annual salary of \$100 000 or more;*
- (b) *the number of those employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000.*

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Council is required to hold a general meeting of electors once in each financial year and this meeting is to be held not more than 56 days after Council accepts the annual report.

The annual report is to be accepted by the Council no later than 31 December, 2006.

CONSULTATION

N/A

STAFF COMMENT

The annual report (see attached) is made up of a number of reports including those of the Mayor and CEO, an overview of the plan for the future, the annual financial statements, the auditor's report and other prescribed reports and information.

The last Annual General Meeting of Electors was held on 23 November, 2005.

Subject to Council's acceptance of the Annual Report, the earliest suitable date to hold the electors meeting will be Wednesday, 13 December, 2006.

VOTING

Simple Majority

12.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Accept the Annual Report for the 2005/06 Financial Year, subject to the section relating to the Future Plan being updated; and**
- (2) Call the Annual Meeting of Electors, to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 13 December, 2006 commencing at 7.00pm.**

Carried 9/0

12.1.6 FUTURE PLAN

File No: X12.4
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 13 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A Council decision is required on the timing and extent to which community consultation is undertaken on a draft "Future Plan" for Cottesloe.

STATUTORY ENVIRONMENT

Section 5.56 of the *Local Government Act 1995* requires the following:

5.56. Planning for the future

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Regulation 19C of the *Local Government (Administration) Regulations 1996* requires the following:

19C. Planning for the future S. 5.56

- (1) *In this regulation and regulation 19D*

"plan for the future" means a plan made under section 5.56.

- (2) *A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).*
- (3) *A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.*
- (4) *A local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.*
- (5) *A council is to consider a plan, or modifications, submitted to it and is to determine* whether or not to adopt the plan, or the modifications, as is relevant.*

**Absolute majority required.*

- (6) *If a plan, or modified plan, is adopted by the council then the plan or modified plan is to apply to the district for the period of time specified in the plan.*
- (7) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future of the district, and when preparing any modifications of a plan.*
- (8) *A plan for the future of a district is to contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.*

- (9) *A local government is to ensure that a plan for the future made in accordance with this regulation applies in respect of each financial year after the financial year ending 30 June 2006.*

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

As and when adopted, the "Future Plan" (see Attachment 1) will become the overarching strategic plan for the Town of Cottesloe and will replace Councils existing Strategic Plan (see Attachment 2).

FINANCIAL IMPLICATIONS

The cost of community consultation depends on the extent of consultation undertaken but in any event should not exceed two thousand dollars.

BACKGROUND

As required under the *Local Government Act, 1995*, Council is required to prepare a plan for the future that sets out the broad objectives of the Town of Cottesloe for a period of not less than two financial years.

Electors and ratepayers of its district must be consulted during the development of a plan for the future of the district and when preparing any modifications of a plan.

The plan for the future of a district must also contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.

Over the last three months, Council staff and elected members have held several meetings to develop a draft plan.

CONSULTATION

Under Council's *Community Consultation Policy* the draft *Future Plan* is considered to be a major strategic document.

The level of consultation for a major strategic document demands that at the **minimum**, consultation include;

- The invitation of submissions with the placement of advertisements in the local newspaper.
- Information being placed on the Internet at www.cottesloe.wa.gov.au together with an invitation for submissions,
- An article in *Cottesloe Council News* about the draft *Future Plan* with the article informing and encouraging feedback.
- Consultation with ratepayer groups such as SOS Cottesloe Inc as a valuable means of receiving feedback on a range of strategic issues.

The policy also requires that in **most circumstances** Council would also:

- Issue media releases and conduct interviews with local journalists.
- Undertake a statistically correct survey of particular attitudes, beliefs or information in relation to the draft plan. This may be done by phone, written survey or door-knock of individual households.
- Conduct discussion groups of around 15-20 invited people, usually led by a trained facilitator.

Depending on the circumstances Council **might** also want to:

- Issue a non-addressed leaflet or flyer that summarises the issues and invites feedback to Council. The flyer indicates how that feedback can be given.
- Undertake personal briefings. These are held at the request of a member of members of the local community to discuss a particular issue with a responsible officer. They may include the Mayor and/or Councillors.
- Conduct community information sessions in the Lesser Hall. Invitations can be extended by advertising in the local papers, by letterbox drop and/or advertisements in the local newspaper.

STAFF COMMENT

Perhaps the only limiting factor on the level of community consultation to be undertaken relates to a question of timing.

With the Christmas recess almost upon us, it is highly unlikely that the issue of properly constructed surveys, collation of survey results and the conduct of discussion groups could be reasonably undertaken until February/March/April of next year.

While surveys and discussion groups are not critical to the adoption of the *Future Plan* under the *Community Consultation Policy*, they may nonetheless result in stronger community ownership of the end product and a better *Future Plan*.

In order to keep things moving it is recommended that:

1. Undertake at least the minimum requirement of community consultation as required under Council's *Community Consultation Policy* in relation the draft *Future Plan* over the next two months, and
2. Reconsider, at its February 2007 meeting, the matter of further community consultation (by way of discussion groups and community surveys) dependent on the level and nature of community feedback received to that point in time.

VOTING

Simple Majority

12.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Undertake at least the minimum requirement of community consultation as required under Council's *Community Consultation Policy* in relation the draft *Future Plan* over the next two months; and**
- (2) Reconsider, at its February 2007 meeting, the matter of further community consultation (by way of discussion groups and community surveys) dependent on the level and nature of community feedback received to that point in time.**

Carried 9/0

12.1.7 COTTESLOE SURF LIFE SAVING CLUB - DISCHARGE OF MORTGAGE

File No: E2.5
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the use of the Common Seal of the Town of Cottesloe in the execution of the Discharge of Mortgage document for Cottesloe Lot 322.

STATUTORY ENVIRONMENT

Council's Standing Order 21.3 provides that:

Except as required by law, or in the exercise of the express authority of the council, the chief executive officer shall not use the common seal of the council.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In 1993 the Town of Cottesloe obtained a self-supporting loan (Loan No.83) of \$125,000 from the Western Australian Treasury Corporation on behalf of the Cottesloe Surf Life Saving Club.

The loan was to be repaid to the Town of Cottesloe by the Cottesloe Surf Life Saving Club over period of twelve years with the last instalment falling due on 1st July 2005.

As security for the repayment of the loan, the Town of Cottesloe took a mortgage over the land owned by the Cottesloe Surf Life Saving Club on Marine Parade (Cottesloe Lot 322).

The loan has been repaid in full and the Cottesloe Surf Life Saving Club has now written to the Town of Cottesloe enclosing a Discharge of Mortgage form for execution by the Town of Cottesloe and seeking the return of the Duplicate Certificate of Title for Cottesloe Lot 322.

A Council resolution authorising the use of the Town's Common Seal on the Discharge of Mortgage form is now required.

CONSULTATION

Nil.

STAFF COMMENT

Nil.

VOTING

Simple Majority

12.1.7 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council authorise the use of the Common Seal of the Town of Cottesloe in the execution of the Discharge of Mortgage document for Cottesloe Lot 322.

Carried 9/0

12.2 ENGINEERING**12.2.1 PART ROAD RESERVE CLOSURE, BARSDEN STREET/FINEY STREET, COTTESLOE**

File No: 12 Barsden St
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A request has been received from the owners of 12 Barsden Street, located at the intersection of Barsden Street and Finey Street, for the truncation area on the corner of their property, associated with the junction of the two road reserves, to be closed, for amalgamation into their property.

This report recommends that Council:

- (1) Support, in principle, the proposed closure of the truncation area on the Barsden Street/Finey Street road reserve intersection adjacent to the south west corner of 12 Barsden Street, Cottesloe, totalling approximately 18m², to be amalgamated into the area of 12 Barsden Street;
- (2) Agree to commence the process of closure covered under Section 58 of the *Land Administration Act, 1997* once the owners of 12 Barsden Street, Cottesloe agree in writing to fund the cost of the public newspaper advertisement to begin the mandatory 35 day objection period for public consultation; and
- (3) Inform the owners of 12 Barsden Street, Cottesloe of Council's decision on this matter.

STATUTORY ENVIRONMENT

This matter concerns a small portion of road reserve, which cannot be claimed by adverse possession.

For any permanent road closure, regardless of scale, Section 58 of the *Land Administration Act, 1997* is applicable. This process includes a statutory objection period being advertised and all service authorities being asked for comment, prior to council reconsidering the proposal.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Finey Street is a cul-de-sac road which is not built as a connection to Barsden Street. The area which could be used as a connection is a developed drainage soak pit and sump area which is designed to dispose of drainage water from the general area.

The wall built on the south west corner of 12 Barsden Street is built over the 45° normal road junction boundary truncation. There appears to be no service authority junction pits.

The wall enclosing this truncation appears to have been there for many years, as has the Barsden Street slab footpath and the well established verge lawn.

There is a well developed drainage system on the unbuilt western end of Finey Street. This was built in 2001 when Barsden Street was rebuilt, to improve inadequate drainage down Finey Street.

CONSULTATION

Nil, to date. If Council resolves to support the closure of the truncation area, approximately 18m², a 35 day objection period will apply, for public comment, after the proposal has been advertised.

STAFF COMMENT

The area of approximately 18m² for the legal truncation provision has effectively been denied to the public and service authorities for many years. There are no Council plans to make use of the site in future. If there had been service authority problems with the right angle boundary wall then it would have been modified, with obvious service pits on the site.

The only cost to Council with this proposal is the staff time required for the administrative steps and the cost of the single newspaper advertisement for the proposed closure.

VOTING

Simple Majority

12.2.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Support, in principle, the proposed closure of the truncation area on the Barsden Street/Finey Street road reserve intersection adjacent to the south west corner of 12 Barsden Street, Cottesloe, totalling approximately 18m², to be amalgamated into the area of 12 Barsden Street;**

- (2) **Agree to commence the process of closure covered under Section 58 of the *Land Administration Act, 1997* once the owners of 12 Barsden Street, Cottesloe agree in writing to fund the cost of the public newspaper advertisement to begin the mandatory 35 day objection period for public consultation; and**
- (3) **Inform the owners of 12 Barsden Street, Cottesloe of Council's decision on this matter.**

Carried 9/0

12.2.2 PEARSE STREET ROAD RESERVE: SEA VIEW GOLF CLUB ENCROACHMENT

File No: E17.10.75 & 2 Jarrad St
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

At its August, 2006 meeting Council resolved to:

- (1) Request the Minister to permanently close the section of the Jarrad Street road reserve between Marine Parade and 20 metres east from the north west corner of Lot 6271 and 1664, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve be amalgamated into "A" Class Reserve 6613; and
- (2) Require a report from staff, on the matter of the Sea View Golf Club golf course encroaching on a portion of the Pearse Street road reserve.

This item supplies the requested report (Item 2) and recommends:

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to 240.5m east of Marine Parade, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act 1997*, and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

STATUTORY ENVIRONMENT

Any closure, permanently, of a portion of road reserve would be covered by Section 58 of the *Land Administration Act, 1997* (attached).

Council's Local Law *Activities on Thoroughfares and Trading in Thoroughfares and Public Places* also applies (see attached).

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

During its recent discussions regarding the proposed closure of Jarrad Street between Broome Street and Marine Parade, Council became aware of a portion of the north side verge of Pearse Street, to the east of Marine Parade, which has been part of the Sea View Golf Club playing area for many years, with a pine log fence closing off this area for general public use.

This is in conflict with the Town of Cottesloe's local law *Activities on Thoroughfares and Trading in Thoroughfares and Public Places*, which includes the provision:

"A person shall not: ...

- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.

It would appear that for many years, apart from a width allowed for a pedestrian slab footpath, the majority of the north side road reserve of Pearse Street, from Marine Parade to a point 240.5m east of Marine Parade has been fenced into the area played on and maintained by the Sea View Golf Club.

CONSULTATION

Discussions have been held with the Sea View Golf Club on this matter.

Public consultation will be undertaken and will include advertising in a local newspaper, on Council's web page and noticeboards, along with the statutory advertising requirements.

STAFF COMMENT

The Pearse Street road reserve is 40m wide, with private properties on the south side and the golf club plus Council ovals on the north side, between Marine Parade and Broome Street.

For the section of concern, Council staff only maintain the fronting footpath strip, with the remainder of the verge width mowed by the Sea View Golf Club.

There have been no complaints found in the files regarding the existing situation, however, a permanent, legal basis needs to be established to meet Council's local law requirements as well as to clarify liability responsibilities, if an accident or injury occurs within the area of concern.

It is proposed to close off the portion of road reserve affected, amalgamate it into the adjacent Crown Reserve No. 1664, and modify the area covered by the Sea View Golf Club lease area to formally include the site, once the closure has occurred.

The other alternative is to have the golf club remove its activities from the site and move the boundary fence back to the legal boundary.

VOTING

Simple Majority

DECLARATION OF IMPARTIALITY

Cr Strzina made a declaration of impartiality in that he is a member of the Se View Golf Club.

Cr Furlong made a declaration of impartiality in that he is a social member of the Sea View Golf Club.

OFFICER RECOMMENDATION

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to 240.5m east of Marine Parade, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

12.2.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to the western boundary of Cottesloe Lot 113, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

Carried 7/2

12.2.3 LIMESTONE RETAINING WALL, NO. 1 CARPARK - STRUCTURAL SUPPORT

File No: E 9. 1
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

After receiving comments from a resident, staff inspected cracking in a portion of limestone retaining wall adjacent to steps at the south west corner of No. 1 carpark. A short report was obtained from a consultant on the extent and reasons for the cracking.

This report recommends that Council:

- (1) Install two steel support columns on the outside retaining wall of the steps leading down from the south west corner of No. 1 carpark, with these columns to be masonry filled and coloured to match the limestone walls; and
- (2) Consider the funding of a structural engineering report on all limestone structural retaining walls on the foreshore area when framing the 2007/08 draft budget.

STATUTORY ENVIRONMENT

The affected infrastructure has been installed by the Town of Cottesloe on reserve land vested in Council for the purposes of Recreation. Council is liable for all repair or reconstruction works required.

POLICY IMPLICATIONS

Council's *Beach* policy applies (see attached).

STRATEGIC IMPLICATIONS

The main Strategic Plan objective for this beach area is covered under:

District Development/Environment/Beach Precinct – A clean safe beach precinct which is sustainably managed with no new developments West of Marine Parade and proactive conservation of the dune and marine environs.

FINANCIAL IMPLICATIONS

Short term installation of supports, approximately \$4,000 – funded from maintenance provision.

Long term – study of all structural support/retaining walls in the beach precinct and required repair/replacement works, possible \$20,000+.

BACKGROUND

The limestone steps and retaining walls on the foreshore areas, particularly around No. 1 carpark and the Indiana Tea House, have been installed and maintained at various times over many years. Some are in good condition while others have received a variety of treatments or replacements, in varying colours and materials.

The consultant's report explains the probable causes of the cracking and movement of this portion of retaining wall, with a recommendation for short term 'holding action' restoration of structural capacity while a larger study is made of the other structural retaining walls within the foreshore area.

CONSULTATION

This matter relates to infrastructure maintenance. Public consultation is not required.

STAFF COMMENT

The cracks in this wall are serious enough to require at least a short term installation of the two 150mm deep steel columns to ensure structural support to the wall for the remainder of this financial year. Other wall sections in this area are cracked and require further investigation to determine the reasons for cracking and options for long-term solutions.

As recommended by the consultant, the two proposed steel columns could be filled with masonry to duplicate a limestone 'look' to match the existing wall blocks.

There is also a need to consider extra wall rehabilitation to replace sections of face blocks which have weathered or been vandalised in excess of expectation. These could be weak sections or soft portions of limestone.

The retaining walls around the terraces near the Indiana Tea House vary greatly in terms of the quality of stonework, with different qualities and colours of repair efforts.

VOTING

Simple Majority

12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Install two steel support columns on the outside retaining wall of the steps leading down from the south west corner of No. 1 carpark, with these columns to be masonry filled and coloured to match the limestone walls; and**
- (2) Consider the funding of a structural engineering report on all limestone structural retaining walls on the foreshore area when framing the 2007/08 draft budget.**

Carried 8/1

12.2.4 RIGHTS OF WAY/LANEWAYS - EXISTING NAME LEGALITY

File No: E13. 1
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in August, 2006, Council resolved.

That Council:

- (1) Change item No. 13 of the *Rights of Way/Laneways* policy, to read:
 - (A) On request Council will consider the naming of right-of-ways/laneways under the care, control and management of the Town of Cottesloe on the understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular right-of-way/laneway or services to same.
- (2) Advise property owners adjacent to ROW 29 (between Nailsworth Street and Broome Street) of a proposal to name ROW 29 "Marchant Walk" and requesting submissions on the proposal in writing by the 12th September 2006 to enable further consideration by Council at its September, 2006 meeting.
- (3) Have staff prepare a report on the legality of accepted names currently used on ROWs/Laneways within the Town of Cottesloe, including alternatives for any laneways with no legal name but for which the local use name is unlikely to achieve approval from the Geographic Names Committee.

This report recommends that Council either:

- (1) Give further thought to a suitable name with a view to selecting a name from a shortlist in December, 2006; or
- (2) Seek public submissions on a name.

STATUTORY ENVIRONMENT

Rights of Way (ROWs)/Laneways in the Town of Cottesloe are either Crown land, privately owned by the Town of Cottesloe or privately owned by a number of individuals or companies.

Those which are Crown land or owned by the Town of Cottesloe are maintained by Council and Council has control over the naming of such accesses, with the Department of Land Information having to approve, through the Geographical Names Committee, the choices made regarding suitable names.

POLICY IMPLICATIONS

Council's *Rights of Way/Laneways* policy, section 13 applies.

13. On request Council will consider the naming of right-of-ways/laneways under the care, control and management of the Town of Cottesloe on the

understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular right-of-way/laneway or services to same.

STRATEGIC IMPLICATIONS

Governance/Consistency: All decisions made are consistent with relevant statutes, Council policy and the aims of the Strategic Plan.

Management/Statutory Compliance: All procedures and decisions comply with external and internal statutes.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At its meeting in August, 2006 Council considered information from the Department of Land Information stating that the name "Napoleon" should not be applied to a laneway so close to Napoleon Street, because of legislation governing the control of duplicated road or laneway names.

Council resolved to have all other laneway names checked for legality before deciding further on Napoleon Lane.

CONSULTATION

Nil, other than verbal discussions with ProCott and letters to and from the Department of Land Information/Geographic Names Committee.

STAFF COMMENT

The received letter from the Geographic Names Committee informs Council that Clapham Lane, Fig Tree Lane, Rockett Lane and De Bernales Walk are legally named.

McNamara Way, Joinery Way and Pennefeather Lane are underwidth public streets and legally named.

Therefore, the only name not originally approved and unlikely to be approved is Napoleon Lane/Close, because of the existence of Napoleon Street nearby.

In regards to an alternative to "Napoleon" as a laneway name replacement, the names "Wellington" and "Waterloo" come to mind. Wellington Street is in Mosman Park, within 10km of this site. There are no streets known of using the name "Waterloo" within 10km of Napoleon Street.

There may, as alternatives, be names of prominent past residents who should be remembered via a street name.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Give further thought to a suitable name with a view to selecting a name from a shortlist in December, 2006.

Or

- (2) Seek public submissions on a name.

12.2.4 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council seek approval from the Geographic Names Committee to name the lane 'De Nardi Lane' in memory of Bruno De Nardi – a former Cottesloe greengrocer.

Carried 9/0

12.3 FINANCE**12.3.1 FINANCIAL REPORT FOR OCTOBER, 2006**

File No: C 1. 2
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

It is recommended that Council accept the Financial Report for October 31, 2006.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The manager Corporate Services provides a report to Council as required.

CONSULTATION

Nil.

STAFF COMMENT

October 2006	Actual YTD	Budget YTD	Variance \$	Variance %
Total Revenue (excluding rates)	\$887,909	\$810,607	\$77,302	9.5
Total Expenses	\$(2,223,248)	\$(2,527,997)	\$304,749	12.1
Capital Expenditure	\$(1,081,978)	\$(1,116,000)	\$34,022	3.0
Other	\$171,788	\$165,293	\$6,495	0.8

Financial Commentary and Analysis

There are few significant variances. Revenue includes a \$20,000 grant from the Office of Crime Prevention that was not in the budget. Expenses are favourable to budget with the causes for the variance in Community Amenities. Timing differences relating to lower than budgeted expenditure on contractors in the area of sanitation

(\$97,509) and provisional amounts totalling \$74,947 in the budget for legal expenses, consultants and contractors that may not be expended making up the majority of the variance.

IT Steering Committee

TRIM Context has been purchased as our new Electronic Document Management System (EDMS). Our current system using F:\Records does not allow for easy storage and retrieval of information, but this is all about to change! As we have never utilised an EDMS, there is a lot of work that needs to be undertaken behind the scenes before we can go live ensuring we comply with the legislation outlined in the State Records Act 2000.

There will be more detail in subsequent reports keeping you updated on the TRIM Implementation program.

Achievements - October 2006

- All training sessions provided with implementation package have been conducted. Customised and refresher courses to be held in December 2006 or January 2007
- Keywords for Council (New Thesaurus terms) has been purchased and uploaded into the LIVE version of TRIM
- General Disposal Authority for Local Governments (GDA) has been purchased and uploaded into the LIVE version of TRIM
- Postal Codes have been uploaded into the LIVE version of TRIM
- Internal Locations & Security entered into the LIVE version of TRIM
- Physical Locations & Security entered into the LIVE version of TRIM

What to expect over the next month.....November 2006

- Record Types to be created in LIVE version of TRIM
- Locations to be created in LIVE version of TRIM (external contacts from Prospect)
- Consultancy – change management/implementation options
- New Filing Structure to be approved
- Commence work on User Manuals and Quick Reference Guides
- Commence work policy and procedure documents

Universal Beach Access Group

There has been a significant amount of effort in establishing a pilot project to improve the access to the beach for disabled. The partners in the project have expanded to include the following organisations:

- Cities of Fremantle and Nedlands
- WALGA
- Disability Services Commission
- Surf Life Saving WA
- Disabled Surfers Association
- Lotterywest
- Curtin University (School of Occupational Therapy)
- Department of Sport and Recreation

I have attached copies of the project plan and the Curtin Uni students' project outline.

Community Safety and Crime Prevention

There has been a lot of activity in preparation for capturing information relating to anti-social behaviour at the beach front during this summer. The Rangers and Depot staff are preparing weekly reports containing evidence of problems.

The fridge magnets and letters to residents are being distributed next week (w/c 20/11/2006) and there will be adverts for the Town Meeting in the next 3 issues of the Cottesloe Post.

VOTING

Simple Majority

12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council accept the Financial Report for October, 2006.

Carried 9/0

12.3.2 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C 7. 4
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Operating Statement on page 17 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$380,772 as at 31 October 2006. Operating Revenue is ahead of budget by \$76,023(1%). Operating Expenditure is \$304,749 (12%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 October 2006 is shown on page 38.

The main cause of the lower than anticipated expenditure is lower than budgeted expenditure on contractors in the area of sanitation.

The Capital Works Program is listed on pages 23 to 24 and shows total expenditure of \$964,220. This includes \$171,853 of capital expenditure related to projects funded with grant money received in the last financial year. The other items of capital are budgeted with some timing differences.

VOTING

Simple Majority

12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.3 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C12 and C13
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

The Schedule of Investments on page 47 of the Financial Statements shows that \$4,043,163 was invested as at 31 October, 2006.

Reserve Funds make up \$692,019 of the total invested and are restricted funds. Approximately 55% of the funds are invested with the National Australia Bank, 30% with Home Building Society and 15% with BankWest.

The Schedule of Loans on page 48 shows a balance of \$339,198.62 as at 31 October 2006. There is \$168,521.51 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.4 ACCOUNTS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C 7. 8
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

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

- \$12,581.34 to WA Local Govt Super Fund for staff deductions
- \$43,411.00 to Sigma Data Solutions for TRIM software and training
- \$13,062.27 to WA Local Govt Super for staff deductions
- \$12,612.40 to ATO for GST for September 2006
- \$11,550.00 to Civica for instalment of council software purchase
- \$52,268.00 to Pro-Cott for 2005/2006 special rates
- \$65,639.90 to Shacks Holden for purchase of 2 passenger vehicles
- \$37,867.00 to Trum P/L for waste collection
- \$19,870.40 to WMRC for disposal and tipping fees
- \$11,793.54 to B & N Waste for green waste collection
- \$20,029.39 to Municipal Property Scheme for instalment of Property Insurance premium
- \$88,184.80 to Shire of Peppermint Grove for quarterly library contributions

- \$56,890.46 to Town of Mosman Park for various drainage installations
- \$30,456.41 to Trum P/L for waste collection
- \$23,144.04 to WMRC for disposal and tipping fees
- \$13,345.45 to WA Treasury for loan repayment
- \$51,487.88, and \$52,653.68 for staff payroll

VOTING

Simple Majority

12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

**12.3.5 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 OCTOBER, 2006**

File No: C 7. 9
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Sundry Debtors Report on pages 44 to 45 of the Financial Statements shows a balance of \$192,980.23 of which \$59,015.52 relates to the current month. The balance of aged debt greater than 30 days stood at \$133,964.71 of which \$83,316.32 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

The Property Debtors Report on page 46 of the Financial Statements shows a balance of \$1,590,285.86. Of this amount \$158,207.19 and \$8,894.08 are deferred rates and deferred ESL respectively. As can be seen on the Balance Sheet on page 18 of the Financial Statements, rates as a current asset are \$1,423,184 in 2006 compared to \$1,311,089 last year.

VOTING

Simple Majority

12.3.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 31 October, 2006; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 October, 2006.**

Carried 9/0

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

Nil

14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**14.1 BARCHETTA BINS**

Cr Woodhill spoke in relation to the odours from the bins at Barchetta.

