

# **TOWN OF COTTESLOE**



## **FULL COUNCIL MEETING**

# **MINUTES**

**ORDINARY MEETING OF COUNCIL  
HELD IN THE  
COUNCIL CHAMBERS, COTTESLOE CIVIC CENTRE  
109 BROOME STREET, COTTESLOE  
7.00 PM, MONDAY, 28 APRIL, 2008**



---

## TABLE OF CONTENTS

---

ITEM	SUBJECT	PAGE NO
1	DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS.....	4
1.1	SUSPENSION OF STANDING ORDER 12.1 – MEMBERS TO RISE .....	4
2	RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED).....	4
3	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	5
4	PUBLIC QUESTION TIME.....	5
5	APPLICATIONS FOR LEAVE OF ABSENCE .....	6
6	CONFIRMATION OF MINUTES OF PREVIOUS MEETING .....	6
7	ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION .....	6
8	PUBLIC STATEMENT TIME.....	7
9	PETITIONS/DEPUTATIONS/PRESENTATIONS.....	8
10	REPORTS OF COMMITTEES AND OFFICERS.....	9
10.1	CHIEF EXECUTIVE OFFICER.....	9
10.1.1	UNBUDGETED LOAN FUNDS FOR THE PROPOSED LIBRARY - RESULTS OF PUBLIC ADVERTISING	9
10.1.2	SCOUT ASSOCIATION – WA BRANCH – 65 ERIC STREET	20
10.1.3	STATION STREET REDEVELOPMENT WORKING GROUP - FUNDING FOR A DESIGN CONSULTANT	23
11	DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 21 APRIL 2008.....	28
11.1	PLANNING.....	28
11.1.1	RESERVE 44617, NO. 91 MARINE PARADE – ALTERATIONS AND ADDITIONS TO INDIANA'S RESTAURANT	28

---

---

11.1.2	NO. 8 (LOT 8) NAILSWORTH STREET – TWO SINGLE DWELLINGS	37
11.1.3	NO. 4 (LOT 2) TORRENS COURT – TWO-STOREY RESIDENCE WITH UNDERCROFT & POOL	52
11.1.4	NO. 108 (LOT 21) BROOME STREET – RELOCATION OF BIN STORAGE AREA, FRONT BOUNDARY FENCING AND PROVISION OF ADDITIONAL VERGE PARKING	62
11.1.5	NO. 80 (LOT 12) FORREST STREET – PROPOSED SHED (OUTBUILDING) AND ALTERATIONS TO THE HEIGHT OF EXISTING WALLS IN THE FRONT SETBACK AREA	71
11.1.6	NO. 34 RAILWAY STREET (LOT 22), COTTESLOE – PROPOSED DEMOLITION OF DWELLING – CATEGORY 3 ON MUNICIPAL INVENTORY	72
11.1.7	CURTIN AVENUE – REPORT ON DETAILED CONSIDERATIONS OF OPTIONS	78
<b>12</b>	<b>WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 22 APRIL 2008.....</b>	<b>93</b>
<b>12.1</b>	<b>ADMINISTRATION .....</b>	<b>93</b>
12.1.1	VERGE GREEN AND BULK WASTE SERVICE - RESULTS OF TENDER	93
12.1.2	MUNICIPAL EMPLOYEES AWARD - REQUEST FOR WAGES ADJUSTMENT	96
12.1.3	PROCOTT INC. - REQUEST FOR CONTRIBUTION TOWARDS FESTIVE LIGHTING	101
12.1.4	WEARNE HOSTEL - EXECUTION OF LEGAL DOCUMENTS	105
12.1.5	MODEL CODE OF CONDUCT - WALGA UPDATE	110
12.1.6	DRAFT LOCAL LAW - TOWN OF COTTESLOE STANDING ORDERS 2008	123
12.1.7	LIBRARY PROJECT STEERING COMMITTEE	127
12.1.8	GREEN STAR MEMBERSHIP	129
12.1.9	CUSTOMER SATISFACTION SURVEYS	131
12.1.10	BEACH TOILETS	134

---

---

<b>12.2</b>	<b>ENGINEERING .....</b>	<b>138</b>
	12.2.1 COTTESLOE TOWN CENTRE - LONG TERM PARKING - EAST END OF FORREST STREET, COTTESLOE	138
<b>12.3</b>	<b>FINANCE.....</b>	<b>141</b>
	12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 MARCH 2008	141
	12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 MARCH 2008	143
	12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 MARCH 2008	145
	12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD ENDING 31 MARCH 2008	147
	12.3.5 BUDGET REVIEW 2007/2008	149
<b>12.4</b>	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING.....</b>	<b>151</b>
	12.4.1 OWNERSHIP OF PRIVATE LANEWAYS/RIGHT OF WAYS	151
<b>13</b>	<b>ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....</b>	<b>153</b>
<b>14</b>	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING.....</b>	<b>153</b>
<b>15</b>	<b>MEETING CLOSURE.....</b>	<b>153</b>

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

The Mayor announced the meeting opened at 7.10 pm.

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

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

Standing Orders 12.1 and 21.5 read as follows:

**Members to Rise**

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

**Suspension of Standing Orders**

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

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

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

Carried 9/0

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

Mayor Kevin Morgan  
Cr Jay Birnbrauer  
Cr Greg Boland  
Cr Patricia Carmichael  
Cr Daniel Cunningham  
Cr Jo Dawkins  
Cr Victor Strzina

Cr John Utting  
Cr Jack Walsh

**Officers in Attendance**

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

**Apologies**

Cr Bryan Miller

**Leave of Absence (previously approved)**

Cr Ian Woodhill

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

Nil

**4 PUBLIC QUESTION TIME**

Fulvio Prainito, 7/94 Marine Parade – Item 11.1.1 Reserve 44617, No. 91 Marine Parade – Alterations and Additions to Indiana’s Restaurant

Mr Prainito asked the following questions regarding the proposed development:

- (1) Will the noisy roof fan be replaced as part of Stage 1 works?
- (2) Will Indiana’s be required to comply only with the minimum legal requirements same as the Cottlesloe Beach Hotel or will they be required to plan and actively manage any nuisance created to their closest neighbour?
- (3) Can Indiana’s be asked to pay for an actively monitored CCTV system for the Foreshore Centre instead of cash-in lieu of parking?
- (4) Is Council planning to change its Beach Policy regarding building control west of Marine Parade?

The Mayor commented that the Development Services Committee also felt there were a number of questions that had yet to be addressed. The desired outcomes were all possibilities but that there that could be no guarantees at this stage as tonight would be the first time where full Council would debate the proposed redevelopment.

The Mayor was not aware of any proposal to change the Beach Policy regarding development west of Marine Parade.

## 5 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Strzina, seconded Cr Dawkins

**That Cr Strzina's request for leave of absence from the May meetings be granted.**

Carried 9/0

Moved Cr Walsh, seconded Cr Strzina

**That Cr Walsh's request for leave of absence from the May meetings be granted.**

Carried 9/0

## 6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Strzina, seconded Cr Dawkins

**The Minutes of the Ordinary Meeting of Council held on Monday, 17 March, 2008 be confirmed.**

Carried 9/0

## 7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

### Local Planning Scheme 3

Draft Local Planning Scheme No. 3 is now being advertised, documents are open for inspection and submissions can be made. These submissions must be on the prescribed form which is not a Council requirement, but a requirement of State Government. The Mayor reiterated the importance of members of the public ensuring that their previous submissions on the scheme were not discounted. If anyone has made a submission in the past, make sure you make a submission again on the prescribed form.

The Mayor advised that submissions close on 16 July, 2008. The two beachfront hotel sites are being dealt with separately through an enquiry-by-design process.

The Mayor urged residents to be under no illusions that the development groups were not going to make a last ditch attempt to overturn the scheme's height limits. In particular, residents should make submissions on height limits for the area between Forrest and Eric Streets and the adjoining side streets, the Council depot, Wearne Hostel and the WA Deaf Institute.



**8 PUBLIC STATEMENT TIME**Ken Adam, 11-183 Broome Street – Item 11.1.2 No 8 (Lot 8) Nailsworth Street – Two Single Dwellings

Mr Adam spoke on behalf of the owners of this development. He advised the application has been developed in conjunction with Council staff over a long period of time. It is a very steep site over 11 metres which makes it hard to design for. As a result, the drawings can be hard to follow.

Mr Adam said that assessment of the development proposal had been made on the same basis as the development along side it. He referred to a tabled drawing of the site showing the developments on either side of it. He explained that the building shaded in on the drawing, ties in with the proposal to lower the right hand side by half a metre so as to make them identical in height when compared side by side.

Mr Adam stated that there would be no impact on the views of the two neighbours. They have met with the owners of No.6 and they have given their assent to the dwelling. He said the property behind is on the other side of the hill so to speak and it would also retain the views it currently enjoys.

Mr Adam then addressed a couple of misconceptions. One being the amount of cut-and-fill proposed for the site. The concern that there is to be significant amount of fill is incorrect. In fact there is to be more than 1000 cubic metres of excavation rather than fill. He also addressed the concern that the building will have the appearance of a 3 storey dwelling. He advised that it is not a 3 story dwelling and complies with building and planning requirements.

Mr Adam concluded by advising the dwellings will not be visually prominent due to the level of vegetation retained on the frontage. Access by the rear laneway is not feasible to the steepness of the site.

Jamie Kyrwood, 1A Beach Street – Item 11.1.2 No 8 (Lot 8) Nailsworth Street – Two Single Dwellings

Mr Kyrwood stated that both sites, number 6 and 8, have the same topography. They have a fall of 11m to the front of the property. It is not possible to bring a vehicle in from the rear. The design represents the best possible design solution for this site.

Mr Kyrwood said that they have created large landscaped areas with vegetation. It is now approximately 3 metres lower than its neighbours. The site does not need any fill. They have addressed the neighbours concerns and are committed to lowering of the residence 514mm to lessen the building's bulk.

Chris Wiggins, 50 John Street (President, SOS Cottesloe) – Item 11.1.1 Reserve 44617, No. 91 Marine Parade – Alterations and Additions to Indiana's Restaurant

Mr Wiggins raised three areas of concern.

Firstly, the purpose of the original Indiana Tea House development was to provide a range of amenities to the residents - not just fine dining. It is an attractive building and displays an attractive frontage. It had, or has, a variety of services, such as a kiosk, kids playgrounds and toilets. He stated that the kiosk is now shabby, the playground has disappeared and the toilets have not been maintained.

Secondly, Mr Wiggins questioned the method of development and the reference to a staged development. It needs to be undertaken as a single development.

Thirdly, Mr Wiggins raised concerns over the original lease and said that this was an opportunity to review the entire lease, bring it into the public eye and redefine the requirements of both parties clearly.

In closing, Mr Wiggins said it might be beneficial to hold a meeting between the Council, the lessee and the public and incorporate it into the proposed foreshore plan.

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

### **Presentation to Former Councillor, Mr Peter Ross Jeanes**

The Mayor presented Mr Jeanes with a commemorative plaque honouring his service and contribution to the good governance of the town and to the Cottesloe community as a Councillor from May 2003 to October 2007.

The Mayor commented that elected members received small financial reward for their service to the community and that it was nowhere near the level of effort and time that is required.

The Mayor said that Mr Jeanes served with great distinction and contributed greatly to all debate and discussion held by Council. The significant contribution he made to the Council debate showed that he was a person that took the position and role seriously. He and his family can be proud of his time on Council.

Mr Jeanes accepted the plaque and thanked the Mayor for his kind words. Mr Jeanes also thanked the elected members and staff of the Town.

**10 REPORTS OF COMMITTEES AND OFFICERS**

Agenda items 11.1.1 & 11.1.2 of the Development Services Committee were dealt with first and then the Council agenda items 10.1.1, 10.1.2, 10.1.3 and then the remaining Development Services Committee agenda items and then the Works and Corporate Services Committee items.

**10.1 CHIEF EXECUTIVE OFFICER****10.1.1 UNBUDGETED LOAN FUNDS FOR THE PROPOSED LIBRARY - RESULTS OF PUBLIC ADVERTISING**

**File No:** SUB/168  
**Attachment(s):** [Submissions](#)  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 22 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to note that pursuant to Section 6.20 of the *Local Government Act 1995*, Council may now exercise its power to borrow \$4.6m from the Western Australian Treasury Corporation to be repaid over a period of twenty years in fixed equal half-yearly instalments of principal and interest at an indicative interest rate (as at 5th March 2008) of 7.2% to fund the construction of a proposed new library and associated community facilities.

**BACKGROUND**

As advised at last month's Council meeting, other than setting aside a sum of \$100,000 in the 2007/08 budget for consultant advice on the library project, the Town of Cottesloe has not set aside any funds in this financial year's budget for the construction of the library.

An estimate of \$14.8m for the total project has been provided to Council with the library and community facilities estimated at \$11.3m.

Based on the \$11.3m cost, Cottesloe's contribution is estimated to be \$4.83m.

Given the costs incurred by Cottesloe to date, loan funds of say, \$4.6m needed to be sourced in the absence of any asset sales, other income and/or cost savings being found when setting the 2008/09 budget.

As Council did not wish to delay the calling of tenders for want of setting aside sufficient funds to cover Cottesloe's contribution to the project in the current financial year, Council decided to use the powers available to it under Section 6.20 of the *Local Government Act 1995*.

In other words, Council decided to advertise its intention to raise a non-budgeted loan of \$4.6m as required by the *Local Government Act 1995*.

The following advertisement was therefore placed in the Post newspaper on Saturday, 22 March, 2008 & Saturday, 12 April, 2008 and on the public notice boards.

**TOWN OF COTTESLOE**  
**Sec. 6.20 Local Government Act 1995**  
**NOTICE OF PROPOSAL TO BORROW A NON-BUDGETED LOAN**

Notice is hereby given of a proposal to borrow \$4.6m from the Western Australian Treasury Corporation to be repaid over a period of twenty years in fixed equal half-yearly instalments of principal and interest at an indicative interest rate (as at 5th March 2008) of 7.2% to fund the construction of a proposed new library and associated community facilities.

The total amount of interest and charges is \$4,150,353 and excludes the Guarantee Fee.

The Guarantee Fee is charged by Department of Treasury and Finance and is collected by the Western Australian Treasury Corporation on its behalf. This fee is currently levied at 0.10% p.a. based on the repayment structure of the loan. This rate is subject to change according to government policy.

The amount of the loan to be used in the 2008/09 financial year is estimated at \$3m.

Further background on the proposal may be accessed at the Town of Cottesloe's website [www.cottesloe.wa.gov.au](http://www.cottesloe.wa.gov.au) under the heading of 'Have a Say'.

Submissions on the proposed loan may be made to the undersigned and close at 4pm on Wednesday 23 April 2008.

Stephen Tindale  
Chief Executive Officer  
Town of Cottesloe  
109 Broome Street  
COTTESLOE WA 6011

The following background on the proposal was made available on Council's website.

**PROPOSED NEW LIBRARY – UNBUDGETED LOAN**

**BACKGROUND**

For several years now the Town of Cottesloe - in collaboration with the Shire of Peppermint Grove and the Town of Mosman Park - has been exploring the idea of building a new library on the corner of Leake Street and Stirling Highway.

Following extensive community consultation on a new library proposal, in May 2007 the Town of Cottesloe decided to:-

- (1) Accept the results of the community consultation process.
- (2) Authorise the Library Project Steering Committee to progress to the detailed planning and design stage subject to:
  - (a) The Shire of Peppermint Grove providing the Town of Cottesloe with sufficient comfort that there are no outstanding issues relating to land for the proposed library site that may have an adverse financial impact on the Town of Cottesloe.
  - (b) Agreement being reached amongst the three local governments on cost sharing arrangements.
  - (c) A preliminary report during the initial part of the planning and design stage be provided to Council on maximising the ESD initiatives in the design and the additional financial cost and environmental benefits of each such initiative.
- (3) Consider the inclusion of \$100,000 funding for consultants fees for the library project in the budget for 2007/2008.

In relation to part (2) significant progress has been made.

#### **Land**

The CEO of the Shire of Peppermint Grove has advised that the Peppermint Grove Bowling Club has now relinquished any hold that it had over the bowling club land.

As a result, action is now underway to adjust the boundaries of various parcels of land.

The adjustments include:-

1. the excision of a 5 metre strip of land along the Stirling Highway frontage for road-widening purposes,
2. the inclusion of the whole of the proposed library building site, shire offices and community rooms in the Shire of Peppermint Grove's reserved land which is set aside for 'Municipal Purposes', and
3. redrawing the existing 'A' class reserve boundaries to facilitate the above.

The Minister for Planning & Infrastructure has yet to sign-off on the proposal to adjust the reserve boundaries but as soon as she does, a three week consultation phase on the proposed changes is to be undertaken with any submissions that are received being laid before the State Parliament for a period of 14 days pending parliamentary approval.

In the meantime the Bowling Club still has a damages claim afoot against the Shire of Peppermint Grove.

The Town of Cottesloe and the Town of Mosman Park have not been joined in this legal action and it is a matter for the Shire of Peppermint Grove to sort out.

### **Cost Sharing**

The Town of Cottesloe's argument that library and community facility costs should be shared on a population basis has been accepted by the Shire of Peppermint Grove and Town of Mosman Park. Costs incurred to date are being shared and billed to each local government on a 42.74% Cottesloe, 48.29% Mosman Park and 9.25% Peppermint Grove cost-sharing arrangement.

### **Environmentally Sustainable Design (ESD) Initiatives**

The enthusiasm for ESD initiatives as articulated by members of the Cottesloe community in the community consultation phase and the Cottesloe Town Council has been taken up by the Library Project Steering Committee.

Several ESD initiatives have been included in the design.

While the environmental benefits of each such initiative have been identified, the additional financial costs have yet to be reported on.

### **The Town of Cottesloe's Financial Contribution**

Other than setting aside a sum of \$100,000 in the 2007/08 budget for consultant advice on the library project, the Town of Cottesloe has not set aside any funds in this year's budget for the construction of the library.

The Library Project Steering Committee Project wants to call tenders as a matter of urgency notwithstanding that the land tenure issue remains unresolved. There is also some uncertainty surrounding an engineering solution for an existing drainage sump.

Legal documentation setting out the obligations of the three local governments to each other also has yet to be prepared for the:-

- tender phase,
- construction phase, and
- future operating and maintenance phase

More importantly, the Town of Cottesloe has not made any funding provision for the construction of the library in the 2007/08 financial year.

An estimate of costs for the total project is \$14.8m of which the library and community facilities comprise approximately \$11.3m.

Based on the above, Cottesloe's contribution is estimated to be \$4.83m. Given the costs incurred to date by Cottesloe (approx \$230,000) loan funds of say, \$4.60m will

need to be found in the absence of any asset sales, other income and/or cost savings to be found when adopting the 2008/09 budget.

Given that Council does not wish to delay the calling of tenders for want of setting aside sufficient funds in the 2007/08 budget to cover Cottesloe's contribution to the project, Council now wishes to use the powers available to it under Section 6.20 of the *Local Government Act 1995*.

In other words, Council is now advertising its intention to raise a non-budgeted loan of \$4.6m to fund the construction of the library - dependent on community feedback to this proposed course of action.

#### **COMMENT**

At the time of framing the 2007/08 budget, the view was expressed that half of the Town of Cottesloe's contribution to the library should come from the proceeds of asset sales (e.g. the Council depot site) and the other half should be funded by a loan.

However given the uncertainty surrounding costs, it was felt that it was impossible to put a figure on the amount for budgeting purposes.

It was also the opinion of staff that it would take a year at least to accurately determine the design and estimated costs for the library and that by that time the 2008/09 budget could well have been adopted. This may well still turn out to be the case.

It is the Council's understanding that inflationary cost pressures have now reached such a point that it is believed that tenders should be called as a matter of urgency rather than wait for the new financial year.

However unless unbudgeted loan funds are used, it is impossible to see how the Town of Cottesloe can find \$4.6m from within its current 2007/08 budget to back up any decision to call tenders.

The only practical solution is to use the powers available to Council under Section 6.20 of the *Local Government Act 1995* which relate to the raising of an unbudgeted loan subject to community consultation.

An alternative course of action is to simply inform the Shire of Peppermint Grove and the Town of Mosman Park that the Town of Cottesloe is financially constrained and cannot agree to the calling of tenders until all outstanding issues, including finance, are resolved.

However this course of action may simply defer things indefinitely.

For example, the value that might be realised from the sale of the Council's depot site (to go towards the library) will be heavily influenced by its treatment under the proposed Local Planning Scheme No.3 - which has yet to be finalised. In other words

it is not considered financially prudent to sell the depot land at this early stage without fully knowing its potential true worth under proposed Local Planning Scheme No.3

In any event, an alternative location for the depot has yet to be found - despite ongoing dialogue with our Western Suburbs local government neighbours.