14.1 COUNCIL RESOLUTION

Moved Cr Woodhill, seconded Cr Carmichael

That this matter be dealt with as an item of urgent business.

Carried 6/3

Moved Cr Woodhill, seconded Cr Carmichael

That the Principal Environmental Health Officer report to Council on the odours associated with the rubbish bins at Barchetta.

Carried 6/3

14.2 COTTESLOE BEACH HOTEL – NEW YEARS EVE

The Cottesloe Beach Hotel has sent an email to a number of its patrons providing details for New Years Eve celebrations at the hotel. Following this an article was printed in the Post Newspaper on 17 November, 2006. Councillors discussed the promotion of the event and the message that it sent.

14.2 COUNCIL RESOLUTION

Moved Cr Carmichael, seconded Cr Strzina

That this matter be dealt with as an item of urgent business.

Carried 8/1

Moved Cr Carmichael, seconded Cr Utting

That Council write to Multiplex, Hon. M McGowan - Minister of Racing and Gaming, Mr Peter Minchin – Director of Liquor Licensing, Hon. John Kobelke – Minister for Police, Mr Karl O’Callaghan – Commissioner for Police, Hon. Colin Barnett – Member for Cottesloe and Hon. Alan Carpenter – Premier in relation to the email, highlighting it as irresponsible and the creation of major problems, particularly excessive alcohol consumption.

Lost 4/5

15 MEETING CLOSURE

The Deputy Mayor announced the closure of the meeting at 9.00pm.

TOWN OF COTTESLOE



FULL COUNCIL MEETING

MINUTES

**ORDINARY MEETING OF COUNCIL
HELD IN THE
COUNCIL CHAMBER, COTTESLOE CIVIC CENTRE
109 BROOME STREET, COTTESLOE
7.00 PM, MONDAY, 27 NOVEMBER, 2006**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Deputy Mayor announced the meeting opened at 7.00pm.

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

Elected Members

Cr Bryan Miller (Deputy Mayor)
Cr Patricia Carmichael
Cr Daniel Cunningham
Cr Arthur Furlong
Cr Peter Jeanes
Cr Victor Strzina
Cr John Utting
Cr Jack Walsh
Cr Ian Woodhill

Officers

Mr Stephen Tindale Chief Executive Officer
Mr Graham Pattrick Manager Corporate Services/Deputy CEO
Mr Andrew Jackson Manager Planning & Development Services
Mr Geoff Trigg Manager Engineering Services
Mrs Jodie Peers Executive Assistant

Apologies

Mayor Kevin Morgan

Leave of Absence (previously approved)

Cr Jo Dawkins

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

4 PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Utting, seconded Cr Woodhill

That the paper Cr Utting provided to Councillors at the previous meeting be included in the Minutes.

Mayor Kevin Morgan

Please find attached a copy of a message to me from a member of the Council staff (attachment 1).

You will recollect that I gave a brief report on the progress of the proposed library at the recent meeting of the Corporate Affairs Committee.

In this I said that staff had refused me access to the Architects costing for the proposed Library. This document had been tabled at a previous Library Committee Meeting and showed a cost estimate about \$1,000,000 to \$2,000,000 above the previous estimate. I regret I am unable to provide a more accurate figure and other details due to the staff veto on me having access to the document, as stated above. I believe this veto extends to all Councillors.

The staff veto could prove very expensive to Council and to the library. You will see from attachment 2 that the Chairman of the Library Project Steering Committee is inviting Councillors and others to an "information update evening" in the Mosman Park Council Chambers on 9 November when "Architects will present final concept plans, Quantity Surveyor/Cost Manager will give indicative costs and information for budgetary consideration.

The Architect has presented a plan for a large single storey building. A two storey building has been ruled out with inadequate consideration.

An interested Councillor, and other ratepayers, have suggested that a two storey building may be more appropriate, sited over the existing building or in close proximity to it. There are good reasons to thoroughly investigate this option. As set out hereunder –

- The Peppermint Grove Council does not control the land on which the proposed library is to be built, State Government approval is required.*
- A Bowling Club member has stated that the club is legally contesting the ownership of the land on which the bowling greens are sited.*
- Peppermint Grove residents who live adjacent to the proposed development are objecting.*
- Community consultation has yet to take place.*
- A two storey building could be more economical than the proposed structure.*

You are requested please to direct staff to carry out a cost analysis for a two storey building as compared with the proposed single storey structure.

Additionally you are requested please to instruct staff to lift the veto on the supply of information to a Councillor. This is the first occasion that I can recollect of this kind of action occurring. It should not happen again.

Cr John Utting

Carried 6/3

Moved Cr Strzina, seconded Cr Utting

The Minutes of the Ordinary Meeting of Council held on Monday, 23 October, 2006 be confirmed with the above amendment.

Carried 8/1

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

7.1 A community safety and crime prevention town meeting to discuss anti-social behaviour in the Town of Cottesloe will be held on Wednesday, 6 December, 2006. Councillors and residents are encouraged to attend.

7.2 The Annual Electors Meeting will be held on Wednesday, 13 December, 2006. Residents are encouraged to attend.

8 PUBLIC STATEMENT TIME

Ms E Thomas, 16 Federal Street, Cottesloe – Item 11.1.7, No. 16 (Lot 288) Federal Street – Proposed Carport

Ms Thomas spoke in relation to her application for a carport construction. There is a safety concern from the neighbour, however Ms Thomas stated that the carport is setback 1.9m from the boundary and the staff have agreed that it is not a safety issue. The other issue from the neighbour is aesthetics. However, if the carport was setback closer to the house this would restrict access to the rear of the property.

Mrs S Woodhill, 23A Grant Street, Cottesloe – Item 11.1.4, No. 25 (Lot 847) Grant Street – Two Storey Residence and Below-Ground Swimming Pool

As this item is due to be withdrawn, Mrs Woodhill made a statement in relation to general town planning. When Mrs Woodhill's house was built all the town planning rules were abided by. Variations from the town planning scheme shouldn't be allowed. Mrs Woodhill stated that Council should consider applications in relation to the town planning scheme in future deliberations.

Ms T Tuchaai, 18 Federal Street, Cottesloe - Item 11.1.7, No. 16 (Lot 288) Federal Street – Proposed Carport

Ms Tuchaai asked Council to consider whether the carport meets all safety requirements for all people. The 1.5m setback allows a short reaction time for pedestrians, a further setback would improve the safety of the proposed carport. Federal street is a very narrow street. Ms Tuchaai suggested that condition (g) be reinstated due to safety issues and streetscape.

Mr S Nile, 98 Grant Street, Cottesloe - Item 11.1.9, Amendment No. 41 to Town Planning Scheme No. 2 – No's 98A & 98B (Lots 1 & 2 of Lot 1) Grant Street – Recoding from residential R20 to residential R30

Both owners would like green title, which would mean a zoning of R30. Mr Nile wishes to rebuild. He understands Council's concerns and would like to discuss other solutions with Council.

Mr S Famiana, 21 Hartfield Way, Westminster - Item 11.1.9, Amendment No. 41 to Town Planning Scheme No. 2 – No's 98A & 98B (Lots 1 & 2 of Lot 1) Grant Street – Recoding from residential R20 to residential R30

This property should be zoned R30. A blanket R20 zoning has been introduced into the area with no consideration of individuals, and does not identify where there are two dwellings. The property could not be extended or redeveloped and raises an issue of equity, orderly and proper planning. Rezoning would allow for subdivision, the status quo would remain. The landowner has approached 10 neighbours in the area who have given support (written and verbal). Mr Famiana requested that council support the amendment.

Mr C Wiggins, 50 John Street, Cottesloe – Cottesloe Beach Hotel New Years Eve

Mr Wiggins spoke in relation to an article in post newspaper on 17 November, 2006 and an email sent out by the Cottesloe Beach Hotel advocating a major party at the hotel on New Year's eve. Mr Peter Watts, Approved Manager and Licensee of the Cottesloe Beach Hotel reported at the hotel meeting on Monday, 20 November, 2006 that this email was sent to several thousand patrons, targeting an age group between 18 and 25 years old.

Mr Wiggins recommended that Council send a letter expressing concern re:

- (a) the wording of the email encouraging excessive alcohol consumption; and
- (b) the comment from the WA Police appearing to condone the use of such emails to patrons for this purpose and further advising that this does not present problems for the Police. These statements were made both to the Post, and at the Cottesloe Beach Hotel meeting held on Monday, 20 November.

The letter is to be sent to:

- Multiplex
- Hon. M McGowan, Minister of Racing and Gaming
- Mr Peter Minchin, Director of Liquor Licensing
- Hon. John Kobelke, Minister for Police
- Mr Karl O'Callaghan, Commissioner for Police
- Hon. Colin Barnett, Member for Cottesloe
- Hon. Alan Carpenter, Premier.

The behaviour of the hotel and its patrons is a major community issue.

Ms P Lampropoulos, 4 Windsor Street, Cottesloe – Thank you to Council Staff

Ms Lampropoulos stated that she purchased a property in Cottesloe last year and has applied for a building licence. Ms Lampropoulos thanked the planning and building staff; Andrew Jackson (especially for his mediation skills, Lance Collison and Georgina Cooper and Sam Neale (also for his mediation skills) for their assistance.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil

10 REPORTS OF COMMITTEES AND OFFICERS**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 20 NOVEMBER 2006****11.1 PLANNING****11.1.1 NO. 2A (LOT 31) NAILSWORTH STREET – TWO STOREY RESIDENCE**

File No:	2A Nailsworth Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Response by applicant to submissions Submissions (6) Plans Photo
Report Date:	13 November, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Kim Gamble
Applicant:	as above
Date of Application:	13 November, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	440m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a two storey residence on the subject site.

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

PROPOSAL

In the basement, a cellar is proposed. On the ground floor, Bed 1, a bathroom, WIR, WC, study, living, meals, laundry and a double garage are proposed.

On the upper floor two bedrooms, an ensuite and WIR are proposed.

URBAN DESIGN CONTEXT

The proposal is for a relatively modest cottage-style two-storey dwelling in a secluded street of Cottesloe. The locality is characterised by a mix of some older dwellings and a trend towards much larger modern dwellings. The proposal essentially respects the site and surrounds, being a combination of single and double storey,

seeking northern orientation and taking into account the opportunities and constraints of the site – long, narrow east-west lot; depot to rear, lane to south, approved two-storey dwelling to north. The scale, style and materials of the dwelling are compatible with similar rear buildings along the laneway. It is in this context that the proposal, as designed and modified to respond to submissions, is supported.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	8.5m maximum building height	8.78m building height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	1.5m setback ground south wall	Nil to 1.7m setback	Clause 3.3.2 – P2
No 3 Boundary Setbacks	1m setback ground rear wall	Nil to 3.5m setback	Clause 3.3.1 – P1
No 8 Privacy	4.5m cone of vision setback – bedroom	3.8m setback	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

There were 5 letters sent out. There were 6 submissions received, of which 6 were objections. Details of the submissions received are set out below:

Glenn & Marion Rondoni, 36 Napier Street

- *Will accept a 3m high wall at most.*
- *Length and height of parapet wall is unsightly.*
- *Could attract graffiti.*
- *Dangerous precedent.*
- *Views will suffer from their property and diminish their northern aspect.*
- *Need clarification on parapet wall height.*
- *Asks for clarification on overshadowing.*
- *Asks for clarification on fill allowances.*
- *Asks for clarification on overlooking from 2nd storey windows.*
- *Believes the R-Codes should not be compromised unless a redesign is unworkable.*

Dennis & Kay Neil, 40 Napier Street

- *States the parapet wall height is outside the R-Codes.*
- *Concerned over open space non-compliance.*
- *The building height exceeds 19.08m above natural ground level and states that this does not comply.*
- *Objects to the fill and its impact on the height of the boundary wall and final height of the building.*
- *Worried about a tunnel effect in that section of the lane and increase the wind and debris.*
- *Objects about the likely visual impact from their patio.*
- *Concerned that the lack of survey pegs means the land may protrude into the ROW.*
- *The wall should be graffiti-tolerant if approved and colour mutually agreed.*
- *May serve as a precedent for designs in R20 areas of Cottesloe.*
- *Believes that the side entry will provide for vehicle headlights and noise to impact the proposed entry area.*

- *Pitching the roof in the opposite direction will reduce the impact of the parapet wall.*

Neville & Leslie Shaw, 42 Napier Street

- *Concerned about the parapet wall along the ROW.*
- *Says the wall does not comply with the R-Codes and is inappropriate and out of character for the locality.*
- *Will diminish their outlook from the living areas of their home where the wall will be highly visible due to its massive bulk and scale and lack of an appropriate setback.*
- *Believes that the lot has adequate land area for R20 and could be designed to have a setback to that boundary.*
- *Does not meet solar principles and creates visual monotony.*
- *Creates an inhospitable tunnel and encourage anti-social behaviour as no windows will provide passive surveillance.*
- *The proposal does not consider the amenity of neighbours or the scale and character of the locality.*
- *Will accept a 3m high wall at most to be neighbourly.*

Mark Anthony Jones & Carol Ryan, 44 Napier Street

- *Concerned over the height and length of the parapet wall as excessive and is out of place for Cottesloe.*
- *Believes the large wall will encourage graffiti and anti-social behaviour.*
- *Questions whether the wall meets the Performance Criteria of the RDC.*

Barbara Sampson & Samuel Davis, 46 Napier Street

- *Concerned about the amenity of owners along the laneway.*
- *Could create an undesirable precedent.*
- *Objects to bulk and lack of setback.*
- *Objects to non-compliance with R-Codes for parapet walls.*
- *Loss of solar access.*
- *Creation of visual monotony.*
- *Requests that the development meets all Council planning requirements.*

EC & MT Kitchin, 48 Napier Street

- *Concern over parapet wall setting a precedent*
- *Non-compliance with R-Codes.*
- *Bulk and lack of setback.*
- *Loss of solar access.*
- *Creation of visual monotony.*
- *Tunnelling effects fostering alleyway behaviour and encouraging graffiti through a lack of surveillance.*

By way of comment, it is noted that the submissions share similar concerns and tend to be repetitive, with the proposed parapet wall to the boundary with the land the main concern. In dealing with the submissions Officers have liaised in particular with the nearest neighbours at 40 Napier Street to provide information and discuss their concerns. Officers have also liaised with the applicant and designer to consider the concerns and achieved design modifications in response. This is elaborated in the

assessment below, whereby it can be seen that the proposal now achieves improved and satisfactory compliance.

BACKGROUND

The former residence at 2 Nailsworth Street has been demolished as the lot was given survey strata subdivision approval by the Western Australian Planning Commission in July 2005. As a result 2 & 2A Nailsworth Street have been created.

STAFF COMMENT

Building Heights

The proposed roof height does not conform to the Town of Cottesloe's TPS 2 requirement of 8.5m building height. The wall heights meet the maximum 6m height.

The proposal has a building height of 8.78m, however, there appears to be no overriding design need for such as a new dwelling on a relatively flat lot. The relatively steep roof pitch can easily be modified to comply with the Scheme and a condition is proposed accordingly.

Boundary Setbacks

The following side boundary setbacks of the proposed dwelling do not meet the Acceptable Development standards of the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground south wall	All	3.5m	36m	yes	1.5m	Nil to 1.7m
Garage rear wall	All	3m	6m	no	1m	Nil to 3.5m

Hence they are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) & 3.3.2 (P2) of the RDC, which are:

3.3.1 – Buildings Set back from the Boundary

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

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

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

- *make effective use of space; or*
- *enhance privacy; or*
- *otherwise enhance the amenity of the development; and*
- *not have any significant adverse effect on the amenity of the adjoining property; and*

- ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.

However, the RDC do also allow parapet walls as per Clause 3.3.2 A2ii as follows:

“In areas coded R20 and R25, walls not higher than 3.0m with an average of 2.7m up to 9m in length up to one side boundary;”

The intended parapet wall to the laneway has attracted the most comment from submitters. The laneway actually ameliorates the impact of the wall rather than were it to a common boundary with another dwelling, and on that basis a performance assessment could reasonably consider that variation may be allowed. Nonetheless, Officers took this matter up with the applicant and designer who have achieved a redesign to significantly improve the design of the dwelling in respect of the scale and appearance of this element.

The proposal is to have a nil to 1.7m setback to the side boundary with the laneway for the ground floor south wall. A non-parapet wall would be required to be setback 1.5m from the boundary. It is assessed that the intended setback meets the Performance Criteria of the RDC as it makes an effective use of space and does not have an adverse effect on the amenity of the adjoining property. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. Importantly, the amended plans have reduced the height of the parapet wall next to the laneway, altered the roof pitch to reduce bulk/scale, introduced highlight windows for visual interest and set a large part of it back 200mm to enable planting to soften the appearance and deter graffiti. These changes are a significant improvement and supported.

In this respect it is emphasised that the objections received and reported on are in regard to the superseded plans for this wall. It is also noted that the highlight windows meet the Building Code of Australia and do not create any privacy issue.

The proposal also is to have a nil to 3.5m setback to the rear boundary for the garage, but only a short 1m section actually abuts the boundary. A non-parapet wall would be required to be setback 1m from the boundary. On assessment the garage setback meets the Performance Criteria of the RDC as it makes an effective use of space. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The garage does not present any privacy issues. The garage which abuts a portion of the boundary is supported as it is of no consequence.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC:

Room	Required	Provided
Bedroom 3	4.5m setback	3.8m setback

Hence they are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are:

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

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

The proposal asks for a variation to the bedroom 3 cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC. The window faces east whereas overlooking is to the northern neighbour and only just intersects this property. The northern neighbouring lot is currently vacant. It should be noted the neighbours did not object to this minor variation.

Overshadowing

The application easily complies with the Acceptable Development provisions of the Residential Design Codes. The two storey component only covers a portion of the residence and any shadow will fall on the Right of Way.

Open Space

The revised plans comply with the Acceptable Development Provisions of the RDC for open space.

Fill

Recently a layer of fill has been placed on the site. Any fill requires prior planning approval and the Town has written to the owner in this regard, who has indicated that it will be removed. This fill is unauthorised and has the ability to complicate construction of a dwelling from the approved datum having regard to natural ground level. Hence it needs to be removed in any case and a condition making that a prerequisite to a building licence is included.

CONCLUSION

The proposed dwelling meets a majority of the planning requirements. The parapet wall along the right of way which attracted several objections has been modified and greatly improved.

It is recommended the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

A number of objections were received from neighbours regarding the height of the single storey wall to the right of way. The Manager Development Assessments also

clarified that the incidental fill on the site was conditioned to be removed as a prerequisite to a building licence.

Cr Jeanes expressed that the design was satisfactory and the parapet wall had been suitably reduced in response to concerns. He moved that the following condition be added to the recommendation:

- (l) Planting a creeper or similar in the 200mm setback from the boundary to the single storey wall to soften the appearance of the dwelling to the lane.*

This amendment was lost on a 2/3 vote.

Committee declined to support the application, on the basis of the height of the single storey wall in relation to the laneway.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

- (1) GRANT its Approval to Commence Development of a two-storey dwelling at No. 2A Nailsworth Street, Cottesloe, in accordance with the revised plans submitted on 6 November 2006, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air-conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of all boundary walls to the Right of Way shall be to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's Fencing Local Law and the subject of a separate application to Council.
 - (h) The Right of Way adjacent to the property being drained to the satisfaction of the Manager Engineering Services, with details of the

proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.

- (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) Revised plans being submitted for approval by the Manager Development Services showing the maximum building height not exceeding 8.5m in accordance with the provisions of clause 5.1.1 of the Scheme.
 - (k) Prior to the issue of a Building Licence, the landowner shall remove the unauthorised fill on the land and restore the land to its previous state, to the satisfaction of the Manager Development Services. In this respect the owner is advised that failure to remove the fill may lead to compliance action by the Town.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council REFUSE its Approval to Commence Development at No. 2A (Lot 31) Nailsworth Street, Cottesloe, in accordance with the revised plans submitted on 6 November, 2006 as Council is of the opinion that the height of the wall to the single storey portion of the dwelling in relation to the laneway is considered to be excessive.

11.1.1 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 2A Nailsworth Street to allow more time for the applicant to address the concerns raised, and that Council DEFER the item accordingly for a future report from officers.

Carried 9/0

11.1.2 NO. 14 (LOT 3) WARNHAM ROAD – ALTERATIONS & ADDITIONS TO EXISTING APARTMENT BLOCK

File No:	14 Warnham
Author:	Ms Stacey Towne, Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Plans Photos
Report Date:	18 October, 2006
Senior Officer:	Andrew Jackson
Property Owner:	Martin Steens, Micheli & Peter Maszniew, Carmel & Joseph Valanti, Jane Loring & Michael Thorpe, Greg Chatfield & Anna Sudlow
Applicant:	Greg Chatfield
Date of Application:	23 August, 2006
Zoning:	Residential
Use:	AA - A use that is not permitted unless special approval is granted by the Council
Density:	R40
Lot Area:	569m²
M.R.S. Reservation:	N/A

SUMMARY

An application has been received to carry out alterations and additions to the existing block of 5 units at No. 14 Warnham Road.

The proposal involves the general visual improvement of the building and the addition of private balconies (front balconies for all units and rear balconies for two units), a lift and improved parking layout.

Preliminary design sketches have been considered by the Design Advisory Panel (DAP). Revised plans have resulted which include most of the DAP suggestions.

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

PROPOSAL

The proposal includes:

- New balconies (to three levels) at the front facing Warnham Road for Units 1-5. Balcony for Unit 5 is to extend along most of the frontage of this unit.
- Two new triangular shaped balconies (at two levels) on the north-west corner at the rear for Units 3 and 5.
- 6 x new store areas on the ground level with parapet walls on the west and east side boundaries.

- New private courtyard areas above the roof of the new stores for Units 1, 2, 3 and 4 and a common courtyard area for all of the units.
- Increasing the size of the living room windows on the western elevation for Units 1, 3 and 5.
- Provision of air conditioning units for each dwelling to be located on the proposed balconies behind the glass balustrade.
- Reconfigured car parking with the existing 6 undercover bays remaining and 4 marked bays within the front setback area (2 for visitors).
- New remote controlled garage gate/door and visitors entry at ground level.
- New windows to the undercover parking area.
- New lift at the rear between the stair wells.
- Enclosure of the outside rear stair wells with glazing.
- Screened bin areas behind the front setback.
- A low front wall with letterboxes.

URBAN DESIGN CONTEXT

Warnham Road is characterised by a mix of dwelling types, including single residences, town houses and medium-rise apartments. The recent trend has been to improve these properties, such as the front landscaping to No. 4 and façade alterations to No. 6 (*daho*), which contribute to enhancement of the streetscape. The prospect of changes to *Constatia* has been mooted, while the apartments at 103 Broome Street to the end of Warnham Road along De Benales Walk are being completely renovated.

Council generally supports such proposals and in draft TPS3 intends to allow existing higher densities to prevail. Particular proposals are to be encouraged in principle and supported subject to appropriate design and amenity considerations. This proposal seeks to retain the existing dwellings and make only relatively minor extensions, while upgrading the overall appearance of the building in terms of both condition and architectural treatment.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
Clause 5.1.1	7m	11.33m to the top of the lift shaft. (Note that there is no increase in height for the existing building apart from the new lift shaft. Existing building approx. 10.63m).

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Council resolution	General 6m front setback	4.5m to balconies on Levels 2, 3 and 4.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Western side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Eastern side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the stores on level 1 - 1.5m	0m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the front balcony to Unit 5 on level 4 – 7.1m	4.7m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Eastern side setback to the front balcony to Unit 5 on level 4 – 7.1m	4.7m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Northern side setback to the rear balcony to Unit 3 on level 3 – 2.3m	2.2-4.5m	Clause 3.3.2 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Northern side setback to the rear balcony of Unit 5 on level 4 – 3.5m	2.2-4.5m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Western side setback to the rear balcony to Unit 5 on level 4 – 4-4.3m	3.8-6.9m	Clause 3.3.2 – P1
No 8 – Visual Privacy	Privacy setback from all front balconies on all levels to the west side – 7.5m	4.7m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all front balconies on all levels to the east side – 7.5m	4.7m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback between front balconies for Units 1 and 2; and between Units 3 and 4 – 7.5m	2.68m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all rear balconies (Units 1, 3 and 5) on levels 2, 3 and 4 to the west side – 7.5m	3.8-6.9m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from all rear balconies (Units 1, 3 and 5) on levels 2, 3 and 4 to the north side – 7.5m	2.2-4.5m	Clause 3.8.1 – P1
No 8 – Visual Privacy	Privacy setback from enlarged living room window for Units 3 and 5 on levels 3 and 4 to the west side – 6m	3.2m (Note: Same setback as to existing windows)	Clause 3.8.1 – P1
No 10 – Incidental Development	Clothes drying area for multiple dwellings	None shown on plans, however, space available for all units except for unit 5.	Clause 3.10.3 – P3

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering
- Health

External

- Design Advisory Panel (twice)

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners
- Letter to Surrounding Properties

Submissions

There were 18 letters sent out. No submissions have been received.