Therefore if the construction of the library is dependent on the sale of the depot, it may be several years before construction of the library is commenced.

An alternative approach is to consider that the depot is likely to appreciate in value way beyond any interest that may accrue on a \$4.6m loan. That being the case, it can be argued that Council should raise a loan in the first instance with a view to sinking a considerable portion of the loan at a later date through the sale proceeds from the Council depot.

Dependent on the outcome of the advertising to raise the proposed loan of \$4.6m and the submissions received, Council may be in a position to commit to the construction of the library at its April 2008 meeting.

#### **FINANCIAL IMPLICATIONS**

##### **Loan Borrowing Capacity**

Council staff have met with staff from the WA Treasury Corporation (WATC) to determine funding availability and borrowing conditions. Financial statements and a template were provided to the WATC prior to the meeting to facilitate calculations of borrowing limits.

WATC advice is that the proposed loan for the library falls within the borrowing limits calculated for a local government of the size of Cottesloe based on the financial information provided.

##### **Timing**

A timeline for the library project indicates that construction of the library will not commence until the first fortnight in October 2008.

Given that the first loan repayment instalment will not be due until six months after construction has commenced, the very first six-monthly repayment for the proposed loan is likely to fall in the first half of 2009. The loan repayment amount is estimated as \$218,759 based on an interest rate of 7.2%

##### **Rate Increases**

Assuming the loan repayments are paid entirely out of rate increases in July of 2008 then based on a budgeted general rate income of \$5,586,138 for 2007/08, a 3.92% increase in rates will be required for the library.



This increase will need to be replicated in the following financial year (2009/10), all things being equal, to cover the cost of two loan repayments in one financial year rather than one.

#### **Loan Sinking Fees & Charges**

Discussions have held on the possible sale of the Council depot site and the possibility of extinguishing all or part of the proposed loan debt. Advice from the WA Treasury Corporation is that there are no fees or penalties for early repayment of loans except for those charges associated with changes in the prevailing interest rate at the time of the original loan and the prevailing interest rate at the time of extinguishing the loan.

In other words, the market value of the debt outstanding is determined at interest rates prevailing on the day a termination is required and a financially neutral position occurs for both the borrower and lender (hence, there is no real 'cost') if there is no difference in the interest rates. However, when the following occurs:

- If interest rates have risen (in comparison to the interest rate at which the loan was taken out by the borrower); a discount will occur.
- If interest rates have fallen (in comparison to the interest rate at which the loan was taken out by the borrower); a premium will occur.

To summarise, the Town of Cottesloe would receive a discount on the amount of principal to be repaid if interest rates have risen or pay a premium if interest rates have fallen.

#### **Long Term Financial Modelling**

The long term impact of increased debt servicing for the Town of Cottesloe has been modelled using South Australian local government software.

Using existing knowledge of likely capital and operating expenditure and revenue over the next 10 years, the model indicates areas of potentially significant or little financial concern.

The model shows some of the financial indicators switching from 'exceeding our predetermined expectations' to 'falling within an acceptable range'.

This is noticeable for:

- Net Finance Costs to Rates Revenue
- Net Finance Costs to Total Operating Revenue

The modelling indicates that if the library project went ahead and the loan was raised as proposed, then it is unlikely that the Town of Cottesloe would be placed in an unsustainable financial position.

It is important to note however that the model has not been independently audited and nor have the financial outcomes been verified. The model has been used for indicative purposes only.

**Debt Service Ratio**

The debt service ratio is a measure of financial performance and is obtained by dividing the annual cost of debt repayments by the operating revenue that is available to the Town of Cottesloe.

At the 30<sup>th</sup> June 2007 the debt service ratio was \$33,290/\$6,916,971 or 0.0048 (0.48%).

Adding the debt repayment planned for 2008/2009 for the library (\$218,759) and other new and existing debt results in a debt service ratio of 0.0508 (5.08%) assuming no change in operating revenue.

Adding the planned increase in debt service costs during 2009/2010 for the library (up to \$437,518) and other debt results in a debt service ratio of 0.092 i.e. \$636,316/\$6,916,971 or 9.20%.

Again the assumption has been made that there is no increase in available operating revenue - which is highly unlikely given past experience. Increases in operating revenue will decrease the debt service ratio which is a desirable thing.

The Town of Cottesloe has taken advice from its auditors – UHY Haines Norton – and their advice is that "From our experience debt management becomes an issue for Councils when the ratio exceeds 10% although it still can be acceptable up to 15% in some circumstances."

In other words, the advice of our auditors is that the proposed level of debt is quite manageable.

**Pros and Cons of Raising a Loan**

Council has previously been advised of the advantages and disadvantages of using revenue funds or loan funds as a source of finance.

The advantages of the pay as you acquire approach (finance from revenue) are:-

- it encourages responsible spending as the community must immediately meet the full cost of the asset,
- in times of economic hardship there is much greater flexibility when setting rate levels, and
- there are significant interest savings resulting in greater expenditure on assets or a lower level of rates.

The advantages of the pay as you use approach (finance from loans) are:-

- in times of inflation incomes increase, making it easier to meet repayments,
- each generation of users makes payment towards the capital cost of the facilities it uses, and
- with care and planning, debt repayment schedules can be organised to minimise any hardship due to downturns in the economy.

Given the significant size of the investment in the library and a belief that future users should pay a portion of the capital costs, Council favours an outcome which ideally uses finance from both loans and revenue. In this instance, revenue is expected to come from the sale of land in the medium term.

### **CONCLUSION**

The issue being put before the community reduces to one of affordability. It is Council's preference to call tenders sooner rather than later but it can only do so safe in the knowledge that the community is behind the project and funding is in place for the library.

Based on the information provided above, it is the majority opinion of Council that the new library is affordable.

However at law, Council must take on board the views of the community where an unbudgeted loan is being proposed.

This is despite the fact that the library tender will not be awarded until late September 2008 which means that the proposed library loan will not actually be required in this financial year.

The probability of sufficient financial provision being made in next year's budget would seem to be high – particularly if it is coupled with some significant belt-tightening at the time of adopting the budget.

Nonetheless an indication of the community's endorsement or opposition to Council's proposed course of action is now being sought as is required by the *Local Government Act 1995*.

At the time of closing for public submissions, nine submissions had been received and none of the submissions opposed the proposal to raise a non-budgeted loan.

Copies of those submissions appear as an attachment to this report.

### **CONSULTATION**

Nil

**STAFF COMMENT**

As reported elsewhere in this agenda the earliest that the land tenure issue is now likely to be resolved is in late May 2008. In other words, the earliest that tenders can be called is late May.

It is therefore likely that Council will not need to raise the loan in the current financial year and that the adopted 2008/09 budget will be the document that actually gives Council the power to raise the loan.

Nonetheless it would be appropriate to note that Council is now empowered to raise the proposed loan of \$4.6m in the current financial year.

**STATUTORY ENVIRONMENT**

Section 6.20 of the *Local Government Act 1995* provides the following:-

**6.20. Power to borrow**

(1) Subject to this Act, a local government may

(a) borrow or re-borrow money;

(b) obtain credit; or

(c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,

to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.

(2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) (- **power to borrow** -) and details of that proposal have not been included in the annual budget for that financial year

(a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and

(b) the resolution to exercise that power is to be by absolute majority.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

One of several dynamic priorities identified in the Town of Cottesloe's *2006 - 2010 Future Plan* is:-

Subject to the satisfactory resolution of land tenure, design and funding requirements, progress the development of new joint library facilities.

**FINANCIAL IMPLICATIONS**

See body of main report.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

That Council note that pursuant to Section 6.20 of the *Local Government Act 1995*, it may now exercise its power to borrow \$4.6m from the Western Australian Treasury Corporation to be repaid over a period of twenty years in fixed equal half-yearly instalments of principal and interest at an indicative interest rate (as at 5th March 2008) of 7.2% to fund the construction of a proposed new library and associated community facilities.

**AMENDMENT**

Moved Mayor Morgan, seconded Cr Dawkins

**That the following be added as item (2):**

**That by absolute majority Council authorise the expenditure of loan funds of up to \$4.6m on the library project in advance of the adoption of the 2008/09 budget.**

Carried by absolute majority 9/0

**10.1.1 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Dawkins

**That Council:**

- (1) **Note that pursuant to Section 6.20 of the Local Government Act 1995, it may now exercise its power to borrow \$4.6m from the Western Australian Treasury Corporation to be repaid over a period of twenty years in fixed equal half-yearly instalments of principal and interest at an indicative interest rate (as at 5th March 2008) of 7.2% to fund the construction of a proposed new library and associated community facilities.**
- (2) **That by absolute majority Council authorise the expenditure of loan funds of up to \$4.6m on the library project in advance of the adoption of the 2008/09 budget.**

Carried by absolute majority 9/0

**10.1.2 SCOUT ASSOCIATION – WA BRANCH – 65 ERIC STREET**

**File No:** PUB/4 & PRO/1153  
**Attachment(s):** [Map](#)  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 22 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to approve the transfer of land at 65 Eric Street (Cottesloe Lot 311) from the Scout Association – WA Branch, to the Town of Cottesloe.

**BACKGROUND**

In April 2007 the 1st Cottesloe Scout Group sought \$10,000 from Council as a contribution towards estimated repairs of \$47,500 to the Scout Hall in Eric Street. The repairs included replacement of asbestos roof, plumbing and ablution works, fencing and general repairs.

Council's response was to seek further information on a program for the proposed works and how they were intended to be funded.

Quotes for the necessary repairs were also obtained by Council's Building Surveyor and these ranged from a conservative and heavily qualified \$26,542 to a qualified \$106,560 to a top of the range \$146,300.

Enquiries were also made as to whether the Scout Association was willing to engage in dialogue with Council and the State Government in relation to the security of future tenure of the site.

Given the very poor condition of the Scout Hall, the lack of funding from the Scout Association itself and the potential use of the land/building for community purposes, Council decided at its February 2008 meeting to:-

- (1) Permit the 1st Cottesloe Scout Group to use the Civic Centre Lesser Hall on a regular hire-free basis for an indefinite period which is to be the subject of further review pending the outcome of discussions over the next year.
- (2) Agree with the Scout Association, Western Australian Branch that no additional resources are to be spent on the Eric Street buildings until a new plan is developed for the site.
- (3) Agree with the Scout Association, Western Australian Branch that the existing Eric Street buildings are not to be used for general scouting activities other than the storage of equipment.
- (4) Enter into further discussions with the Scout Association, Western Australian Branch and Landgate on the redevelopment of the Eric Street site with the aim of:-

- (i) developing a joint-use community facility with Scouts as the principal license holder, and
- (ii) vesting the land in the Town of Cottesloe.

Agents reportedly acting on behalf of the Scout Association then met with the CEO on the 11<sup>th</sup> March 2008 with a view to obtaining Council's endorsement for a proposal to convert the land to freehold title and developing it for residential purposes. The CEO was advised that the profits obtained from the development of the land could then be applied to the development of scouting activities in other needier parts of the State (e.g. Dalyellup).

As a consequence and knowing Council's position on the value of the land to the community, the CEO wrote to the Scout Association as follows:

You will recall that one of Council's objectives in relation to the Scout Hall in Eric Street was to enter into further discussions with the Scout Association and Landgate on the redevelopment of the Eric Street site with the aim of:-

- (i) developing a joint-use community facility with Scouts as the principal license holder, and
- (ii) vesting the land in the Town of Cottesloe.

It has been put to me that the onus that is currently on the Scout Association to keep the Scout Hall in good repair could be devolved to the Town of Cottesloe by simply transferring the grant of land for Cottesloe Lot 311 from the Scout Association to the Town of Cottesloe. The purpose of the grant (a hall site – Boy Scouts) would remain as is until such time as it was mutually agreed that the purpose of the grant should be changed to include other community uses.

To that end, I now enquire as to whether the Scout Association would support such a move.

The CEO has now been advised the Executive Manager of Scouts Australia – WA Branch, Marty Thomas, that the Town of Cottesloe is likely to receive a formal offer in the near future to take over the care, control and management of the land. Acceptance of the offer will allow the transfer of the grant in the land from the Scout Association – WA Branch to the Town of Cottesloe.

Council's approval to accept the proposed transfer is now requested.

A map of the land in question was attached to the agenda.

### **CONSULTATION**

The CEO has spoken with officers of Landgate and representatives of the Scout Association on the matter.

In addition, unsolicited requests have been received from representatives of two community based organisations expressing an interest in the development of the land for community purposes land (Cottesloe Toy Library and the Gumnut Montessori Pre School).

**STAFF COMMENT**

It was intended that a registrations of interest process would be used to identify actual community needs for the land before any commitment was made to accept any transfer of the land and any amendment of the purpose for which the land is to be used.

However it is self-evident that there is a high level of interest in under-utilised land Crown land in the Western Suburbs for redevelopment purposes and it may be opportune for the Town of Cottesloe to stake a claim on behalf of the community before others do.

As has been said before, even if there is no immediate requirement for a new community resource centre which would have the 1<sup>st</sup> Cottesloe Scout Group as its primary user, it would be prudent if the Town of Cottesloe did everything within its power to ensure that the land is reserved as a community resource. The size of the lot on which the Scout Hall is situated together with its location next to a district distributor road constitutes a significant community asset which should not be allowed to disappear.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

A worst case scenario (assuming there was a will to repair the Scout Hall for, as yet, unidentified community purposes) would see the Town of Cottesloe spending approximately \$100,000 to repair the hall. Another \$5,000 per annum would be required to keep the grounds and hall in a good state of repair.

**VOTING**

Simple Majority

**10.1.2 OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council approve the transfer of land at 65 Eric Street (Cottesloe Lot 311) from the Scout Association – WA Branch to the Town of Cottesloe.**

Carried 9/0



### 10.1.3 STATION STREET REDEVELOPMENT WORKING GROUP - FUNDING FOR A DESIGN CONSULTANT

**File No:** SUB/504  
**Attachment(s):** [Coda Proposal](#)  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 22 April, 2008  
**Senior Officer:** Mr Stephen Tindale

#### SUMMARY

A recommendation is made to appoint the Coda consultancy group to undertake the first three of the four identified tasks for the proposed redevelopment of Station Street namely:-

- Task 1: Pre-design: Brief/Site Assessment/ Analysis/Review of TPS.
- Task 2: Design and Development of Site Specific Projects.
- Task 3: Presentation and Review to Working Group.
- Task 4: Conversion of Design Investigation into Design Guidelines.

#### STATUTORY ENVIRONMENT

Nil

#### POLICY IMPLICATIONS

Council's Purchasing Policy has application:-

#### 1.6 PURCHASING THRESHOLDS

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

Amount of Purchase	Model Policy
Up to \$3,000	Direct purchase from suppliers requiring only two verbal quotations.
\$3,001 - \$19,999	Obtain at least three verbal or written quotations.
\$20,000 - \$39,999	Obtain at least three written quotations
\$40,000 - \$99,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations).
\$100,000 and above	Conduct a public tender process.

##### 1.6.3 \$20,000 to \$39,999

For the procurement of goods or services where the value exceeds \$20,000 but is less than \$39,999, it is required to obtain at least three written quotes (commonly a sufficient number of quotes would be sought according to the type and nature of purchase).

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit

requirements. Record keeping requirements must be maintained in accordance with record keeping policies.

**NOTES:** The general principles relating to written quotations are;

- An appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion.
- The request for written quotation should include as a minimum:
  - Written Specification
  - Selection Criteria to be applied
  - Price Schedule
  - Conditions of responding
  - Validity period of offer
- Invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond.
- Offer to all prospective suppliers at the same time any new information that is likely to change the requirements.
- Responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented.
- Respondents should be advised in writing as soon as possible after the final determination is made and approved.

The *Local Government Purchasing and Tender Guide* produced by the Western Australian Local Government Association (WALGA) should be consulted for further details and guidance.

#### **1.6.4 \$40,000 to \$99,999**

For the procurement of goods or services where the value exceeds \$40,000 but is less than \$99,999, it is required to obtain at least three written quotations containing price and a sufficient amount of information relating to the specification of goods and services being purchased.

The *Local Government Purchasing and Tender Guide* has a series of forms including a Request for Quotation Template which can assist with recording details. Record keeping requirements must be maintained in accordance with record keeping policies.

For this procurement range, the selection should not be based on price alone, and it is strongly recommended to consider some of the qualitative factors such as quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, organisation's capability, previous relevant experience and any other relevant factors as part of the assessment of the quote.

## **BACKGROUND**

At the November 2007 meeting of Council it was decided:-

That Council form a Station Street Redevelopment Working Group to make recommendations by June 2008 to Council on:

- (1) Planning objectives and outcomes for the two Council-owned sites in Station Street.
- (2) Selection criteria for the expressions of interest process.

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

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

The working group is comprised of Cr Cunningham (Presiding Member), Cr Miller, Cr Dawkins, Cr Birnbrauer and two representatives from Procott – Katherine Kalaf and David Cookson.

The first meeting of the working group was held on the 31<sup>st</sup> March 2008. At that meeting, the working group was briefed on the history of development proposals for Station Street.

After considerable discussion, the working group formed the view that it was not possible to determine the planning objectives and outcomes for the two Council-owned sites without knowing what was expected of Station Street itself.

The Manager of Development Services advised the meeting that the engagement of a consultant to assist in the development of planning objectives and outcomes would:-

1. Generate an extra layer of detail in determining how developments should address the surrounding environment e.g. laneways and passageways.
2. Assist the Council in developing and using design guidelines to help in the preparation, review and assessment of proposed developments.
3. Document the expected outcomes of the street itself in terms of footpaths, landscaping, parking, lamp posts, rubbish bins etc.

The CEO and Manager Development Services therefore met with Kieran Wong from the Coda consulting group on Tuesday 8<sup>th</sup> April 2008 to discuss the proposed design brief for Station Street.

Out of the discussion, Kieran Wong prepared a timeline and a project task list which was referred back to the working group for its approval.

While Coda's project task list had merit, staff and the working group believed that it was more complex than envisaged and about twice the anticipated budget for the exercise.

At its meeting held on the 14<sup>th</sup> April 2008 the working group therefore decided to request Coda to revise their proposal with a view to making a report to Council seeking funds of approximately \$30,000 to complete Tasks 1 and 2 with an abbreviated consultation process for Task 3. A copy of the revised proposal from Coda is attached.

**CONSULTATION**

Nil

**STAFF COMMENT**

The various sub-tasks have been fleshed out in more detail with particular attention being paid to ascertaining the usage requirements which will require input from the working group (e.g. parking, ESD initiatives etc) and the specific deliverables which the working group will receive with the completion of each of four identified tasks.

The planned numbers of meetings with the working group have been reduced in order to keep costs down.

Subject to satisfactory progress being made, the reporting and conversion of design projects into design guidelines (Task 4) is to be the subject of a further report to Council in July.

Task 4 is shown in the revised proposal from Coda so that Council is fully informed of the overall direction of the project.

Council policy requires that for the procurement of goods or services where the value exceeds \$40,000 but is less than \$99,999, at least three written quotations are required to be obtained containing price and a sufficient amount of information relating to the specification of goods and services being purchased.

Because of delays in finding suitable meeting dates for the working group and the perceived urgency in reporting back to Council as soon as possible, the working group is recommending that Coda be appointed to undertake the proposed consultancy without the requirement of obtaining quotes from at least two other consultants.

**STRATEGIC IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

The work proposal from the Coda consulting group was originally quoted at \$58,392.50 ex GST. The revised proposal for four identified tasks is \$52,192.25 ex GST.

The current request before Council is for \$29,948 for the completion of the first three identified tasks.

An amount of \$90,000 was set aside in the 2007/08 budget for town planning consultant expenses which has not been taken up to date.

**VOTING**

Simple Majority

**10.1.3 OFFICER RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Cunningham

**That Council appoint the Coda consultancy group to undertake the first three of the four identified tasks for the proposed redevelopment of Station Street namely:-**

**Task 1: Pre-design: Brief/Site Assessment/ Analysis/Review of TPS.**

**Task 2: Design and Development of Site Specific Projects.**

**Task 3: Presentation and Review to Working Group.**

**Task 4: Conversion of Design Investigation into Design Guidelines.**

Carried 7/2

**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 21 APRIL 2008**

The agenda items were dealt with in the following order: Item 11.1.1, 11.1.2, 11.1.5, 11.1.7 and then the balance in numerical order en bloc.

**11.1 PLANNING****11.1.1 RESERVE 44617, NO. 91 MARINE PARADE – ALTERATIONS AND ADDITIONS TO INDIANA’S RESTAURANT**

**File No:** 1396  
**Author:** Ed Drewett  
**Author Disclosure of Interest:** Nil

**Report Date:** 2 April 2008  
**Senior Officer:** Mr Andrew Jackson

**Property Owner:** Crown Land (Vested in Town of Cottesloe)

**Applicant:** McDonald Jones Architects Pty Ltd  
**Date of Application:** 22 February 2008  
Modified plans received 16 March 2008

**M.R.S. Reservation:** Parks and Recreation

---

**SUMMARY**

This proposal represents the first stage of a 2-staged development for the Indiana’s restaurant which has evolved following consideration of initial concept plans by the Design Advisory Panel.

The applicant anticipates that by the reducing the building scope this will allow Stage 1 to be completed this year and enable it to be open for October/November trading, with Stage 2 to be determined within 2 years.

Additional plans for the proposal were received on 16 March 2008 following discussions between the applicant and the Town’s staff and on advice from the Town’s Heritage Adviser to ensure that adequate details were provided.

The existing building is located on land reserved under the Metropolitan Region Scheme for ‘Parks and Recreation’ and therefore Council’s resolution will be forwarded to the Western Australian Planning Commission (WAPC) for determination of the application.

The application was been forwarded to the Heritage Council of WA as the property is located within the Cottesloe Beach Precinct which has interim heritage listing, and the HCWA has advised that it raises no objection to the proposal.

The recommendation is to support the application, subject to conditions.

### **PROPOSAL**

The development entails alterations and additions to the existing restaurant and kiosk levels of the building.

A summary of the proposed works for Stage 1 has been provided by the applicant as follows:

- Extend and open up the restaurant towards Marine Parade with bi-fold doors;
- Provide new undercover terraces to the east;
- Adjust levels to the pathway to provide disabled access;
- Fully landscape the eastern elevation;
- Enclose portion of the restaurant to cater for small functions and private dining rooms;
- Realign the kitchen to assist efficiencies;
- Relocate the bar and integrate with a “cold larder” chefs’ station;
- New toilets for patrons and staff;
- Lift and stairs access for deliveries and facilities at the mid-level which would integrate into Stage 2 for future kitchen access.

In addition, it is proposed to remove the existing timber entry “gatehouse” and provide additional lighting.

### **STATUTORY ENVIRONMENT**

Metropolitan Region Scheme  
Heritage Act

### **POLICY IMPLICATIONS**

N/A

### **HERITAGE LISTING**

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

### **STRATEGIC IMPLICATIONS**

The proposal is essentially consistent with Council’s outlook for activities within the Cottesloe Beach Precinct and its objectives for the Cottesloe Beachfront, but it may increase demands on the existing public parking areas due to a proposed increase in the number of patrons.

### **FINANCIAL IMPLICATIONS**

N/A

**CONSULTATION**

## REFERRAL

Works, Building, Health – All supportive of the application, subject to relevant conditions being imposed.

## ADVERTISING OF PROPOSAL

The application was advertised in accordance with Town Planning Scheme No 2 and consisted of a letter to nearby properties.

**Submissions**

Two submissions were received. The main points raised are summarised as follows:

Cottesloe Surf Life Saving Club:

- Raises no objection to the proposal;
- The surf club needs to expand the space available on the promenade level to fulfill its current and future operational requirements over the next 20 years. Discussions have therefore been had with the operators of the Indiana's restaurant to see whether they can accommodate the Club's space requirements as part of their overall redevelopment plans.
- Their current proposal may provide the opportunity to free-up some existing space on the promenade level for our immediate use.

Fulvio Prainito, "The Seapines", 7/94 Marine Parade

Raises no objection to the proposal, but is seeking assurances that the Town would obtain a nuisance management plan with performance guarantees from Indiana's restaurant regarding the following:

- (i) Noise from ventilation and refrigeration equipment;
- (ii) Operating hours and noise from entertainment within the Indiana leasehold area;
- (iii) After hours noise from probably inebriated Indiana patrons waiting for transport in front of the restaurant;
- (iv) Parking of delivery vehicles;
- (v) External lighting.

A copy of this submission is attached which expands on each of the abovementioned points.

**APPLICANT'S RESPONSE TO SUBMISSION**

In response to the comments received during advertising, the applicant has advised the following:



- All air conditioning and mechanical noise will comply with the BCA acoustic requirements;
- Our client will comply with the Liquor Licensing Laws and appropriate Noise Abatement Act;
- Anti-social behaviour along Marine Parade can be attributed to any number of factors, however, the lessee and licensed managers are fully aware of the consequences of anti-social behaviour from excessive drinking. The licensee is not permitted to serve those who they deem to be “over the limit” and are fully aware of “responsible management”. The delay in taxis is something we all want solved;
- The proposal positively addresses the delivery issue by providing a receiving area on the mid-level with lift and stairs access directly to the kitchen area. All deliveries would be accepted between 7am and 5pm, excluding Sundays;
- External lighting and signage will be submitted with the Building Licence application for Council approval and take due consideration of adjacent properties.

### **BACKGROUND**

In February 1995, Planning Consent was considered by Council for the redevelopment of the Cottesloe Beach Pavilion. An Approval to Commence Development for the redevelopment was subsequently granted by the Western Australian Planning Commission, subject to conditions.

The seating capacity was limited to a maximum of 240 patrons, including the pergola and alfresco areas.

The applicant was advised at the time that the Committee members felt strongly that this is the maximum that may be permissible, particularly given the undertaking to waive all responsibility for the provision of additional car parking.

The current application is for additions and alterations to the existing development but also seeks an extension to allow 350 people, an increase of 110 or 46%.

### **STAFF COMMENT**

The application was referred to the WAPC on 25 February 2008 for preliminary assessment, and also to the Heritage Council of WA in view of the interim listing of the Cottesloe Beach Precinct on the State Register of Heritage Places.

The Heritage Council has not provided formal comment on the application to date but the Town’s Heritage Adviser is of the opinion that the additions will not significantly impact on the Cottesloe Beach Precinct and is therefore supportive of the proposal. It should be noted that the Interim Entry on the Register of Heritage Places states *while the Indiana Tea House represents the continuation of a historic use, the present building has little significance.*

There are no specific development standards applicable for the proposed additions and extensions and therefore the application has only generally been assessed with regards to Part V (General Provisions) of Town Planning Scheme No 2, although technically this is not applicable as the site is not zoned land under the Scheme. The design and scale of the additions appear sympathetic with the existing building and the use of building materials are consistent with the existing walls and roofing.

Aspects such as privacy and overshadowing are not an issue due to the isolated location of the building on the beachfront reserve.

The applicant has advised that 8 Sheoak trees would need to be removed but the submitted plans indicate that additional trees, new planter beds and front lawn/landscaping is proposed which all appear satisfactory.

Notwithstanding the Cottesloe Life Surf Saving Club's submission, the comments received during advertising from a nearby resident are predominantly BCA and Health related issues that have been addressed by the applicant and can be the subject of conditions.

### Parking

The main issue with this application from a planning viewpoint is regarding a potential increased shortfall of parking if the additions and extensions are approved.

The applicant has advised that the existing restaurant is licenced for 220 people. However, it is proposed to increase this number to 350 people (ie: 100 function, 30 private dining and 220 restaurant).

In support of this proposal the applicant has provided the following comments;

- *Currently no carbays have been provided by our client and so our client wishes to maintain that precedent;*
- *The busiest hours at Indianas are in the evening and at night, when the number of beachgoers and associated parking is reduced;*
- *During the day, many patrons to Indianas also enjoy the surrounding facilities, for which parking is already provided;*
- *As a lessee, our client points out that convenient parking for Indianas should be provided by the Town of Cottesloe for staff who work shifts longer than the 3 hours maximum parking as stipulated in nearby carbays;*

As the Indiana's restaurant is on land reserved under the MRS it is not zoned or reserved under TPS 2 and as such the vehicle parking requirements do not technically apply. However, if they were to be applied then the existing licensed premises would require 55 car bays and the proposed licensed premises would require an additional 32.5 car bays based on 1 space per every 4 persons. The total shortfall of parking bays would therefore amount to 87.5 bays.

A condition of the original planning approval issued in 1995 stated:

*The maximum number of seated patrons, including the outside areas, shall be 240 persons.*

The Town also wrote to the original applicant in 1995 stating inter alia:

*The proposal has been presented to the Development Services Committee for a restaurant with a seating capacity of 240. The committee members feel strongly that this is the maximum that may be permissible, particularly given the undertaking to waive all responsibility for the provision of additional car parking.*

The additional demand for car parking is of concern as the parking areas are often at full capacity during the day and early evenings in the summer.

Council could decide to waive the additional parking bays, as requested by the applicant, but this could result in an increase in parking in the vicinity at busy periods if no alternative bays are available. The main areas likely to be affected would be along Forrest and Napier Streets.

Normally cash-in-lieu would be an option for Council but under TPS 2 (Clause 5.5.4) this can only be applied for a use proposed in the Town Centre, Foreshore Centre, Business and Hotel zones. As Indianas is not on land zoned under the Scheme cash-in-lieu cannot be applied in this case and is unlikely to be accepted by the WAPC as the determining authority.

Furthermore, in 2005 cash-in-lieu was calculated at \$125,000 per car bay by the Valuer General's office for a change of use application at the La Tropicana Café at 88 Marine Parade (opposite Indianas). Therefore, notwithstanding that land values have increased since then, the estimated cost of cash-in-lieu for the proposed additions to the Indiana's restaurant would be approximately \$3,500,000 which is likely to make the proposal cost prohibitive.

It is considered that the proposed additions and extensions would ultimately contribute to the appearance and functionality of the existing restaurant as well as be an appropriate intensification of an existing use along the beachfront.

Cottesloe Beach is the primary destination point for recreational and social needs of the local residents and the wider community of the Perth Metropolitan area. The public parking along Marine Parade is available for all visitors to the area and visits are often multi-purpose, e.g. visiting the beach, walking, exercising, eating at local restaurants etc. An allocation of car bays for a specific purpose is therefore less appropriate in this situation.

The eventual completion of the planned second stage of development should also ensure that the matters raised by the Surf Life Saving Club are addressed and a solution is ultimately reached regarding the relocation of the existing toilets on the mid level.

**CONCLUSION**

On balance, it is considered that the proposal has merit and the benefits that the development offers outweigh any parking difficulties that may arise during peak times.

Nevertheless, it may be appropriate for Council to consider these matters again if the current lease arrangements are at any time renegotiated as more stringent conditions could then be imposed to ensure that the Town receives some financial benefit towards the upkeep of the existing public car bays and possibly some financial assistance to ultimately providing additional car bays in the immediate vicinity.

**VOTING**

Simple majority

**COMMITTEE COMMENT**

Committee identified a range of queries and concerns in relation to the development application, in the wider context of the history of the premises, the associated lease, development in the foreshore area and so on. More specifically, these included:

- Council's policy of not supporting new development west of Marine Parade.
- The interrelationship of the proposed first stage with the intended second stage.
- Is the existing lease area being extended?
- The opportunity to renegotiate the lease arrangements.
- Retention of the kiosk and the need for public food outlets and other amenities, rather than an exclusive high-end venue.
- The provision and maintenance of public toilets.
- Distinguishing between private and public spaces.
- Loss of informal public spaces and play areas.
- Whether the design creates an attractive environment.
- Footpath congestion.
- Loss of vegetation.
- The parking and traffic management situation.
- Liquor licensing and hours of operation.
- Should the number of patrons be limited?
- The goal of high quality premises, operations and public facilities.
- Identification of the benefits and returns to the Town.
- The public interest and desire for greater community consultation.

**MANAGER DEVELOPMENT SERVICES COMMENT TO COMMITTEE**

The Manager Development services explained that the proposal could be approached in two ways.

The first is in terms of the planning application for physical development approval, where the land use and design detail are the main considerations in the usual manner (as examined by the Design Advisory Panel) and the statutory process to be followed which in this case involves the WAPC.

The second is in terms of the strategic framework regarding foreshore development and the influences that has on the consideration of individual proposals. In other

words, on the one hand the development application could be treated as an opportunity to improve the premises and recreational choices, or on the other hand it could be viewed as warranting a wider assessment in the context of Council's outlook to foreshore facilities and the lease arrangements.

The public toilets are the subject of a separate report via the W&CSC to the April Council meeting, and that Committee has also discussed the wider considerations, as well as seen the need for legal advice about changing the lease arrangements to address this matter.

In view of the overall corporate and community aspects raised in considering proposals for the premises, it is apparent that a fuller report to Council is desirable in May in order to address them, including any legal advice, and coordinate the actions taken by the Town. If so the WAPC should be requested to put the development application on hold.

**OFFICER RECOMMENDATION**

- (1) That the Western Australian Planning Commission be advised that Council SUPPORTS the proposed alterations and additions to the Indiana's restaurant on Reserve R44617, 91 Marine Parade, Cottesloe, in accordance with the plans submitted on 16 March 2008, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
  - (c) All landscaping shall be completed in accordance with an approved landscape plan, prior to occupation of the development, to the satisfaction Manager, Development Services.
  - (d) The maximum number of patrons shall not exceed 350.
  - (e) Plant equipment shall not be placed on the roof or in a position that detracts from the appearance of the building.
  - (f) All proposed signage shall be the subject of a separate application for approval.
  - (g) The building licence plans and supporting documentation shall be formulated in consultation with the Town of Cottesloe and to the satisfaction of the Manager Development Services, and shall include:
    - (i) Full details of all plant and equipment and how it is to be located, designed, housed, screened, treated or otherwise managed to ensure amenity and compliance with the relevant environmental regulations.
    - (ii) Compliance with all relevant Health regulations, including submission of an Acoustic Consultant's report;
    - (iii) Full details of proposed landscaping and external works;

- (iv) Full details of all on-site and any off-site drainage management, including any necessary arrangements to utilise land outside the site and link into the public drainage system.
  - (v) A comprehensive lighting strategy to manage convenience, amenity, security and advertising in relation to the building and surrounds without undue impacts.
  - (vi) All disabled access, energy efficiency and fire management requirements in accordance with the BCA, Australian Standards and other relevant regulations.
  - (vii) A comprehensive Construction Management Plan.
  - (viii) Arrangements to the satisfaction of the Town of Cottesloe for the mid-level toilets to be made available to the public at all times during construction.
- (2) That any Council Approval to Commence Development be conditional upon the satisfaction of any conditions imposed by the Town of Cottesloe under Clause 16 (Alterations) of the lease agreement between the Town of Cottesloe and the lessees of Indianas (Cottesloe Beach Pavilion).
- (3) Advise submitters of Council's resolution.

#### **COMMITTEE RECOMMENDATION**

That the item be referred to Council for further deliberation regarding the matters raised for consideration in relation to the development application.

#### **11.1.1 COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Boland

**That the matter be the subject of a comprehensive report to the May meeting of Council.**

Carried 9/0

**11.1.2 NO. 8 (LOT 8) NAILSWORTH STREET – TWO SINGLE DWELLINGS**

<b>File No:</b>	<b>1377</b>
<b>Author:</b>	<b>Ed Drewett</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>14 April 2008</b>
<b>Senior Officer:</b>	<b>Mr Andrew Jackson</b>
<b>Property Owner:</b>	<b>J M &amp; K B Kyrwood and Redback Holdings Pty Ltd</b>
<b>Applicant:</b>	<b>J M Kyrwood</b>
<b>Date of Application:</b>	<b>24 January 2008</b> <b>Amended plans received 14 April 2008 and stamped 15 April 2008</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>1113m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

The subject site is located at one of the highest points in Cottesloe, on the eastern side of Nailsworth Street. The site is characterised by extreme topography, with a drop of approximately 11.4m from rear to front and much of the ground level changes occurring in the front one third of the property.

The street is undergoing a phase of subdivision and redevelopment on both the higher and the lower sides, which is altering its character and built form. The proposal is a distinctive design as for other individual properties approved for new dwellings.

On 14 February 2008 the Western Australian Planning Commission issued a conditional approval for the subdivision of the lot to allow the creation of two green titles. The proposed development will be conditional on finalisation of this subdivision.

Amended plans for the proposal were received on 14 April 2008 following extensive discussions between the applicant's architect and the Town's staff with respect to the Town Planning Scheme and Residential Design Codes requirements.

Given the assessment that has been undertaken and the amendments that have been made by the applicant, the recommendation is to approve the application, subject to conditions.

**PROPOSAL**

The proposal is for two, two storey dwellings with concealed (flat) roofs built over three levels, which are mirror images of each other, albeit with different floor levels.

---

The undercrofts contain a cellar, lobby, lift, store and parking. Access to the garages is from the street, up a relatively steep driveway.

The right of way (ROW) located at the rear of the subject site is owned by the Town and is partially sealed and trafficable but is very steep.

The ground floors contain the entertainment areas and the main living rooms are situated above.

### STATUTORY ENVIRONMENT

- Town Planning Scheme No 2
- Residential Design Codes

### POLICY IMPLICATIONS

Building Heights

Policy No 005

### HERITAGE LISTING

N/A

### APPLICATION ASSESSMENT

#### AREAS OF NON-COMPLIANCE

#### Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
<b>Dwelling 1</b>			
No.6 – Site Works	0.5 maximum fill within 1m of a common boundary	Up to 1.621m along NW side boundary	Clause 3.6.1 –P1
No 8 – Privacy	7.5m cone of vision to alfresco/lawn (outdoor living area) and front balcony	0 – 3.5m	Clause 3.8.1 – P1
No. 3 – Boundary Setbacks	Walls not higher than 3m with an average of 2.7m up to 9m in length up to one side boundary	Walls on two side boundaries	Clause 3.3.2 – P2
No 3 – Boundary Setback	1.6m setback to NW boundary from ground floor entertaining room, bedroom 4 and alfresco area	1.501m	Clause 3.3.1 – P1



Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setback	3.3m setback to upper floor side balcony	2.301m	Clause 3.3.1 – P1
<b>Dwelling 2</b>			
No.6 – Site Works	0.5m maximum fill within 1 metre of a common boundary	Up to 1.645m along SE boundary	Clause 3.6.1 – P1
No 8 – Privacy	7.5m cone of vision to front balcony	3.5m	Clause 3.8.1 – P1
No.3 – Boundary Setbacks	Walls not higher than 3m with an average of 2.7m up to 9m in length up to one side boundary	Walls on two side boundaries	Clause 3.3.2 – P2
No.3 – Boundary Setbacks	1.6m to SE boundary from ground floor entertaining room, bedroom 4 and alfresco area	1.501m	Clause 3.3.1 – P1
No.3 – Boundary Setbacks	3.5m to upper floor side balcony	2.301m	Clause 3.3.1 – P1

**STRATEGIC IMPLICATIONS**

N/A

**FINANCIAL IMPLICATIONS**

N/A

**CONSULTATION**

REFERRAL

Building &amp; Works – Supportive of application, subject to conditions.

## ADVERTISING OF PROPOSAL

The application was advertised in accordance with TPS 2 and consisted of letters to adjoining properties.

**Submissions:**

3 submissions were received. The main points raised are summarised as follows:

Anne & Meikle Meecham, 3 Clarendon Street:

- Extremely disappointed that the two proposed houses are jammed right to the rear of the block (less than 2 metres setback from the NW corner). This will

- ensure that we will virtually have a 6m high solid wall the entire width of the property to look at instead of all beautiful old established trees which will be destroyed at the rear (near ROW);
- We will completely lose the south facing view to Fremantle and Garden Island;
  - The buildings should be moved forward on the building site in order to save some trees or at worst, leave enough room to replant trees between the ROW and the new houses;
  - The height restrictions should be strictly adhered to and all windows overlooking the ROW to 3 Clarendon Street to have opaque glass;
  - Council should be very concerned at the trend in subdivision in our locality. It appears the open space ratio is being reduced more with the result less trees and more concrete jungle;
  - The character and ambience of Cottesloe – open spaces, lovely gardens and beautiful trees is gradually disappearing.

Nicholas & Claire Poll, 5 Clarendon Street:

- The proposed development significantly blocks our view of Cottesloe and the ocean;
- The proposed development is very close to the back boundary;
- The existing house does not comply with height limits and, as a result, blocks our view;
- Proposed development should comply with both setbacks and height limits;
- Any development on the lot would still have excellent views if it were positioned closer to the centre of the property.

Mike & Linda Watkins, 10 Nailsworth Street:

- Concerned with overlooking of our rear courtyard and viewing into our ground level family room;
- We were restricted “strictly” to the Council’s height requirements when developing our own site. The then owner of 8 Nailsworth Street refused to entertain any relaxation of height for our design. Our house has a flat roof and offered minimal impact to their views. If 8 Nailsworth Street is allowed to go higher than that normally permitted then this will create a disproportional streetscape.