The following comments were provided by the Design Advisory Panel (DAP) in relation to the original proposal considered at its May 2006 meeting:

- *Balconies may be impractical given exposure to south-westerly winds – which may be why the original balconies have been enclosed.*
- *Open-slat flooring to balconies can be problematic in terms of rain and spills or objects falling through the cracks.*
- *The setback to the balcony is considered too little, and the design of the balcony too strong for the building and too prominent in the streetscape.*
- *An alternative may be to re-open and widen the existing balconies to say 2.5m as adequate private amenity space, affording a greater setback and less intrusion into the front yard and streetscape.*
- *Adopt a softer / more subtle design approach that respects the cubist form of the building and reads as a logical and sensitive evolution of the built form rather than a modern add-on. This should include how the front yard is treated, so that any balcony structures, walling and landscaping is not overly- dominant.*
- *In this context also, the roof should remain as is rather than a foreign form be introduced or the height increased.*

- *It was suggested that the parking inside the basement could be rearranged to be at right angles from the street with the storerooms to the rear (although it was noted that may affect access to the stairs and lift at the rear).*

To sum up, the Panel agreed that while it is desirable to maintain and upgrade the apartments building, the existing architectural qualities should be a starting-point for the design of the proposed alterations/additions and the changes should be sympathetic to the streetscape and locality generally

The revised plans for this application were presented by the Manager Development Services to the DAP in August 2006 and additional feedback was obtained as follows:

- *The panel commented that the appearance is still rather basic, and again commented that the enclosure of the existing balconies could be opened-up (although the applicants wish to retain that space as internal).*
- *The panel also cautioned to ensure that any reduced parking would not result, whereby on-street parking congestion could occur.*
- *Overall, it was considered that the revised plans indicate a more acceptable scale and form of treatments to the existing apartment block, but that attention to detail is still required.*

The following individual comments from the DAP Members were also received in relation to the revised plans (summarised):

- *Finished floor levels of the subject site and the adjoining site to the east don't seem to match. (Site survey has now been provided).*
- *The front elevation has been much improved.*
- *Removal of the vertical supports for the balconies would provide greater transparency and less building bulk.*
- *Does the plot ratio comply?*
- *Do the rear balconies to Units 3 and 5 overlook neighbours to the rear?*
- *Has density increased? (Previous plans incorrectly showed 6 instead of 5 units).*
- *No problem with lift overrun being higher than the existing building.*
- *Colour elevation impressions do not match front elevation plans.*
- *Object to the use of steel columns and beams.*
- *The decks should be concrete tied to existing with no through columns. Columns restrict parking area and destroy the elevation.*
- *Roof over the top floor balcony is considered unnecessary as it could facilitate illegal closure later on.*
- *Perspective plans do not show the expanded garage/store, courtyards and bin store.*
- *Enclosure of balconies should not be allowed.*
- *Parking needs scrutiny.*
- *The proposal should work within the required front setback requirements.*
- *Parking in the street is at a premium so it is essential that all required parking is provided on site.*
- *The columns at the front of the development should be removed to provide for better/more parking.*

- *Privacy between adjoining balconies should be ensured as well as between neighbouring properties.*
- *Balconies may need specific fire rating.*
- *Improvement on previous plans*

BACKGROUND

The four storey block of five multiple units was built in 1960s. The ground level comprises of car parking with the upper three levels containing the five dwelling units. The original building had balconies at the front (facing south) of the upper three levels, which over the years have been enclosed with glazing, apparently to create more internal space and for weather protection.

A block of 18 units exists to the east and north of the property and other multiple dwelling developments are located nearby in Warnham Road and Overton Gardens, at both similar densities and greater height.

Recent planning approvals will see the redevelopment of the adjacent lot to the west for a two storey single residence and a two storey four unit development diagonally to the rear (Overton Gardens), both under construction.

Initially, a proposal to improve vehicular access, provide basement storage, construct triangular shaped balconies at the front of the building, possible changes to the roof form and install a lift was considered by the Design Advisory Panel (DAP) on 17 May 2006.

The Panel agreed that whilst it is desirable to maintain and upgrade the apartment building, the existing architectural qualities should be starting point for the design of the proposed alterations and additions, and the changes should be sympathetic to the streetscape and locality in general.

More specifically:

- *The balconies were considered to be too prominent and it was suggested that a softer design approach be taken that respects the cubist form of the building.*
- *The roof should remain as is rather than introduce a foreign form or increase height.*
- *The parking could be rearranged to be at right angles with the street and store rooms be provided behind.*

The applicant has embraced a number of suggestions made by the DAP which is reflected in this application for development approval. As previously listed in the "Submissions" section of this report, comments were again sought from the DAP.

STAFF COMMENT

Front Setback

Following a resolution at its meeting held on 28 October 2002, Council has generally required a front setback of 6m for residential development, although this is the base standard for R20 areas, whilst R30 and higher density areas normally allow for lesser setbacks.

The existing building is well set back from the front boundary at approximately 7.7m. There is no proposal to construct new walls to the building within the existing front setback, however, it is proposed to construct balconies on levels 2, 3 and 4 which are to be set back 4.5m, thus encroaching Council's preferred setback by 1.5m.

The balconies are to be open on three sides with glass balustrades, therefore, the structures are not considered to be solid and obtrusive in relation to the streetscape.

The Acceptable Development Standards of the Residential Design Codes allow for a 4m minimum front setback for an R40 Coded property and balconies may further encroach on this setback by up to 1m (i.e. 3m setback to balconies).

As the proposed reduced setback is only to the balconies rather than a solid wall and given that the new balconies will add to the amenity and architectural interest of the existing building, it is considered that the aspect from the street will not be adversely affected and, indeed, may be considered to be improved.

The proposed reduced setbacks to the balconies are therefore supported.

Side Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
West Ground Floor Level 1	New stores	1.1-3.4m	10.185 m	No	1.5m	0m
East Ground Floor Level 1	New Stores	1.1-3.4m	10.185 m	No	1.5m	0m
North Level 3	Rear Balcony Unit 3	5m	3.7m	Yes	2.3m	2.2-4.5m
West Level 4	Rear Balcony Unit 5	8.1-8.7m	2.9m	Yes	4-4.3m	3.8-6.9m
North Level 4	Rear Balcony Unit 5	7.5m	3.7m	Yes	3.5m	2.2-4.5m
West Level 4	Front Balcony Unit 5	11.2-11.6m	2.77m	Yes	7.1m	4.7m
East Level 4	Front Balcony unit 5	11.2-11.6	2.77m	Yes	7.1m	4.7m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.3.1 of the RDC states the following:

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

- *Provide adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with the protection of access to direct sun for adjoining properties;*

- *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.”*

As the setback variations mostly occur on the west and east sides, the north-south orientation of the lot means that access to sunlight for adjoining properties is not adversely affected. Variation to the rear setback on the north side has no effect on the adjoining property.

The proposed reduced building setbacks for most of the building are relatively minor in nature and therefore do not contribute to additional and unnecessary building bulk.

Due to the slope of the land up from the street, the parapet walls on the west and east boundaries for the stores (on the lower level) are gradually hidden below ground level so they do not have the same impact on neighbours as parapet walls fully above ground level. Parapet walls on other nearby properties in the street (including the single residence adjacent) are evident so are not out of character with existing development within the locality.

The setbacks to the new front balconies do not affect privacy as overlooking mainly occurs over the front setback areas of adjoining properties to the west and east and other areas of these properties which are visible from the street. The two rear balconies have the potential to impinge on the privacy of adjoining properties at No. 16-18 and No. 20 Overton Gardens, however, these balconies are small in usable area and are unlikely to be used excessively for active outdoor entertainment.

It is considered that all of the building setback variations comply with the Performance Criteria of the Codes and are supported.

Visual Privacy

The following privacy (cone of vision) setbacks of the proposed additions seek variation from the Acceptable Development standards of the Codes:

Room	Required	Provided
Living Room Units 3 and 5 on level 3 and 4.	6m to west side	3.2m to west side (existing setback).
Front balconies Units 1-5 on levels 2-4	7.5m to west side	4.7m to west side
Front balconies Units 1-5 on levels 2-4	7.5m to east side	4.7m to east side
Between front balconies for Units 1 and 2 on level 2	7.5m separation	2.68m
Between front balconies for Units 3 and 4 on level 3	7.5m separation	2.68m
Rear balconies Units 3 and 5 on levels 3 and 4	7.5m to west side	3.8-6.9m to west side
Rear balconies Units 3 and 5 on levels 3 and 4	7.5m to north side	2.2-4.5m to north side

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

“P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

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

There are existing windows to the living rooms of Units 1-5 on levels 2-4 with a privacy setback of 3.2m to the west side, instead of being set back at 6m in accordance with the Acceptable Development Standards of the Codes. It is proposed to increase the size of the glazing from approximately 2m² to 6m².

A two storey residence is currently under construction at No. 12 Warnham Road. There is no adverse effect on privacy of this new residence from the window at Unit 1 on level 2, as a proposed 1.8m high fence around the courtyard area in front of this part of the building will provide adequate screening. In addition, the eastern wall of the new house which faces the units at No. 14 Warnham Road has no major openings. Views from the new living room windows at Units 3 and 5 on level 3 and 4 will only overlook the roof of the residence at No. 12 Warnham Road, so no privacy issues will arise. The new living room windows comply with Performance Criteria of the Codes and are supported.

As previously mentioned, the front balconies mainly overlook the front setback areas of the adjoining properties to the west and east and other areas which are currently visible from the street. In this regard, the proposed front balconies comply with the Performance Criteria of the Codes and are supported.

The front balconies between Units 1 and 2 on Level 2 and the balconies between Units 3 and 4 on Level 3, were they designed as part of a whole new building, would under the Acceptable Development Standards of the Codes be required to be separated from each other by 7.5m. However, as additions to the existing building they are proposed to be separated by 2.68m, given the desire to create balconies but the design constraints. As these balconies are located at the front of the building they are clearly visible from the street, so will always be exposed and offer little real privacy, hence in this context it may be considered that they comply with the Performance Criteria of the Codes. In addition, the balconies are relatively narrow and due to the southerly aspect, are not expected to be used particularly frequently for lengthy periods of time. It is also considered preferential, from a streetscape amenity point view, not to provide screening between the balconies as a more open aspect will be maintained. The balconies as proposed, therefore, are supported.

The rear balconies for Units 3 and 5 are not particularly large in area (approx 5.4m²) and are triangular in shape. The views from these balconies are orientated in a north westerly direction. To the units they offer some relief and secondary amenity space, rather than being primary viewing platforms.

Approval was granted by Council earlier this year for four x two storey grouped dwelling at No. 14-18 Overton Gardens, which is to the north west of the subject property being redeveloped. There are no major openings on the walls of the adjoining proposed development at Overton Gardens. In addition, the height of the balconies would only allow for overlooking to occur over the upper section of a blank wall and roof of the adjoining development, therefore overlooking from the proposed balconies at Units 3 and 5 is not likely have any privacy impacts on the adjoining property at No. 14-18 Overton Gardens.

At No. 20 Overton Gardens, there is a 4 level block of units to the rear (north) which includes undercroft parking. The new balconies at the rear of Units 3 and 5 of the proposed redevelopment may have the potential to overlook bedroom windows on the south west corner of the adjoining block of units on levels 2 and 3.

Due to the orientation of the balconies and the distance between the balconies and the bedroom windows of the adjoining units (5m minimum), it is unlikely that privacy will be detrimentally affected (a plan is attached to the agenda showing the approximate location of the balconies in relation to the bedroom windows of the adjoining units). Any overlooking would be minor. In addition, given the size and irregular shape of the balconies, they are unlikely to be used for extensive periods of active recreation.

As such, the proposed rear balconies are considered to comply with the Performance Criteria of the Codes and are supported. It is also noted that the general context of the locality includes long-established medium density and medium rise apartment buildings with extensive views.

Open Space

The proposal provides a total of 54.8% open space on the ground level of the site, which is substantially more than the required 45% for R40 coded properties.

In addition, areas of private open space have been allocated to Units 1-4 on level 2 together with a common courtyard area for all 5 units. Private balconies have been provided for all units which also comply with the Acceptable Development Standards of the Codes and improves the lifestyle amenity of the residents.

Parking

A total of 10 parking bays have been provided on the site. Of these, 6 are as currently exist undercover, with the remaining 4 at the front of the property within the front setback area. A total of 2 bays are provided for visitors.

Parking provision complies with the Acceptable Development Standards of the Codes.

Manoeuvrability

The 6 undercover car bays are tightly located within the existing space and Council's Manager of Engineering Services has expressed some concerns regarding manoeuvrability. This is a given as this was previously approved and must be accepted.

Although not ideal, the parking situation is existing and has proven to be workable. The proposal also includes enlarging the existing garage entry which should assist in ease of access.

Bin Storage

Original plans submitted showed bin storage at the front of the property behind a low wall. This location was not considered to be ideal as the bins would have been visible from the street, unless a high screen wall was provided which would not be in-keeping with Council's Local Law for Front Fences. In addition, the bins could be viewed from the new front balconies and other properties.

Following liaison with the applicant, revised plans have now been provided showing two bin store areas located behind screen walls behind the 6m front setback line, which is considered suitable.

Air Conditioning Units

The applicant is mindful of the impact of the location of new air conditioning units in terms of noise and visibility, particularly given that a single residence is being constructed to the west and multiple dwelling units exist to the east and north.

Rather than locate the air conditioning units on the walls facing the adjoining properties or on the roof, it is proposed to locate them on the front balconies of each dwelling unit. This is a fairly common solution which is effective subject to careful location and screening.

This appears to be an appropriate solution as the air conditioning units provided that they will not be visible from the street, however, final location will need to be determined at the building application stage.

Height of Lift Shaft

The existing building is designed with a flat roof and parapet walls. While the scheme is not specific for height of such walls, the Residential Design Codes are a guide to Council, which provide a 7.0m standard for two-storey parapet walls, and Council has applied this in practice.

If a 7m height limit is applied to the natural ground level as determined by Council officers, the maximum wall height permitted would be 26.65m AHD. The existing building height is 30.28m AHD and pre-dates current height controls.

Although no additional storeys or changes to the roof line are proposed as part of this application, the installation of a lift will increase the overall building height by approximately 0.7m at this point.

The lift is to be located at rear of the building and will not be particularly visible from the street. In order for the mechanics of the lift to work, the shaft needs to be higher than the roof line in this instance. The DAP has raised no objections to the proposed lift shaft. The lift shaft is not considered to unduly affect aesthetics, views, air flows or solar access.

The lift shaft as proposed is, therefore, supported.

DAP Comments

A number of members of the DAP suggested the deletion of the four steel columns at the front of the building which support the new front balconies. The applicant has advised that due to existing construction, it is not practical to cantilever the balconies.

Cantilevering the front balconies may provide for a slightly preferred design, however, the costs associated with this to re-engineer the building would preclude this from being able to occur.

The columns are relatively narrow and non-intrusive and can be supported.

It has also been suggested by the DAP that enclosure of the new balconies should not be permitted to occur in the future. It is possible that owners may prefer to enclose their balconies for protection of the south westerly winds some time in the future, as has previously occurred at this property with original balconies. It is recommended that a condition be included in any approval to this application advising that Council would not support the future enclosure of the front balconies because of impacts on setbacks, bulk and scale and open space.

Most other suggestions and comments from the DAP have been incorporated into the proposal and generally the DAP is satisfied with the application.

CONCLUSION

Following liaison with Council Officers and the Design Advisory Panel this application to upgrade and improve the existing block of units at No. 14 Warnham Road has been submitted which addresses most of the design issues and concerns raised.

No increase of density is proposed. Some variations to building and privacy setbacks are proposed, however, these are not excessive particularly given that the proposal involves redevelopment of an existing building, which no longer complies with modern standards. Nonetheless, the variations satisfy Performance Criteria of the Residential Design Codes and can be supported accordingly.

A slight increase in height is proposed only for the new lift shaft, which needs to be higher than the existing roofline in order for the mechanics of the lift to operate. This will not be visible from the street due to the slope of the land and the location of the shaft being at the rear of the building.

It is noted that owners may in the future seek approval to enclose the new front balconies for protection from the south westerly winds, as this has occurred in the past with previous balconies. The applicant needs to be aware that future enclosure of these balconies is unlikely to be supported.

The proposal will improve the amenity of the streetscape and is typical of the improvements starting to occur on existing blocks of units of a similar vintage within Cottesloe.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee noted that the proposal was submitted to the Design Advisory Panel for comment which led to revised plans which were supported by the Panel as much better. The Manager Development Services advised that while particular DAP comments about roofing the top balconies and the support structure were acknowledged, visually the building could accommodate the smaller balconies without detriment to the streetscape, and the overall upgrade of the building is to be encouraged.

Cr Walsh suggested additional conditions for no roofs to the top of the balconies and no enclosure of the balconies, however, given the above advice and condition (n) this was not taken up by Committee.

AMENDMENT

Moved Cr Walsh, seconded Cr Strzina

That a new condition be added to the officer and committee recommendation as follows:

- (o) That the top floor balcony shall not be roofed.

Lost 4/5

11.1.2 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the Alterations & Additions to Existing Apartment Block at No 14 (Lot) Warnham Road, Cottesloe, in accordance with the revised plans submitted on 18 October, subject to the following conditions:

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

- (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) Air conditioning plant and equipment is to be installed so as to be screened from view from the street to the satisfaction of the Manager Development Services.
- (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (i) A suitable enclosure for the storage and cleaning of rubbish receptacles is required to be provided for the existing premises within the boundary of the property. Such enclosure is to be provided with:
 - (i) A tap connected to an adequate supply of water;
 - (ii) A floor area to the satisfaction of the Environmental Health Officer to accommodate all general rubbish and recycling receptacles used for the premises;
 - (iii) Smooth and impervious walls constructed of approved material not less than 1.8 metres in height;
 - (iv) An access way not less than 1 metre in width, or greater if bulk receptacles are used, fitted with a self-closing gate;
 - (v) Smooth impervious floor of not less than 75mm thickness, evenly graded and adequately drained; and
 - (vi) Easy vehicle access to allow for the collection of receptacles.
- (j) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (k) Any front boundary fencing to comply with the Town of Cottesloe's Fencing Local Law.
- (l) Revised plans being submitted at building licence stage for approval by the Manager Development Services showing:
 - (i) the provision of an open-air clothes drying facility for Units 1-4;

- (ii) the provision of an open-air clothes drying facility for Unit 5 or an alternative clothes drying facility;
 - (iii) details of lighting to pathways, communal spaces and car parking areas; and
 - (iv) a detailed landscaping plan for the proposed communal area located at the front of the property and the verge area immediately in front of the property.
- (m) Visitor car bays being clearly marked on the ground.
- (n) The new balconies shall remain as open structures at all times and shall not be enclosed in the future by any means including solid walls, screens, awnings, blinds or the like.

Carried 5/4

11.1.3 NO. 40 (LOT 1002) HAWKSTONE STREET – PROPOSED TWO STOREY RESIDENCE AND A SWIMMING POOL

File No:	40 Hawkstone Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission by applicant Submissions (3) Photos Plans
Report Date:	30 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	P & H Francis
Applicant:	Glenway Homes
Date of Application:	5 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	567m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a new two storey residence and lap swimming pool on the subject site.

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

PROPOSAL

On the ground floor, a garage, main bedroom, WIR, ensuite, WC, laundry, kitchen, dining, family and theatre room are proposed. An outdoor living area and lap pool open out from the family room.

On the upper floor, three bedrooms, three WIRs, two ensuites and an activity room is proposed. A staircase is proposed to link the two levels.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Ground east wall setback 1.5m.	0-2.4m	Clause 3.3.1 – P1
No 8 – Privacy	6m cone of vision setback activity room	4.8m cone of vision setback	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Surrounding Property Owners

Submissions

There were 3 letters sent out. There was 2 submissions received, which are objections. Details of the submissions received are set out below:

Matthew Crawford & Meredith Loik of 295 Marmion Street

- *Objects to the height of the parapet wall and non-compliance with the RDC*
- *Objects to the lap pool against the boundary and any possible implications for their property*

Ian & Penny McDonald of 299 Marmion Street

- *Objects to any pool machinery equipment being located near/ on the northern boundary*
- *Also asks that no air conditioning be located near or on the northern boundary*

BACKGROUND

The lot has been created as part of a subdivision which created three lots from two previously. These blocks have been levelled and the subject lot is currently vacant.

STAFF COMMENTOverall compliance

The dwelling complies with a majority of regulations. The building heights, most setbacks and privacy requirements are met subject to the aspects assessed and resolved in this report.

Boundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground east Wall	All	3.5m	24m	Yes	1.5m	Nil-2.4m

3.3.1 – Buildings Set back from the Boundary

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

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

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

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

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

This proposal is to have a nil setback to the side boundary for a garage, 1.8m for the theatre and 2.4m for the family and outdoor living areas. The RDC requires that this wall shall be considered as one whole wall whilst the only non-complying element is the garage setback. This is usually required to be setback 1m from the boundary if the garage was considered a separate entity or 1.5m as part of the entire length of the ground eastern wall.

However, the garage setback meets the Performance Criteria of the RDC as it makes an effective use of space. Whilst it has a small adverse effect on the amenity of the adjoining eastern property due to loss of sunlight, it does appear that the neighbouring property has cut slightly into this corner of its lot to create a level floor which has accentuated this situation.

The applicant has agreed to reduce the height of the parapet wall to RL 14.24 or 3.32m above the spot level of RL 10.92. Also the parapet wall can be reduced by 1m in length to 7.64m without impacting the upper storey. These reductions in height and length are welcomed and reduce any possible impact on the neighbouring eastern property. This variation is supported.

Privacy

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

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

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

Room	Required	Provided
Activity room	6m setback	4.8m setback

The proposal asks for a variation to the activity room's cone of vision setbacks. The proposal complies with the Performance Criteria of the RDC as the positioning of the windows mean that any overlooking would be at a large angle, the activity room faces north and any possible looking within the 6m cone of vision is to the western neighbour. This is only a small area of the cone of vision projecting into the neighbouring property and it should be noted the neighbours did not object to this minor variation.

Swimming pool & retaining wall

An objection was received in relation to the proposed below ground lap swimming pool against the eastern boundary. Council has no setback requirements for swimming pools. The neighbour objecting requested that structural details be given in relation to the boundary/ retaining wall and the adjacent swimming pool.

Structural details are generally given with receipt of the building licence and the applicant has guaranteed their works. Any structures in close proximity on the neighbours side, would have to be protected and this would again be addressed by the Structural Engineer. The building process provides for proper management of boundary construction techniques.

In addition, pools are permitted on the boundary.

It can also be assumed that any dividing fence adjacent to the swimming pool will meet pool barrier regulations. Dividing fences are not part of this planning application and details of pool barrier fencing shall be received with the building licence application.

Pool & air conditioning equipment

Any pool and or air conditioning equipment shall meet the requirements of the proposed conditions (e) and (j) below.

CONCLUSION

The issue of the garage parapet wall has been raised by a neighbouring property. Whilst the height of the parapet wall does not meet the Acceptable Development provisions of the RDC, the applicant has agreed to lower this height and reduce the length and any amenity loss should be minimal to the neighboring property.

The application meets a majority of RDC and Scheme requirements. It is recommended that the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee requested that condition (j) be amended and at the suggestion of the Manager Development Services condition (o) be added to address the lap pool on the boundary, along the following lines:

- (j) be amended to include reference to the pool plant being closer to the proposed dwelling rather than the neighbours.
- (o) The applicant to comply with the Building Codes of Australia when installing the lap pool and liaising with the neighbour prior to this being commenced.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) The pool pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.

- (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.

- (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (j) The pool pump and filter are to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
 - (o) The applicant complying with all necessary Building Code of Australia procedures and requirements in respect of construction of the lap pool up to the property boundary and liaising with the neighbouring owners accordingly.
- (2) Advise submitters of the decision.

AMENDMENT

Moved Cr Furlong, seconded Cr Walsh

That condition (j) be amended to read:

- (j) The pool pump and filter are to be located closest to the proposed dwelling rather than adjoining dwellings, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.

Carried 8/1

11.1.3 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Walsh

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence and Swimming Pool at No. 40 Hawkstone Street, Cottesloe, in accordance with the revised plans submitted on 18 September 2006, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.**
 - (g) Any front boundary fencing to the site being of an "Open- Aspect" design in accordance with Council's local law and the subject of a separate application to Council.**
 - (h) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.**
 - (i) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.**

- (j) The pool pump and filter are to be located closest to the proposed dwelling rather than adjoining dwellings, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (k) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (l) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (m) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation sewer.
 - (n) Revised plans being submitted for approval by the Manager Development Services with the building licence, showing the garage parapet wall not exceeding a height of RL 14.24m and not exceeding a length of 7.64m.
 - (o) The applicant complying with all necessary Building Code of Australia procedures and requirements in respect of construction of the lap pool up to the property boundary and liaising with the neighbouring owners accordingly.
- (2) Advise submitters of the decision.

Carried 9/0

11.1.4 NO. 25 (LOT 847) GRANT STREET – TWO STOREY RESIDENCE AND BELOW-GROUND SWIMMING POOL

File No:	25 Grant
Author:	Mrs Stacey Towne, Mr Andrew Jackson
Author Disclosure of Interest:	Nil
Attachments:	Location plan Photos Plans
Report Date:	25 September, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Deidre Best
Applicant:	Sharp and Van Rhyn Architects
Date of Application:	25 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	572m²
M.R.S. Reservation:	N/A

SUMMARY

An application has been received to demolish the existing two storey render and tile residence and construct a new two storey render and skillion roofed residence with below-ground swimming pool at 25 Grant Street.

Original plans showed some variations with regard to height, setbacks and landfill to which neighbours objected on the basis of the privacy, bulk and scale impacts.

Following liaison with the applicant, revised plans have been submitted addressing most of the concerns raised. A small portion of the building still exceeds Council's height limit, however, the building has a staggered alignment (not a box design) and falls in height in relation to the slope of the land, being stepped down the lot. It is recognised that there is some degree of difficulty complying with height requirements due to the levels of the subject site, and that in some ways the proposed design would have a lesser impact than a complying house with a 6m wall height and an 8.5m pitched roof design.

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

PROPOSAL

The proposal includes:

- Demolition of the existing two storey residence and high masonry front fence.
 - A ramp down to a basement garage, store and cellar.
 - Ground level comprising of a sitting room, dining room, kitchen, lounge, bathroom, laundry and alfresco area.
-

- Upper level comprising of front and rear balconies, main bedroom with ensuite, study, three other bedrooms, bathroom, toilet and activity room.
- Below-ground swimming pool.
- Landfill at the rear of the site at approximately 0.5m, with a minor portion at 0.6m maximum.
- New open aspect front fence.

URBAN DESIGN CONTEXT

Comparatively, the proposal is a quality architectural design which responds fairly well to the constraints of the site and the surrounds and has the following attributes:

- True two storeys.
- Does not force the garage onto the street.
- Simple lines echo the existing square dwelling and reflect the geometric form and mass of the adjacent *Bel Air* landmark.
- Layout makes effective use of the odd-shaped lot.
- Setbacks are essentially respectful of neighbouring dwellings and allow breathing space between buildings with only one parapet wall.
- Sustainable design utilises northern orientation and cross-ventilation.
- Slim-line roof and indented side and rear elevations ameliorate bulk to the neighbours.

Nonetheless, the proposal must undergo assessment against the planning parameters and any neighbour comments before being determined, as set out in this report.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	7m wall height (parapet with skillion roof)	6.17-7.87m as agreed (only a small portion at the front of the house is over 7m)

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Setback from the ground floor parapet to the western side boundary – 1m	Nil	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Setback from the upper floor study/ensuite/balcony to the western side boundary – 1.8m	1.5-2.5m	Clause 3.3.2 – P1
No 3 – Boundary Setbacks	Setback from the upper floor 2 beds/bath to the eastern side boundary – 1.7-1.9m	1.8m	Clause 3.3.2 – P1
No. 6 – Site Works	Filling behind the front setback and within 1m of a common boundary not exceed 0.5m above natural ground level.	Small section on west side up to 0.6m.	Clause 3.6.1 – P1
No. 6 – Site Works	Retaining wall more than 0.5m high to be set back 1m from boundary.	Small section (less than 1m long) on west side up to 0.6m high with nil setback.	Clause 3.6.1 – P2
No 8 – Visual Privacy	Setback from the bedroom window to the west side 4.5m	2.7m to the west side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the bedroom window to the east side 4.5m	2.7m to the east side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the rear balcony to the east side 7.5m	5m to the east side	Clause 3.8.1 – P1
No 8 – Visual Privacy	Setback from the rear balcony to the west side 7.5m	5m to the west side	Clause 3.8.1 – P1

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of a letter to Adjoining Property Owners

Submissions

There were 7 letters sent out. There was one submission received, which was an objection. (Please note the objection relates to the original plans submitted, which have now been revised). Details of the submission are set out below:

Submission 1 - No. 23A Grant Street - Woodhill

- *The building appears to be 1.32m above what is permitted under the Codes. How was NGL calculated?*
- *Retaining walls exceed 0.5m within 1m of the common boundary.*
- *Landfill is proposed greater than 0.5m (0.60-0.65m).*
- *Privacy setbacks from front and rear balconies do not comply (3m to east and 3.5m to west shown, 7.5m required) which affects our garden and outdoor entertainment area.*
- *Privacy setback from upper bedroom on the western side does not comply (2.7m shown, 4.5m required).*
- *Privacy setback from study on the western side does not comply (1.7m shown, 6m required) and will overlook our dining area and outdoor entertainment area.*
- *Due to the additional height due to infill and design, the window to the stairs on the western side will overlook our dining room. The plans show a 3.1m set back whilst 6m is required.*
- *Setbacks lower floor on the western side should be 1.5m, however, the plans only scale the setback at 1.2m.*
- *The bulk of the building will have great impact on our property. The bulk is noticeable because our block is narrow and most of our natural light source comes from the east, much of our living/entertainment areas are on the east side of our house where we spend most time; and is exacerbated by the level of land fill proposed which increases height.*
- *The height and length of the parapet wall is unnecessary and overwhelming.*

- *Our amenity will be severely affected by the number of variations being sought.*
- *We request that the architect for 25 Grant Street submit elevations (to scale) from the west, north and south of the proposal showing the relative heights of 25 Grant Street and our home at 23A Grant Street.*
- *Our architect's advice on this matter is to object to overall height (clarification of NGL required); the height of the parapet wall, landfill and overlooking issues that arise from this; upper storey overlooking and overlooking from the stairs window (could be overcome by blinds, obscure glass, landscaping or similar).*

In response to the submission and following Officer liaison, the applicant has provided amended plans which now address many of the issues raised. The applicant has written as follows (summarised):

- *Calculating natural ground level at the centre of the site by using the four corner method, results in a level of 24.63m. This is approximately 1m below footpath level as the site slopes away from the street (i.e. underground on the site). We therefore propose that building heights be measured from NGL directly related to the wall or roof above, as per R Codes. We have attempted to design a building where floor levels are stepped down the site and the roof line follows the contours in order to minimise building height.*
- *Basement garaging has been proposed to avoid imposing garage doors on the narrow frontage. Our revised submission has reduced the main floor level and associated fill thus reducing the height of boundary retaining walls and avoiding overlooking from ground floor windows. The main floor level is now close to natural ground level and only 100mm higher than the floor level of the existing house.*
- *Front balcony - Privacy screens and translucent glass now provided.*
- *Rear balcony – Privacy screens reduce overlooking and large mature trees to the east prevent views.*
- *Bedroom 4 – We seek a variation for this privacy setback from this minor room.*
- *Study – Revised plans now show translucent glass to prevent overlooking.*
- *Lower Living Room – Revised plans now show a reduced finished floor level, therefore the privacy setback is no longer required.*
- *The front fence is to be 900mm solid with open steel railing above. Some solid sections at the side are proposed.*
- *We have reduced the building height and floor levels with associated fill which will reduce the impact of the building on the neighbours. The stepping down of floor levels and the roof line following the site contours is a conscious design decision to reduce the impact of the building on neighbours and comply with the town planning scheme requirements. A traditional roof pitch would result in an even higher building. (The applicant has provided a sketch showing the greater impact from a pitched roof. This is attached to the agenda).*
- *The west parapet wall has been reduced in length to match the existing garage parapet adjoining.*
- *The courtyard has been positioned to the east to take advantage of climatic elements, as have the neighbours adjoining. This means that the courtyards are further away from each other.*
- *We propose to plant screen trees to reduce overlooking from the stairs window.*

Subsequently, the neighbours at No. 23A Grant Street viewed the revised plans and in discussion with s requested further clarification and consideration on a number of matters including levels/height, the proposed western parapet wall and privacy.

Following further Officer liaison, the applicant has agreed to the following additional changes (revised plans can be required as a condition of approval):

- Provide obscure glazing to the stairs window instead of landscaping to improve privacy (Note: this is a goodwill gesture as it is not a requirement of the RDCs as Privacy from this window currently complies).
- Provide obscure glazing to 1.65m to the widow to the bedroom on the upper west side.
- Rationalisation of the parapet wall on the western boundary so that, for the most part, the height corresponds with the existing wall on the adjoining neighbours' property and is only higher where the entrance is located.
- The finished level for the ground floor being lowered approximately 100mm to equate to the finished floor level of the residence currently existing on the property. This will also reduce the overall height of the building by 100mm (to between 6.17-7.87m).

It is considered that the above changes will assist the adjoining neighbours and addresses the impacts previously identified as well as assist streetscape.

BACKGROUND

No. 25 Grant Street is 572m² and zoned Residential R20 (a single residential property). The lot is an irregular shape as it narrows at the rear on the western side.

The land is basically flat at the front, however, it slopes down by approximately 1.5m from the middle of the site to the rear.

A two storey residence currently exists on the site. A two storey block of 4 units is located to the east (Bel Air) and a two storey single residence is located to the west.

STAFF COMMENT

Side Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
East Upper Level	2 bedrooms and bathroom	6.5-7.2m	13m	Nil	1.7-1.9m	1.8m
West Ground Level	Parapet	3.5-3.6m	6.7m	Nil	1m	Nil
West Upper Level	Study/ensuite/balcony	6.5m	12.5m	Nil	1.7m	1.5 – 2.5m

As the proposed side boundary setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.3.1 of the RDC states the following:

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

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

Due to the north-south orientation of the lot, the setback variations do not affect adjoining properties in terms of access to sunlight. The reduced setbacks proposed all involve minor variations and are not considered to affect adjoining properties in terms of bulk. No direct overlooking of active habitable spaces will occur as a result of the reduced setbacks.

In most instances the departures are small and in some instances the minimum setback is actually partially exceeded. The proposed setback variations, therefore, comply with the Performance Criteria of the Codes and are supported.

Privacy

The following privacy (cone of vision) setbacks of the proposed additions seek variation from the Acceptable Development standards of the Codes:

Room	Required	Provided
Bedroom	4.5m to west side	2.7m to west side
Bedroom	4.5m to east side	2.7m to east side
Balcony (Upper Rear)	7.5m to east and west sides	5m to east and west sides

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

“P1 Avoid direct overlooking between active habitable spaces and outdoor living areas of the development site and the habitable rooms and outdoor living areas within adjoining residential properties taking account of:

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

Overlooking from the upper bedroom windows to the east and west is minor. As both of these windows face south, overlooking is not direct and the small areas affected by the overlooking are not active habitable spaces or windows to habitable rooms.

Screening of the east and west sides of the balcony as well as a portion of the south side greatly restricts viewing.

The neighbours to the west, however, have expressed concerns regarding privacy from the south-facing window of the upper bedroom on the west side. Following Officer liaison, the applicant has now agreed to provide obscure glazing to this window to a height of 1.65m. This is recommended to be imposed as a condition.

The overlooking from the rear balcony and bedroom windows comply with Performance Criteria of the Codes and are supported as proposed. In these ways the proposal avoids serious overlooking and applies appropriate screening in accordance with the requirements of the Codes. In addition, the neighbours to the west are satisfied that the screening will provide sufficient privacy in this instance as no balcony and a large window would be more exposed.

Bulk

Concerns raised by the neighbours in terms of overall general building bulk have been addressed by the changes to the original plans.

The residence has been designed such that the building line is staggered along the boundaries, rather than being constructed as a square box. By having indents along the boundaries for courtyards and open space, the impact of bulk is greatly reduced. The building is also designed at varying levels to correspond with the natural lay of the land. This results in the height of the building also varying along the length of the lot, rather than it being a single horizontal form.

It is noted that the neighbours to the west have expressed concerns regarding the bulk of the proposed residence. The main living area of the neighbours' residence is at single storey level at the rear of the house. It is likely that any new two storey development at No. 25 Grant Street would be likely to create a sense of "bulk", particularly after being able to enjoy the feeling of space currently experienced.

In relation to the amended plans, the length of western parapet wall on the common boundary has been reduced to match the length of the parapet wall on the property adjoining at No. 23A Grant Street, the setback of the lower storey on the western side has been increased, retaining walls and landfill have been reduced and the overall height of the building has been lowered.

Whilst the neighbours to the west commended the reduced length of the parapet wall, they still expressed some concerns in relation to its height. As a result of Officer liaison, the applicant has agreed to further amend the plans to rationalise this wall such that it is lowered to match the height of the neighbours' parapet wall for the most part and that it only be raised higher in one smaller section to accommodate the new entrance area. This will result in an improved streetscape presentation as well as lessening the impact of bulk on the neighbours. It is recommended that a condition be imposed to address this.

These changes have reduced the impact of bulk on the neighbouring properties to an acceptable standard. These are worthwhile improvements to lessen the effect of introducing a new dwelling into an established area.

Height

The building is designed with a skillion roof and parapet walls. While the Scheme is not specific for height of such walls, the Residential Design Codes are a guide to Council, which provide a 7.0m standard for two-storey parapet walls, and Council has applied this in practice.

Clause 5.5.1(a) of Town Planning Scheme No. 2 states that Council will not regard as a storey, undercroft space where (amongst other things) that space is not higher than 1m above the footpath level. The proposal includes cutting into the front of the site to provide access to basement car parking, store and cellar. The height of the undercroft complies with requirements of Clause 5.5.1(a).

There are some difficulties involved with determining a figure for natural ground level from which to measure general building height.

Clause 5.5.1(c) of Town Planning Scheme No. 2 generally states that natural ground level should be measured at the centre of the site. It is difficult to calculate the natural ground level at the centre of the site because of the presence of existing development. Averaging the existing levels of the four corners of the site, however, results in a measurement of 24.63m AHD. This approach is supported by Council guidelines.

If a 7m height limit is applied to the natural ground level as determined by Council s, the maximum wall height permitted is 31.63m AHD.

The most recent revised plans shows the majority of the proposed building falling within the 31.63m AHD height limit, however, a small section at the front of the residence is 32.6m AHD (i.e. 0.97m over height in this section).

It is noted that the neighbours to the west have expressed concerns in relation to the building being over height in this respect.

Following Officer liaison, however, the applicant has stated that he is able to further reduce the finished level of the ground floor by 100mm to equate with the finished ground floor level of the existing residence on the site. This would mean that the residence would be up to 32.5m AHD (i.e. 0.87m over height in one section).

It is noted, however, that the actual height of the building measured at the front would only be 6.9m above ground level at that particular point on the ground, which is less than the 7m standard and lower than an 8.5m high pitched roof.

Because of the style of the house and the desire to have an undercroft garage rather than a garage at the front of the residence, it is not possible to further drop the finished levels and maintain acceptable access gradients to the undercroft area.

The parapet wall / hidden roof has been designed to have a lesser impact than a pitched roof development and, as previously mentioned, the applicant has provided a sketch showing the greater impact from a pitched roof (attached to the agenda).

There is discretion within TPS2 in terms of the height provisions being expressed as a general policy and that Council may consider the circumstances and merits of each

case. Variations may be considered in relation to topography and extensions to buildings. Specifically, Clause 5.1.1(c) states that Council can consider granting a variation to building height requirements in particular cases where natural ground forms indicate that a variation is warranted provided that the amenity of neighbouring areas is not unreasonably diminished. The test of height is tied to privacy, views and amenity. The scheme also refers to overshadowing and air flows.

It is considered that the height variations would not adversely impact on the streetscape or the amenity of adjoining neighbours. Furthermore, flat or skillion roof forms exist nearby in new approved dwellings in Grant Street as well as to Bel Air which has a bold parapet facade.

Given that only a small section of the residence does not comply with the height requirements of the Scheme, that the majority of the residence does comply and that amenity is not adversely affected, the height of the building with a further 100mm reduction is supported. A condition to impose this is recommended accordingly.

Front Fence

The existing fence within the front setback is of solid construction to height of approximately 1.8m along the front boundary and on the east and west sides.

Council's Local Law generally requires fences in the front setback to be of open aspect construction where it is above 0.9m, to a maximum height of 1.8m.

This application proposes to improve the existing front fence and increase visual permeability by bringing it into line with Council's Local Law requirements. The front fence will generally be solid to 0.9m with open aspect railing above to 1.8m and is supported as proposed. This is a positive contribution to the streetscape.

Open Space

The proposal complies with the Acceptable Development Standards of the Residential Design Codes with regard to open space provision.

Land Fill

Where the land slopes down at the rear of the property, it is proposed to provide fill to raise the ground level by up to approximately 0.5m. There is a small section where fill is proposed at 0.6m. The Acceptable Development Standards of the codes only allows for fill up to 0.5m above natural ground level.

As the proposed landfill does not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.6.1 of the RDC states the following:

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

Most of the landfill proposed complies with the Acceptable Development Standards of the Codes, however, the small section where the fill is proposed at up to 0.6m maximum is minor and can not be seen from the street or from the adjoining property. The original plans have been amended to show the reduced landfill as proposed.

The proposed fill complies with the Performance Criteria of the Codes and is supported.

Retaining Walls

Walls to retain the proposed landfill are shown with nil setback constructed on the east, west and south boundaries. The setbacks for these retaining walls comply with the Acceptable Development Standards setback requirements of the Codes with the exception of a small section (less than 1m length) of wall on the western side boundary.

Acceptable Development Standards of the Codes allow for retaining walls of up to 0.5m to be situated on the boundary. The proposal shows a section of the wall being up to 0.6m high on the boundary.

As the proposed retaining wall setbacks do not comply with the Acceptable Development Standards, consideration under the Performance Criteria is required. Performance Criteria Clause 3.6.2 of the RDC states the following:

“Retaining walls designed or set back to minimise the impact on adjoining property.”

The retaining wall of the height proposed is to allow for raising of the ground level of the approach to the entrance to the new residence. A common boundary fence of 1.8m over the retaining wall will ensure that privacy is maintained between the two properties.

Given that the variation is minor and no adverse impacts will be made on the adjoining property to the west, the retaining wall is supported as proposed.

CONCLUSION

The proposal involves some relatively minor variations to the Acceptable Development Standards of the RD Codes in relation to setbacks, privacy, landfill and retaining walls. All variations are considered to be quite minor with minimal impacts on amenity and as they are considered to comply with the Performance Criteria of the Codes, are supported.

The proposal does not fully comply with the overall height requirement of the Scheme. The skillion roof which is highest at the front of the building exceeds the 7m height limitation by up to 0.97m from natural ground level in a small section. The excess of height in this location is not considered to be detrimental to the streetscape or the adjoining neighbours and is an integral part of the contemporary design of the residence. Given that a pitched roof may have a greater impact than what is proposed and given that the height variation is only for a section of the building, the height as proposed is supported in this instance.

A number of aspects initially raised by Council Officers and neighbours have been addressed by the submission of amended plans. Officer liaison with the neighbours and architects has achieved a number of design revisions to address neighbour concerns in particular and the planning parameters generally.

Therefore, on this overall basis it is assessed that the design suits the context of the locality and that the technical and amenity aspects of the Scheme and Codes have been satisfied through the revisions, and for these reasons the proposal is supported.

Finally, it is advised that the western neighbours have lodged a further letter dated 15 November 2006 elaborating on their concerns in relation to the proposal, albeit revised. This letter, together with Officer comments, will be circulated to Councillors with the agenda and should be read in conjunction with the report.

VOTING

Simple Majority

COMMITTEE COMMENT

That conditions (h) and (l), regarding air-conditioning and pool plant respectively, refer to this equipment being closest to the proposed dwellings.

That the following condition be added:

(p) The building being lowered at the front to comply with the 7m wall height.

Cr Furlong moved the officers' recommendation and that the minor amendments to conditions (h) and (l) be included.

This recommendation was passed by Committee with Cr Furlong using his casting vote.

DECLARATION OF INTEREST

Cr Ian Woodhill declared a proximity interest in this matter and left the chamber at 7.43pm, did not participate in the debate and did not vote.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Residence and Below-Ground Swimming Pool at No 25 (Lot) Grant Street, Cottesloe in accordance with the revised plans submitted on 19 October 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the

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

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, and be approved by the Manager, Engineering Services or the authorised officer.
- (f) The existing redundant crossover in Grant Street being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (h) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) The screens to the upper front and rear balconies being a minimum of 1.65m high from the finished floor level and visually obscure in accordance with the Residential Design Codes and to the satisfaction of the Manager Development Services.
- (j) Revised plans being submitted for approval by the Manager of Development Services, showing:
 - (i) The south facing window to the upper single bedroom being modified to prevent overlooking into the adjoining property by being constructed of fixed obscure glazing or screening to a height of at least 1650mm above the FFL.
 - (ii) The finished floor levels and the overall height of the proposed development being reduced a further 100mm.
 - (iii) The parapet wall to the western boundary shall not exceed the height of the adjacent parapet wall to No. 23A Grant Street, except for a section forming part of the entry hall to the dwelling. The redesign of the entry hall should limit the extent of the higher parapet wall sufficient for the structure of the dwelling, and

should optimise the extent of the lower parapet wall flanking the entry hall to the front and rear.

- (k) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (l) The pool pump and filter are to be located as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (m) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
 - (n) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (o) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation
- (2) Advise the submitters of this decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Residence and Below-Ground Swimming Pool at No 25 (Lot) Grant Street, Cottesloe in accordance with the revised plans submitted on 19 October 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, and be

- approved by the Manager, Engineering Services or the authorised officer.
- (f) The existing redundant crossover in Grant Street being removed, the verge, kerb and all surfaces made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
 - (g) The applicant complying with the Town of Cottesloe – Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (h) Air conditioning plant and equipment is to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (i) The screens to the upper front and rear balconies being a minimum of 1.65m high from the finished floor level and visually obscure in accordance with the Residential Design Codes and to the satisfaction of the Manager Development Services.
 - (j) Revised plans being submitted for approval by the Manager of Development Services, showing:
 - (i) The south facing window to the upper single bedroom being modified to prevent overlooking into the adjoining property by being constructed of fixed obscure glazing or screening to a height of at least 1650mm above the FFL.
 - (ii) The finished floor levels and the overall height of the proposed development being reduced a further 100mm.
 - (iii) The parapet wall to the western boundary shall not exceed the height of the adjacent parapet wall to No. 23A Grant Street, except for a section forming part of the entry hall to the dwelling. The redesign of the entry hall should limit the extent of the higher parapet wall sufficient for the structure of the dwelling, and should optimise the extent of the lower parapet wall flanking the entry hall to the front and rear.
 - (k) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (l) The pool pump and filter are to be located away from the boundary with adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
 - (m) Wastewater or backwash water from swimming pool filtration systems shall be contained within the boundary of the property on which the swimming pool is located and disposed of into adequate soakwells.
-

- (n) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
 - (o) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation
- (2) Advise the submitters of this decision.

11.1.4 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 25 Grant Street to allow more time for the applicant to address the concerns raised, and that Council DEFER the item accordingly for a future report from officers.

Carried 8/0

Cr Ian Woodhill returned to the chamber at 7.44pm.

11.1.5 NO. 43 (LOT 49) CURTIN AVENUE – ADDITIONS TO A TWO STOREY RESIDENCE INCLUDING THIRD LEVEL LOFT, PLUS NEW CARPORT

File No: 43 Curtin Avenue
Author: Mr Lance Collison / Mr Andrew Jackson
Author Disclosure of Interest: Nil
Attachments: Location plan
Correspondence from applicant (2)
Submission (1)
Photo
Plans
Report Date: 3 November, 2006
Senior Officer: Mr Andrew Jackson

Property Owner: Justin Davies & Angela Quin

Applicant: as above
Date of Application: 26 September, 2006

Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R30
Lot Area: 372m²
M.R.S. Reservation: N/A

SUMMARY

Council is in receipt of an application for additions to a two storey residence including a third level loft within the roof space as well as a new carport on the subject site.

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

PROPOSAL

On the ground floor internal alterations and a bedroom addition are proposed. Externally on the ground floor a double carport, an ornamental pond and a 2.2m side boundary screen wall are also proposed. The rear garage is to be removed.

On the first floor, internal alterations as well as two new balconies, a pergola and an open kitchen/living/dining area is proposed.

On the new roof space level a study, ensuite, master bedroom and balcony are proposed. Two staircases are proposed to link the three levels.

URBAN DESIGN CONTEXT

The site is at the southern end of Cottesloe in an area characterised by small lots and narrow dwellings, including some unique architectural expressions of generally modernist aesthetic featuring curved, angular and flat roof forms. The dwellings are accessed by a service road alongside Curtin Avenue so do not present as a

conventional streetscape opposite other dwellings, but rather their interrelationship is confined to adjacent dwellings.

Also in this case, the built-up lots, solid high fences and closeness of dwellings create a dense urban environment where there are more mutual amenity impacts between dwellings than on larger lots. Several new dwellings and major renovations are underway, with ageing housing stock being replaced or refreshed. The opportunity afforded by the older, basic dwellings to be transformed into contemporary homes of today's standards and to take advantage of views can be appreciated, as with this proposal. How this design approach is assessed against the relevant planning parameters is set out below.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	Maximum 6m wall height and 8.5m roof height.	7m effective wall height southern elevation; 8.5m effective wall and roof height, north, west and east elevations.

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	1.5m setback, ground north wall	1m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	1m setback Carport side boundary	nil	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	2.7m setback Upper north wall	1m setback	Clause 3.3.1 – P1

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	4.7m setback Balcony to stair	0.8m to 0.95m setback	Clause 3.3.1 – P1
No 3 – Boundary Setbacks	4.7m setback, North loft level wall	3m setback	Clause 3.3.1 – P1
No 8 – Privacy	4.5m setback for a bedroom	1m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m from a kitchen	1m setback	Clause 3.8.1 – P1
No 8 – Privacy	6m from a study	3m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	1.8m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	4.3m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	2m setback	Clause 3.8.1 – P1
No 8 – Privacy	7.5m from a balcony	4.4m setback	Clause 3.8.1 – P1
No 9 – Design for Climate	Maximum of 35% overshadowing	47% overshadowing	Clause 3.9.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. There was 1 submission received, which was an objection. Details of the submission received are set out below:

Paulla & Gavin Abrahams of 41 Curtin Avenue

- *Objects to overshadowing not complying with Council regulations*
- *Their entry on the northern boundary requires light to prevent moss/ mould on pavers*
- *Says a clothesline would be affected by overshadowing*
- *Concerned that a loss of heat and light into their rooms on northern side will mean lighting and heating needed*
- *Concerned house will tower over all other houses*
- *Requests the roof to look like a roof*
- *Requests roof comply with regulations*
- *Requests that overlooking is not possible into the rear swimming pool area and that existing overlooking should not be allowed to increase*
- *Objects to 2.2 metre wall on northern boundary*

BACKGROUND

An existing 1960s two storey residence exists on the residence. The residence is elevated above street level. A driveway leads to the house but currently offers no undercover parking.

The intention is to recycle this existing dwelling stock by renovation, which is a noticeable trend in this part of Cottesloe where older cottages or rudimentary beachside houses warrant upgrading. The proposal seeks to optimise the new home in the context of the neighbourhood and locality.

STAFF COMMENTBuilding Heights

Clause 5.1.1 of TPS2 guides height control and the core provisions applicable to this proposal are as follows:

- (b) *Specific Policy*
(ii) *Residential Zone*

The maximum building height shall be two storeys except that Council may permit a third storey to be located within the roof space of a dwelling provided that the development complies with the maximum wall and roof height provisions stipulated at paragraph (c) of this clause and also provided that in, Council's opinion, the dwelling will retain the appearance of a two storey dwelling and will not adversely affect local amenity. (etc)

- (c) *Measurement of Building Height*

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

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

Variations may be permitted in the case of extension to existing buildings.