**APPLICANT’S RESPONSE TO SUBMISSIONS**

The main points raised by the applicant are summarised as follows:

Height restrictions/loss of views:

- Compliance with height restrictions applies to everyone equally. This development complies with the height requirements on the same basis as the adjoining properties;
- There is no justification for setting this development down lower to satisfy a neighbour;
- Neighbouring properties, if developed to the same height limits would not have their views affected because the natural ground levels are not sufficiently different;
- The proposed wall at the rear ROW varies in height from 4.6m (eastern end) to 5.69m (northern end) above NGL. It contains setbacks and recesses to break up the building bulk and allow for the planting of trees;
- The flat roofed design of the proposed development will provide a lower overall building height than a pitched roof design and therefore will have minimal impact on adjoining property views;
- The proposed building is located in a similar position to the existing building on site and will be lower in overall height by between 2.3-3.0 metres and therefore may afford better views from the rear properties than are currently available;

Overlooking of ROW

- The proposed bathrooms, WC and dressing rooms have sill heights of 2m above floor level so will not create an overlooking issue. The bathroom corner windows over the bath have been reduced by half and are not classified as major openings;
- The ROW contains 2 large trees which will provide the rear properties with screening of the buildings as they do now.

Overlooking of adjoining properties

- Screening has been provided to prevent overlooking of adjoining property courtyards and private open space;

Subdivision and open space

- The zoning of the site allows for subdivision and the landowner is entitled to develop the site accordingly;
- Open space proposed is 56.3% of the total site, 6.3% in excess of the minimum requirement.

Removal of trees

- This is a non-issue as the existing trees are not significant. However, the setback to the dressing room has been increased to allow planting of trees to rear courtyard adjoining the ROW.

## **BACKGROUND**

The site currently has a valid subdivision approval which is yet to be cleared. This will require the demolition of the existing house and division of the property into two elongated narrow lots with 10.78m and 10.76m frontages to Nailsworth Street.

Amended plans were submitted on 14 April 2008 following extensive discussions between the applicant's architect and the Town's staff with respect to the Town Planning Scheme and Residential Design Codes requirements, and to take account of comments received during the advertising period.

## **STAFF COMMENT**

The main issues regarding this proposed development (based on the amended plans) are:

- (i) Council's determination of natural ground levels for the purpose of calculating building heights;
- (ii) Height of proposed retaining walls on the boundary;
- (iii) Visual privacy;
- (iv) Walls on boundaries;
- (v) Side setbacks.

Each of these issues are discussed below:

### Building height:

The subject site is characterised by extreme topography, which should be taken into account when assessing building height. The calculation of building height stems from Council's determination of natural ground level.

Clause 5.1.1 of the Council's Town Planning Scheme No. 2 expresses policy in relation to building height and paragraph (c) of that clause provides a basic formula in relation to the measurement of such height.

However, provision is made for Council to depart from the formula where natural ground forms indicate that a variation is warranted provided that the amenity of the area is not unreasonably diminished.

Given the existing topography of this particular site, it is considered unreasonable to use the levels of the centre of the site (either by extrapolation or average of the four corners) to determine the natural ground level and building height. Instead, the average natural ground level has been calculated separately for the footprint of each dwelling (ie. its site cover),

This method was used for establishing the natural ground level and the determination of building height for two new dwellings (yet to be built) on the adjoining lot at 6 Nailsworth Street, which was approved by Council on 27 August 2007.

The height of the proposed dwellings would not appear out of keeping with the existing streetscape and will be lower than the ridge of the existing house, as has been demonstrated by the applicant on the submitted plans.

The overall height of the proposed dwellings also do not exceed the maximum 7m building height permitted under the Residential Design Code for a concealed (flat) roof above the average natural ground levels and therefore can be supported.

Each proposed dwelling has a relatively small feature wall/chimney which projects above the main roof to a height of 7.25m (Dwelling 1) and 7.24m (Dwelling 2). However, minor projections such as these are permissible under the R-Codes and are unlikely to have any significant adverse affect on adjoining properties.

#### Retaining Walls

The Scheme and R-Codes address the amount by which ground levels can be modified during development.

Clause 5.1.4 of the Scheme allows for retaining of up to 1.8m whereas the Acceptable Development standards of the Codes restricts filling behind the street setback line and within 1m of a common boundary to 0.5m.

In this case, Dwelling 1 proposes retaining walls on the NW boundary that gradually increase in height to 1.621m above the NGL and Dwelling 2 proposes retaining on the SE boundary that gradually increase to 1.645m. These walls, where they exceed a height of 0.5m, should therefore be considered under Performance Criteria of the Codes.

The relevant Performance criteria of the Codes (Clause 3.6.1) states:

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

The applicant has amended the plans to reduce the height of retaining walls on the boundaries, but because of the steep topography of the site walls higher than 0.5m are still considered necessary unless the proposed dwellings are significantly redesigned which is unlikely to be a feasible option from a design or cost viewpoint.

It should be further noted that a reasonable amount of excavation (cut) is also proposed along the side and rear boundaries so that the general form of the proposed development more closely follows the natural slope of the land. This is similar to the design of the proposed dwellings approved at 6 Nailsworth Street and overall will assist in ameliorating its impact on the streetscape.

#### Visual Privacy

The proposed development has been amended to address the majority of the visual privacy requirements of the R-Codes, predominantly by the use of 1.65m high screening and walls on the boundaries. However, the proposed alfresco area and lawn area (outdoor living area) to Dwelling 1 and upper floor balconies to both dwellings needs to be addressed under performance criteria of the R-Codes.

The Performance Criteria (Clause 3.8.1) states:

*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 proposed upper floor balconies to the dwellings have a 3.5m cone of vision, in lieu of the required 7.5m. However, the applicant is proposing to provide 1.65m high screening to the side of the balconies to restrict overlooking only to the front of the adjoining properties. This will avoid direct overlooking of habitable rooms and outdoor living areas within adjoining residences as the balcony to Dwelling 2 will overlook the driveway of the proposed dwelling to the SE and the balcony to Dwelling 1 will predominantly overlook the roof of the adjoining front property to the NW.

The proposed alfresco area on the ground floor to Dwelling 1 has a 2.1m cone of vision, in lieu of the required 7.5m and the lawn area (behind the pool) extends right up to the NW boundary and so effectively has no compliant cone of vision. However, the applicant is seeking a concession under performance criteria on the basis that the area overlooked to the NW from both the alfresco area and the lawn area does not comprise of habitable rooms or outdoor living areas and therefore would satisfy the performance criteria requirements.

The approved plans for the dwelling at 10 Nailsworth Street indicate that the cone of vision from the proposed alfresco area to Dwelling 1 would indeed be restricted to a roofed area on the ground floor and a wall with no major openings on the upper floor of this property. Furthermore, from the proposed lawn area of Dwelling 1 the portion of the adjoining property that potentially could be overlooked will be restricted to a small drying area, a small rear window to a family room and an obscure glazed window to a computer nook. However, other than the obscured windows to the computer nook, the other areas would only be visible if a person were to actually stand on the NW boundary of the lawn area as they would have to look down into the adjoining property due to the difference in ground levels.

Nevertheless, if Council has concerns with the visual privacy from this lawn area, then the applicant is agreeable to an appropriate screen on the boundary.

#### Walls on boundaries

The proposed lawn areas behind the pool of both dwellings are proposed to be constructed up to the side boundaries of the lot, thereby creating walls on the

boundaries. The driveways to both units will be located beneath this area before entering the undercroft garages.

The wall on the NW boundary will have a length of 5.6m and ranges in height from 3m to 5.7m above the NGL on the boundary, and the wall on the SE boundary will have the same length (5.6m) and be 3.6m above an existing retaining wall on the boundary.

As walls are proposed to more than one side boundary it is necessary to consider them under the relevant performance criteria of the Codes which states:

*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 applicant has addressed these criteria as follows:

- The boundary walls make effective use of space;*
- The proposed walls enhance mutual privacy as they contain no windows or major openings, hence no impact on visual or acoustic privacy;*
- The boundary walls enhance the amenity of the development by: increasing the amount of usable space; enhancing its privacy; and improving the external appearance of the building by avoiding a separate fence and achieving a cleaner and simpler appearance;*
- The proposal will not have any significant adverse effect on the amenity of the adjoining properties. Although the wall is higher than the adjoining NW property boundary wall there is adequate space between the wall and the adjoining house for light, ventilation and sun. The only windows facing this wall are small obscure glazed windows. The wall on the SE boundary will be abutting an existing high retaining wall;*
- The proposal provides adequate direct sun and ventilation to the building and the adjoining setback ensures adequate direct sun and ventilation is available to habitable rooms of the adjoining properties.*

Given the assessment of the above points as reasonable, and the fact that the proposed walls on the boundary are unlikely to have any significant adverse effect on the adjoining properties (including that proposed at 6 Nailsworth Street) it is considered that the proposed walls are considered to satisfy the performance criteria of the R-Codes and may be supported.

#### Setbacks

The plans have been amended to comply with the R-Codes requirements with respect to setbacks, with the exception of the following:

<i>Dwelling 1:</i>	<i>Required</i>	<i>Proposed</i>
(i) Setback to entertaining area/bedroom 4/ Alfresco:	1.6m	1.501m
(ii) Setback to upper floor side balcony:	3.3m	2.301m
 <i>Dwelling 2:</i>		
(i) Setback to entertaining area/bedroom 4/ Alfresco:	1.6m	1.501m
(ii) Setback to upper floor side balcony:	3.5m	2.301m

These variations are to be assessed under Performance Criteria (Clause 3.3.1) which states:

*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 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 applicant has addressed these criteria as follows:

- The proposal provides adequate direct sun and ventilation to the building and ensures adequate direct sun and ventilation to the adjoining properties;
- The proposal allows for adequate direct sun to the building and appurtenant open space – both relevant rooms have windows facing away from the boundary.
- The screening by the boundary fence will assist in protecting privacy between adjoining properties.
- The effect of building bulk is negligible because the wall is broken up with a mix of materials and adjoins a similarly located wall of the approved development on the neighbouring property.
- The windows of the adjoining house to the NW face south and the wall will not obstruct direct sun.

The setback variations of both houses are relatively minor and can be supported under performance criteria of the R-Codes.

Although the setback to the upper floor side balconies do not comply with the 'Acceptable Development' standards of the R-Codes, this is due to the proposed



location of 1.8m high screens on the balconies that are required for privacy. The recessed walls to both dwellings are actually proposed to be setback 5 metres from the boundaries which exceed the minimum setback requirements.

### **CONCLUSION**

Following extensive discussions with the Town's staff and having regard to the submissions received during the advertising period, the applicant has amended the original proposed plans to reduce the overall height of the dwellings and comply with the majority of the Residential Design Code requirements.

Where R-Code concessions are still sought the applicant has justified the variations by satisfactorily addressing the relevant Performance Criteria of the Residential Design Codes.

On balance, it is considered that the applicant has genuinely attempted to address the planning issues that have arisen as a result of attempting to redevelop this steep and difficult site and the proposed development and concessions sought are not dissimilar to the two, two storey dwellings that have been approved by Council on the adjoining lot and therefore should be supported.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Committee expressed some support for the proposal, subject to additional privacy screening to one area. At the same time Committee also expressed several concerns about the proposal in terms of bulk, scale and visual prominence; the design approach to the site (including vehicular access, streetscape and boundary walls); neighbour amenity and privacy treatment; apparent number of storeys; and potential precedent; while noting the similarities to No. 6 as approved by Council.

Officers responded in relation to how the design had been improved and made more compliant; that rear lane access would be very difficult; that under the RDC boundary walls could be allowed virtually as-of-right; and that the proposal qualified as a two-storey development.

Committee considered whether the item ought to be deferred for possible revision of the proposal and further consideration, however, after discussion with the application and advice from the Manager Development Services, it was agreed to refer the item to Council for determination; on which basis the following amendment and recommendation were made.

### **OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for two single dwellings at No. 8 (Lot 8) Nailsworth Street, Cottesloe, in accordance with the plans submitted on 14 April 2008, subject to the following conditions:

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
- (b) Stormwater runoff from the driveway or any other paved portion of the site, not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.
- (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
- (d) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct the new crossovers, where required, in accordance with the relevant local law.
- (e) A comprehensive construction management plan shall be submitted at Building Licence stage, to the satisfaction of the Town, including details on the effect on any services outside the property or to adjacent properties, and the protection and repair of any damage caused to fencing or adjacent properties, involving the dilapidation report and assessment process.
- (f) Finalisation of the approved subdivision is required prior to the issue of building licences.
- (g) The applicant complying with the Town of Cottesloe Policy for Street Trees, February 2005, where development requires the removal, replacement, protection or pruning of street trees.
- (h) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (i) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) Wastewater or backwash water from swimming pool filtration system shall be contained within the boundary of the property and disposed of into adequate soakwells.
- (k) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.

- (2) Advise the submitters of this decision.

### COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for two single dwellings at No. 8 (Lot 8) Nailsworth Street, Cottesloe, in accordance with the plans submitted on 14 April 2008, subject to the following conditions:
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site, not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.
  - (c) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (d) The applicant applying to the Town of Cottesloe for approval by the Manager Engineering Services to construct the new crossovers, where required, in accordance with the relevant local law.
  - (e) A comprehensive construction management plan shall be submitted at Building Licence stage, to the satisfaction of the Town, including details on the effect on any services outside the property or to adjacent properties, and the protection and repair of any damage caused to fencing or adjacent properties, involving the dilapidation report and assessment process.
  - (f) Finalisation of the approved subdivision is required prior to the issue of building licences.
  - (g) The applicant complying with the Town of Cottesloe Policy for Street Trees, February 2005, where development requires the removal, replacement, protection or pruning of street trees.
  - (h) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
  - (i) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.

- (j) Wastewater or backwash water from swimming pool filtration system shall be contained within the boundary of the property and disposed of into adequate soakwells.
  - (k) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
  - (l) At building licence stage, revised plans shall be submitted to the satisfaction of the Manager Development Services, showing the addition of privacy screening to the boundary wall to the front lawn area on the north-west elevation of dwelling one, and the privacy screening shall be to a minimum height of 1.65m above the finished ground level of the lawn area.
- (2) Advise the submitters of this decision.

**AMENDMENT**

Moved Cr Walsh, seconded Cr Strzina

**That the following condition be added:**

**Revised plans shall be submitted at building licence stage to the satisfaction of the Manager Development Services, showing the overall height of Dwelling 2 being reduced by at least 0.5m at all levels.**

Carried 9/0

**AMENDMENT**

Moved Cr Walsh, seconded Cr Utting

That the following condition be added:

That the boundary walls on the north west side of block one and the south east side of block two be no more than 2.6 metres above the natural ground level along the boundary.

Lost 4/5

**AMENDMENT**

Moved Cr Walsh, seconded Cr Utting

**That this item be referred back to the Development Services Committee for further consideration.**

Carried 6/3

**11.1.2 COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Strzina

That this item be referred back to the Development Services Committee for further consideration.

Carried 6/3

---

**11.1.3 NO. 4 (LOT 2) TORRENS COURT – TWO-STOREY RESIDENCE WITH UNDERCROFT & POOL**

<b>File No:</b>	<b>1389</b>
<b>Author:</b>	<b>Mr Lance Collison</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>20 March 2008</b>
<b>Senior Officer:</b>	<b>Mr Andrew Jackson</b>
<b>Property Owner:</b>	<b>Sally Luttrell</b>
<b>Applicant:</b>	<b>Boughton Architecture</b>
<b>Date of Application:</b>	<b>15 February 2008</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R30</b>
<b>Lot Area:</b>	<b>412m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

A two-storey residence with undercroft and pool is proposed.

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

**PROPOSAL**

In the undercroft, a lobby, store and 3 car garage is proposed. On the ground floor 2 bedrooms, an open living, kitchen, dining area, laundry, TV room, powder and bathroom is also proposed. Externally, a swimming pool, drying court and a terrace is proposed.

On the upper floor a study, ensuite, WIR, two bedrooms, terrace and deck is proposed. Staircases and a lift link all 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 Council Resolution

Resolution	Required	Provided
TP128a – October 2002	6m front setback for residential development without averaging	4m front setback, 6.8m front setback if averaged

#### Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
Element 3 – Boundary Setbacks	1.5m setback – ground east wall	Nil setback	Clause 3.3.2 – P2
Element 3 – Boundary Setbacks	1.5m setback – ground west wall	1.3m setback	Clause 3.3.1 – P1
Element 3 – Boundary Setbacks	2m setback – upper west wall	1.3-2m setback	Clause 3.3.1 – P1
Element 8 – Privacy	4.5m cone of vision setback – Bed 2	1.5m setback	Clause 3.8.1 – P1

## STRATEGIC IMPLICATIONS

N/A.

## FINANCIAL IMPLICATIONS

N/A.

## CONSULTATION

### REFERRAL

#### Internal

- Building
- Engineering

#### External

N/A.

### ADVERTISING OF PROPOSAL

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

The advertising consisted of a letter to Adjoining Property Owners

## Submissions

There were 8 letters sent out. There was 1 submission received, which was an objection. Details of the submission received is set out below:

Clive Brown of 6 Torrens Court

- *The wall to be built on the eastern boundary appears to be 3.3m high as measured from the applicant's property.*
- *There is cut and fill proposed.*
- *Concerned that the wall will be 4.15m above his natural ground level.*
- *Feels this wall is onerous.*

**BACKGROUND**

An existing single storey residence, carport and solid front fence is found on the property. This is planned to be demolished to make way for the new residence.

**STAFF COMMENT**Natural Ground Level

A 4-corner average was used as the existing house occupies the centre of the site. This was used as the site survey did not show levels at the centre. The four corner average produced a Relative Level of 20.54. There is a slight fall on the site of 1.2m from the north-west corner down to the south-east.

Council's GIS contours indicate that the RL20 and RL21 intersect the site and that an RL of 20.54 is a fair level to use.

Building Height

The wall heights do not conform to the TPS2 basic requirement of a 6m wall height as a 6.8m wall height is proposed. The roof in this proposal is a combination of a concealed roof and the remainder has a very low pitch. Dwellings with concealed roofs are not considered directly in TPS2 so the RDC are relied upon to as a guide. The RDC allow a 7m wall height with concealed roofs. It is assessed that this proposal is closer to a concealed roof than a traditional pitched roof, so that standard should apply.

In regard to the portion of the house with a pitched roof, the wall height is RL 27.09 (6.55m) and the overall roof height RL 27.34 (6.8m). This small difference between the wall and roof height of 0.25m reflects the 5 degree pitch of the roof. Whilst this is a variation against the 6m wall height standard, alternatively, the wall heights could be raised to RL27.54 (7m) and would conceal the roof from view and would comply with the RDC. The proposal as presented to the Town performs to a 7m housing height standard and the pitch of the roof is not obvious.

In regard to the concealed roof section, the proposal has RL 27.34 (6.8m) wall heights taken from the centre of the site which is lower than the 7m height standard in the RDC.

The form of the subject part of the dwelling is consistent with other similar dwellings approved taking into account the use of flat or near flat roofs and their interrelationship with wall heights. As indicated this particular proposal is relatively



low-key and is centrally located on the property to avoid bulk or shadow issues to neighbours and the proposed height is supported.

#### Front Setback

The front balcony is proposing to be setback 4m from the front boundary. The RDC do allow a 4m setback for R30 coded dwellings; however, Council has adopted a resolution requiring a preferred 6m front setback for residential development (which is the R20 standard) for the district generally.

However, while applicants are encouraged to setback residences 6m, the Council Resolution has not been adopted as part of any policy and is not part of any current statutory document.

In regards to the front setback, it is noted that only one habitable room is located forward of the 6m setback requirement. On the ground floor, Bed 1 is setback 4m; the entry is 7.4m, the staircase 6.07m and the TV Room 10.5m. On the upper floor, the terrace is setback 5.5m, the void, 6.07m, and Bed 3 is setback 10.5m. The front setback is averaged to be 6.8m.

In assessing the impact of the proposed front setback, neighbouring properties along Torrens Court were examined. To the west, the neighbour is constructing a residence with a 6m front setback while to the east; the setback is 6.5m with the carport at 1.5m. This carport lies adjacent to 4 Torrens Court and next to where the proposed Bed 1 is to be located. The applicant notes *“the design of the residence provides a transition between the existing structure built within the front setback on the adjoining lot and the general building line at 6m.”* This is confirmed as the neighbouring carport is setback 1.5m, Bed 1 at 4m whilst the entry is at 7.4m.

Furthermore, the current residence at 4 Torrens Court has a carport with a setback approximately 0.5m from the front boundary with a solid gate and 1.8m high front fence on the front boundary. All these elements are proposed to be removed as part of this application which will be beneficial to the streetscape.

It is also noted that the store room in the basement is also setback 4m, however this space which is almost entirely below ground is not discernable from the street.

In summary, Council has in certain circumstances supported less than 6m front setbacks where the streetscape, built form and amenity considerations have been assessed as acceptable. In this instance the streetscape implications are less of a concern as the street only features 8 houses and two of these faces the head of this cul-de-sac. Furthermore, the neighbour at 6 Torrens Court has a solid front fence which presents to the streetscape.