The key aspects here are:

- A true third storey or level may be allowed (it does not have to be a mezzanine, loft or attic, which are not mentioned) but must be located within the roof space.
- The provisos are that the maximum wall and roof heights stipulated for two-storey development must apply; that Council considers the dwelling will look like a two-storey dwelling; and that Council considers local amenity will not be adversely affected.
- Variations may be permitted for extensions to existing buildings.
- The Council discretions in these provisions are: the permission to have a third storey; the appearance of the roof; the assessment of amenity; and the flexibility for extensions.
- The non-discretionary aspects are the requirement for the third storey to be in the roof and the height limits.
- The Scheme does not elaborate on any detail of or criteria for these discretions, such as the roof shapes, so there may be a variety of design approaches.
- The Scheme does not explain in what way discretion may be allowed for extensions, so this is also open to various design solutions.
- Note that the Scheme also allows discretion in height by reason of topography, but that is not applicable in this case.

Over the years Council has aimed to apply these height provisions reasonably and has been able to accommodate a small number of dwellings with third levels contained within their roof spaces, while the roof forms have varied. Examples are: 174 Little Marine Parade (French chateau mansard-style roof); 184 and 186 Little Marine Parade (curved roofs); 244 Marine Parade (barn-type roof). At the same time, emerging contemporary architecture around Cottesloe includes a number of other curved roofs (eg: 16 Margaret Street, dwellings on western side of Hamersley Street, and 3 Curtin Avenue not far from the proposal), while some lofts have been allowed in conventional roofs (eg: 9 Geraldine Street). A further example of this theme is the current proposal for 9 Grant Street.

In terms of the wall and roof height measures, it is apparent that the crown of the roof can be easily determined for a range of roof forms, whereby a third level can be achieved. Experience is that wall height, however, has had to incorporate some design freedom. Most commonly, any gable-ended roof equates to a greater wall height to the apex, which is a typical residential design feature and is generally not an issue or disputed as allowable. In other words, it would be unduly restrictive to accept only pitched roofs with no gables as satisfying the wall height, so that all dwellings looked the same with hat-like roofs. Moreover, in considering parapet wall / flat roof designs greater wall heights have been allowed in accordance with the RD Codes provision. Therefore, with respect to the range of roof designs put forward, the differentiation or transition between the walls and the roof of a dwelling has required some judgement in relation to form, function, appearance and amenity.

Turning to the proposal, the wall heights do not automatically conform to the 6m standard, as they are designed with a curved roof, however, the applicant and designer have conceived the design to house the third level within the roof space. The south elevation wall starts to curve at a height of 7m above natural ground level on the boundary. The effective maximum wall heights for the remaining three elevations are 8.5m from natural ground level where they meet the crown of the roof, and that height complies with TPS2.

To help assess this proposal, in addition to the properties identified above, comparison may be made with more recent planning applications for two storey dwellings with third levels in their roof spaces. In May 2005 Council approved a third level of 49sqm atop a two storey dwelling for 2/1 Pearse Street, which had walls slanted to appear as part of the overall roof structure. In February 2002 Council approved greater wall heights for a dwelling with a third level in the roof space at 186 Little Marine Parade. Like the proposal, this is an east-west lot which overshadows the southern neighbouring property and the curve of the roof for the third level on one elevation is very similar to this proposal.

Given all of this analysis, it is assessed that the southern elevation wall height be limited to a maximum of 6m (RL of 30.77), from which point the roof shall begin curving to a maximum height of 8.5m (RL of 33.27). This will comply with the Scheme standards and mean that the dwelling appears as a two storey dwelling from the neighbouring southern property.

The remaining walls to the other elevations are setback further from the boundaries and are vertical. To begin with, the eastern wall for the roof space level is setback further from the northern boundary than the ground and second floor levels, which have setbacks of 3m and 1m respectively. To the eastern (street) elevation the roof space level is setback an additional 7.3m behind the ground and second floor levels, amounting to a large setback of some 20m from the front boundary. In this way the effect of the third level is not only to be contained in the roof space but also to recede from the boundaries and to be the lesser element of the overall building bulk and scale.

On the western elevation the roof space level wall is setback in line with the second floor level (apart from the second level balcony which is closer to the western boundary). The setback from this boundary is 6.7m to the roof space level balcony and the immediate adjacent property is a Right of Way rather than a residential neighbour. The effect of these walls in themselves is assessed as insignificant, however, if they are considered to appear more like a third storey, then they could be sloped slightly inwards to create the impression of a roof form, and perhaps even clad so as to represent the roof structure to the building.

Regarding the criterion that the roof space level will not adversely affect local amenity, as the roof space contains a study, bedroom, balcony and bathroom its use can be considered low-key. The balcony is not considered to be an entertaining area due to its small size and remote location as it can be accessed only through the master bedroom. As the rooms at this level are non-entertaining rooms noise will not be an issue. Overall privacy is further assessed in a separate section below.

Regarding other amenity aspects, the overshadowing does not meet the Acceptable Development provisions of the RDC, as discussed in a separate section below. However, by limiting the southern elevation wall height to 6m then curving the roof, it is considered that the overshadowing effect of the proposed roof form will be not too dissimilar from a dwelling with ordinary walls 6m high and a traditional pitched roof 8.5m high.

Boundary Setbacks

The following side boundary setbacks of the proposed new additions don't comply with the Acceptable Development standards of the RDC:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground North Wall	All except carport	3m	15.5m	Yes	1.5m	1m
Ground north wall	Carport	3m	6m	N/A	1m	Nil
Upper north wall	All	6.5m	21m	No	2.7m	1m
Upper South Wall	Balcony 2 stair	6m	19m	Yes	4.7m	0.8-0.95m
Roof space North Wall	All	8.5m	12m	Yes	4.7m	3m

Therefore, the setback variations are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC, which are:

3.3.1 – Buildings Set back from the Boundary

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

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

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

This proposal is to have a 1m setback for the ground north wall to the side boundary. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC as it makes an effective use of space. There are no adverse impacts and the proposal simply extends the existing wall.

The upper north wall is proposed to be setback 1m where 2.7m is required under the Acceptable Development Provisions of the RDC. The proposal will still allow direct sun and ventilation to the building and adjoining properties. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway. The proposal does not impact the direct sun on the neighbouring northern property. It can be argued that the proposal does not ameliorate the impacts of building bulk on adjoining properties however as there are no major openings in this wall, it assists in protecting privacy between adjoining properties. The setback variation generally meets the Performance Criteria of the RDC.

The upper south wall is proposed to be setback from 0.8 to 0.95m, whereas 4.7m is required under the Acceptable Development Provisions of the RDC. The proposal will reduce direct sun to the southern adjoining property. However, several of these windows on that property are obscure glazed and already receive reduced light. The proposal will provide adequate ventilation to the property and its neighbours. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway.

It can be argued that the proposal does not ameliorate the impacts of building bulk on adjoining properties, nevertheless the neighbouring southern neighbour has a long two storey wall on their northern boundary. The plans show that the kitchen window overlooks the neighbouring property. A proposed condition requiring this window to be a minor opening will assist in protecting privacy between adjoining properties and the wall would then be considered a wall with no major openings and require a lesser setback of 2.2m from the boundary. The setback variation partially meets the Performance Criteria of the RDC and is supported providing for overlooking being negated from the kitchen.

The north loft level wall is setback 4.7m from the northern boundary whereas the Acceptable Development provisions of the RDC. The proposal will still allow direct sun and ventilation to the building and adjoining properties. The criterion regarding *Provide adequate direct sun to the building and appurtenant open spaces* is not applicable as the wall abuts an open walkway. The proposal does not impact the direct sun on the neighbouring northern property. It can be argued that the proposal partially ameliorates the impacts of building bulk on adjoining properties. It is argued there are major openings in this wall; these windows appear to be 1.5m above floor level whereas they are required to be a minimum 1.65m above finished floor levels to be considered minor openings. A condition requiring this will then allow the proposal to meet the criterion in *protecting privacy between adjoining properties*. The setback variation generally meets the Performance Criteria of the RDC.

Privacy

The following privacy (cone of vision) setbacks of the proposed residence don't comply with the Acceptable Development standards of the RDC:

Room	Required	Provided
Master Bedroom	4.5m setback	0.95m setback
Master Bedroom	4.5m setback	3.3m setback
Kitchen	6m setback	0.95m setback
Study	6m setback	3.3m setback
Upper floor balcony	7.5m setback	1.8m setback

Upper floor balcony	7.5m setback	1.5m setback
Roof space balcony	7.5m setback	1.8m setback
Roof space balcony	7.5m setback	4.3m setback

Therefore, the setback variations are required to be assessed under the Performance Criteria of Clause 3.8.1 (P1) of the RDC, which are:

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

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

The proposal asks for a variation to the master bedroom's cone of vision setbacks. The RDC do not specify any provisions for windows in a roof, however, the windows still present a privacy issue. The window is only 1.3 wide by 0.5m high and therefore is not a major opening by size, however, another window in this roof on this elevation results in this being considered a major opening as per the RDC as the combined aggregate of windows on this elevation at this level is larger than 1m². The proposal does not comply with the Performance Criteria of the RDC, as it provides an opportunity to overlook the southern neighbour. The window is recommended to be obscured.

The master bedroom western elevation window also does not comply with the Acceptable Development provisions of the RDC. This window which opens out to the balcony is setback 3.3m on a 45 degree angle to the southern neighbour where the requirement is a 4.5m setback. This window does meet the Performance Criteria of the RDC, as possible overlooking to the southern neighbour will be negated by the balcony which will reduce downward overlooking. Proposed screening measures which are described later in this section will further reduce possible overlooking to the south.

The kitchen requires a 6m cone of vision setback whereas 1m is provided. The kitchen window does allow direct overlooking to the neighbouring property. Windows on the southern neighbouring property are generally obscure on the upper floor and clear on the ground floor. Due to the small setback, it is recommended this window be a minimum height of 1650mm above finished floor level or obscure to alleviate any privacy concern.

The study within the roof space is facing east whereas the potential cone of vision is toward the southern neighbour. The study window is approximately 1.2m wide by 600mm high and is 1.2m above finished floor level. Due to the low head heights from this area where the roof curves and that the window is not positioned to directly look at any major openings on the neighbouring southern property, this window is considered to meet the Performance Criteria for privacy.

The upper floor rear balcony requires a 7.5m cone of vision setback under the Acceptable Development Provisions of the RDC. To the southern neighbour a 1.8m

cone of vision setback is provided and to the north it is 1.5m. Whilst the existing residence already overlooks the yards of both neighbours, the RDC do not encourage “new” overlooking to occur. Screening is proposed on the northern boundary of the balcony and is seen as an acceptable measure to reduce overlooking to the north. Due to the shape of the blocks and existing vegetation, any overlooking to the north is limited and no additional screening is recommended.

To the southern neighbour, overlooking will occur. This could possibly extend into the pool area, however a 1.65m screen is a condition of approval on the neighbouring southern property being built which will restrict this view (attached photos refer). Nevertheless, additional screening is recommended to this neighbour in accordance with the RDC. Due to the odd shape of the balcony the applicant has requested consideration of mature tree planting along the southern boundary within the 7.5m cone of vision will satisfy the privacy requirement. Planting treatment is included in the RD Codes as one potential way of addressing privacy and has been applied effectively elsewhere by Council. In this instance, however, it is considered that the narrow lots with limited side setbacks and smaller yard spaces would mean that planting would be problematic, and there is always the factor that the permanency of planting is uncertain. Moreover, while planting may work well at lower levels, it is less likely to be satisfactory for a second and third storey balcony. Therefore, fixed screening at the point of overlooking is the preferred solution.

The roof space level balcony can be considered a variation as it constitutes an active habitable space. While at 0.8m deep it is less than the threshold of 1m deep to require privacy assessment, because its total area is greater than 3sqm it is required to be assessed for privacy. The setback to the northern boundary is 4.3m and to the southern boundary is 1.8m. Due to the shape of the lots and existing vegetation, any overlooking to the north is limited and no additional screening is recommended. To the southern property tree planting is recommended as a solution to reduce overlooking concerns to the southern neighbouring property.

In regards to the first floor deck on the northern elevation, the proposed screening satisfies the Performance Criteria of the RDC.

Overshadowing

As the overshadowing of the proposed residence on a neighbouring residence doesn't comply with the Acceptable Development standards of the RDC, the variation is required to be assessed under the Performance Criteria of Clause 3.9.1 (P1) of the RDC, which are:

P1 Development designed with regard for solar access for neighbouring properties taking account the potential to overshadow:

- *outdoor living areas;*
- *major openings to habitable rooms;*
- *solar heating devices; or*
- *balconies or verandahs.*

The Acceptable Development provisions allow a maximum 35% overshadowing on a neighbouring property in an R30 coded area. The proposal asks for 47% overshadowing, inclusive of possible overshadowing from the proposed double

carport. This calculation is based on the shadow cast at midday June 21 when the maximum shadow can be expected for the year. The application proposes 172m² of overshadowing out of the 365m² southern neighbouring lot at 41 Curtin Avenue at that time. The area of new shadow caused by the proposed dwelling extensions is some 84sqm and falls roughly to the central portion of the adjacent lot, plus some 16sqm for the proposed carport which affects the front.

The proposal does not readily meet the Performance Criteria of the RDC. There is current considerable overshadowing generated by the existing dwelling, and the additions will overshadow the northern windows of the neighbouring property, however, some of those windows are actually obscure glazed to comply with their overlooking requirements.

Although this amount of overshadowing is generally not acceptable, discretion could be applied here as all two storey developments in this area on the western side of Curtin Avenue are unlikely to easily satisfy the Performance Criteria. This is because of small lot sizes and the east-west orientation. The width between the north and south boundaries is only 8.8m and inevitably any development greater than single storey will cause significant overshadowing.

Council has generally recognised these constraints in other such situations and noted that when a westerly exposure and outlook to the ocean are the main aims, that solar access predominates whereby virtually unavoidable overshadowing is tolerated to a greater degree.

Front Fence

The applicant has indicated that they wish to modify the existing solid front fence to a fence with an open aspect. Whilst no elevations have been received this is commended and encouraged. A new planning application will be needed for this alteration, via a condition of planning approval.

Double carport

An existing single driveway allows cars to be parked in the front setback area. However, a double carport is proposed in the front setback and if the applicant wishes to alter the crossover, a condition of approval requiring an application for a new crossover is proposed. The carport will not require a change in levels and meets front setback requirements.

Rear garage

This is proposed to be removed. The application would still meet open space requirements if not removed.

Water Feature

A water feature is proposed along the southern boundary. Council has no requirements in relation to these features however the neighbour did oppose the new wall being 2.2m height. Whilst overshadowing is more likely to occur from the proposed additions to the residence than the boundary fence abutting the water feature, it is recommended the fence be reduced to the standard 1.8m boundary fence height.

CONCLUSION

Design-wise the proposal is considered logical and creative in relation to the existing property. The additions, while relatively extensive, are also fairly modest and sustainable in design terms in respect of the setting and streetscape. The Cottesloe coastal style is reflective of similar modern dwellings in the district and this locality.

Nonetheless, assessment against the Scheme height controls and RD Code amenity measures suggests design amendments to ensure appropriate compliance and reasonable management of impacts, with relevant conditions to address the concerns raised in the single submission. In this regard it should be appreciated that the site is constrained by its size and orientation whereby almost any proposal is going to have some degree of impact. In this instance, with the design refinements and conditions as presented, the resultant amenity and built form are considered to be acceptable.

On balance, having regard to the applicable planning parameters, other examples and the Council's approach to dwellings with a third level in the roof space, it is concluded that the application can be supported.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee discussed various aspects regarding the proposal, including the size and height of the extensions; third storey and roof form; overshadowing and previous similar proposals. The Manager Development Services explained how small lots of this orientation were always problematic re shadow, which Council had accepted in previous approvals with some relaxation on performance assessment. In conclusion, Committee did not support the officers' recommendation, on the grounds of concerns regarding a third storey, bulk and scale, overshadowing and sustainable design.

COUNCIL COMMENT

A letter from the owner was tabled at the meeting, requesting the withdrawal of the application from this month's meeting. The Manager Development Services provided an alternative officer recommendation.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for additions to a two-storey residence, including a third level in the roof space and a new carport, at No. 43

(Lot 49) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 September 2006 and revised plans dated 24 October 2006, subject to the following conditions:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed whether by the addition of any service plant, fitting, fixture or otherwise except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) Air-conditioning plant and equipment is to be located away from the boundary of adjoining properties and closest to the proposed dwelling, and suitable housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) If the existing front fence is proposed to be modified a separate planning application will be required and the fence should comply with Council's Fencing Local Law which favours open-aspect fencing. The applicant should liaise with Officers in this regard.
- (g) If the crossover is proposed to be altered, the applicant shall apply to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) Revised plans being submitted for approval by the Manager Development Services, showing:
 - (i) In accordance with the provisions of clause 5.1.1 the Scheme, the maximum building height shall not exceed 8.5m (RL 33.27), the maximum wall height on the southern elevation shall not exceed 6m (RL 30.77), and the curve of the roof to the southern elevation shall commence from no more than the 6m wall height.
 - (j) The kitchen window being modified to prevent overlooking into the adjoining property, by either having a minimum sill height of 1650mm above the finished floor level or having fixed and obscure glazing to a minimum height of 1650mm above the finished floor level.
 - (k) The master bedroom southern elevation window being modified to prevent overlooking into the adjoining property, by either having a minimum sill height of 1650mm above the finished floor level or having

fixed and obscure glazing to a minimum height of 1650mm above the finished floor level. Alternatively, this window may be deleted.

- (l) The rear balconies to the second and third levels being modified to reduce overlooking into the adjoining southern property, by redesign of their layout and construction including the following options: the provision of solid wing walls to the side elevations; and/or the provision of fixed screening to the side elevations at a minimum height of 1650mm above the finished floor levels; and/or the provision of vertical, horizontal or angled screens projecting beyond the balconies; all sufficient so as to limit sideways views but to allow westward views. The applicant should liaise with Officers to satisfy this condition.
- (m) The proposed fencing along the southern boundary shall be limited to 1.8m in height.

(2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council REFUSE its Approval to Commence Development at No. 43 (Lot 49) Curtin Avenue, Cottesloe, in accordance with the plans submitted on 26 September 2006 and revised plans submitted on 24 October, 2006 as Council is of the opinion:

- (a) The proposal is not considered to adequately quality as a dwelling including a third level contained within the roof space.
- (b) The proposal is considered to represent a three-storey dwelling, the design of which is considered to create undesirable scale and bulk.
- (c) The extent of overshadowing is considered to be excessive.
- (d) It is considered that the design of the dwelling does not adequately address sustainability.

11.1.5 ALTERNATIVE OFFICER RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council note the written request from the applicant to hold over the consideration of the proposal for 43 Curtin Avenue to allow more time for the applicant to address the concerns raised, and that Council DEFER the tem accordingly for a future report from officers.

Carried 9/0

11.1.6 NO. 2 (LOT 50) REGINALD STREET – TWO STOREY RESIDENCE

File No:	2 Reginald Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission by applicant Submissions (3) Plans
Report Date:	1 November, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Peter & Rosie Davidson
Applicant:	Atrium Homes
Date of Application:	1 November, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	402m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a new two storey residence on the subject site.

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

PROPOSAL

On the ground floor a garage, gym/bed 4, ensuite, powder, laundry, kitchen, scullery, meals and family rooms are proposed internally. An undercover alfresco area opens out from the family room whilst a porch is located next to the entry. A small courtyard area is also proposed in the front setback which is enclosed by an open aspect fence.

On the upper floor a front balcony, 4 WIRs, 3 ensuites, 3 bedrooms and two planter areas are proposed. A lift and a staircase will link the two levels.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 Building Height	6m maximum wall height	6.3m wall height

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks	Upper east wall, 1.9m setback.	1.2 to 2.8m setback	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

There were 6 letters sent out. There were 3 submissions received, of which 2 were objections. Details of the submissions received are set out below:

Caron Merrison of 4 Reginald Street

- *Believes house will be an eye-sore*
- *Believes the rear garden will be in shadow majority of the day*
- *Says it will block out western sea breeze*
- *Says that her rear neighbour already towers over her house*
- *Concerned regarding overlooking from windows from upper storey staircase*

Natalie Kendal & Peter Watson of 2A Reginald Street

- *Believes the development is very positive and enhance the street*
- *Says they want to redevelop their property and want to ensure this development will not stop them redeveloping in the future*
- *Want to ensure that privacy is maintained for the future*
- *Request screening from the front boundary to the west*
- *Want to ensure that air conditioners/ spa motors are not located externally on the western side*

Karen Phillips & Robert Firth of 1 Lillian Street

- *Objects to the planter being used for habitable purposes as well as possible noise and visual privacy impacts*
- *Requests Council to consider screening*
- *Thinks the development does not meet open space requirements and requests that the development conforms*
- *Requests they are notified if any air conditioning or swimming pool equipment is proposed and to their location, strongly objects if located in an area affecting them*

BACKGROUND

An existing single storey cottage exists on the property and will be demolished to make way for the two storey residence.

STAFF COMMENTOverall Compliance

The proposal meets a majority of Scheme and RDC requirements. Privacy, open space and overshadowing are in compliance whilst there are only one variation to heights and setback.

Boundary Setbacks

The following side boundary setback of the proposed residence doesn't comply with the Acceptable Development standards of the RDC. The setback variation below is required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) of the RDC which are:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Upper east Wall	Stair to front planter	6m	15m	No	1.9m	1.2-2.8m

3.3.1 – Buildings Set back from the Boundary

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

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

The upper east wall is setback 1.2m to the planter, bedroom 2 and part of the hall and between 1.2m and 2.8m from part of the hall to the staircase. Figure 2D of the RDC requires “*where the side of the building includes two or more portions of a wall without a major opening their setbacks shall be determined independently of each other provided they are separated from one another by a distance of more than four metres*”. In this circumstance the upper floor eastern elevation can be separated into three sections of wall: staircase to front planter, WIR 2 to Bed 1 and the 4193mm length of the hallway between WIR 2 and the staircase. The applicant believes that the staircase wall can be considered as a separate entity, however it is argued that this curved wall does not strictly meet Figure 2D of the RDC and the wall from the stair to the front planter can be treated as a variation.

However the wall does meet the Performance Criteria. The building will provide adequate direct sun and ventilation to the building and appurtenant open spaces. The direct sun when coming from the west will be reduced to the eastern neighbouring property however this neighbouring property is not orientated to capture sufficient westerly sun. Ventilation is acceptable to this property and neighbours. Due to the curved section of wall it also meets the criterion of “*Assist in ameliorating the impacts of building bulk on adjoining properties.*” Also it meets privacy considerations as there are no major openings in this length of the wall. Therefore this setback is supported.

Building Heights

The wall heights do not conform to the Town of Cottesloe TPS 2 requirement of a 6m wall height.

The proposal has a maximum 6.3m wall height, where the Scheme allows for a maximum 6m height from natural ground level at the centre of the site.

The wall height variation only concerns a portion of the bed 2 and planter wall height. An architectural “turret” feature requires the wall height to be 6.3m of the left hand edge of the upper floor eastern elevation (2.7m wide) and the right hand edge of the upper floor southern elevation (2.7m wide). The feature provides additional interest to the property and the reduction to the amenity of the eastern neighbour could only be to loss of any western sun; however the eastern neighbouring property is not orientated to capture this sun. In this circumstance, a variation is supported.

The application otherwise meets building heights as per the Scheme.

Overshadowing

An objection has been received in relation to overshadowing to the eastern neighbouring property. The RDC considers overshadowing to be calculated at noon at winter solstice (June 21). In this circumstance overshadowing to the eastern neighbour will be 0% and therefore easily complies with the acceptable development provisions of the RDC.

Any overshadowing to the eastern property from this development could occur just prior to a sunset; however the RDC has no requirements in this regard.

Any overshadowing as at midday on June 21 will fall on the front yard of this property (2 Reginald Street).

Privacy

The planter which opens out from the north of Bed 1 is not considered an active habitable space. The planter is at 43 courses height while the floor level of the bedroom is at 36 courses height. The planter floor is 600mm above the bedroom floor and the planter floor to ceiling height is only approximately 1.9m which is not considered a standard floor height. It therefore can be assumed it is a planter and not a balcony and does not need to be assessed for privacy. A condition is proposed to ensure that this planter cannot be converted to an area for habitable space.

The setback from the bedroom 1 window to the boundary is 5m which meets the Acceptable Development Provisions of the RDC.

In regards to the south facing window from Bed 3, this is described as a casement window. Whilst it is unlikely this will be a major opening, a condition requiring this window to be a minimum of 1.65m above finished floor level of the bedroom 3 will ensure that privacy requirements are met is proposed.

An objection is raised toward the windows from the staircase. A staircase is not considered an active habitable space and privacy is not required to be assessed. The windows are not large and measure 1.3m height by 0.6m length.

An objection is raised to overlooking from the front balcony. The amended plans show that screening to a height of 1.6m to the west, and this will alleviate overlooking to the western property. Overlooking shall be limited to the front setback areas of this and neighbouring properties. These areas are already open to the street.

Open Space

The application meets open space requirements. The alfresco area underneath the bed 1 is considered as open space. The porch, courtyard and driveway areas also are considered as open space. The proposal has 52% open space which meets the minimum requirement of 50% for a property within a R20 coded area.

Front Fencing

The fencing meets open aspect requirements of the Town of Cottesloe Fencing Local Law.

Air conditioning & pool equipment

An objection was raised due to possible air conditioning and pool equipment. These provisions are covered by a condition regarding air conditioning motors. There is no pool proposed.

CONCLUSION

The designers have designed a large house that meets the majority of RDC and Scheme requirements. The sole wall height variation can be attributed to a design feature with little consequence to the neighbouring property. Whilst objection to the planter areas cannot be upheld as the physical space should ensure it is not used as an active habitable space. It is recommended that the application be approved subject to conditions.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee moved that condition (e) be amended to include the words closer to the owners house and remove where practicable.

Condition (j) to be altered for the window to comply with the Residential Design Codes and clarify that it is a minor opening.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
 - (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
 - (j) The south-facing window to Bedroom 3 shall have a sill height a minimum of 1.65m above the finished floor level of that room.
- (2) Advise submitters of the decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) Air conditioning plant and equipment is to be located away from the boundary of adjoining properties and closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
 - (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
 - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as

approved by the Manager Engineering Services or an authorised officer.

- (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
- (j) The south-facing window to Bedroom 3 to comply with the Residential Design Codes.

(2) Advise submitters of the decision.

AMENDMENT

Moved Cr Walsh, seconded Cr Carmichael

That condition (e) be amended to read:

- (e) Air conditioning plant and equipment is to be located closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

Carried 8/1

11.1.6 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development of a Two Storey Residence at No. 2 Reginald Street, Cottesloe, in accordance with the revised plans submitted on 28 September 2006, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**

- (e) Air conditioning plant and equipment is to be located closest to the proposed dwelling, and suitably housed or treated, so as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) The finish and colour of the boundary wall facing the neighbour being to the satisfaction of the Manager Development Services.
- (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) The applicant complying with the Town of Cottesloe Policies and Procedures for Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
- (i) The rear planter must not be used for habitable purposes or be converted to a balcony.
- (j) The south-facing window to Bedroom 3 to comply with the Residential Design Codes.

(2) Advise submitters of the decision.

Carried 7/2

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Miller	Cr Utting
Cr Carmichael	Cr Walsh
Cr Cunningham	
Cr Furlong	
Cr Jeanes	
Cr Strzina	
Cr Woodhill	

11.1.7 NO. 16 (LOT 288) FEDERAL STREET – PROPOSED CARPORT

File No:	16 Federal Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission (1) Response to objection by applicant Photos Plans
Report Date:	19 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Simon Miller & Elizabeth Thomas
Applicant:	as above
Date of Application:	5 September, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	605m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a double carport.

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

PROPOSAL

The proposed carport is to be within the front setback area being 1.5m from the front boundary setback including the eaves. The dimensions of the carport are 6.9m across by 6.7m long inclusive of eaves.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

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

HERITAGE LISTING

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

- National Trust

N/A

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	Carport eastern setback 1m	0.3m	Clause 3.3.1 – P1

Town Planning Scheme Policy/Policies

Policy	Required	Provided
TPSP 003- Garages and Carports in Front Setback Area	4.5m setback for carports where vehicles are parked at right angles to the primary street alignment	1.9m setback (1.5m to eaves), vehicles parked at right angles to primary street alignment

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letter to Adjoining Property Owners

Submissions

There were 2 letters sent out. There was 1 submission received, which was an objection. Details of the submission received are set out below:

Dr M & Mrs T Tuchaai of 18 Federal Street, Cottesloe

- *Believes the setback is a danger to traffic users*
- *Believes it will create a blind spot*
- *Says it does not enhance the streetscape and the protrusion impacts their home*
- *Believes that existing carports built very close to the boundary were under different regulations*
- *Requests the carport be setback 4.5m from the front boundary to align it with their garage*

BACKGROUND

A well established single-storey residence can be found on the lot. The property has a driveway to the front verandah with no undercover car parking.

STAFF COMMENT

Front Setback

The carport is proposed to be setback 1.5m from the front boundary to the eaves and 1.9m to the posts. This is a variation to the requirements of the Garages & Carports in Front Setback Area Policy which requires carports to be setback 4.5m from the front boundary where vehicles are parked at right angles to the street alignment.

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

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

The Council shall also have regard to:

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

An objection was made toward the proposal affecting the view lines of the adjacent southern property. It is the officer's opinion that view lines would be satisfactory from the proposal. The carport is an open structure and would still afford adequate view/sight lines from driveway of the adjacent southern property. It is common to assume that all cars must stop before the pedestrian path and road. This point is closer than the proposed front setback of the carport. Furthermore, the only fencing in the front setback is a low open aspect picket fence which still provides visual permeability. Also, for the same reasons it shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.

The carport partially meets the objectives of the RDC. The RDC specify *"that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent"*. The carport is 6.9m (41.8%) wide of a 16.47m wide frontage and complies.

The RDC also require two spaces per single house and meet standard bay dimensions, this application meets this criteria.

It can be argued that this application also meets the criteria "*The amenity of the adjoining lot or deter future development on adjoining lots*". A new two storey residence is under construction adjacent to the proposed carport on the southern boundary and it is unlikely that any other development will take place or be approved in front of the parapet garage on the adjacent to the southern boundary. The parapet wall of the garage setback is 4.5m from this boundary. For the same reasons the application meets "*the existing and potential future use and development of any adjoining lots*"

Also as mentioned previously the proposed carport still provides good ingress and egress and adequate view lines for this property and the immediate southern property.

However, the application does not meet the final criteria being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport being setback 1.5m from the front boundary is 3m in front of the garage which on the southern neighbouring property. This garage is setback 4.5m from the front boundary.

Whilst a garage can be seen as a bulkier intrusion into the front setback, the carport being setback 1.5m to the front boundary is a large projection and interrupts the streetscape. This is not desirable and alternative solutions should be explored.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 7.5m to the verandah and 9.5m to the eaves of the front bedrooms from the front boundary. A standard carport is generally 6x6m in dimension so a maximum setback of 3.5m from the front boundary could be entertained. However the eaves proposed and to allowing the carport to be detached will require a minimum 3m setback to be recommended from the front boundary. Unfortunately this setback would reduce light penetration to the front bedroom.

The alternative of having the double carport at the rear of the property is not feasible as the side setback of the house is 2.5m and would leave little margin for error if a new driveway was required. This also would be costly and severely detract from the outlook provided into the rear yard area from the rear rooms.

Relocating the carport to the northern end of the front setback area is also not feasible as this would ruin a well kept-garden. Furthermore, the maximum setback could only be 1.5m to achieve a standard carport dimension and would not utilise the existing driveway on the southern boundary within the front setback.

The proposed materials of the carport include a new Colorbond roof, which matches the existing pitch and this is commended.

However, a consequence of the recommended 3m setback is the height of the carport may also need to be increased. An increase of up to 500mm in height to allow

a suitable clearance between the verandahs stairs and the carport is recommended providing the materials and pitch compliment the existing dwelling

The recommended 3m front setback for the carport, which will also be located on the southern boundary, is seen as the best solution for a site constrained by the existing built envelope. The setback would result in limited light penetrating the front bedroom but is the best solution for the streetscape whilst still allowing undercover parking.

Side Boundary Setbacks

The eastern side boundary setback of the proposed carport seeks variation from the Acceptable Development standards of the RDC and therefore is required to be assessed under the Performance Criteria of Clause 3.3.1 (P1):

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Carport east	All	3m	6m	N/A	1m	Nil

The RDC provide:

3.3.1 – Buildings Set back from the Boundary

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

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

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

CONCLUSION

It is recommended that the application be approved subject to conditions requiring the applicant to setback the carport a minimum of 3m from the front setback inclusive of any eaves. This distance was arrived at as the car bays cannot be pushed back further due to the existing residence behind the carport. A setback greater than 3m may not maintain the size and dimensions of a standard double carport and no other alternative solution can be recommended due to the existing constraints of the site.

The proposed double carport in the front boundary would ensure that cars would also be removed from a narrow road carriageway; which is an objective of the Residential Design Codes.

VOTING

Simple Majority

COMMITTEE COMMENT

After some discussion Committee moved to remove condition (f) from the recommendation as the increased setback would inhibit the access to the front and rear of the property.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
 - (f) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback 3m from the front boundary inclusive of any eaves and a maximum width of 6.2m . This carport may not be converted into a garage.
- (2) Advise submitters of Council's decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the

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

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (2) Advise submitters of Council's decision.

AMENDMENT

Moved Cr Cunningham, seconded Cr Walsh

That condition (f) from the Officer Recommendation be reinserted with the setback being amended from 3m to 2m, as follows:

- (f) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback 2m from the front boundary inclusive of any eaves and a maximum width of 6.2m . This carport may not be converted into a garage.

Lost 1/8

11.1.7 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) GRANT its Approval to Commence Development for the Carport at No. 16 (Lot 288) Federal Street, Cottesloe, in accordance with the plans submitted on 5 September 2006, subject to:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**

- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (2) Advise submitters of Council's decision.

Carried 8/1

11.1.8 NO. 104 (LOT 72) NAPIER STREET – CARPORT, FRONT FENCE & ADDITIONS

File No:	104 Napier Street
Author:	Mr Lance Collison
Author Disclosure of Interest:	Nil
Attachments:	Location plan Submission from applicant Photos Plans
Report Date:	24 October, 2006
Senior Officer:	Mr Andrew Jackson
Property Owner:	Jon & Catherine Maslen
Applicant:	as above
Date of Application:	24 October, 2006
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	707m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a carport, front fence and single storey additions to an existing residence.

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

PROPOSAL

The proposal involves two new bedrooms, ensuite, WC and bathroom on the western boundary towards the front of the house. A new laundry and WC are proposed near the eastern boundary of the house.

A proposed double carport is proposed to be located 1m from the front boundary and against the eastern boundary.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

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

HERITAGE LISTING

- State Register of Heritage Places N/A

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town Planning Scheme Policy/Policies

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

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 Boundary Setbacks	Setback to ground west wall boundary 1.5m	1m	Clause 3.3.1 – P1
No 3 Boundary Setbacks	Setback to ground east wall boundary 1.5m	0.9m	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of letters to Adjoining Property Owners

Submissions

The western and eastern neighbours both signed off the plans in support of this application.

BACKGROUND

A well established single-storey residence can be found on the lot. The residence currently has a single garage; this will be removed and replaced with additions to the residence.

STAFF COMMENT

Carport

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

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

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

The Council shall also have regard to:

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

View lines would be satisfactory from the proposal. The carport is an open structure and would still afford adequate view/sight lines from driveway of the adjacent southern property. A proposed front fence will be open aspect apart from a pier which is 500mm wide adjacent to the carport. An open aspect gate being 900mm wide adjacent to this pier should ensure a cone of vision to the west. To the east a low 900mm high wall on the eastern boundary should ensure an adequate view line. Also, the proposal shall maintain adequate manoeuvre space for the safe ingress and egress of motor vehicles.

The carport partially meets the objectives of the RDC. The RDC specify *“that a carport can be within the street setback area provided the width of carport does not exceed 50% of the frontage at the building line and the construction allows an unobstructed view between the dwelling and street, right-of-way or equivalent”*. The carport is 6m (39.8%) wide of a 15.09m wide frontage and complies.

The RDC also require two spaces per single house and to meet standard bay dimensions. This application meets these criteria. The existing dwelling has space for

1 car and this existing single garage will be transformed to become part of the residential additions.

The RDC also prefer any walls and fences to be reduced to no higher than 0.75m within 1.5m of where a driveway meets a public street. The proposed front fence does not strictly conform, however apart from the 500mm wide pier; the gate is proposed to be open aspect which will provide a suitable view line.

It can be argued that the carport also meets the criterion "*The amenity of the adjoining lot or deter future development on adjoining lots*". An existing driveway is adjacent to the proposed carport on the eastern boundary. The applicant believes that the eastern neighbour will propose to build a carport adjacent to this carport also being 1m from the front boundary. Council has not received an application at 106 Napier Street for a carport to date.

Also as mentioned previously the proposed carport still provides good ingress and egress and adequate view lines for this property and the immediate eastern property.

However, the application does not meet the final criterion being "*existing setbacks from the street alignment in the immediate locality, in the case of the setback from the principal street alignment*". The proposed carport being 1m setback from the front boundary is well in front of the eastern and western neighbouring properties which are setback approximately 8m from the street boundary.

The carport being setback 1m to the front boundary is a large projection and interrupts the streetscape. This is not desirable and alternative solutions should be explored.

In determining what is seen as a reasonable setback in this situation, the existing built envelope should be assessed. The existing residence is setback is 10.3m to the garage and 9.3m to the porch and between 10.8m and 12.3m to the remainder of the front elevation. This porch is elevated so it is common to accept steps leading up to it. The owners propose a carport 5.5m deep by 6.1m wide in dimension so a maximum setback of 2.5m from the front boundary could be entertained. This setback would bring the carport up to the boundary of the porch steps. However the owners have asked to be able to wheel or move equipment from the carport area to the rear of the residence.

This is only possible by setting back the carport a minimum of 700mm from the steps. The proposed additions prevent items being wheeled around the western side of the property to the rear. Similarly, having the carport adjacent to the porch steps would not allow items being wheeled around to the rear of the property without backing the cars out from the carport. Also the applicant has argued that moving the proposed steps to the east of the porch will not look attractive and is less functional. There are no other alternative locations as the proposed additions will remove any opportunity to have the carport at the rear or the western side of the residence.

The recommended proposed setback to the street is 1.8m. This distance will allow the front setback area be functional to the owners of the residence and will reduce the interruption to the streetscape.

In terms of streetscape, a wide 16m verge lessens the impact of the setback concession. The roof material of the carport is tiles that will match the roof the existing residence and this is commended.

Boundary Setbacks

The following side boundary setbacks of the proposed additions seek variation from the Acceptable Development standards of the RDC and therefore are required to be assessed under the Performance Criteria of Clause 3.3.1 (P1) and 3.3.2 (P2):

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Proposed Setback
Ground east Wall	All	3m	12m	No	1.5m	0.9m
Ground west wall	All	3.5m	14m	No	1.5m	Nil

The RDC provide:

3.3.1 – Buildings Set back from the Boundary

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

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

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

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

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

The west ground floor wall has a boundary setback of nil where the required setback is 1.5m. It has a wall height between 2.5 and 3.5m above NGL at the boundary. This wall is penalized by the RDC as it requires walls to be measured to its highest point. The proposal makes an effective use of space and enhances privacy. Also, skylights provide light to rooms abutting the parapet wall. It is considered that the proposed western ground side boundary setback variation satisfies the above Performance

Criteria of the RDC. It should be remembered the neighbour has agreed to this proposal.

The east ground floor wall has a boundary setback of 0.9m to the extension. It has a wall height of 3m for the laundry and WC extension. This wall is penalized by the RDC as it requires walls to be considered an extension of the existing wall. If this wall was considered as a separate entity the setback required would be only 1m. The proposal makes an effective use of space and enhances privacy. It is considered that the proposed eastern ground side boundary setback variations satisfy the above Performance Criteria of the RDC and the neighbour has agreed to this proposal.

Front Fence

The front fence shall be open-aspect and is in accordance with the fencing local law.

CONCLUSION

It is recommended that the application be approved subject to conditions requiring the applicant to setback the carport a minimum of 1.8m from the front setback. This distance was arrived as the carport cannot be pushed back further due to the existing residence behind the carport. A setback of greater than 1.8m may not maintain the functionality and convenience of the front setback area and no other solution can be recommended due to the owners desire to have a large portion of the additions in the front setback as well as the existing constraints of the site.

The additions and the front fence are both also recommended for approval and the neighbours have signed off on the plans in regards to the development.

VOTING

Simple Majority

COMMITTEE COMMENT

The Planning Officer presented a memo to Committee including an additional condition (g) re fencing as follows:

It has been noted that amended plans received on 17 November 2006 have not been issued to Councillors. The plans are identical to the plans received on 19 October 2006 except for a proposed wrought iron open-aspect fence on the northern and western sides of the proposed carport. As a result it is requested the OFFICER RECOMMENDATION be changed to include an additional condition as follows::

(g) Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with Council's Fencing Local Law.

The Committee recommended that the front setback be reduced to a minimum of 1.6m as this would impact less on the access to the front and rear of the property.

OFFICER RECOMMENDATION

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.
- (f) The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.8m from the front boundary. This carport may not be converted into a garage.

COMMITTEE RECOMMENDATION

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.

- (f) The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.
- (g) Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with the Council's Fencing Local Law.
- (h) Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.6m from the front boundary. This carport may not be converted into a garage.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That condition (h) be amended to a setback of 1.8m from the front boundary.

Carried 6/3

11.1.8 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council GRANT its Approval to Commence Development for the carport, additions and front fence at No. 104 (Lot 72) Napier Street, Cottesloe, in accordance with the plans submitted on 19 October 2006, subject to:

- (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13. - Construction sites.**
- (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
- (c) **The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.**
- (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.**
- (e) **The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct a new crossover, where required, in accordance with the local law.**
- (f) **The existing redundant crossover being removed and the verge, kerb and all surfaces being made good at the applicant's expense to the satisfaction of the Manager Engineering Services.**
- (g) **Any fencing within the front setback to the site being of an "Open Aspect" design in accordance with the Council's Fencing Local Law.**
- (h) **Revised plans being submitted for approval by the Manager Development Services, showing the carport being setback a minimum of 1.8m from the front boundary. This carport may not be converted into a garage.**

Carried 9/0

11.1.9 AMENDMENT NO. 41 TO TOWN PLANNING SCHEME NO. 2 – NOS 98A & 98B (LOTS 1 & 2 OF LOT 1) GRANT STREET – RECODING FROM RESIDENTIAL R 20 TO RESIDENTIAL R30

File No:	D2.4 Amendment 41
Author:	Mrs Stacey Towne
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Photos Rezoning Submission from Applicant
Report Date:	18 September, 2006
Senior Officer:	Mr Andrew Jackson

SUMMARY

The owners of the existing attached duplex dwelling units at 98A and 98B Grant Street are seeking Council's support to recode the built strata title property from Residential R20 to Residential R30. The recoding will allow for survey strata titles over of the land, whilst also allowing for an improved lot configuration and greater flexibility for the improvement of the built form over the property.

The recoding will maintain the "status quo" in relation to residential density currently enjoyed by the subject land (i.e. no more than two dwellings can be accommodated on the site).

The proposal is the outcome of liaison between Officers, the owners and consultants over an extended period and the recommendation is for Council to initiate an amendment to the Scheme to recode 98A and 98B (Lot 1) Grant Street from Residential R20 to Residential R30.

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Residential Design Codes
- Planning and Development Act 2005

POLICY IMPLICATIONS

The amendment proposal does not relate to any particular local policy, however, it is essentially reflective of broad regional planning policies in relation to residential densities and public transport.

STRATEGIC IMPLICATIONS

The amendment proposal echoes Council and community consideration regarding residential densities in the locality during the formulation of draft TPS3 and is broadly consistent a longer term outlook to possible density increases. At the same time this specific proposal is in recognition of the special circumstances, while the density increase sought is compatible with the existing development and intended redevelopment of the site. In this way, as for other one-off minor recodings, the proposal is justified and non-prejudicial to the overall density regime.

FINANCIAL IMPLICATIONS

Administrative staff costs associated with preparation and processing amending documentation. Costs will be recouped from the applicant.

BACKGROUND

The site is situated on the corner of Grant Street and Elizabeth Street and is zoned Residential R20. It comprises of two built strata title land parcels, known as 98A and 98B Grant Street. Vehicular access to 98A is from Grant Street, whilst 98B has access from Elizabeth Street. Elizabeth Street does not physically intersect with Grant Street as it is a cul-de-sac at this point.

In the mid 1980s, Council approved alterations and additions to the existing single residence at the property then known as 98 Grant Street. The additions included a self-contained living unit attached to the western side of the dwelling. In late 1985, the then Town Planning Board granted approval to built strata subdivision of the lot such that the main residence and the new unit could be held in separate ownership. The property then became known as 98A and 98B Grant Street.

The parent lot (Lot 1) is 844m² in area. No. 98A (Strata Lot 1 of Lot 1) totals 314m² and comprises of a 59m² built strata area with the remaining 255m² for garden and access. No. 98B (Strata Lot 2 of Lot 1) is larger at 530m², with 91m² built strata area and the remaining 439m² for garden and access. The original main residence is located at 98B Grant Street, whilst the latter dwelling is located at 98A Grant Street.

In 1998 the owners of 98A and 98B Grant Street made application to the Western Australian Planning Commission (WAPC) to re-subdivide the property to create two strata title lots (352m² and 505m²) in a more regular configuration. The larger lot was proposed to include the existing residential buildings and have frontage to both Grant Street and Elizabeth Street, with the remaining lot having frontage to Elizabeth Street. This application was refused on the grounds that there was a shortfall in the land area required for strata subdivision as nominated by the Residential Codes for an R20 zone and approval would set an undesirable precedent for further subdivision of surrounding lots.

In December 2003, approval was granted to demolish the residence at 98A Grant Street, however, demolition did not occur and approval has now expired. Due to the restrictive nature of the titles over the land, demolition of the buildings would have meant that new development could only have been constructed in the exact position as the building previously removed.

Given this ongoing situation and resulting from Officer liaison with successive owners and their representatives to explore solutions, the amendment proposal has been conceived as a reasonable and practical method of addressing the matter.

AMENDMENT SUBMISSION

A full copy of the applicant's submission for this proposed amendment to the Scheme is attached to the agenda. This was prepared in response to liaison with Officers.

In summary, the submission provides the following justification:

- Recoding the subject site will formalise the two strata title lots, that currently exist and the 'door' opens for the landowners to extend their property, or preferably demolish the existing dwellings to permit re-subdivision of the lot.
- The subject site has access to two separate street frontages making re-subdivision ideal with each lot having the potential for separate street frontage.
- The recoding of the property to R30 is necessary to ensure that the current lot area of 314m² and 530m² meets the minimum and average lot area requirements of 270m² and 300m² respectively, as set by Table 1 of the Residential Design Codes.
- By recoding the property to R30, the development potential that currently exists will remain.
- The proposed development that would result from any re-subdivision of the site would be in keeping with development in the surrounding area.
- The alternative to subdivision, being to extend the existing dwelling (98B for example) is only possible if the property is recoded and the existing strata lots formalised. The proposed additions aim to maintain and reflect the style of more recent development within the area.
- The accommodation of residential housing at a density of R30, near Cottesloe District Town Centre or Grant Street Train Station is an objective of Liveable Neighbourhoods and an essential element in the creation of good community formation.
- The accommodation of residential housing at a density of R30 nearby Grant Street Train Station is an objective of WAPC Policy 1.6 – '*Planning to Support Transit Orientated Development*' to encourage increased use of public transport and to offer people the option to use public transport.
- The proposed development that would result from the re-subdivision of the subject site would serve the changing demographic in the area, with the ageing population requiring moderately sized homes on smaller lots.
- Maintaining the current development potential of the site would support local shops in the area.
- The introduction of an R30 density in this unique circumstance would not compromise the level of amenity enjoyed in the area.

In regard to these points, it is considered correct that the amendment proposal fits in with both regional strategic planning as well as local area planning and development control. Although the amendment proposal is really about overcoming the anomaly of the property, importantly it is acceptable in these wider contexts.

STAFF COMMENT

The applicant's rationale for the proposed amendment as stated in the amendment report is generally supported.

Regarding subdivision standards under the current R20 density coding, a minimum lot size of 1000m² (average 500m², minimum 440m²) is required for a two-lot green title subdivision, or a minimum lot size of 900m² for a two-lot strata title subdivision (450m² average).

The subject property is only 844m² in area, therefore, the land falls short of subdivision potential by at least 156m² for green title lots and 56m² for strata lots.

Draft Town Planning Scheme No. 3 also proposes a Residential R20 zoning over the land at 98A and 98B Grant Street. However, Clause 5.3.5 of proposed TPS No. 3 allows for redevelopment of land which has an existing approved density higher than that for which it is currently coded (non-conforming residential density) to be redeveloped at a higher density than its current coding.

Clause 5.3.5 of TPS No. 3 states:

"5.3.5. Redevelopment of existing grouped dwellings or multiple dwellings

Despite anything contained in the Residential Design Codes and notwithstanding the density codes shown on the Scheme Map, existing grouped dwellings or multiple dwellings that exceed a density code shown on the Scheme Map at the Gazettal date of the Scheme may, with the approval of the local government, be redeveloped at a density higher than that shown on the Scheme Map if, in the opinion of the local government, the redevelopment would —

- a) be in keeping with the character of the streetscape;*
- b) contribute positively to the amenity of the surrounding properties and locality;*
- c) not detrimentally increase the mass, scale or surface area of the development relative to existing development on surrounding properties;*
- d) result in improved landscaping of the land;*
- e) provide adequate and safe means of vehicular and pedestrian access to the land; and*
- f) provide an adequate number of car parking spaces on the land."*

If approved as part of the new scheme, Clause 5.3.5 could allow for the requirements of the R20 code to be relaxed and enable the property at 98A and 98B Grant Street to be redeveloped at the same density (i.e. two residential dwellings), and on that basis strata or green title subdivision could be supported.

The owners of the property are aware of this, however, both are keen to commence improvements and prefer not to wait for the finalisation of TPS No. 3 which could take more time than the finalisation of a single amendment to TPS No. 2 to allow for a similar outcome and as there is no real certainty regarding draft Town Planning Scheme No. 3 at this stage.

The proposal to recode the land to R30 would still only accommodate the development of the property for two dwellings. Under the R30 code, an average lot size of 300m², minimum of 270m², is required for a green title or survey strata subdivision.

It is noted that an R25 Coding would also allow for green title or survey strata subdivision of the land. The applicant is seeking a slightly higher density, however, because the minimum lot size under the R25 Code is 320m², compared to the minimum lot area of 270m² under the R30 Code. The higher density will allow for the property to be divided into similar sized parcels of land as those existing (i.e. 314m² and 530m²) such that it would not be necessary to exchange, sell or purchase small sections of land between the two existing landowners.

An R25 or R30 Code over the land would make no difference in the density capacity of the property, and would not increase the total land parcel. It would, however, allow some reduced development parameters which would facilitate feasible redevelopment.

Successive new and prospective owners over the past few years have regularly approached Council to investigate possible future development of the residential sites both individually and combined, but have been restricted by the nature of the title and density coding over the land. The proposal to recode the land will allow for the site to be improved and brought up to a better standard of development.