Given the lack of a uniform streetscape character due to the short length of street it is assessed that the dwelling could be approved with the proposed partial front setback of 4m.

#### Side Boundary Setbacks

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

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
Ground East	Laundry/Kitchen	3.3m	10m	No	1.5m	Nil
Ground West	TV Room/Terrace	5m	9.5m	No	1.5m	1.3m
Upper West	Screen/Bed 3 wall	6.8m	13.5m	No	2m	1.3-2m

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

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

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

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

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

The RDC do also allow as per Clause 3.3.2 A2ii *“In areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary”* However in this instance the boundary wall height exceeds the 3m average.

This proposal is to have a nil setback to the side boundary for the ground east wall. This is usually required to be setback 1.5m from the boundary. The setback meets the Performance Criteria of the RDC. The proposal makes an effective use of space and does not provide a privacy concern. Whilst an objection was received to this wall, it is not assessed to adversely affect the amenity of the adjoining property. Also the wall should not restrict sunlight to major openings to habitable rooms of the eastern adjoining property. This wall on the boundary is supported.

The proposal is to have a 1.5m setback to the ground west side boundary. This is usually required to be setback 1.3m from the boundary. The wall is not considered to have a major opening as the opening is from a non-habitable room. The proposal makes for an effective use of space and provides adequate sun and ventilation to the building and appurtenant open spaces. The proposal does not affect the amenity of

the neighbouring property and privacy is not a concern. It should be noted the setback variation is minor and no objections were received.

This proposal is to have a 1.3m to 2m setback to the side boundary for the upper west wall. This is usually required to be setback 2m from the boundary. The RDC do not overtly specify that a screen should be considered part of the same wall for calculation purposes, however, in this circumstance it is considered that the structures should be assessed as one due to the continuous height; and as by definition a wall is a continuous vertical surface. The setback meets the Performance Criteria of the RDC. The proposal does not provide a privacy concern as the screen will prevent overlooking from the rear deck. The proposal also ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. The staggered setback also reduces the perception of bulk.

### Privacy

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

Room	Required	Provided
Bed 2	4.5m setback	1.5m setback

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

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

The proposal asks for a variation to the bed 2's cone of vision setback. The proposal partially complies with the Performance Criteria of the RDC. The bedroom is located on the ground floor but the floor level is raised in excess of 500mm to the eastern boundary. The window could overlook into the neighbouring side garden and partially over the garage. As the side garden can be viewed, it is recommended the window meet the privacy requirements of the RDC by obscuring the window to 1.65m or making the opening a high-light window or increasing the height of the boundary fence in this section.

### Staircases

The proposal features two external staircases. One of these staircases is adjacent to the western boundary and provides an external access way to the rear garden from the bottom of the ramped driveway up to the ground floor level at the rear of the property. There are no amenity concerns with this.

The second external staircase provides a link from the backyard to the rear terrace on the upper storey. This staircase is screened with louvres to prevent any overlooking to the western neighbouring property.

Also, the RDC do not normally require screening of stairs due to their transitory use.

#### Front Gates

The front gates to the driveway are proposed to be of an open aspect design which is compliant with the Fencing Local Law.

#### Garden-bed Retaining Walls

The garden-bed retaining walls within the front setback area are up to 900mm in height and are also in compliance with the Fencing Local Law,

### **CONCLUSION**

The application is recommended for approval subject to conditions. The residence is well designed, and the number of variations is relatively limited. The building height is supported and meets the performance criteria of the RDC.

In regard to the front setback, the proposal does not meet the Council Resolution from 2002, however; the proposal easily meets the 4m average setback as required by the RDC for R30 coded lots. The residence should be an acceptable addition to the streetscape which is undergoing changes.

### **VOTING**

Simple Majority

### **COMMITTEE COMMENT**

Committee discussed the front setback situation and the design approach to wall heights, as well as the notion of increasing the side fence height for privacy, which led to consideration of the following amendments, the outcomes of which are reflected in the Committee Recommendation. It was also queried whether a dilapidation report needed to be mentioned in the advice note and the Manager Development Services advised that would arise as part of the building process in any case.

### **OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for a two-storey residence with undercroft and pool at No. 4 (Lot 2) Torrens Court, Cottesloe, in accordance with the plans dated 15 February 2008, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or

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

- (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
- (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
- (e) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
- (f) Any front setback area fencing and gates to the site being of an "Open Aspect" design in accordance with Council's Fencing Local Law.
- (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council's specifications, as approved by the Manager Engineering Services or an authorised officer.
- (h) The existing redundant crossover in Torrens Court 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.
- (i) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) Wastewater or backwash water from swimming pool filtration system shall be contained within the boundary of the property and disposed of into adequate soakwells.
- (k) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (l) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (m) Revised plans being submitted to the satisfaction of the Manager Development Services showing the Bedroom 2 window being modified to prevent overlooking into the adjoining property by either:
  - (i) having an opening sill height of not less than 1650mm above the FFL; or
  - (ii) being constructed of fixed and obscure glazing or screening to a height of at least 1650mm above the FFL; or

- (iii) the boundary fence directly adjacent to and for at least the same width of the window being increased to a height of RL22.65.

**Advice Note:**

**Construction of any earthworks, basement, retaining walls, boundary walls, dwelling and in-ground services will be required to follow all necessary building applications, approvals and procedures in order to ensure structural integrity and protect the interests of adjacent properties.**

- (2) Advise submitters of the decision.

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

Cr Walsh, seconded Cr Strzina

**That Council:**

- (1) **GRANT its Approval to Commence Development for a two-storey residence with undercroft and pool at No. 4 (Lot 2) Torrens Court, Cottesloe, in accordance with the plans dated 15 February 2008, subject to the following conditions:**
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights-of-way or adjoining properties, and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings for a building licence.
  - (c) The external profile of the development as shown on the approved plans not being changed, whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
  - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
  - (e) Air-conditioning plant and equipment shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that sound levels emitted shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.
  - (f) Any front setback area fencing and gates to the site being of an "Open Aspect" design in accordance with Council's Fencing Local Law.
  - (g) The applicant applying to the Town of Cottesloe for approval to construct a crossover, in accordance with Council's

specifications, as approved by the Manager Engineering Services or an authorised officer.

- (h) The existing redundant crossover in Torrens Court 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.
- (i) The pool pump and filter shall be located closer to the proposed dwelling than the adjoining dwellings, and suitably housed or treated as may be necessary, so as to ensure that environmental nuisance due to noise or vibration from mechanical equipment is satisfactorily minimised to within permissible levels outlined in the Environmental Protection (Noise) Regulations 1997.
- (j) Wastewater or backwash water from swimming pool filtration system shall be contained within the boundary of the property and disposed of into adequate soakwells.
- (k) A soakwell system shall be installed to the satisfaction of the Environmental Health Officer, having a minimum capacity of 763 litres and located a minimum of 1.8 metres away from any building or boundary.
- (l) Wastewater or backwash water shall not be disposed of into the Council's street drainage system or the Water Corporation's sewer.
- (m) Revised plans being submitted to the satisfaction of the Manager Development Services showing the Bedroom 2 window being modified to prevent overlooking into the adjoining property by either:
  - (i) having an opening sill height of not less than 1650mm above the FFL; or
  - (ii) being constructed of fixed and obscure glazing or screening to a height of at least 1650mm above the FFL; or

**Advice Note:**

Construction of any earthworks, basement, retaining walls, boundary walls, dwelling and in-ground services will be required to follow all necessary building applications, approvals and procedures in order to ensure structural integrity and protect the interests of adjacent properties.

Carried 9/0

**11.1.4 NO. 108 (LOT 21) BROOME STREET – RELOCATION OF BIN STORAGE AREA, FRONT BOUNDARY FENCING AND PROVISION OF ADDITIONAL VERGE PARKING**

<b>File No:</b>	<b>1397</b>
<b>Author:</b>	<b>Ed Drewett</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>9 April 2008</b>
<b>Senior Officer:</b>	<b>Mr Andrew Jackson</b>
<b>Property Owner:</b>	<b>C/o Gow Real Estate Strata Managers Broome &amp; Loma Street road reserves – vested in Town of Cottesloe</b>
<b>Applicant:</b>	<b>Mrs Liz Adams</b>
<b>Date of Application:</b>	<b>18 February 2008</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>1300m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY**

The subject site is located on the corner of Loma and Broome Streets and currently comprises of 18 multiple dwellings.

The proposed bin store and front fencing is recommended for approval, subject to minor modifications, but the proposed parking in Loma and Broome Streets is not supported.

**PROPOSAL**

It is proposed to construct a new bin store fronting Loma Street and to erect a boundary fence along the two street frontages.

It is also proposed to construct 11 car bays on the Broome Street verge and designate 7 existing car bays on Loma Street to a private parking area for the occupiers of the units. One additional existing car bay on Loma Street is proposed to be removed to allow access to the proposed bays in Broome Street.

**STATUTORY ENVIRONMENT**

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

**POLICY IMPLICATIONS**

- Residential Parking Policy



**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**

<b>Policy</b>	<b>Required</b>	<b>Provided</b>
Fencing Local Law	Open aspect fencing in front setback	Portion of solid wall in front setback

**STRATEGIC IMPLICATIONS**

The proposed car parking may influence how the Town approaches consideration of parking needs and provision for older style flats and the approach to utilisation of road reserves/verges for exclusive private use.

**FINANCIAL IMPLICATIONS**

N/A.

**CONSULTATION**

## REFERRAL

**Internal**

- Building
- Engineering
- Health

**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 Surrounding Property Owners.

**Submissions**

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

**APPLICANT'S JUSTIFICATION**

The applicant has provided a letter in support of the application which is summarised as follows:

Bins:

- Currently we have 28 bins which are picked up in Broome Street every fortnight, however this can be hazardous due to the crest of the hill and speeding vehicles;
- It is not uncommon to find our bins further down the street or upended on another neighbour's verge. Extra rubbish has also been left by other people and occasionally bins have been found on the road which could cause a bad accident;
- We are applying for a 1100ltr bin for food waste which would be emptied twice weekly. This will cost us \$40.80 per week;
- The bins will be fully enclosed by a brick fence on all sides other than where there is a small gate on the western side allowing bins to be approached and a sliding metal cream slatted gate hiding the bulk bin facing Loma Street;
- The bin will meet health regulations and regular monitoring will be undertaken to ensure lids are kept closed and flies and any smells contained. The area will be washed down and disinfected weekly or when needed;
- A no parking sign will have to be placed on the opposite side of the road, taking up one car's length. This is for the truck to be able to back into the bulk bin and have turning space.

Fencing

- The fencing will consist of between 200mm to 300mm high stone base topped by a vertical cream powder coated metal visually permeable top;
- The fence will be open aspect design with palings not exceeding the minimum gap between them of 50mm. The height of the complete fence will not exceed 1.8m.
- Security will include card key operation.

Carparking

- Car parking is a nightmare during Council functions and weekends for the tenants and owners as we have to compete with the general public and this can be very difficult as large functions are being held at the Civic Centre;
- Clinton Court was built in the 70's by Len Buckridge. I have been told he was allowed to build 12 apartments with parking but he also built another 6 units where the parking was supposed to be;
- There is no room below this apartment block to park all our cars so we are hoping to convert this area into individual storage units at a later stage. Currently there is nowhere to secure a bicycle, surf board or golf buggy etc;

- We have 18 units in the block of apartments. Our proposal is to place 11 bays on the Broome Street verge in “grass pave” and convert 7 bays on Loma Street into “private parking”. Currently there are 8 public bays in Loma Street. The 8<sup>th</sup> bay would become part of the driveway into the new carpark on the Broome Street verge. The public can park on the other side of Loma Street;
- Bollards will be used to stop the general public using the car parking spaces. We will need to liaise with Council regarding location of the wiring of these bollards;
- Adjacent to the Broome Street footpath will be a small curb which will prevent anyone using the car bays on Broome Street backing on to the footpath;
- The Council could lease the verge out to the owners and would benefit from the extra revenue. There would also be more parking available to the public in Loma Street.

### STAFF COMMENT

#### Bin Store

In respect to provision for rubbish bins Clause 3.10.3-A2 of the Residential Design Codes states:

*“Where rubbish bins are not collected from the street immediately adjoining a dwelling the provision of a commercial pick-up area or areas which are:*

- (i) conveniently located for rubbish and recycling pick-up;*
- (ii) accessible to residents;*
- (iii) adequate in area; and*
- (iv) fully screened from view from the primary or secondary street.”*

In this case, there is already a bin storage area located along the southern boundary of an internal courtyard area to the existing units and the bins are wheeled out by the residents to Broome Street. However, a crest in Broome Street just to the north of the lot does create a blind spot to vehicles travelling south and so there can potentially be an increased risk of an accident occurring during the bin pick-up.

The proposed re-location of the bin storage area into Loma Street and the introduction of a bulk bin for non-recyclable waste would probably be a better solution than that existing.

Loma Street carries less traffic than Broome Street and is relatively flat where it adjoins the units and the proposed bin store would be more conveniently located closer to the street thus avoiding the need for residents to wheel the bins down the existing driveway gradient for collection. Furthermore, only 10 recycling bins will be required if a bulk bin is provided for general waste.

The proposed bin storage area will be located in the secondary street setback area but will be screened by a solid 1.8m high rendered masonry wall, although the bulk bin will be located behind a sliding metal cream slatted gate.

Although the Council will continue to arrange for the recycling bins to be picked up, the bulk bin pick up will be a private arrangement to be paid for by the owners of the units.

There is no objection to the proposed size of the bin storage area as this will be adequate for the purpose. Furthermore, a portion of the existing crossover can be utilised for vehicles reversing to pick up the bulk bin.

The main planning issue with the proposed bin storage area is that it will result in reduced access width being available for vehicles that use the existing driveway and undercroft area from Loma Street as the driveway access will be significantly reduced to only 2.554m which is below the normal required minimum width of 3m under the R-Codes.

Furthermore, it will reduce access to the existing (unmarked) on-site car bays in this area and may create an additional safety issue as visual sightlines will be impaired due to the access being restricted to alongside an existing solid wall on the eastern boundary. Vehicles using this access will have to reverse out across an existing footpath in Loma Street.

However, on balance, due to the safety issues that currently exist on Broome Street it is considered that subject to the proposed bin area being redesigned to allow a minimum 3m setback from the eastern boundary for the driveway then the new bin area has merit.

Whilst bins can be an amenity concern at any property and to neighbours, and for flats can be a logistical problem, the proposal seeks to improve the existing sub-standard situation in terms of location, screening, operations and amenity, and there has been no neighbour objection.

### Fencing

Council's Fencing Local Law requires fencing above 900mm in the front setback area to be of an open aspect design, unless approved by Council.

The proposed fencing complies with this requirement with the exception of a 3.7m wide solid section along the corner truncation area.

The performance criteria relating to street walls and fences in the Residential Design Codes (Clause 3.2.5 - P5) state:

*Front walls and fences to promote surveillance and enhance streetscape, taking account of:*

- *the need to provide protection from noise and headlight glare where roads are designated as Primary or District Distributors or Integrator Arterials: or,*
- *the need to provide screening where there is no alternative outdoor living area to the front setback.*

In this case, Broome Street is only a local distributor road the existing units have a large setback from the street and so are unlikely to be affected by headlight glare. Furthermore, the units do not have individual outdoor living areas and so there appears to be little justification to partially screen the corner truncation area in the front setback.

As such, it is considered that the proposed fencing should be supported subject to it being entirely of an open aspect design in the front setback area.

### Carparking

Technically, this issue does not form part of this planning application as the carparking areas is not under private ownership. However, because the parking constitutes part of the overall proposed use and upgrade of the existing units it is appropriate to consider all the changes as a whole. Planning does have a role, nonetheless, in relation to streetscape, urban design and amenity, and this is where the application helps to coordinate the matter and allow it to be considered in relation to the private property as well as the public domain.

In this respect it is observed that Broome Street enjoys wide, grassed verges, the landmark and heritage-recognised Norfolk Island Pine trees and generally substantial, well-kept residential properties. This section of Broome Street is in an area recognised for its historical character and proximity to the Civic Centre, being representative of the wide, treed streetscapes the district is renowned for.

While there are a number of pocket parking areas in the verge in the vicinity, they are smaller and dispersed amongst the green grass, rather than being prominent or dominant in the streetscape.

The Council's 'Parking – Residential' Policy states that Council will consider an application for the construction of a verge parking area as a temporary measure in the following circumstances only:

- (a) where the applicant acknowledges that the verge parking area is to be totally removed at no cost to the Council if the property is redeveloped, or if the removal is required by Council;
- (b) where vehicle access onto private residential property cannot be reasonably gained by a conventional vehicle crossover, or from a trafficable right of way;
- (c) where a vehicle cannot be accommodated on site due to insufficient area, or major variation of natural ground levels, or where access to available space on-site is an unreasonable expectation, or
- (d) where on-site parking, with turn around space on a busy road cannot be reasonably achieved, and
- (e) where a vehicle may be safely accommodated on the verge without adversely affecting the sight distance.

A copy of this Policy is attached for information.

The application was referred to the Manager, Engineering Services who provided the following comments in respect to the proposed parking arrangements:

- *The changes proposed for parking have major implications;*
- *The parking proposed on the Broome Street verge and the asphalt surface on Loma Street is for residential use and hence Council's policy 'Parking – Residential' applies;*
- *Any infrastructure built on the road reserve becomes Council's liability, due to the land being vested in Council. This proposed car park is included;*
- *There is a liability issue regarding vehicles driving off Loma Street, over private land, then on to the Broome Street verge. Also given enough time, the triangle of land over which cars will drive, is currently private, but may become public use land. Pedestrians would also tend to walk along the diagonal connection between Loma Street and Broome Street paths;*
- *The Loma Street parking area in front of these units on the south side of Loma Street, are on the built road and are maintained by Council for general use, not privileged private use; and*
- *For the above reasons, the carpark proposal is impractical and should be rejected.*

#### Planning Comment

The existing multiple dwellings would normally require a minimum of 1 carbay per unit plus 2 visitor bays, bringing the total number of required car bays to at least 20 to comply with the Residential Design Codes. However, the current building has very little provision of on-site parking and pre-dates the Codes and Scheme.

The existing driveway from Broome Street goes to an internal paved courtyard area which is also used as a communal drying area and the driveway from Loma Street goes to an undersized undercroft parking area which is generally not suitable for vehicles.

An application for verge parking could therefore be considered under the Council's Parking - Residential policy as adequate provision of parking cannot be accommodated on site due to insufficient area.

However, in addition to the comments from the Manager, Engineering Services the proposed verge parking on Broome Street should not be supported for the following reasons:

- the proposed car bays do not have a minimum 6m turning area as required under the Residential Design Codes for vehicles to manoeuvre in and out of the proposed bays;

- the proposed hedge in the verge may be difficult to maintain, could create a hazard to pedestrians and would result in additional maintenance costs to Council;
- the proposed driveway link from Loma Street would necessitate all vehicles having to cross existing footpaths in both Broome and Loma Streets creating a safety hazard, it could set an undesirable precedent for other properties seeking verge parking on busy roads and would result in the loss of at least one existing carbay in Loma Street;
- the proposed appearance of the proposed parking area on Broome Street would be detrimental to the visual amenity of the area, particularly when it is fully occupied with the resident's vehicles.

The proposal to convert the existing carbays in Loma Street for the exclusive use of the residents of the adjoining units by way of providing remote controlled bollards in the road is also not supported as these bays were constructed for use by the general public and should therefore remain for this purpose.

If they were taken out of public use then this would undoubtedly result in more cars parking down the Loma Street which could create an additional traffic hazard and potential disturbance to residents.

## **CONCLUSION**

Whilst there is no objection to supporting the proposed re-location of the bin store area and the boundary fencing, subject to some minor modifications, it is the proposed verge parking in Broome Street and the proposed designation of the existing public bays in Loma Street as 'private parking' which is of most concern.

Although Council has previously approved verge parking for residential properties elsewhere in the Town, such as opposite at 103 Broome Street and the flats at 183 Broome Street, these small parking areas have direct access from the street and are limited to only a modest number of bays which are situated parallel to the street.

Furthermore, whilst there would normally be an expectation that most residential properties will have allocated parking, the owners of 108 Broome Street all would have purchased their properties knowing that the premises is of an older style without allocated parking. There should therefore not be an expectation that the Council will now allow exclusive parking to be provided for the residents on the public verge.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Committee agreed that the application would best be deferred to afford the applicant time to review the proposal and the issues identified by officers before any further consideration by Committee and Council.

**OFFICER RECOMMENDATION**

That Council:

- (1) GRANT its Approval to Commence Development for the proposed bin storage area and front boundary fencing, for No. 108 (Lot 21) Broome Street, Cottesloe, in accordance with the plans submitted on 18 February 2008, subject to the following conditions:
  - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
  - (b) The external profile of the development as shown on the approved plans shall not be changed, whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
  - (c) The applicant complying with the Town of Cottesloe Policy for Street Trees, February 2005, where development requires removal, replacement, protection or pruning of street trees.
  - (d) The boundary fencing in the front setback area shall be modified to provide an entirely "Open-Aspect Fence" in accordance with Council's Fencing Local Law.
  - (e) The bin storage area shall be located a minimum three metres from the eastern lot boundary.
  - (f) The bin enclosure shall comply with all relevant Health Regulations and Council's Health Local Law.
  - (g) The bin enclosure gate shall be of sufficient size to allow unobstructed access for the purpose of rubbish collection.
- (2) ADVISE the applicant that the proposed verge parking in Broome Street and the proposed 'private parking' in Loma Street is not supported.

**11.1.4 COMMITTEE RECOMMENDATION & COMMITTEE RESOLUTION**

Moved Cr Walsh, seconded Cr Strzina

**That Council defer the application to afford the applicant time to review the proposal and the issues identified by officers before any further consideration by Committee and Council.**

Carried 9/0



**11.1.5 NO. 80 (LOT 12) FORREST STREET – PROPOSED SHED (OUTBUILDING)  
AND ALTERATIONS TO THE HEIGHT OF EXISTING WALLS IN THE  
FRONT SETBACK AREA**

<b>File No:</b>	<b>1395</b>
<b>Author:</b>	<b>Ed Drewett</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Report Date:</b>	<b>11 April, 2008</b>
<b>Senior Officer:</b>	<b>Mr Andrew Jackson</b>
<b>Property Owner:</b>	<b>Mrs B A Woolley</b>
<b>Applicant:</b>	<b>Mrs B A Woolley</b>
<b>Date of Application:</b>	<b>22 February, 2008</b>
<b>Zoning:</b>	<b>Residential</b>
<b>Use:</b>	<b>P - A use that is permitted under this Scheme</b>
<b>Density:</b>	<b>R20</b>
<b>Lot Area:</b>	<b>602m<sup>2</sup></b>
<b>M.R.S. Reservation:</b>	<b>N/A</b>

---

**SUMMARY & BACKGROUND**

Following a complaint being received by the Town an inspection of the site revealed that the owner had commenced construction of a shed in the front setback area without the necessary approvals.

The Town advised the builder to stop work pending the submission and determination of planning and building licence approvals. This represents a compliance matter in relation to the need for both planning and building approvals prior to the commencement of development or works.

The owner of the lot advised that as the shed was a replacement of an original one she assumed she didn't need approval. She also advised that she wished to make some alterations to the height of the front walls. As such, she was requested to submit an Application to Commence Development as Council approval was required.

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

**SUBSEQUENT WITHDRAWAL OF APPLICATION**

Since the meeting of the Development Services Committee on Monday, 21 April, 2008, the applicant has subsequently met with officers to discuss the situation and has decided to withdraw the application, which has been confirmed in writing, so that the item need not proceed to Council. Arrangements have also been made for officers and the Heritage Advisor to assist the owner towards an alternative, more acceptable proposal for a further application in due course.

**11.1.6 NO. 34 RAILWAY STREET (LOT 22), COTTESLOE – PROPOSED DEMOLITION OF DWELLING – CATEGORY 3 ON MUNICIPAL INVENTORY**

**File No:** 1416  
**Author:** Mr Andrew Jackson / Ms Delia Neglie  
**Author Disclosure of Interest:** Nil

**Owner:** Micmar Pty Ltd  
**Applicant:** Grae & Peter Hastings

**Attachments** Applicant's submission

**Report Date:** 9 April 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

An application for planning approval has been submitted for the demolition of an existing weatherboard and asbestos house at 34 Railway Street, which is classified Category 3 under Council's Municipal Inventory (MI). Approval is recommended as the building would require significant repair and alterations to bring to a habitable standard due to its dilapidated condition and extensive asbestos.

**STATUTORY ENVIRONMENT**

- Town Planning Scheme (TPS) No 2 – demolition is regarded as development under the *Planning and Development Act 2005* and Scheme and therefore requires planning approval.
- The Heritage of Western Australia Act 1990 requires that local governments compile, (with public consultation) and maintain an inventory of buildings or places which are or may become of cultural heritage significance. Council's MI classifies 34 Railway Street as Category 3, which is defined as:  
*Significant as an Individual Building - Retain and conserve if possible: endeavour to conserve the significance of the place through the provisions of the Town Planning Scheme; photographically record the place prior to any major redevelopment or demolition.*

**POLICY IMPLICATIONS**

- Administration of the heritage system.
- Relationship of heritage to the planning system.
- Recognition of the MI and local character.
- The WAPC *State Planning Policy (SPP) 3.5 Historic Heritage Conservation 2007* describes the existing statutory framework for heritage conservation and the relationship and responsibilities of the Heritage Council of WA (HCWA), the Western Australian Planning and local governments. It specifies policy measures and the means for their implementation and requires local governments to have regard to specific matters relating to heritage in considering applications for planning approval. Those matters relevant as a general guide to the subject proposal include:

- *The conservation and protection of any place or area that is included in the heritage list under a scheme. (Note: this place is not listed in the Scheme but is listed in the MI).*
- *Whether the proposed development will adversely affect the significance of any heritage place including any adverse effect resulting from the location, bulk, form or appearance of the proposed development.*
- *The level of heritage significance of the place, based on a relevant heritage assessment.*
- *Measures proposed to conserve the heritage significance of the place and its setting.*
- *The structural condition of the place, and whether the place is reasonably capable of conservation.*

### **STRATEGIC IMPLICATIONS**

- Fostering of local heritage and streetscape character.

### **FINANCIAL IMPLICATIONS**

Nil.

### **BACKGROUND**

The application is for the demolition of a house classified as Category 3 under the MI. The Manager of Development Services (MDS) had included the proposal on a list of proposals intended for delegated approval (Council has delegated authority to the MDS for the approval of development regarding Category 3 properties). Under this process, Councillors are invited to recall a proposal, hence this report to Council.

The applicants have stated the following reasons for the demolition proposal:

*The original two room house being a small wooden framed, weatherboard structure built around a masonry chimney, with an open back and front veranda. This has been added to by multiple, piecemeal extensions in an inconsiderate fashion to the original house with extensive use of asbestos for internal and external cladding.*

1. *Dilapidated*
  - 1.1 *The front veranda is being held up by four pine braces cemented into the ground.*
  - 1.2 *The house flooring and walls have sagged due to the building materials lifespan without refurbishment and also possible structural termite damage.*
  - 1.3 *Multiple holes - floor, ceiling, and front verandah.*
  - 1.4 *Leaning structure - right angles no longer exist, floors no longer flat.*
2. *Multiple unsuitable extensions*
  - 2.1 *Asbestos use throughout - holes in the walls, rough edges of asbestos visible and accessible.*
  - 2.2 *Cheap, poorly designed and inconsistent to original form.*
  - 2.3 *Uneven and piecemeal cladding - horizontal one wall, vertical on another.*
  - 2.4 *Home made electrical wiring throughout.*
  - 2.5 *Old style plasterboard internal construction - unable to be refurbished.*

- 2.6 *Poor water piping - promoting wastage, ie many unnecessary corners.*
- 2.7 *Various down piping is poorly designed and promotes roof flooding during winter rains.*
- 3. *Structural damage*
  - 3.1 *Sections of wooden extension sitting on dirt allowing extensive termite damage both visible and predicted behind cladding (termite report).*
  - 3.2 *Sections of wooden verandah and flooring sagging and also moving (the floor is two inches below the front room's fireplace edge on one side only and a one inch gap from the edge is visible).*
  - 3.3 *There is evident wood rot throughout.*

### **Building Department Comment**

The existing residence at 34 Railway Street, Cottesloe consists of a combination of the original building and of what appears to be subsequent additions located at the rear.

The original portion of the existing residence consists of timber framed construction with weatherboard external cladding, constructed around the existing masonry chimney, together with a pitched corrugated metal roof.

The timber frame additions which appear approximately 30-40 years old and are asbestos clad, compose of a flat and pitched roof. A visual inspection confirmed that a number of structural timber studs have been damaged by termites and it would be reasonable to assume that other concealed timberwork has also been damaged.

The verandah located at the front of the residence is currently braced by termite resistant pine posts. The timber is sagging and some portions have rotted over time.

It appears that front portion (what appears to be the original house) whilst rundown and requires significant maintenance, is in reasonable condition. The rear portion of the residence shows evidence of structural deterioration and termite damage, which needs to be effectively demolished to enable repair works. If the rear portion is removed the front portion of the residence will require significant alterations to bring it to a habitable standard.

### **Heritage Advisor Comment**

The application for demolition could be approved due to the deteriorated condition of the existing building and the extent of asbestos. Although the façade is attractive to the street, overall the dwelling is not such a good condition or special example of its type or era to warrant retention and restoration, and much of the original building structure and fabric would be lost to any adaptive redevelopment of the dwelling.

### **STAFF COMMENT**

An MI category and town planning scheme provisions do not make retention of a heritage listed property mandatory, they can only encourage retention by a landowner, and indicate the level of resources that a Council may invest in doing so.

The Category 3 definition suggests that conservation is preferred to unsympathetic alteration or demolition, however, it does not preclude demolition altogether.

The original 1995 MI assessment indicated the significance of the house as:

*A worker's cottage in relatively intact condition.*

The condition of the house has obviously deteriorated since 1995.

The reassessment in 2002 recommended retention on the MI as Category 3 but states that its significance is as:

*an example of a workers cottage in this early subdivision, but not one of the first to be constructed.*

This is unlike the neighbouring property at 36 Railway which is stated as *an important early residence in a prominent position along Railway Street*. Therefore in relative terms, the house at 34 Railway is less significant than its neighbour.

Timber-framed or weatherboard cottages are part of the character of early housing in Cottesloe, as in other older suburbs and as such a number of similar dwellings exist. Where retained and maintained, this character is perpetuated and enjoyed. However, where the original condition of a house has significantly deteriorated, its heritage significance and scarcity value would need to be high to encourage or require reconstruction.

Both the Building Department and Heritage Advisor's comments confirm the applicants' advice concerning the building's deteriorated condition. The heritage value is not considered high given the MI descriptions of significance. The building would have been a good example of a workers cottage if in good condition but it is not a unique residence in the context of the metropolitan region or the locality and there are indeed better examples even in Cottesloe. Therefore it is recommended that the demolition be approved subject to a photographic record of the place being undertaken.

## **CONCLUSION**

Having regard to the comparative heritage status of the dwelling and its diminished heritage value due to its poor condition, the grounds for refusal of the demolition would not be particularly strong. Whilst a motivated owner or inspired architect might seek to salvage the front portion of the dwelling in a development, much of the integrity of the original dwelling has already been eroded.

## **VOTING**

Simple Majority

## **COMMITTEE COMMENT**

Cr Boland mentioned that he had called-up the item but with the benefit of the report could now support the proposed demolition. He suggested an advice note nonetheless to the effect that the heritage worth of the property be pointed-out to the applicant, to which Committee agreed as a technical addition.

**OFFICER RECOMMENDATION**

That Council approve the demolition of No. 34 Railway Street (Lot 48), Cottesloe, subject to the following conditions:

- (1) All demolition work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.
- (2) A full, colour and labelled photographic record of the dwelling, including it's interior, exterior, outbuildings, grounds and setting in the street, shall be made and submitted to the Town, prior to a Demolition Licence being issued.
- (3) If asbestos is present, compliance with the Health (Asbestos) Regulations 1992 is required.
- (4) The site being levelled and stabilised to the satisfaction of the Manager Development Services.
- (5) Any street trees shall be retained and protected from the demolition work at all times.

Advice Note:

In the interest of the amenity of the property, future development and locality, the landowner is encouraged to retain as much of the existing on-site trees and mature vegetation as possible.

**11.1.6 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Strzina

**That Council approve the demolition of No. 34 Railway Street (Lot 48), Cottesloe, subject to the following conditions:**

- (1) All demolition work must be carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13.**
- (2) A full, colour and labelled photographic record of the dwelling, including it's interior, exterior, outbuildings, grounds and setting in the street, shall be made and submitted to the Town, prior to a Demolition Licence being issued.**
- (3) If asbestos is present, compliance with the Health (Asbestos) Regulations 1992 is required.**
- (4) The site being levelled and stabilised to the satisfaction of the Manager Development Services.**
- (5) Any street trees shall be retained and protected from the demolition work at all times.**

**Advice Notes:**

- (i) In the interest of the amenity of the property, future development and locality, the landowner is encouraged to retain as much of the existing on-site trees and mature vegetation as possible.**
- (ii) The owner is advised that, notwithstanding Council's approval to the demolition in the circumstances, the generally preferred alternative is**

**the conservation and improvement of heritage-listed properties having regard to their heritage value and the character of their surrounds.**

Carried 9/0

**11.1.7 CURTIN AVENUE – REPORT ON DETAILED CONSIDERATIONS OF OPTIONS**

**File No:** Sub/440  
**Author:** Mr Andrew Jackson  
**Author Disclosure of Interest:** Nil

**Report Date:** 11 April 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

Council on 17 March 2008 considered an overview update report on Curtin Avenue and resolved to:

1. *Note this update report, provide any direction to officers for ongoing work on the matter as it sees fit, and await a detailed report from officers at the April meeting.*
2. *Determine any interim or more definitive feedback that it may wish to provide to the Government agencies at this stage.*

Development Services Committee had discussed the matter at some length and Council chose to await this fuller report for consideration.

In outlining the next steps it was advised that:

- Council's September 2007 resolution saw the need to better understand the pros, cons and implications of the options for Curtin Avenue in order to consider a course of action including community consultation and provide further feedback to the Government agencies.
- This foreshadowed a report to Council on an enquiry-by-design exercise for the Town Centre, incorporating Curtin Avenue, in liaison with the Government agencies.
- It was also suggested that Council could seek advice from independent consultants to assist its deliberations.

To advance the matter this report presents:

- A framework to help determine the best option.
- More detailed discussion of relevant considerations to that end.
- Comment on the specialist reports by the Government agencies regarding some of these considerations.
- An outline for continued action to reach agreement.

While it concentrates on the solution for Curtin Avenue in the vicinity of the Town Centre, it must be remembered that the entire route as it passes through Cottesloe is to be settled and eventually constructed.

**STATUTORY ENVIRONMENT**

- The current Metropolitan Region Scheme (MRS) Primary Regional Road (PRR) reservation for Curtin Avenue represents a major constraint to planning for the district and land use and development in the vicinity of the route.



- The uncertainty and potential impacts are impediments to solving regional and local traffic movements and providing for a Town Centre activity node consistent with the State Government's Network City planning strategy.
- In this respect Council's proposed Local Planning Scheme No. 3 (LPS3) is under an expectation to respond to regional requirements, but is affected by the future of Curtin Avenue.
- Once a realigned and minimised road reservation is defined, the MRS and Council's Scheme can be amended to clarify the route for Curtin Avenue and free-up the surplus land west of the railway for structure planning under the proposed Development Zone.
- This statutory implementation will be a major step forward to the long-term benefit of the transport system and urban development characterising the district.
- Because the amendment processes will involve public consultation, it is desirable that Council give consideration to informing and engaging the community during the present formulation phase, which the intended enquiry-by-design exercise would facilitate – this is elaborated on below.

### **POLICY IMPLICATIONS**

- This matter does not relate directly to any specific Council policy about Curtin Avenue, however, it is clear that regional and local transport and planning policies cannot be realised until Curtin Avenue is resolved.

### **STRATEGIC IMPLICATIONS**

- Curtin Avenue is probably the key strategic issue facing the district, which for several decades has remained uncertain, contributing to local traffic problems, urban blight and loss of amenity.
- The growth of Perth has increased pressures on the regional road network and resultant impacts on local communities.
- A responsible approach is needed to finalise a preferred alignment and design for Curtin Avenue through Cottesloe.
- Council's Future Plan and Action Plan identify reaching agreement with the State Government on a solution for Curtin Avenue as a strategic priority.

### **FINANCIAL IMPLICATIONS**

- Construction of a realigned Curtin Avenue would be an MRWA cost.
- Council will incur future costs in addressing the related local road system and land use planning for the surrounding area.
- Community consultation and advertising regarding preliminary solutions for the route may involve consultants and other costs in the order of \$20,000 or more depending on the scope.
- As to funding regional infrastructure and transit-orientated development (TOD), the cost of a superior solution for Curtin Avenue would be offset by an enhanced return on development, as opposed to mediocre yields.

### **BACKGROUND**

- Council on 24 September 2007 received a status report on Curtin Avenue, which drew together its collaborative planning with the Department for Planning and Infrastructure (DPI) and Main Roads Western Australia (MRWA) on this matter.

- Council received a briefing on 25 February 2008 followed by a second update report on 17 March 2008, whence it awaited this detailed report.
- The value of this work and progressive consideration has been to articulate the objectives of the stakeholders, scope the aspects requiring reconciliation, firm-up optional solutions and indicate a way forward.
- As previously reported, the statutory environment and policy, strategic and financial implications associated with Curtin Avenue constitute a major planning matter influencing the future function, form and wellbeing of the district.
- The imposition of regional transit routes through communities is a classic issue facing the structuring of metropolises and can be seriously divisive physically, socially and economically.
- The challenge is to overcome such barriers in a way which best addresses the complexities of sustaining regional transit, local area planning and activity centres.
- A singular view of regional road delivery based on typical engineering and financial feasibilities would appear to fall short of the holistic and integrated model or urban dynamics being pursued by the State Government under the Network City program.

## **OFFICER COMMENT**

### **Strategic Outlook**

#### Council Resolutions

Council on 24 September 2007 confirmed its position at that stage to the Government agencies as follows:

*Council:*

- (1) ...
- (2) ...
- (3) *Requests consideration of a new Option 5 with Curtin Avenue and the railway line both being lowered to go under Jarrad Street.*
- (4) *Seeks three-dimensional illustrations from MRWA for Options 1 and 2 only, upon which it will give further consideration to the following in order to provide feedback to the Government agencies towards a solution for Curtin Avenue:*
  - (i) *The pros and cons of the options for the alignment and design of Curtin Avenue through Cottesloe;*
  - (ii) *The implications for land use, urban development and transport connectivity affecting the district;*
  - (iii) *The particular implications for the Town Centre and railway land areas in light of Council's planning for these areas; and*
  - (iv) *A course of action, including community consultation and ongoing liaison, to reach agreement on the matter.*

#### Future Plan

- This strategic outlook is reflected in the Town's Future Plan and related Action Plan confirmed by Council on 17 March 2007.

- The Future Plan notes that the Town is undergoing change and is involved in a range of regional planning matters which are being responded to.
- It identifies the priorities requiring attention, including to pursue solutions for Curtin Avenue and the railway and to finalise a plan for the Town Centre.
- In this regard Objective 2 - Connectivity is: *To achieve connectivity between east and west Cottesloe* and the associated Strategy is to: *Pursue a draft Structure Plan for consultation purposes including consideration of options in relation to the sinking of the railway and realignment of Curtin Avenue together with 'what's possible' in terms of sustainable redevelopment and pedestrian and traffic links for the Town Centre and adjacent Development Zone.*
- The intended broad actions to address this entail:
  - Establish the situation regarding the options for Curtin Avenue and the railway – that is, the work done to date and continuing.
  - Facilitate engineering, financial and other studies into the preferred solution and focus on a “win-win” approach – the specialist reports provided by the Government agencies are a useful start, however, additional investigations are warranted.
  - Explore the development potential of the vacant land (Development Zone) including visual material that demonstrates housing densities and forms – Council has considered a preliminary report in this and more detailed work is warranted. Ultimately the structure planning provisions under proposed LPS3 will be applied to determine the development characteristics for this area.
  - Conduct a consultation program that involves the community and Government agencies – specifically an enquiry-by-design for the Town Centre area under proposed LPS3 during its advertising phase.
  - Produce an indicative structure plan – this is to crystallise the preferred pattern and form of the planned movement system, land use and development for the area.
  - Consider the findings and likely implementation arrangements – Council, the Government agencies involved would confirm agreement to the plan and a prospective implementation program.

#### Planning Perspective

- The conundrum of Curtin Avenue as it affects Cottesloe is decades-old and deserves attention to overcome uncertainty and foster urban regeneration.
- During that time the wisdom of ever-expanding regional roads has come under scrutiny as a metropolitan growth philosophy, whereby today's transport systems have become more sophisticated, linking a range of travel modes and being planned in relation to land use, development nodes and urban design.
- As Perth matures it is experiencing substantial renewal of older, redundant areas to embrace this modern planning approach, which includes many innovations such as sinking railways, creating TOD activity centres and rejuvenating built environments. The positive results are manifest in locations such as Subi Centro and other rail-based locations which have been given a fresh focus and sense of place.
- It is apparent that this planning perspective comprises the following:
  - A vision of an ideal solution.
  - A technical “can-do” attitude.