Council has previously supported a similar proposal for a property at No. 14 Edwards Street. In that instance, Council supported the rezoning of the land from Place of Public Assembly to Residential with a coding of R20 and R25. That allowed for the property to be subdivided into three lots with the main church building being retained and used for purposes consistent with Residential Zone. A Concept Plan of Development was approved by Council as part of the amendment.

The applicant has not provided a substantial concept plan for consideration as part of this amendment, however, an indicative plan of the future development of No. 98B Grant Street has been provided. This plan shows two storey additions to the existing residence at 98B Grant Street, however, it does not show how future subdivision may occur or how the property at 98A Grant Street may be developed. It is considered necessary that some indication be given as to how the land is proposed to be subdivided in the future and it is recommended that a subdivision concept plan be provided as part of the amendment documentation, prior to the commencement of advertising.

CONCLUSION

It is clear that the subject property involves a long-standing problem that needs to be addressed in order to provide parameters for improvements to the site, which would benefit the landowners as well as the general locality.

It is recognised that the historical situation of the property at 98A and 98B Grant Street is unusual within the Town of Cottesloe. The principle of maintaining the existing density of the two established dwellings on the land, however, is provided

within Draft Town Planning Scheme No. 3 to cater for such unique situations and anomalies of the past.

The actual number of dwellings on the site will not alter with a recoding from R20 to R30, whereas the built form will change, together with enhancing the capability of the site to accommodate two dwellings (size of the land remains the same, yet the required site per dwelling unit decreases). The increase in density is only marginally greater and is in area where increased densities may come under further review.

The site also has an advantage of having a dual street frontage (Grant Street and Elizabeth Street) which assists in design for access and streetscapes. The proposed recoding will allow for consideration of redevelopment options and subdivision arrangements.

VOTING

Simple majority

COMMITTEE COMMENT

Committee did not support a spot density re-coding and considered that the owners should either approach the WAPC for approval to survey strata or subdivide the property or pursue changes on a broader basis under future TPS3.

OFFICER RECOMMENDATION

That Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:
 - (i) Recoding 98A (Lot 1 of Lot 1) and 98B (Lot 2 of Lot 1) Grant Street, Cottesloe, from Residential R20 to Residential R30 in accordance with the Scheme Amendment Map.
- (2) Upon payment of the Scheme Amendment fee by the applicant and preparation of the Scheme Amendment documents to the satisfaction of the Manager Development Services, including the preparation of a concept plan demonstrating how the property may be re-subdivided and/or redeveloped, the Chief Executive Officer shall adopt and endorse the Scheme Amendment documents on behalf of the Council.
- (3) Refer the proposed amendment to the Department of Environment and Conservation pursuant to section 81 of the Planning and Development Act 2005.
- (4) Advertise the proposed Town Planning Scheme amendment for public comment for a period of 42 days by:
 - (a) Placing a copy of the notice:
 - (i) in The Post newspaper;
 - (ii) on the Council notice boards at the Council Offices and the Town Centre; and

- (iii) in the Library.
- (b) Placing a copy of the proposed amendment on display at the:
 - (i) Council Offices; and
 - (ii) Library.
- (c) Notifying nearby landowners by letter as determined by the Manager Development Services.
- (d) Placing a sign on the property.
- (5) Provide the Western Australian Planning Commission with a copy of proposed Town Planning Scheme Amendment No. 41.
- (6) Advises the applicant/owners of 98A and 98B Grant Street of Council's decision accordingly.

COMMITTEE RECOMMENDATION

Nil – Officer recommendation was lost at Committee meeting held on Monday, 20 November, 2006.

OFFICER PRO-FORMA RECOMMENDATION

That Council **DECLINE TO SUPPORT** the request to initiate an amendment to the Town Planning Scheme No. 2:

- (a) Council does not favour density increase re-codings for individual lots, which should preferably be considered as part of wider reviews such as under the draft Town Planning Scheme No. 3 process.
- (b) There are potential alternatives available such as renovation of the dwellings or re-subdivision of the land, which the owners could consider pursuing rather than a Scheme Amendment.

AMENDMENT

Moved Cr Cunningham, seconded Cr Strzina

That the original officer recommendation be adopted.

Carried 5/4

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Miller	Cr Carmichael
Cr Cunningham	Cr Utting
Cr Furlong	Cr Walsh
Cr Jeanes	Cr Woodhill
Cr Strzina	

11.1.9 COUNCIL RESOLUTION

Moved Cr Cunningham, seconded Cr Strzina

That Council:

- (1) In pursuance of Section 75 of the Planning and Development Act 2005, hereby resolves to amend the Town of Cottesloe Town Planning Scheme No. 2 by:**
 - (i) Recoding 98A (Lot 1 of Lot 1) and 98B (Lot 2 of Lot 1) Grant Street, Cottesloe, from Residential R20 to Residential R30 in accordance with the Scheme Amendment Map.**
- (2) Upon payment of the Scheme Amendment fee by the applicant and preparation of the Scheme Amendment documents to the satisfaction of the Manager Development Services, including the preparation of a concept plan demonstrating how the property may be re-subdivided and/or redeveloped, the Chief Executive Officer shall adopt and endorse the Scheme Amendment documents on behalf of the Council.**
- (3) Refer the proposed amendment to the Department of Environment and Conservation pursuant to section 81 of the Planning and Development Act 2005.**
- (4) Advertise the proposed Town Planning Scheme amendment for public comment for a period of 42 days by:**
 - (a) Placing a copy of the notice:**
 - (i) in The Post newspaper;**
 - (ii) on the Council notice boards at the Council Offices and the Town Centre; and**
 - (iii) in the Library.**
 - (b) Placing a copy of the proposed amendment on display at the:**
 - (i) Council Offices; and**
 - (ii) Library.**
 - (c) Notifying nearby landowners by letter as determined by the Manager Development Services.**
 - (d) Placing a sign on the property.**
- (5) Provide the Western Australian Planning Commission with a copy of proposed Town Planning Scheme Amendment No. 41.**
- (6) Advises the applicant/owners of 98A and 98B Grant Street of Council's decision accordingly.**

Carried 5/4

11.1.10 DELEGATION OF POWERS FOR DETERMINATION OF PLANNING APPLICATIONS DURING THE CHRISTMAS PERIOD RECESS OF COUNCIL

File No: X4.6
Author: Mr Andrew Jackson
Author Disclosure of Interest: Nil.
Report Date: 15 November 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to delegate authority to the Manager Development Services and Chief Executive Officer to make determinations on those applications for planning consent that are received during the period from Tuesday 19 December 2006 to Friday 2 February 2007 while the Council is in recess.

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The following resolution was passed by Council at its December 2005 meeting:

That Council

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2), Council hereby further delegates to the Manager of Development Services under Clause 7.10.1 of the No. 2 Town Planning Scheme Text, authority to make a determination on those applications for Planning Consent that are beyond his current delegated powers for the period from Tuesday, 13 December, 2005 to Friday, 3 February, 2006.*
- (2) The exercise of those powers referred to in (1) is granted subject to:*
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the application; and*
 - (b) A list of items to be dealt with under this delegation is to be identified and included in the weekly list of Delegated Authority Items that:*
 - (i) is to be circulated on a weekly basis to all Councillors; and*
 - (ii) subject to the current call in arrangements for Delegated Authority Items.*

STAFF COMMENT

It is requested that the Manager Development Services and the Chief Executive Officer be granted additional delegated authority to determine applications beyond their current delegation powers in consultation with the Development Services Chairperson during the Christmas and January recess.

VOTING

Simple Majority

11.1.10 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) In addition to the existing delegated authority for determination of applications for Planning Consent and subject to (2) below, Council hereby further delegates to the Manager Development Services and the Chief Executive Officer under Clause 7.10.1 of Town Planning Scheme No. 2, authority to determine those applications for Planning Consent that are beyond their current delegated powers, for the period from Tuesday 19 December 2006 to Friday 2 February 2007.**
- (2) The exercise of those powers referred to in (1) is granted subject to:**
 - (a) The relevant officer discussing those applications that fall within the extended powers of delegated authority with the Chairperson of the Development Services Committee or the Deputy, prior to a decision being made on the applications; and**
 - (b) A list of items to be dealt with under this delegation being identified and included in the weekly list of Delegated Authority Items that is:**
 - (i) circulated on a weekly basis to all Councillors; and**
 - (ii) subject to the current call in arrangements for Delegated Authority Items.**

Carried 9/0

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 21 NOVEMBER 2006

Moved Cr Miller, seconded Cr Strzina

That items 12.1.1, 12.1.2, 12.2.2 and 12.2.3 be withdrawn from en-bloc voting.

Carried 9/0

The above items were dealt with first before items 12.1.3 - 12.1.7, 12.2.1, 12.2.4 and 12.3.1 – 12.3.5 were dealt with en-bloc.

12.1 ADMINISTRATION**12.1.1 SHADY CHARACTERS - BEACH HIRE**

File No:	C 2. 1
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Report Date:	9 October, 2006
Senior Officer:	Mr Stephen Tindale

SUMMARY

A recommendation is made not to allow Shady Characters Beach Hire access to trade on Cottesloe Beach.

STATUTORY ENVIRONMENT

Beaches and Beach Reserves Local Law:

Division 2, Section 5 – Quiet Amenity

In order to protect the quiet and amenity of the defined area, no person shall:

5.10 hire, or offer for hire, any vehicle, bicycle, watercraft, kite or other item of equipment for sport, entertainment, or amusement except with the written permission of council;

POLICY IMPLICATIONS

Section 7 (Strategies) of the *Beach* policy applies:

n. Other

(ii) Commercial Activity

In general, commercial activity on the beach is permitted only at the fixed facilities. Any other commercial activity may only be undertaken with the approval of Town of Cottesloe.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

There are no fees specified in our budget for a beach hire business. There is a trader's licence of \$200/month or a stall holder's permit of \$50/week.

BACKGROUND

John Hughes, the proprietor of 'Shady Characters Beach Hire', sent in a submission to trade on Cottesloe Beach. The business would operate from a portable stall dispensing a variety of goods and services.

CONSULTATION

I discussed the matter with our Senior Ranger who doesn't support the proposal.

STAFF COMMENT

There are a number of concerns that I have with this proposal. The area already is well serviced with existing facilities and we are endeavouring to reduce, rather than increase, the amount of clutter on the beach. If this trader is allowed access to the beach it may be difficult to prevent other would-be traders from doing the same. He stated that he had support from the local surf club but didn't include anything that substantiated his claims.

The goods and services proposed are either duplicates of those provided by the life savers (beach safety, sunscreen/cancer awareness) or local businesses (toys, towels, thongs). There is no specific area mentioned rather a number of sites, at least one that appears to encroach on the dunes.

The new lessee of Indiana Tea House is also keen to maximise utilisation of the facility and this could extend to servicing the broad needs of beach goers through the cafeteria. The approval of John Hughes proposal would result in an unnecessary intrusion on the beach and complicate potential development for the new lessee of Indiana's.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council reject the application of John Hughes 'Shady Characters Beach Hire'.

12.1.1 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That council not accept the application from John Hughes for 'Shady Characters Beach Hire'.

Carried 9/0

12.1.2 COTTESLOE TENNIS CLUB RENEWAL

File No: E10.11& E10.8
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 11 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the Mayor and CEO to sign a lease agreement between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

STATUTORY ENVIRONMENT

Section 3.58 of the Local Government Act applies.

3.58. Disposing of property

(1) In this section -

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

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

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

(a) the highest bidder at public auction; or

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

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

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

(i) describing the property concerned;

(ii) giving details of the proposed disposition; and

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

and

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

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

- (a) the names of all other parties concerned;
 - (b) the consideration to be received by the local government for the disposition; and
 - (c) the market value of the disposition as ascertained by a valuation carried out not more than 6 months before the proposed disposition.
- (5) This section does not apply to -
- (a) a disposition of land under section 29 or 29B of the *Public Works Act 1902*;
 - (b) a disposition of property in the course of carrying on a trading undertaking as defined in section 3.59;
 - (c) anything that the local government provides to a particular person, for a fee or otherwise, in the performance of a function that it has under any written law; or
 - (d) any other disposition that is excluded by regulations from the application of this section.

Regulation 30 of the Local Government (Functions and General) Regulations 1996 says;

30. Dispositions of property to which section 3.58 of Act does not apply

- (1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.
- (2) A disposition of land is an exempt disposition if -
- (a) the land is disposed of to an owner of adjoining land (in this paragraph called **the transferee**~) and -
 - (i) its market value is less than \$5 000; and
 - (ii) the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;
 - (b) the land is disposed of to a body, whether incorporated or not -
 - (i) the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and
 - (ii) the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;
 - (c) the land is disposed of to -
 - (i) the Crown in right of the State or the Commonwealth;
 - (ii) a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or
 - (iii) another local government or a regional local government;
 - (d) it is the leasing of land to an employee of the local government for use as the employee's residence;

(e) it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;

(f) it is the leasing of land to a medical practitioner (as defined in section 3 of the *Medical Act 1894*) to be used for carrying on his or her medical practice; or

(g) it is the leasing of residential property to a person.

(2a) A disposition of property is an exempt disposition if the property is disposed of within 6 months after it has been

(a) put out to the highest bidder at public auction, in accordance with section 3.58(2)(a) of the Act, but either no bid is made or any bid made does not reach a reserve price fixed by the local government;

(b) the subject of a public tender process called by the local government, in accordance with section 3.58(2)(b) of the Act, but either no tender is received or any tender received is unacceptable; or

(c) the subject of Statewide public notice under section 3.59(4), and if the business plan referred to in that notice described the property concerned and gave details of the proposed disposition including

(i) the names of all other parties concerned;

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

(iii) the market value of the disposition as ascertained by a valuation carried out not more than 12 months before the proposed disposition.

(2b) Details (see section 3.58(4) of the Act) of a disposition of property under subregulation (2a) must be made available for public inspection for at least 12 months from the initial auction or tender, as the case requires.

(3) A disposition of property other than land is an exempt disposition if

(a) its market value is less than \$20 000; or

(b) it is disposed of as part of the consideration for other property that the local government is acquiring for a consideration the total value of which is not more, or worth more, than \$50 000.

In accordance with Regulation 30 (2) (b) Council may deal directly with the Cottesloe Tennis Club on this matter without the restrictions of Section 3.58 of the Local Government Act.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The discrepancy between the previous and proposed arrangement between the Cottesloe Tennis Club and the Town of Cottesloe is approximately \$150pa.

BACKGROUND

The Chief Executive Officer has indicated a preference for lease income based on rate payments rather than rent for our sporting clubs. This would result in a simple and objective basis for increases in income over time that would require minimal argument and justification.

CONSULTATION

I had meetings with Matthew McFarlane, Secretary of the Cottesloe Tennis Club and Michael Tudori, President of the Cottesloe Rugby Club. I also contacted several other local governments including Mosman Park, Peppermint Grove, Claremont, Subiaco, Cambridge and Vincent to determine how they treated their tennis and other sporting club leases.

There is no requirement for public consultation. Under the Town of Cottesloe Community Consultation policy the lease constitutes an extension of an existing agreement and does not involve a significant change in policy or the provision of new works and services.

STAFF COMMENT

The application of full rates to the tennis club was going to result in a significant increase (approx 500%). The tennis club was initially receptive to the increase but changed its view after reviewing the circumstances of other tennis clubs in the area. After I reviewed the alternative treatments from the other councils a compromise was determined. It is intended that the tennis club will be charged full rates with an 80% rebate. This results in the Council receiving approximately the same income as the previous agreement (there is a shortfall of around \$150 due to the ESL). Note: There is no exemption for the ESL for non-profit organisations. The shortfall is compensated by the Cottesloe Tennis Club's agreement to assume responsibility for the up-keep of the bore.

It is important to note that other councils in the region treat individual clubs based on their unique circumstances. For example, in the Town of Vincent, each club has a negotiated arrangement based on a combination of the level of council financial involvement in ground maintenance, historical agreements and type of premises.

The committee of the tennis club is satisfied with the proposed lease as it provides long term security and does not have an adverse impact on the finances of the clubs. The term of the lease has been set at 21 years.

VOTING

Simple Majority

DECLARATION OF IMPARTIALITY

Cr Furlong made a declaration of impartiality in that his wife is a member of the Tennis Club.

OFFICER RECOMMENDATION

That Council authorise the Mayor and CEO to sign a lease agreements between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

COMMITTEE RECOMMENDATION

That the matter be held over to full Council meeting pending clarification of whether draft clauses 7(6) – 7(7) are to be included in the final lease agreement.

The meeting was informed by the CEO that it was not intended to include draft clauses 7(6) – 7(7) (as shown in the draft Rugby Club lease) in the final lease agreement.

12.1.2 COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council authorise the Mayor and CEO to sign a lease agreements between the Town of Cottesloe and the Cottesloe Tennis Club Inc.

Carried 7/2

12.1.3 INDIANA TEA HOUSE & BARCHETTA - TOILET CLEANING

File No: 91 Marine Parade
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 9 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to approve additional cleaning of the public toilets at the Indiana Tea House and Barchetta Restaurant for Summer 2006/2007.

STATUTORY ENVIRONMENT

Nil

POLICY IMPLICATIONS

Beach policy, section (c) of 'Secondary Objectives' applies:

To provide a level of essential amenity on the beach reserves which meets the expectations of the residents of Cottesloe, the people of Western Australia and visitors to the metropolitan region.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

The quotes received from the various cleaning companies for the period 1/11/2006 to 30/4/2007 are as follows (all GST exclusive):

\$30,940 Charles Cleaning Company (for the 6 months)
\$26,000 Liberation Cleaning Services (\$1,000 per week for 26 weeks)
\$45,169 Petra Clean (\$273 per day for 182 days)
\$30,000 Delron (\$5,000 per month for 6 months)
\$17,420 Orbit Group (\$670 per week for 26 weeks)

This additional cleaning has not been provided in the budget.

BACKGROUND

The cleanliness of the beachfront restaurant toilets, the Indiana Tea House in particular, has been an ongoing cause of complaints. The lease agreement requires that the lessee cleans the toilets daily. This has resulted in the toilets being cleaned once a day, usually first thing in the morning. During summer this has proven to be inadequate. The combination of additional usage of the facilities by local patrons, petty vandalism and unusual ablution practices of tourists mean that by mid-morning the change rooms are a mess.

Council requested that quotes be obtained to determine the feasibility of additional cleaning.

CONSULTATION

The report is predicated on the numerous complaints received by the Council and its officers during summer.

STAFF COMMENT

I started working at the Town of Cottesloe at the end of last summer and received approximately two calls a day for the next few weeks complaining about the condition of the toilets at Indiana Tea House.

Following a request from Council I contacted a number of professional cleaners to get quotes for additional cleaning of the toilets. The quotes cover two additional cleaning services seven days a week at the change rooms at Indiana Tea House and Barchetta Restaurant for the six months from November, 2006 to April, 2007.

The new lessee assumes control over the Indiana Tea House in November, 2006. I recommend that the cleaning be approved for this summer as a goodwill gesture from the council. Future arrangements can be negotiated with the new lessee as part of a holistic approach to the facility.

VOTING

Absolute Majority

12.1.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council approve the additional toilet cleaning by Orbit Group at Indiana Tea House and Barchetta Restaurant for summer 2006/2007 (finishing date 30/4/2007).

Carried 9/0

12.1.4 COUNCIL MEETING DATES FOR 2007

File No: X4.3
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 6 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A resolution setting out the ordinary Council meeting dates for 2007 is required.

STATUTORY ENVIRONMENT

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

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

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

POLICY IMPLICATIONS

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

Nil.

VOTING

Simple Majority

12.1.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) **Observe a recess in January 2007, with no ordinary meeting of Council to be held;**
- (2) **Advertise the ordinary Council meeting dates for 2007 as the fourth Monday in the month commencing at 7.00 pm with the exception of December when the meeting is to be advanced to 17th December;**
- (3) **Advertise the Development Services Committee meeting dates for 2007 as the third Monday in the month commencing at 6.00 pm with the exception of December when the meeting is to be advanced to 10th December;**
- (4) **Advertise the Works & Corporate Services Committee meeting dates for 2007 as being held on the day after the Development Services Committee meeting commencing at 7.00 pm; and**
- (5) **Advertise the Strategic Planning Committee meeting dates for 2007 as being held on the fifth Monday in the month commencing at 7.00 pm. with the exception of the first meeting in 2007 when the meeting is to be advanced to 21st February 2007.**

Carried 9/0

12.1.5 ANNUAL ELECTORS MEETING - ACCEPTANCE OF ANNUAL REPORT

File No: C 7. 1
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 17 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to accept the annual report for the 2005/06 financial year and to hold the annual electors meeting on Wednesday, 13 December, 2006.

STATUTORY ENVIRONMENT

The relevant sections of the *Local Government Act 1995* read as follows:

5.27. Electors' general meetings

- (1) *A general meeting of the electors of a district is to be held once every financial year.*
- (2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) *The matters to be discussed at general electors' meetings are to be those prescribed.*

5.53. Annual reports

- (1) *The local government is to prepare an annual report for each financial year.*
- (2) *The annual report is to contain ?*
 - (a) *a report from the mayor or president;*
 - (b) *a report from the CEO;*
 - [(c), (d) deleted]
 - (e) *an overview of the plan for the future of the district made in accordance with section 5.56, including major initiatives that are proposed to commence or to continue in the next financial year;*
 - (f) *the financial report for the financial year;*
 - (g) *such information as may be prescribed in relation to the payments made to employees;*
 - (h) *the auditor's report for the financial year;*
 - (ha) *a matter on which a report must be made under section 29(2) of the Disability Services Act 1993; and*
 - (i) *such other information as may be prescribed.*

5.54. Acceptance of annual reports

- (1) *Subject to subsection (2), the annual report for a financial year is to be accepted* by the local government no later than 31 December after that financial year.*

** Absolute majority required.*

- (2) *If the auditor's report is not available in time for the annual report for a financial year to be accepted by 31 December after that financial year, the annual report is to be accepted by the local government no later than 2 months after the auditor's report becomes available.*

5.55. Notice of annual reports

The CEO is to give local public notice of the availability of the annual report as soon as practicable after the report has been accepted by the local government.

5.56. Planning for the future

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Regulations 15 and 19B of the *Local Government (Administration) Regulations, 1996* require that:

15. Matters for discussion at general electors' meetings s. 5.27(3)

For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.

19B. Annual report to contain information on payments to employees ? s. 5.53(2)(g)

For the purposes of section 5.53(2)(g) the annual report of a local government for a financial year is to contain the following information ?

- (a) *the number of employees of the local government entitled to an annual salary of \$100 000 or more;*
- (b) *the number of those employees with an annual salary entitlement that falls within each band of \$10 000 over \$100 000.*

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Council is required to hold a general meeting of electors once in each financial year and this meeting is to be held not more than 56 days after Council accepts the annual report.

The annual report is to be accepted by the Council no later than 31 December, 2006.

CONSULTATION

N/A

STAFF COMMENT

The annual report (see attached) is made up of a number of reports including those of the Mayor and CEO, an overview of the plan for the future, the annual financial statements, the auditor's report and other prescribed reports and information.

The last Annual General Meeting of Electors was held on 23 November, 2005.

Subject to Council's acceptance of the Annual Report, the earliest suitable date to hold the electors meeting will be Wednesday, 13 December, 2006.

VOTING

Simple Majority

12.1.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Accept the Annual Report for the 2005/06 Financial Year, subject to the section relating to the Future Plan being updated; and**
- (2) Call the Annual Meeting of Electors, to be held in the War Memorial Town Hall, Cottesloe Civic Centre, on Wednesday, 13 December, 2006 commencing at 7.00pm.**

Carried 9/0

12.1.6 FUTURE PLAN

File No: X12.4
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 13 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A Council decision is required on the timing and extent to which community consultation is undertaken on a draft "Future Plan" for Cottesloe.

STATUTORY ENVIRONMENT

Section 5.56 of the *Local Government Act 1995* requires the following:

5.56. Planning for the future

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Regulation 19C of the *Local Government (Administration) Regulations 1996* requires the following:

19C. Planning for the future S. 5.56

- (1) *In this regulation and regulation 19D*

"plan for the future" means a plan made under section 5.56.

- (2) *A local government is to make a plan for the future of its district in respect of the period specified in the plan (being at least 2 financial years).*
- (3) *A plan for the future of a district is to set out the broad objectives of the local government for the period specified in the plan.*
- (4) *A local government is to review its current plan for the future of its district every 2 years and may modify the plan, including extending the period the plan is made in respect of.*
- (5) *A council is to consider a plan, or modifications, submitted to it and is to determine* whether or not to adopt the plan, or the modifications, as is relevant.*

**Absolute majority required.*

- (6) *If a plan, or modified plan, is adopted by the council then the plan or modified plan is to apply to the district for the period of time specified in the plan.*
- (7) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a plan for the future of the district, and when preparing any modifications of a plan.*
- (8) *A plan for the future of a district is to contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.*

- (9) *A local government is to ensure that a plan for the future made in accordance with this regulation applies in respect of each financial year after the financial year ending 30 June 2006.*

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

As and when adopted, the "Future Plan" (see Attachment 1) will become the overarching strategic plan for the Town of Cottesloe and will replace Councils existing Strategic Plan (see Attachment 2).

FINANCIAL IMPLICATIONS

The cost of community consultation depends on the extent of consultation undertaken but in any event should not exceed two thousand dollars.

BACKGROUND

As required under the *Local Government Act, 1995*, Council is required to prepare a plan for the future that sets out the broad objectives of the Town of Cottesloe for a period of not less than two financial years.

Electors and ratepayers of its district must be consulted during the development of a plan for the future of the district and when preparing any modifications of a plan.

The plan for the future of a district must also contain a description of the involvement by the electors and ratepayers in the development of the plan, and any modifications of the plan.

Over the last three months, Council staff and elected members have held several meetings to develop a draft plan.

CONSULTATION

Under Council's *Community Consultation Policy* the draft *Future Plan* is considered to be a major strategic document.