- A consultative process.
- A commitment to implementation.
- In this context the *optimum* solution may be that where the opportunities are seen to outweigh the constraints, and towards that the joint effort to define a solution for Curtin Avenue has so far achieved agreement as follows:
  - There is an important need to address the matter.
  - The solution should look long-term and take into account all aspects.
  - An alignment beside the railway where the route passes the town centre is the most land-efficient.
  - For significantly improved local travel connectivity, grade-separation of the regional and local roads is required.
  - The impetus to stimulate TOD and generate development potential to contribute to Network City principles
  - There will be significant infrastructure and urban design implications requiring attention to minimise amenity impacts.
  - The intended consultation by way of an enquiry-by-design.

#### Relevant Considerations

- From the work and discussions to address Curtin Avenue a number of key relevant considerations have been discerned.
- These are primary aims to be borne in mind in determining the optimum planning and design solution.
- The following table lists each aspect and the preferred characteristics to satisfy it and benefit the area.

<i>Aspect</i>	<i>Preferred characteristics and benefits to area</i>
Sustainability	<ul style="list-style-type: none"> <li>○ Consolidated transit corridor – less land take.</li> <li>○ Environmentally-efficient transit systems – less energy consumption and pollution.</li> <li>○ Reduced car dependency.</li> <li>○ Responsible balance of public and private transit modes.</li> </ul>
Regional road thoroughfare	<ul style="list-style-type: none"> <li>○ Free-flowing through-traffic with minimal intersections for functional efficiency.</li> <li>○ Confined land-take and physical impact.</li> </ul>
Railway system	<ul style="list-style-type: none"> <li>○ Capitalise on railway system – upgrade infrastructure, station and service / patronage.</li> <li>○ Recognise the presence of the rail system as the dominant public transit mode for the town centre and beachfront.</li> </ul>
Local connectivity	<ul style="list-style-type: none"> <li>○ Local road, cycle, pedestrian and disabled network uninterrupted by regional transit, for legibility, convenience, safety and amenity.</li> <li>○ Improved access to Town Centre, surrounding localities and beachfront destination.</li> </ul>
TOD activity centre	<ul style="list-style-type: none"> <li>○ Integrated transport and land use / development for mutual advantages – choice of transit modes, public transit, accessibility, activity, local economy, community, sense of place.</li> </ul>

<i>Aspect</i>	<i>Preferred characteristics and benefits to area</i>
Wellbeing of Town Centre	<ul style="list-style-type: none"> <li>○ Protect the social identity, economic health and village character of the Town Centre.</li> <li>○ Improve the functioning of the Town Centre.</li> <li>○ Manage the physical, visual and amenity impacts of infrastructure on the Town Centre.</li> <li>○ Provide for development and expansion of the Town Centre with appropriate built form and fabric.</li> </ul>
Development potential	<ul style="list-style-type: none"> <li>○ Town centre rejuvenation.</li> <li>○ Supply of additional and more diverse housing.</li> <li>○ Responding to Network City – local contribution to urban consolidation and activity centres.</li> <li>○ Responding to community identity – human-scale urban village feel and place-making approach.</li> </ul>
Urban design	<ul style="list-style-type: none"> <li>○ Contain the physical and visual impacts of the regional road infrastructure.</li> <li>○ Guide new built form to allow for innovation yet ensure compatible interfaces with existing development.</li> <li>○ Pay attention to the public domain.</li> <li>○ Create a walk-able neighbourhood.</li> </ul>
Overcoming urban blight	<ul style="list-style-type: none"> <li>○ Clarify regional road requirement / MRS reservation, including removal of impact on existing residential development.</li> <li>○ Maximise land availability for urban development.</li> <li>○ Use surplus “wasteland” for urban purposes.</li> </ul>

### **Analysis of Technical Reports**

The 17 March 2007 update report to Council advised as follows:

- A Council briefing session was held on 25 February 2008 where the DPI and MRWA presented technical information exploring the feasibilities in relation to Options 1 and 2. This included the following documentation:
  - Consultant’s report *Curtin Avenue Realignment, Cottesloe, Option 1 – Trench Construction: Engineering Feasibility Study*.
  - Consultant’s report *Noise Impact Assessment Curtin Avenue / Jarrad Street Intersection “Subway Option”* (Option 2).
  - MRWA *Road Network Options Report* regarding the overall matter and above reports, including three-dimensional photo / computer-graphics images illustrating the built form of Options 1 and 2.
- It was noted that these reports favour the Jarrad Street subway Option 2, on the basis of functionality, engineering and cost. Council was requested to give consideration to the information provided for feedback to the DPI and MRWA.
- A more detailed analysis and assessment of the findings of these reports is presented below.

Curtin Avenue Realignment, Cottesloe – Option 1: Trench Construction – Engineering Feasibility Study – January 2008

(prepared by BG&E for MRWA)

*Overview*

- This report presents a comprehensive examination of the engineering feasibility of Option 1 for a trench construction. It is a typical preliminary analysis of the engineering considerations pertaining to this option; identifying relevant factors to be taken into consideration were it to be pursued, as a precursor to more detailed design.
- The report scopes the gamut of technical aspects for creation of a trench, including construction methods and the ramifications of existing infrastructure affected. This includes the functional implications for a Jarrad Street bridge over the trench and the railway level crossing, as well as traffic, social and commercial effects.
- In terms of construction techniques, the report concludes that a variety or combination could be utilised and would be influenced by range of factors. In relation to the railway it notes that operational and safety requirements would affect the approach to construction, its timing and cost.
- The report describes the typical bridge construction and associated infrastructure requirements, It also notes that the railway level crossing would remain and be constrained, which is seen as a less than ideal standard.
- The report correctly identifies a number of social and commercial impacts which would arise, such as noise, dust, light spill, disruptions, reduced accessibility, and so on.
- It concludes that Option 1 would involve significant issues and substantial costs, hence suggesting that more economically and socially acceptable alternatives be investigated.

*Comment*

- This initial engineering assessment is a thorough outline of what this Option 1 entails. As such it serves to explore the ingredients of the option as well as generic aspects likely to be encountered by other options.
- Fundamentally, it finds that Option 1 (or potentially a derivative of it) is capable being built, albeit with particular advantages and disadvantages. In so doing it demonstrates that any option will have constraints and cause impacts.
- What the report does not do (and was not asked to do) is compare options from an engineering point-of-view, provide any weighting to them or have regard to wider planning and urban development considerations.
- Indirectly, the report highlights that the long term gain from the provision of a new regional road carries with it a range of implications and costs (both financial and otherwise) which need to be examined and evaluated. Decisions made solely on engineering ease or economy may fall short of a broader vision for transport systems and urban regeneration – without which major improvements to metropolitan development and activity (for example the new southern railway) may not be realised.

Noise Impact Assessment – Curtin Avenue / Jarrad Street Intersection – “Subway Option” – January 2008

(prepared by Lloyd George Acoustics for BG&E and MRWA)

*Overview*

---

- This report presents the methodology and findings of noise modelling for the subway option, including both road and rail traffic, compared to the existing situation for Curtin Avenue and the railway.
- The noise forecasts were assessed against the WAPC draft Policy on Road and Rail Transport Noise and the MRWA Noise Level Impact Assessment Criteria as benchmarks.
- The study found that with this road option, residences along existing Curtin Avenue would experience significantly less noise and that residences along Stirling Highway would experience no change in noise due to the dominance of that traffic noise.
- It also found that any railway noise increase would be negligible and that overall rail noise is much less than from the roads.
- On this basis the report concluded that in terms of the proposed road and rail infrastructure for this option, no noise treatments are considered necessary.
- However, it recommended that adjacent urban development be planned and designed to manage the noise impacts.

#### *Comment*

- The report is useful in examining the aspect of noise generally and for this sample option in particular; although it is noted that only one option has been modelled so far and that full noise assessment should occur for any proposal being pursued.
- What the study indicates is that existing Curtin Avenue residences would be afforded relief from noise while the Town Centre and its vicinity would absorb the new noise regime.
- In this regard it is cautioned that while non-residential uses may be more noise-tolerant, the amenity impact of traffic noise on businesses, offices, civic or institutional facilities and the public domain should not be underestimated.
- The presence mixed-use commercial-residential developments in the Town Centre and the proximity of residences along Railway Street and its side streets mean that noise may well become a concern – train horn noise can be a complaint, for instance.
- Therefore, it may eventuate that some noise attenuation structures or treatments need to be considered as part of the design and construction of the new Curtin Avenue and the railway – there are likely to be visual impacts to be considered, too.
- While such amenity-related infrastructure should not deter the overriding need for the routes, it does deserve high-quality urban design because of the physical and visual impacts – noise walls, for example, can be intrusive and unattractive as well as a maintenance burden due to graffiti.
- The principle of putting the onus for noise attenuation onto development is noted in relation to the WAPC draft policy and the characteristics of built-up areas – regional transit routes, TOD and urban consolidation create challenges for noise control.

#### Curtin Avenue, Cottesloe – Road Network Options Report – February 2008

(prepared by MRWA, Technology & Environment Division, Roads Planning Branch)

#### *Overview*

- This report draws together the work and views of MRWA towards firming-up on a solution for future Curtin Avenue, and incorporates the above consultant studies. It gives direction to the matter insofar as regional road route planning and engineering design is concerned.
- The report contains a context of the historical background to the route, previous studies and earlier design options considered – the previous options were: lowered railway, Napoleon Street underpass, Forrest Street crossing and Jarrad Street overpass. It then summarises four more recent options examined by MRWA and the consultation undertaken with the Town and relevant Government agencies – the options being 1: road trench for Curtin Avenue, 2: subway for Jarrad Street, 3: one-way pair with railway crossings, 4: one-way pair with grade-separated railway crossings.
- This narrows-down to Options 1 and 2, which are examined in more detail in relation to engineering feasibility, noise impact and visual amenity; based on the abovementioned selected studies and three-dimensional photo/computer graphic images of what these options would look like. The report is then rounded-out with discussion of the prospective enquiry-by-design and a conclusion.
- The conclusion is: firstly, that Option 1 for a trench is technically feasible but virtually unviable due to construction costs and impacts, plus has ongoing operational shortcomings; and secondly, that Option 2 for a subway is superior by virtue of full grade-separation, despite the visual impact. In addition, a one-way pair option is found to be undesirable on several fronts.

*Comment*

- This report represents a concise summary of the work performed over many years by the stakeholder authorities to devise a preferred route alignment and physical design outcome for Curtin Avenue. This affords a useful appreciation of the multitude of aspects to be balanced and the resultant built environment to be borne in mind.
- Understandably, this report and the supporting reports are focussed on the engineering and hence construction cost side of the equation – that is, the practical design and construction considerations, rather than the total framework of transport and land use planning (although certain elements are touched upon).
- For this reason, the report tends to emphasise disadvantages over advantages in the realm of degree of engineering difficulty and cost – it does not dismiss the options (in the sense that almost anything can be engineered), so much as advocate a pragmatic, expedient and affordable choice. This is essentially a listing of points with limited evaluative or comparative assessment. To be fair to the intent of the report, this is not a criticism, but instead a reflection of a conventional assessment within the purview of MRWA.
- Obviously a full cost-benefit type analysis of all of the relevant considerations (planning, engineering, design, social, economic and so on) would arrive at an alternative appreciation of the desired outcomes and innovative possibilities for the Town Centre and developable land in relation to regional transit and local connectivity.
- In concentrating on Options 1 and 2, the report consolidates the MRWA review, with input from the consultant studies (ie engineering for Option 1 and noise for Option 2; yet, it is observed, not both for each) and the 3D images to comment on the issues identified.



- The 3D images are a useful depiction of the way in which Options 1 and 2 would function and their form. It is apparent that either would introduce heavy-duty infrastructure to overcome the current operational deficiencies – in other words, the benefits of a regional road thoroughfare divorced from the local road system, and the yield of land for development, bring with them dis-benefits by way of major transport infrastructure and all of its impacts. In this respect the trench option offers an out-of-sight/out-of-mind sinking of the regional road, whereas the subway option elevates its presence and externalised effects, being `a good traffic solution but a poor urban design result.
- Given local connectivity as a primary objective, it is clear that a grade-separated crossing of both the regional road and railway is a superior option. Only that would separate regional from local traffic and overcome congestion by removing the level-crossing. The subway option would achieve this and in so doing markedly improve the convenience and safety of local circulation to and from the Town Centre. The significance of this improvement is considered sufficient to justify the impacts of the infrastructure, provided that the detailed design minimises the effects on amenity.

### **Urban Regeneration & Development Potential**

- Resolving Curtin Avenue is vital to removing uncertainty about the route and to enabling urban regeneration to occur in this part of the district and as part of the western suburbs.
- Unless the alignment for Curtin Avenue is defined, and the preferred design solution refined, then the existing situation of regional road impacts, a limited Town Centre, old railway station, poor connectivity and vacant, unkempt reserve lands will continue.
- Such circumstances impede the achievement of regional and local planning objectives for activity centres and urban consolidation, including the ability of Council to respond to regional aspirations such as inner-area housing supply and diversity, for example.
- The opportunity to capitalise on a TOD and thereby address to the wider purpose of creating an integrated land use, development and transport node in accordance with Network City planning principles should be a key determinant in the matter.
- With that in mind, Council has considered a preliminary report on the indicative development potential of the railway lands, which broadly scoped the likely development parameters and built form in estimating dwelling and population yields. The findings reinforced the ability of the railway lands to contribute significantly to the anticipated population and housing targets approach of the DPI.
- In realising this latent potential, it is emphasised that the aim should not simply be on quantity but also on quality, which is why the consideration of Curtin Avenue should seek to add value in both respects.
- In terms of detailed planning, in considering the trench and subway options, it can be seen that by not mixing regional and local traffic, and by improving local connectivity, the solution for Curtin Avenue would reduce the amount of, and improve the flow of, local traffic in the Town Centre. Jarrad Street would become traffic-calmed and more pedestrian/cyclist-friendly. It would be less divisive to the southern sector of the Town Centre, which is anticipated for further development

and in need of better links. At the same time, new residential development on the western land would generate additional local traffic accessing the Town Centre and beyond, being more reason to ensure local connectivity.

- In terms of the strategic outlook to an optimum transport and land use solution as expressed in this report, a more visionary option would be for the sinking of the railway in conjunction with Curtin Avenue. This would reduce the physical and visual impacts of the railway and regional road as they pass through the area (by having sunken rather than elevated infrastructure and traffic), emphasise local connectivity over regional through-routes, enable a new railway station to be built at a lower level thereby interfacing much more effectively with the Town Centre, facilitate greater integration with the western land, and enhance the development potential of that area.

**Enquiry-by-Design**

- In considering means to help settle upon a solution for future Curtin Avenue in the context of the Town Centre and railway lands, the Enquiry-by-Design consultative and design method has been agreed to in-principle by Council and the Government agencies involved.
- This is intended to build on the earlier Town Centre Study, the Scheme Review, related Council initiatives (eg parking strategy) and the current work on Curtin Avenue, to examine in more detail the interrelationship between that regional road route, the railway, Town Centre and developable land.
- Added to this, the DPI is embarking on the Stirling Highway Activity Corridor Study. This a Network City-based study to explore the future of land use and development along the highway activity corridor, and will have a significant focus on the Town Centre as a hub of activity and convergence of transit systems. At the same time Council is advancing its work on the Library complex, further development of Station Street, parking, urban design and public domain infrastructure all in connection with the Town Centre.
- The Enquiry-by-Design is the next step to present this background and the present studies and initiatives to the stakeholders and community for a more intensive analysis of all of the factors to be taken into account.
- Proposed Local Planning Scheme No. 3, which is now being advertised for public submissions, provides for this approach and the Enquiry-by-Design method for the Development Zone (comprising the developable land) as follows:

<p><i>'E' – Crown Reserves 3399, 3434, 25367, 33606, 33607, 30397, bounded by Curtin Avenue and railway line.</i></p>	<ul style="list-style-type: none"> <li>• <i>Comprehensive planning for the area shall be undertaken through the preparation and approval of a Structure Plan, in accordance with Clause 6.2, to guide subdivision and development.</i></li> <li>• <i>Land uses shown on the Structure Plan shall apply in accordance with Clause 6.2.8.</i></li> <li>• <i>The Structure Plan will apply to the entire site and will provide for additional residential development</i></li> </ul>
---	---

	<p><i>comprising a range of dwelling types, sizes and densities to take full advantage of the opportunity for more intense urban infill on this site, particularly with regard to its close proximity to regional public transport routes and the potential for integration with the nearby Town Centre zone on the eastern side of the railway line.</i></p> <ul style="list-style-type: none"> <li>• <i>The Structure Plan will provide for car parking in accordance with clause 5.8.</i></li> <li>• <i>The Structure Plan will provide for development in accordance with the Residential Design Codes and any Design Guidelines. The Design Guidelines will be formulated following an Enquiry-by-Design process to be jointly agreed and conducted by the Town of Cottesloe and the Department for Planning and Infrastructure. Guidelines for the height of buildings will have regard to the Town of Cottesloe Town Centre Study (2005) Concept Plan. Following public advertising and consideration of submissions, the Design Guidelines formulated from the Enquiry-by-Design process are to be incorporated, with or without modification, into Local Planning Scheme No. 3.</i></li> </ul>
--	---

- An Enquiry-by-Design is broadly referred to in the Road Network Options Report by MRWA. Both MRWA and the DPI have indicated that they see the Enquiry-by-Design exercise as fairly confined in respect of Curtin Avenue, essentially being a choice between Options 1 and 2 having regard to the degree of grade-separation and the engineering feasibility.
- However, Local Planning Scheme No. 3 contains the statutory structure planning provisions for the comprehensive planning of development areas to reconcile the transport, land use and built form ingredients of urban regeneration.
- It is clear that the combination of regional and local planning for the area needs to thoroughly address the structural, functional, built environmental and amenity dimensions of the Cottesloe Town Centre and surrounds in the context of its sub-regional setting and role.
- The Enquiry-by-Design process is a welcome opportunity to take the conceptual and technical contributions to date to the next stage of analysis and consultation towards a holistic and high-order prescription for this metropolitan place.

**VOTING**

Simple Majority

**COMMITTEE COMMENT**

Committee considered the report to be thorough and to highlight the importance of local connectivity in the solution for Curtin Avenue, as well as the need to take into account the potential implications, such as the visual impact of the subway option. There was discussion about the ordering and wording of the points in the recommendation to strengthen Council's outlook in this respect. There was also some discussion about the recommendation point in relation to the MRS at this stage. This led to the following amendments as reflected in the Committee Recommendation.

**OFFICER RECOMMENDATION**

That Council:

- (1) Confirms its support in-principle for the alignment of future Curtin Avenue immediately west of the Town Centre as a two-lane road located between the railway line and the Western Power substation.
- (2) To achieve the primary objective of improving local connectivity, support the complete grade-separation of Jarrad Street from the railway and Curtin Avenue.
- (3) Acknowledge the subway option as superior to the trench option in terms of achieving local connectivity, but note that the subway option would have its own physical and visual impacts.
- (4) Promote that an option of sinking the railway, in order to enable full integration of land use and transport, to facilitate transit-orientated development of the Town Centre, and to optimise the development potential of the western land, be further explored with the State Government agencies to ensure the best long-term planning outcomes for the area having regard to Network City objectives and principles for activity centres and corridors.
- (5) Pursue the Enquiry-by-Design process with the DPI as guided by Local Planning Scheme No. 3 to deliver a far-sighted and sustainable structure plan for the area.
- (6) Approach relevant consultants (ie town planning, urban design, engineering, community engagement, place-making, and so on) to assist Council and the State agencies in the matter.
- (7) Subject to reaching agreement with the State Government agencies regarding a detailed design solution for Curtin Avenue in relation to the railway, Jarrad Street and the Town Centre, seek amendment of the Metropolitan Region Scheme to define the road and rail alignments and land requirements for this section of the route.
- (8) Advise the Department for Planning and Infrastructure, Main Roads Western Australia Western, the Western Australian Planning Commission and Minister for Planning and Infrastructure accordingly.