The level of consultation for a major strategic document demands that at the **minimum**, consultation include;

- The invitation of submissions with the placement of advertisements in the local newspaper.
- Information being placed on the Internet at www.cottesloe.wa.gov.au together with an invitation for submissions,
- An article in *Cottesloe Council News* about the draft *Future Plan* with the article informing and encouraging feedback.
- Consultation with ratepayer groups such as SOS Cottesloe Inc as a valuable means of receiving feedback on a range of strategic issues.

The policy also requires that in **most circumstances** Council would also:

- Issue media releases and conduct interviews with local journalists.
- Undertake a statistically correct survey of particular attitudes, beliefs or information in relation to the draft plan. This may be done by phone, written survey or door-knock of individual households.
- Conduct discussion groups of around 15-20 invited people, usually led by a trained facilitator.

Depending on the circumstances Council **might** also want to:

- Issue a non-addressed leaflet or flyer that summarises the issues and invites feedback to Council. The flyer indicates how that feedback can be given.
- Undertake personal briefings. These are held at the request of a member of members of the local community to discuss a particular issue with a responsible officer. They may include the Mayor and/or Councillors.
- Conduct community information sessions in the Lesser Hall. Invitations can be extended by advertising in the local papers, by letterbox drop and/or advertisements in the local newspaper.

STAFF COMMENT

Perhaps the only limiting factor on the level of community consultation to be undertaken relates to a question of timing.

With the Christmas recess almost upon us, it is highly unlikely that the issue of properly constructed surveys, collation of survey results and the conduct of discussion groups could be reasonably undertaken until February/March/April of next year.

While surveys and discussion groups are not critical to the adoption of the *Future Plan* under the *Community Consultation Policy*, they may nonetheless result in stronger community ownership of the end product and a better *Future Plan*.

In order to keep things moving it is recommended that:

1. Undertake at least the minimum requirement of community consultation as required under Council's *Community Consultation Policy* in relation the draft *Future Plan* over the next two months, and
2. Reconsider, at its February 2007 meeting, the matter of further community consultation (by way of discussion groups and community surveys) dependent on the level and nature of community feedback received to that point in time.

VOTING

Simple Majority

12.1.6 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Undertake at least the minimum requirement of community consultation as required under Council's *Community Consultation Policy* in relation the draft *Future Plan* over the next two months; and**
- (2) Reconsider, at its February 2007 meeting, the matter of further community consultation (by way of discussion groups and community surveys) dependent on the level and nature of community feedback received to that point in time.**

Carried 9/0

12.1.7 COTTESLOE SURF LIFE SAVING CLUB - DISCHARGE OF MORTGAGE

File No: E2.5
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to authorise the use of the Common Seal of the Town of Cottesloe in the execution of the Discharge of Mortgage document for Cottesloe Lot 322.

STATUTORY ENVIRONMENT

Council's Standing Order 21.3 provides that:

Except as required by law, or in the exercise of the express authority of the council, the chief executive officer shall not use the common seal of the council.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In 1993 the Town of Cottesloe obtained a self-supporting loan (Loan No.83) of \$125,000 from the Western Australian Treasury Corporation on behalf of the Cottesloe Surf Life Saving Club.

The loan was to be repaid to the Town of Cottesloe by the Cottesloe Surf Life Saving Club over period of twelve years with the last instalment falling due on 1st July 2005.

As security for the repayment of the loan, the Town of Cottesloe took a mortgage over the land owned by the Cottesloe Surf Life Saving Club on Marine Parade (Cottesloe Lot 322).

The loan has been repaid in full and the Cottesloe Surf Life Saving Club has now written to the Town of Cottesloe enclosing a Discharge of Mortgage form for execution by the Town of Cottesloe and seeking the return of the Duplicate Certificate of Title for Cottesloe Lot 322.

A Council resolution authorising the use of the Town's Common Seal on the Discharge of Mortgage form is now required.

CONSULTATION

Nil.

STAFF COMMENT

Nil.

VOTING

Simple Majority

12.1.7 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council authorise the use of the Common Seal of the Town of Cottesloe in the execution of the Discharge of Mortgage document for Cottesloe Lot 322.

Carried 9/0

12.2 ENGINEERING**12.2.1 PART ROAD RESERVE CLOSURE, BARSDEN STREET/FINEY STREET, COTTESLOE**

File No: 12 Barsden St
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

A request has been received from the owners of 12 Barsden Street, located at the intersection of Barsden Street and Finey Street, for the truncation area on the corner of their property, associated with the junction of the two road reserves, to be closed, for amalgamation into their property.

This report recommends that Council:

- (1) Support, in principle, the proposed closure of the truncation area on the Barsden Street/Finey Street road reserve intersection adjacent to the south west corner of 12 Barsden Street, Cottesloe, totalling approximately 18m², to be amalgamated into the area of 12 Barsden Street;
- (2) Agree to commence the process of closure covered under Section 58 of the *Land Administration Act, 1997* once the owners of 12 Barsden Street, Cottesloe agree in writing to fund the cost of the public newspaper advertisement to begin the mandatory 35 day objection period for public consultation; and
- (3) Inform the owners of 12 Barsden Street, Cottesloe of Council's decision on this matter.

STATUTORY ENVIRONMENT

This matter concerns a small portion of road reserve, which cannot be claimed by adverse possession.

For any permanent road closure, regardless of scale, Section 58 of the *Land Administration Act, 1997* is applicable. This process includes a statutory objection period being advertised and all service authorities being asked for comment, prior to council reconsidering the proposal.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Finey Street is a cul-de-sac road which is not built as a connection to Barsden Street. The area which could be used as a connection is a developed drainage soak pit and sump area which is designed to dispose of drainage water from the general area.

The wall built on the south west corner of 12 Barsden Street is built over the 45° normal road junction boundary truncation. There appears to be no service authority junction pits.

The wall enclosing this truncation appears to have been there for many years, as has the Barsden Street slab footpath and the well established verge lawn.

There is a well developed drainage system on the unbuilt western end of Finey Street. This was built in 2001 when Barsden Street was rebuilt, to improve inadequate drainage down Finey Street.

CONSULTATION

Nil, to date. If Council resolves to support the closure of the truncation area, approximately 18m², a 35 day objection period will apply, for public comment, after the proposal has been advertised.

STAFF COMMENT

The area of approximately 18m² for the legal truncation provision has effectively been denied to the public and service authorities for many years. There are no Council plans to make use of the site in future. If there had been service authority problems with the right angle boundary wall then it would have been modified, with obvious service pits on the site.

The only cost to Council with this proposal is the staff time required for the administrative steps and the cost of the single newspaper advertisement for the proposed closure.

VOTING

Simple Majority

12.2.1 OFFICER & COMMITTEE RECOMMENDATION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Support, in principle, the proposed closure of the truncation area on the Barsden Street/Finey Street road reserve intersection adjacent to the south west corner of 12 Barsden Street, Cottesloe, totalling approximately 18m², to be amalgamated into the area of 12 Barsden Street;**

- (2) **Agree to commence the process of closure covered under Section 58 of the *Land Administration Act, 1997* once the owners of 12 Barsden Street, Cottesloe agree in writing to fund the cost of the public newspaper advertisement to begin the mandatory 35 day objection period for public consultation; and**
- (3) **Inform the owners of 12 Barsden Street, Cottesloe of Council's decision on this matter.**

Carried 9/0

12.2.2 PEARSE STREET ROAD RESERVE: SEA VIEW GOLF CLUB ENCROACHMENT

File No: E17.10.75 & 2 Jarrad St
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

At its August, 2006 meeting Council resolved to:

- (1) Request the Minister to permanently close the section of the Jarrad Street road reserve between Marine Parade and 20 metres east from the north west corner of Lot 6271 and 1664, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve be amalgamated into "A" Class Reserve 6613; and
- (2) Require a report from staff, on the matter of the Sea View Golf Club golf course encroaching on a portion of the Pearse Street road reserve.

This item supplies the requested report (Item 2) and recommends:

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to 240.5m east of Marine Parade, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act 1997*, and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

STATUTORY ENVIRONMENT

Any closure, permanently, of a portion of road reserve would be covered by Section 58 of the *Land Administration Act, 1997* (attached).

Council's Local Law *Activities on Thoroughfares and Trading in Thoroughfares and Public Places* also applies (see attached).

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

During its recent discussions regarding the proposed closure of Jarrad Street between Broome Street and Marine Parade, Council became aware of a portion of the north side verge of Pearse Street, to the east of Marine Parade, which has been part of the Sea View Golf Club playing area for many years, with a pine log fence closing off this area for general public use.

This is in conflict with the Town of Cottesloe's local law *Activities on Thoroughfares and Trading in Thoroughfares and Public Places*, which includes the provision:

"A person shall not: ...

- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare.

It would appear that for many years, apart from a width allowed for a pedestrian slab footpath, the majority of the north side road reserve of Pearse Street, from Marine Parade to a point 240.5m east of Marine Parade has been fenced into the area played on and maintained by the Sea View Golf Club.

CONSULTATION

Discussions have been held with the Sea View Golf Club on this matter.

Public consultation will be undertaken and will include advertising in a local newspaper, on Council's web page and noticeboards, along with the statutory advertising requirements.

STAFF COMMENT

The Pearse Street road reserve is 40m wide, with private properties on the south side and the golf club plus Council ovals on the north side, between Marine Parade and Broome Street.

For the section of concern, Council staff only maintain the fronting footpath strip, with the remainder of the verge width mowed by the Sea View Golf Club.

There have been no complaints found in the files regarding the existing situation, however, a permanent, legal basis needs to be established to meet Council's local law requirements as well as to clarify liability responsibilities, if an accident or injury occurs within the area of concern.

It is proposed to close off the portion of road reserve affected, amalgamate it into the adjacent Crown Reserve No. 1664, and modify the area covered by the Sea View Golf Club lease area to formally include the site, once the closure has occurred.

The other alternative is to have the golf club remove its activities from the site and move the boundary fence back to the legal boundary.

VOTING

Simple Majority

DECLARATION OF IMPARTIALITY

Cr Strzina made a declaration of impartiality in that he is a member of the Se View Golf Club.

Cr Furlong made a declaration of impartiality in that he is a social member of the Sea View Golf Club.

OFFICER RECOMMENDATION

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to 240.5m east of Marine Parade, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

12.2.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council advertise and conduct a public consultation process, in accordance with Council's policy and as required under Section 58 of the *Land Administration Act, 1997*, that Council intends to request the Minister to permanently close the section of Pearse Street road reserve on the north side of Pearse Street, from Marine Parade to the western boundary of Cottesloe Lot 113, for a width of 15m from the northern road reserve boundary, under Section 58 of the *Land Administration Act, 1997* and that this closed road reserve section be amalgamated into the adjoining 'A' Class Reserve 1664.

Carried 7/2

12.2.3 LIMESTONE RETAINING WALL, NO. 1 CARPARK - STRUCTURAL SUPPORT

File No: E 9. 1
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

After receiving comments from a resident, staff inspected cracking in a portion of limestone retaining wall adjacent to steps at the south west corner of No. 1 carpark. A short report was obtained from a consultant on the extent and reasons for the cracking.

This report recommends that Council:

- (1) Install two steel support columns on the outside retaining wall of the steps leading down from the south west corner of No. 1 carpark, with these columns to be masonry filled and coloured to match the limestone walls; and
- (2) Consider the funding of a structural engineering report on all limestone structural retaining walls on the foreshore area when framing the 2007/08 draft budget.

STATUTORY ENVIRONMENT

The affected infrastructure has been installed by the Town of Cottesloe on reserve land vested in Council for the purposes of Recreation. Council is liable for all repair or reconstruction works required.

POLICY IMPLICATIONS

Council's *Beach* policy applies (see attached).

STRATEGIC IMPLICATIONS

The main Strategic Plan objective for this beach area is covered under:

District Development/Environment/Beach Precinct – A clean safe beach precinct which is sustainably managed with no new developments West of Marine Parade and proactive conservation of the dune and marine environs.

FINANCIAL IMPLICATIONS

Short term installation of supports, approximately \$4,000 – funded from maintenance provision.

Long term – study of all structural support/retaining walls in the beach precinct and required repair/replacement works, possible \$20,000+.

BACKGROUND

The limestone steps and retaining walls on the foreshore areas, particularly around No. 1 carpark and the Indiana Tea House, have been installed and maintained at various times over many years. Some are in good condition while others have received a variety of treatments or replacements, in varying colours and materials.

The consultant's report explains the probable causes of the cracking and movement of this portion of retaining wall, with a recommendation for short term 'holding action' restoration of structural capacity while a larger study is made of the other structural retaining walls within the foreshore area.

CONSULTATION

This matter relates to infrastructure maintenance. Public consultation is not required.

STAFF COMMENT

The cracks in this wall are serious enough to require at least a short term installation of the two 150mm deep steel columns to ensure structural support to the wall for the remainder of this financial year. Other wall sections in this area are cracked and require further investigation to determine the reasons for cracking and options for long-term solutions.

As recommended by the consultant, the two proposed steel columns could be filled with masonry to duplicate a limestone 'look' to match the existing wall blocks.

There is also a need to consider extra wall rehabilitation to replace sections of face blocks which have weathered or been vandalised in excess of expectation. These could be weak sections or soft portions of limestone.

The retaining walls around the terraces near the Indiana Tea House vary greatly in terms of the quality of stonework, with different qualities and colours of repair efforts.

VOTING

Simple Majority

12.2.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Install two steel support columns on the outside retaining wall of the steps leading down from the south west corner of No. 1 carpark, with these columns to be masonry filled and coloured to match the limestone walls; and**
- (2) Consider the funding of a structural engineering report on all limestone structural retaining walls on the foreshore area when framing the 2007/08 draft budget.**

Carried 8/1

12.2.4 RIGHTS OF WAY/LANEWAYS - EXISTING NAME LEGALITY

File No: E13. 1
Author: Mr Geoff Trigg
Author Disclosure of Interest: Nil
Report Date: 14 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

At its meeting in August, 2006, Council resolved.

That Council:

- (1) Change item No. 13 of the *Rights of Way/Laneways* policy, to read:
 - (A) On request Council will consider the naming of right-of-ways/laneways under the care, control and management of the Town of Cottesloe on the understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular right-of-way/laneway or services to same.
- (2) Advise property owners adjacent to ROW 29 (between Nailsworth Street and Broome Street) of a proposal to name ROW 29 "Marchant Walk" and requesting submissions on the proposal in writing by the 12th September 2006 to enable further consideration by Council at its September, 2006 meeting.
- (3) Have staff prepare a report on the legality of accepted names currently used on ROWs/Laneways within the Town of Cottesloe, including alternatives for any laneways with no legal name but for which the local use name is unlikely to achieve approval from the Geographic Names Committee.

This report recommends that Council either:

- (1) Give further thought to a suitable name with a view to selecting a name from a shortlist in December, 2006; or
- (2) Seek public submissions on a name.

STATUTORY ENVIRONMENT

Rights of Way (ROWs)/Laneways in the Town of Cottesloe are either Crown land, privately owned by the Town of Cottesloe or privately owned by a number of individuals or companies.

Those which are Crown land or owned by the Town of Cottesloe are maintained by Council and Council has control over the naming of such accesses, with the Department of Land Information having to approve, through the Geographical Names Committee, the choices made regarding suitable names.

POLICY IMPLICATIONS

Council's *Rights of Way/Laneways* policy, section 13 applies.

13. On request Council will consider the naming of right-of-ways/laneways under the care, control and management of the Town of Cottesloe on the

understanding that there shall be no obligation on the Town of Cottesloe or any other service agency to improve the condition of any particular right-of-way/laneway or services to same.

STRATEGIC IMPLICATIONS

Governance/Consistency: All decisions made are consistent with relevant statutes, Council policy and the aims of the Strategic Plan.

Management/Statutory Compliance: All procedures and decisions comply with external and internal statutes.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At its meeting in August, 2006 Council considered information from the Department of Land Information stating that the name "Napoleon" should not be applied to a laneway so close to Napoleon Street, because of legislation governing the control of duplicated road or laneway names.

Council resolved to have all other laneway names checked for legality before deciding further on Napoleon Lane.

CONSULTATION

Nil, other than verbal discussions with ProCott and letters to and from the Department of Land Information/Geographic Names Committee.

STAFF COMMENT

The received letter from the Geographic Names Committee informs Council that Clapham Lane, Fig Tree Lane, Rockett Lane and De Bernales Walk are legally named.

McNamara Way, Joinery Way and Pennefeather Lane are underwidth public streets and legally named.

Therefore, the only name not originally approved and unlikely to be approved is Napoleon Lane/Close, because of the existence of Napoleon Street nearby.

In regards to an alternative to "Napoleon" as a laneway name replacement, the names "Wellington" and "Waterloo" come to mind. Wellington Street is in Mosman Park, within 10km of this site. There are no streets known of using the name "Waterloo" within 10km of Napoleon Street.

There may, as alternatives, be names of prominent past residents who should be remembered via a street name.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Give further thought to a suitable name with a view to selecting a name from a shortlist in December, 2006.

Or

- (2) Seek public submissions on a name.

12.2.4 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council seek approval from the Geographic Names Committee to name the lane 'De Nardi Lane' in memory of Bruno De Nardi – a former Cottesloe greengrocer.

Carried 9/0

12.3 FINANCE**12.3.1 FINANCIAL REPORT FOR OCTOBER, 2006**

File No: C 1. 2
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Report Date: 15 November, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

It is recommended that Council accept the Financial Report for October 31, 2006.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The manager Corporate Services provides a report to Council as required.

CONSULTATION

Nil.

STAFF COMMENT

October 2006	Actual YTD	Budget YTD	Variance \$	Variance %
Total Revenue (excluding rates)	\$887,909	\$810,607	\$77,302	9.5
Total Expenses	\$(2,223,248)	\$(2,527,997)	\$304,749	12.1
Capital Expenditure	\$(1,081,978)	\$(1,116,000)	\$34,022	3.0
Other	\$171,788	\$165,293	\$6,495	0.8

Financial Commentary and Analysis

There are few significant variances. Revenue includes a \$20,000 grant from the Office of Crime Prevention that was not in the budget. Expenses are favourable to budget with the causes for the variance in Community Amenities. Timing differences relating to lower than budgeted expenditure on contractors in the area of sanitation

(\$97,509) and provisional amounts totalling \$74,947 in the budget for legal expenses, consultants and contractors that may not be expended making up the majority of the variance.

IT Steering Committee

TRIM Context has been purchased as our new Electronic Document Management System (EDMS). Our current system using F:\Records does not allow for easy storage and retrieval of information, but this is all about to change! As we have never utilised an EDMS, there is a lot of work that needs to be undertaken behind the scenes before we can go live ensuring we comply with the legislation outlined in the State Records Act 2000.

There will be more detail in subsequent reports keeping you updated on the TRIM Implementation program.

Achievements - October 2006

- All training sessions provided with implementation package have been conducted. Customised and refresher courses to be held in December 2006 or January 2007
- Keywords for Council (New Thesaurus terms) has been purchased and uploaded into the LIVE version of TRIM
- General Disposal Authority for Local Governments (GDA) has been purchased and uploaded into the LIVE version of TRIM
- Postal Codes have been uploaded into the LIVE version of TRIM
- Internal Locations & Security entered into the LIVE version of TRIM
- Physical Locations & Security entered into the LIVE version of TRIM

What to expect over the next month.....November 2006

- Record Types to be created in LIVE version of TRIM
- Locations to be created in LIVE version of TRIM (external contacts from Prospect)
- Consultancy – change management/implementation options
- New Filing Structure to be approved
- Commence work on User Manuals and Quick Reference Guides
- Commence work policy and procedure documents

Universal Beach Access Group

There has been a significant amount of effort in establishing a pilot project to improve the access to the beach for disabled. The partners in the project have expanded to include the following organisations:

- Cities of Fremantle and Nedlands
- WALGA
- Disability Services Commission
- Surf Life Saving WA
- Disabled Surfers Association
- Lotterywest
- Curtin University (School of Occupational Therapy)
- Department of Sport and Recreation

I have attached copies of the project plan and the Curtin Uni students' project outline.

Community Safety and Crime Prevention

There has been a lot of activity in preparation for capturing information relating to anti-social behaviour at the beach front during this summer. The Rangers and Depot staff are preparing weekly reports containing evidence of problems.

The fridge magnets and letters to residents are being distributed next week (w/c 20/11/2006) and there will be adverts for the Town Meeting in the next 3 issues of the Cottesloe Post.

VOTING

Simple Majority

12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council accept the Financial Report for October, 2006.

Carried 9/0

12.3.2 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C 7. 4
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Financial Statements are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Operating Statement on page 17 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$380,772 as at 31 October 2006. Operating Revenue is ahead of budget by \$76,023(1%). Operating Expenditure is \$304,749 (12%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 October 2006 is shown on page 38.

The main cause of the lower than anticipated expenditure is lower than budgeted expenditure on contractors in the area of sanitation.

The Capital Works Program is listed on pages 23 to 24 and shows total expenditure of \$964,220. This includes \$171,853 of capital expenditure related to projects funded with grant money received in the last financial year. The other items of capital are budgeted with some timing differences.

VOTING

Simple Majority

12.3.2 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.3 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C12 and C13
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

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

CONSULTATION

Nil.

STAFF COMMENT

The Schedule of Investments on page 47 of the Financial Statements shows that \$4,043,163 was invested as at 31 October, 2006.

Reserve Funds make up \$692,019 of the total invested and are restricted funds. Approximately 55% of the funds are invested with the National Australia Bank, 30% with Home Building Society and 15% with BankWest.

The Schedule of Loans on page 48 shows a balance of \$339,198.62 as at 31 October 2006. There is \$168,521.51 included in this balance that relates to self supporting loans.

VOTING

Simple Majority

12.3.3 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

12.3.4 ACCOUNTS FOR THE PERIOD ENDING 31 OCTOBER, 2006

File No: C 7. 8
Author: Mr Graham Pattrick
Author Disclosure of Interest: Nil
Period Ending: 31 October, 2006
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The List of Accounts is presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

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

- \$12,581.34 to WA Local Govt Super Fund for staff deductions
- \$43,411.00 to Sigma Data Solutions for TRIM software and training
- \$13,062.27 to WA Local Govt Super for staff deductions
- \$12,612.40 to ATO for GST for September 2006
- \$11,550.00 to Civica for instalment of council software purchase
- \$52,268.00 to Pro-Cott for 2005/2006 special rates
- \$65,639.90 to Shacks Holden for purchase of 2 passenger vehicles
- \$37,867.00 to Trum P/L for waste collection
- \$19,870.40 to WMRC for disposal and tipping fees
- \$11,793.54 to B & N Waste for green waste collection
- \$20,029.39 to Municipal Property Scheme for instalment of Property Insurance premium
- \$88,184.80 to Shire of Peppermint Grove for quarterly library contributions

- \$56,890.46 to Town of Mosman Park for various drainage installations
- \$30,456.41 to Trum P/L for waste collection
- \$23,144.04 to WMRC for disposal and tipping fees
- \$13,345.45 to WA Treasury for loan repayment
- \$51,487.88, and \$52,653.68 for staff payroll

VOTING

Simple Majority

12.3.4 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 31 October, 2006, as submitted to the 21 November, 2006 meeting of the Works and Corporate Services Committee.

Carried 9/0

**12.3.5 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 OCTOBER, 2006**

File No:	C 7. 9
Author:	Mr Graham Pattrick
Author Disclosure of Interest:	Nil
Period Ending:	31 October, 2006
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Property and Sundry Debtors Reports for the period ending 31 October, 2006, to Council.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Property and Sundry Debtors Reports are presented monthly.

CONSULTATION

Nil.

STAFF COMMENT

The Sundry Debtors Report on pages 44 to 45 of the Financial Statements shows a balance of \$192,980.23 of which \$59,015.52 relates to the current month. The balance of aged debt greater than 30 days stood at \$133,964.71 of which \$83,316.32 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

The Property Debtors Report on page 46 of the Financial Statements shows a balance of \$1,590,285.86. Of this amount \$158,207.19 and \$8,894.08 are deferred rates and deferred ESL respectively. As can be seen on the Balance Sheet on page 18 of the Financial Statements, rates as a current asset are \$1,423,184 in 2006 compared to \$1,311,089 last year.

VOTING

Simple Majority

12.3.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 31 October, 2006; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 October, 2006.**

Carried 9/0

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

Nil

14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**14.1 BARCHETTA BINS**

Cr Woodhill spoke in relation to the odours from the bins at Barchetta.

14.1 COUNCIL RESOLUTION

Moved Cr Woodhill, seconded Cr Carmichael

That this matter be dealt with as an item of urgent business.

Carried 6/3

Moved Cr Woodhill, seconded Cr Carmichael

That the Principal Environmental Health Officer report to Council on the odours associated with the rubbish bins at Barchetta.

Carried 6/3

14.2 COTTESLOE BEACH HOTEL – NEW YEARS EVE

The Cottesloe Beach Hotel has sent an email to a number of its patrons providing details for New Years Eve celebrations at the hotel. Following this an article was printed in the Post Newspaper on 17 November, 2006. Councillors discussed the promotion of the event and the message that it sent.

14.2 COUNCIL RESOLUTION

Moved Cr Carmichael, seconded Cr Strzina

That this matter be dealt with as an item of urgent business.

Carried 8/1

Moved Cr Carmichael, seconded Cr Utting

That Council write to Multiplex, Hon. M McGowan - Minister of Racing and Gaming, Mr Peter Minchin – Director of Liquor Licensing, Hon. John Kobelke – Minister for Police, Mr Karl O’Callaghan – Commissioner for Police, Hon. Colin Barnett – Member for Cottesloe and Hon. Alan Carpenter – Premier in relation to the email, highlighting it as irresponsible and the creation of major problems, particularly excessive alcohol consumption.

Lost 4/5

15 MEETING CLOSURE

The Deputy Mayor announced the closure of the meeting at 9.00pm.