**COMMITTEE RECOMMENDATION**

That Council:

- (1) Confirms its support in-principle for the alignment of future Curtin Avenue immediately west of the Town Centre as a two-lane road located between the railway line and the Western Power substation.
- (2) To achieve the primary objective of improving local connectivity, support the complete grade-separation of Jarrad Street from the railway and Curtin Avenue, and assert that neither the trench option nor the subway option deals satisfactorily with local connectivity.
- (3) Promote that an option of sinking the railway, in order to enable full integration of land use and transport, to facilitate transit-orientated development of the Town Centre, and to optimise the development potential of the western land, be further explored with the State Government agencies to ensure the best long-term planning outcomes for the area having regard to Network City objectives and principles for activity centres and corridors.
- (4) Acknowledge the subway option as preferable to the trench option in terms of achieving local connectivity, but note that the subway option would have its own physical and visual impacts.
- (5) Pursue the Enquiry-by-Design process with the DPI as guided by Local Planning Scheme No. 3 to deliver a far-sighted and sustainable structure plan for the area.
- (6) Approach relevant consultants (ie town planning, urban design, engineering, community engagement, place-making, and so on) to assist Council and the State agencies in the matter.
- (7) Subject to reaching agreement with the State Government agencies regarding a detailed design solution for Curtin Avenue in relation to the railway, Jarrad Street and the Town Centre, seek amendment of the Metropolitan Region Scheme to define the road and rail alignments and land requirements for this section of the route.
- (8) Advise the Department for Planning and Infrastructure, Main Roads Western Australia Western, the Western Australian Planning Commission and Minister for Planning and Infrastructure accordingly.

**AMENDMENT**

Moved Cr Dawkins, seconded Mayor Morgan

**That at item (3) the words 'of both sinking the railway and the realigned Curtin Avenue' be inserted.**

Carried 9/0

**11.1.7 COUNCIL RESOLUTION**

Moved Cr Walsh, seconded Cr Strzina

**That Council:**

- (1) Confirms its support in-principle for the alignment of future Curtin Avenue immediately west of the Town Centre as a two-lane road located between the railway line and the Western Power substation.
- (2) To achieve the primary objective of improving local connectivity, support the complete grade-separation of Jarrad Street from the railway and Curtin Avenue, and assert that neither the trench option nor the subway option deals satisfactorily with local connectivity.
- (3) Promote that an option of both sinking the railway and the realigned Curtin Avenue, in order to enable full integration of land use and transport, to facilitate transit-orientated development of the Town Centre, and to optimise the development potential of the western land, be further explored with the State Government agencies to ensure the best long-term planning outcomes for the area having regard to Network City objectives and principles for activity centres and corridors.
- (4) Acknowledge the subway option as preferable to the trench option in terms of achieving local connectivity, but note that the subway option would have its own physical and visual impacts.
- (5) Pursue the Enquiry-by-Design process with the DPI as guided by Local Planning Scheme No. 3 to deliver a far-sighted and sustainable structure plan for the area.
- (6) Approach relevant consultants (ie town planning, urban design, engineering, community engagement, place-making, and so on) to assist Council and the State agencies in the matter.
- (7) Subject to reaching agreement with the State Government agencies regarding a detailed design solution for Curtin Avenue in relation to the railway, Jarrad Street and the Town Centre, seek amendment of the Metropolitan Region Scheme to define the road and rail alignments and land requirements for this section of the route.
- (8) Advise the Department for Planning and Infrastructure, Main Roads Western Australia, the Western Australian Planning Commission and Minister for Planning and Infrastructure accordingly.

Carried 9/0

**12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 22 APRIL 2008**

The agenda items were dealt with in the following order: Item 12.1.2, 12.1.4, 12.1.8, 12.1.9, 12.1.10, 12.3.3, 12.4.1 and then the balance in numerical order en bloc.

**12.1 ADMINISTRATION****12.1.1 VERGE GREEN AND BULK WASTE SERVICE - RESULTS OF TENDER**

**File No:** SUB/710  
**Author:** Mr David Shimmin  
**Author Disclosure of Interest:** Nil  
**Report Date:** 10 March, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

The purpose of this report is to assess the tenders for the collection of green and bulk waste and the recommendation is to accept the tender submitted by B & N Waste.

**STATUTORY ENVIRONMENT**

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

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

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

Extracts from the relevant regulations of the *Local Government (Functions and General) Regulations 1996* are as follows.

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

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

**14. Requirements for publicly inviting tenders**

- (1) When regulation 11(1), ... requires tenders to be publicly invited, Statewide public notice of the invitation is to be given...
  - (2a) If a local government —
    - (a) is required to invite a tender; ...

the local government must, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

- (3) The notice, whether under subregulation (1) or (2), is required to include —

- (a) a brief description of the goods or services required;
- (b) particulars identifying a person from whom more detailed information as to tendering may be obtained;
- (c) information as to where and how tenders may be submitted; and
- (d) the date and time after which tenders cannot be submitted...

**15. Minimum time to be allowed for submitting tenders**

(1) If the notice is published in the newspaper as part of giving Statewide public notice, the time specified in the notice as the time after which tenders cannot be submitted has to be at least 14 days after the notice is first published in the newspaper as part of giving Statewide public notice...

**18. Choice of tender**

(1) A tender is required to be rejected unless it is submitted at a place, and within the time, specified in the invitation for tenders.

(2) A tender that is submitted at a place, and within the time, specified in the invitation for tenders but that fails to comply with any other requirement specified in the invitation may be rejected without considering the merits of the tender...

(4) Tenders that have not been rejected under subregulation (1), (2), or (3) are to be assessed by the local government by means of a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept and it is to decide which of them it thinks it would be most advantageous to the local government to accept.

(4a) To assist the local government in deciding which tender would be the most advantageous to it to accept, a tenderer may be requested to clarify the information provided in the tender.

(5) The local government may decline to accept any tender...

**POLICY IMPLICATIONS**

Item 1.7.4 of the Town of Cottesloe's *Purchasing* policy requires the following:-

**Tender Criteria**

The Town of Cottesloe shall, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

The evaluation panel shall be established prior to the advertising of a tender and include a mix of skills and experience relevant to the nature of the purchase.

For Requests with a total estimated (Ex GST) price of:

- Between \$40,000 and \$99,999, the panel must contain a minimum of 2 members; and
- \$100,000 and above, the panel must contain a minimum of 3 members.

As only one tender has been received a meeting of the Tender Evaluation Panel has not been convened.

**STRATEGIC IMPLICATIONS**

Nil



**FINANCIAL IMPLICATIONS**

Once accepted, the cost of collection of verge green and bulk waste will increase slightly.

**BACKGROUND**

The tender for the Verge Bulk and Green Waste Collection Services 2008/2009 was advertised 9 February, 2008 and tenders closed on 29 February, 2008. There was only one tender received.

Summary of Tender Cost Over 2 Year Contract Period

<b>Tender No.</b>	<b>Name of Tenderer</b>	<b>Cost 2 Years</b>	<b>GST</b>	<b>Additional Costs</b>	<b>Total Cost 2 Years</b>
1	B & N Waste Pty Ltd	\$ 174,720	\$ 17,472	Call back \$ 132.00 p/h Leaflet dist. \$ 3,954	\$ 196,146

**CONSULTATION**

Nil

**STAFF COMMENT**

Nil

**VOTING**

Simple Majority

**12.1.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (1) **Accept the Tender submitted by B & N Waste Pty Ltd for the Verge Bulk and Green Waste Collection Services 2008/2009 for a period of two years commencing 2008 to 2010; and**
- (2) **Authorise the Chief Executive Officer to sign the formal Instrument of Contract upon satisfactory completion of all documentation, as required by the Contract.**

Carried 9/0

---

**12.1.2 MUNICIPAL EMPLOYEES AWARD - REQUEST FOR WAGES ADJUSTMENT**

**File No:** SUB/71  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to grant a wage increase of \$65 per week for each 'outside' Council employee back dated to 1 January, 2008.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

The financial impact of the proposed back pay to 1 January 2008 is approximately \$8,190.

**BACKGROUND**

Up until 1 March, 2003 the 'outside' employees of the Town of Cottesloe were covered by the Town of Cottesloe's *Operational Staff Certified Enterprise Agreement*.

Under the agreement it was agreed that on "...the first pay period on or after the 1st of July ... the rate of pay ... [would] increase by the award safety net or CPI for the March for that year, whichever is the greater."

With the expiration of the enterprise agreement, arrangements defaulted back to the standard award arrangements which meant that future wage increases were determined annually by National Wage Case decisions.

As a result, National Wage Case decision increases flowed through to all non-contracted Council employees on 1 June 2003, 30 May 2004 and 11 July 2005.

National Wage Case increase decisions were then replaced by a new wage adjustment system operating under the former Federal Government's Work Choices legislation. Wage increase decisions are now made by the Australian Fair Pay Commission and will continue to be made on an annual basis at least until 2010.

On 26 October, 2006 the Australian Fair Pay Commission announced an increase of \$27.36 per week for minimum wage rates up to \$700 per week and \$22.04 per week

---

for minimum wage rates \$700 per week and above. The wage increases took effect as of 1 December, 2006.

The union representing the workers believed there was a case for back pay prior to 1 December, 2006 and the Cottesloe Town Council agreed by granting an \$18 per week wage increase backdated to 1 July, 2006 and expiring on 1 December, 2006.

Since then there has been another increase of \$10.25 per week for minimum wage rates up to \$700 per week and \$5.30 per week for minimum wage rates \$700 per week and above. The wage increases took effect as of 1 October, 2007.

These wage increases are summarised in the following table which sets out the annual wage levels for outside staff as applied at the Town of Cottesloe based on:-

- Level 4 Labourer
- Level 4A Labourer with added workplace responsibilities
- Level 5 Trades qualification
- Level 6 Leading hand/ team leader

Description	Date	4	4A	5	6
Certified Enterprise Agreement	26 Jun 2001	28,922.40	30,118.40	30,310.80	31,959.20
Certified Enterprise Agreement	1 Jul 2002	31,638.88	32,947.00	33,157.28	34,961.00
National Wage Case	1 Jun 2003	32,523.00	33,831.00	34,042.00	35,845.00
National Wage Case	30 May 2004	33,511.00	34,819.00	35,030.00	36,833.00
National Wage Case	11 Jul 2005	34,395.00	35,703.00	35,914.00	37,717.00
Council Decision	3 Jul 2006	35,331.00	36,639.00	36,850.00	38,653.00
Fair Pay Commission	1 Dec 2006	35,817.72	37,125.72	37,336.72	38,863.08
Fair Pay Commission	1 Oct 2007	36,350.72	37,401.32	37,612.32	39,138.68

The Local Government & Race Course Employees Union has provided documentation in support of a claim for a \$65/week (\$3,380/year) increase across the board backdated to 1<sup>st</sup> July 2007 (see attached).

The documentation sets out the actual living expenses and income of one of Council's employees together with arguments for wage increases based on:-

- Increased fuel costs
- Increased house prices and rents
- Increased food and groceries
- Increased government charges
- Relativities with surrounding local governments
- Cost of the claim as a proportion of rates levied
- Staff turnover rates

According to a recent article in the *West Australian*, average wages growth in WA wages in the past year has been \$83 per week.

The average wage was just over \$63,000 a year in the December 2007 quarter (see attachment).

The Town of Cottesloe has fourteen permanent positions on its outside workforce but only nine of those positions are currently filled. For the last year or more the Town of Cottesloe has relied on the engagement of casual staff to make up a shortfall of five to six persons in its permanent workforce at hourly rates that have exceeded those of existing staff.

Where casual staff have shown a reasonable work ethic and aptitude, they have been promoted to the permanent workforce. However resignations from the permanent workforce (usually arising because of better job offers) have meant that as fast as vacancies are filled, a matching number of resignations are received.

Of the nine permanent staff, five have less than two years experience with the Town of Cottesloe and three of those five have less than one year's experience.

### **CONSULTATION**

The CEO has met with the outside workforce at a lunch time meeting held on 26<sup>th</sup> February 2008. A further meeting with union representatives was held on the 6<sup>th</sup> March 2008.

Discussions have also been held with the Town's Works Supervisor and the Manager of Engineering Services.

### **STAFF COMMENT**

The workforce's union makes out a strong case for increased wages based on cost of living increases and elected members are encouraged to read the attachments to this agenda item in order to understand the full impact of these increases.

The reality is that our workforce is increasingly being sourced from new suburbs that are some distance from the Western Suburbs (e.g. Atwell) which means that travel costs are increasingly significant in the absence of direct public transport links and/or car pooling.

However the need to increase wages on the simple grounds of a fair day's wage for a fair day's labour and cost-of-living increases is probably the least of it.

The inability to attract a full-strength permanent work force is a direct result of the relatively poor wages offered by the Town of Cottesloe in a time of unskilled labour shortages and if the situation is to be redressed, then wages must increase or service levels must decline.

The following chart sets out the Town of Cottesloe's ranking in terms of wages offered by neighbouring local governments on a per weekly basis.

<b>Local Government</b>	<b>Level 4</b>	<b>Level 5</b>	<b>Level 6</b>
Claremont	693.79	725.50	759.63
Cottesloe	699.05	723.31	752.67
Peppermint Grove*	721.93	736.06	
Mosman Park	725.96	755.06	786.36
Nedlands	729.05	764.35	
Cambridge**	729.52	741.04	764.33
Fremantle	775.62	818.08	845.17
<b>Total</b>	<b>5804.92</b>	<b>6033.40</b>	<b>4713.16</b>
<b>Average</b>	<b>725.62</b>	<b>754.18</b>	<b>785.53</b>
<b>Cottesloe</b>	<b>699.05</b>	<b>723.31</b>	<b>752.67</b>
<b>Difference</b>	<b>26.56</b>	<b>30.87</b>	<b>32.86</b>

\* includes maximum service pay component

\*\* further wage increase due 1 July 2008

Up until two years ago the Town of Cottesloe was an employer of choice because of the higher wages paid to its outside employees relative to other local governments.

However the claim is no longer sustainable.

A Fair Pay Commission increase is due in the middle of 2008 but given the wage increases that have flowed through in previous years, the increase is unlikely to attract more workers to the Town of Cottesloe. It certainly will not change Cottesloe's relativity to neighbouring local governments in terms of the above table.

In recent times the Town of Cottesloe was only able to fill two critical positions that required skilled labour by paying significantly more than was previously the case.

The consequence of this action is that the solid core of Council's outside workforce who are on wages that are pegged at relatively low levels may ultimately feel that they are being taken for granted and less inclined to giving their full commitment to the Town of Cottesloe. They may just simply move on.

If 50% of that solid core were to leave tomorrow then the impact on the Cottesloe community would be significant. Much of the knowledge of Cottesloe's operations is acquired on the job and casual employees will not be able to fill the void overnight.

In terms of back pay, the CEO has made it clear to the union that Council is unlikely to support a wage increase backdated much beyond 1 January 2008.

If however, Council felt that a wage increase should be backdated to 1 July 2007 the added financial impost is calculated at \$7,800. The back pay is less than might ordinarily be anticipated simply because a few of our permanent employees are very new to the Town of Cottesloe.

It is not a huge amount to pay in terms of maintaining the goodwill of the workforce.

**VOTING**

Simple Majority

**OFFICER RECOMMENDATION**

That Council grant a wage increase of \$65 per week for each 'outside' Council employee on a pegged wages level (i.e. non-negotiated) back dated to 1 January, 2008 for permanent employees.

**12.1.2 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council grant a wage increase of \$65 per week for each 'outside' Council employee on a pegged wages level (i.e. non-negotiated) back dated to 1 July, 2007 for permanent employees.**

Carried 9/0

*Mr Andrew Jackson left the meeting at 8.57 pm and did not return.*

**12.1.3 PROCOTT INC. - REQUEST FOR CONTRIBUTION TOWARDS FESTIVE LIGHTING**

**File No:** SUB/47  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 15 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to give further consideration to a request from Procott for contributory funding towards festive lighting during budget deliberations for the 2008/09 financial year.

**STATUTORY ENVIRONMENT**

Nil.

**POLICY IMPLICATIONS**

Nil.

**STRATEGIC IMPLICATIONS**

Nil.

**FINANCIAL IMPLICATIONS**

No provision was made in the 2007/08 budget for the contribution of funds to Procott for the supply and installation of festive illumination. Nonetheless unbudgeted expenditure of \$19,680 was approved by absolute majority decision in August 2007.

Any decision to make a contribution from this year's budget will therefore require an absolute majority decision of Council.

Alternatively Council may want to consider setting aside an amount in the 2008/09 budget - which will be determined within the next two months all things being equal.

**BACKGROUND**

In June 2007 the President of Procott wrote to the CEO advising of Procott's intention to allocate funding of \$30,000 towards the supply and installation of festive illumination in the town centre. In the correspondence, the President of Procott said:-

The Procott Board understands that while there may have not been an allocation of funds for this aspect of the town centre, we hope that there can be some parity between the contributions of Procott and the Town of Cottesloe.

Procott submitted a plan and quotation for festive lighting for Napoleon St, Station St and Jarrad St and contributory funding of \$19,680 was sought from the Town of Cottesloe towards a total project cost of \$49,680.

Council agreed to the request subject to:-

---

- (1) Procott indemnifying the Town of Cottesloe against theft or vandalism arising from the installation of the festive illumination,
- (2) Procott confirming in writing that it will meet all ongoing costs associated with the maintenance of the lighting, and
- (3) Procott reimbursing the Town of Cottesloe 40% of any income received from any subsequent sale and disposal of the lights within the next five years.

Procott has now made a further request for funds of \$26,000 towards a total project cost of \$46,297 for festive lighting to be installed in Station Street and Stirling Highway before Christmas 2008.

The following points have been made by Procott:-

- The lights will be installed and left in place all year.
- Traders will pay for the power used by the lights and be reimbursed by Procott.
- The cost of installation of power points is submitted as a separate quotation item (i.e. included in the total cost of \$46,297).
- Procott will identify a cost for the maintenance of lighting and replacement of the lighting sections.
- Remaining streets will be similarly decorated in subsequent years.

## **CONSULTATION**

Nil

## **STAFF COMMENT**

The following comments were made to Council by the CEO in August 2007 when considering the first request from Procott.

The Procott offer is almost too good to refuse. Procott has indicated its preparedness and willingness to supply and install festive illumination and assume responsibility for its ongoing maintenance.

In most other local government areas the general expectation is that it is the Council that will purchase and maintain festive illumination – particularly where Christmas festive lighting is concerned.

A decision to contribute funds towards the provision of the festive lighting therefore hinges on the following considerations:-

- Is the proposed investment decision a good one?
- Is any ongoing obligation placed upon the Town of Cottesloe?
- Is there any urgency in providing contributory funding?
- Is there any opportunity for the Town of Cottesloe to recover any costs incurred now at some later date?

In the CEO's opinion the provision of the proposed lighting has considerable benefit and will undoubtedly enhance a cosmopolitan image of Cottesloe. It is a relatively cheap investment which can be amortised over several years. Napoleon Street in particular lends itself to festive lighting and it is perhaps something of a surprise that

---



other local governments of a similar size to Cottesloe have done more in terms of promoting their town centres with festive lighting over the years – albeit within the narrower confines of the Christmas season.

The willingness of Procott to assume responsibility for ongoing maintenance is also particularly attractive as it places no added burden on the resources of the town of Cottesloe.

However the intention to extend the lighting in future years suggests that there may be some further financial call upon the Town of Cottesloe.

There also appears to be no urgency in providing contributory funding and it is possible that Procott could scale back its proposal with a view to staging it over several years without calling on Council funds and meeting future costs by simply increasing the special rate levy for properties in the town centre.

On balance however, it is my view that the Town of Cottesloe should collaborate with Procott in supporting what is a good initiative and should not really need to wait a year for Council funding or support.

Rather than Council meeting 40% of the total cost, Procott is now requesting that Council meet 56% of the total cost. When queried on why this was so, Procott advised that:-

While the Procott board have identified infrastructure as a primary need, the board thinks it is largely council's responsibility to fund infrastructure items such as festive all year lighting-as do other local government authorities. Procott paid the majority last time, but would like to see council commit to this increased expenditure as evidence of the value of the lights ongoing, now that the concept has been tested and has proved so successful with public and traders alike. We are very pleased to have built a meaningful and functional relationship with council and look forward to other joint initiatives.

In my opinion Council should not create a precedent by contributing more than 50% of the total project cost for this or any other joint initiative that is sponsored by Procott.

A 50/50 cost sharing arrangement keeps things simple and transparent.

### **VOTING**

Absolute majority - if an additional contribution is made to Procott in the current financial year.

Simple majority - if a decision is made to consider the request during budget deliberations for the 2008/09 financial year.

### **OFFICER RECOMMENDATION**

That Council give further consideration to the request from Procott for contributory funding of \$26,000 towards the supply and installation of festive lighting prior to Christmas 2008 during budget deliberations for the 2008/09 financial year.

**12.1.3 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

- (1) **That Council give further consideration to the request from Procott for contributory funding of 50% to a maximum of \$23,150 towards the supply and installation of festive lighting prior to Christmas 2008 during budget deliberations for the 2008/09 financial year.**
- (2) **That Procott be requested to revisit the costs of installation.**

Carried 9/0

**12.1.4 WEARNE HOSTEL - EXECUTION OF LEGAL DOCUMENTS**

**File No:** PRO/1450  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

Council's endorsement of the proposed ownership and management arrangements for the Wearne Hostel at Lot 87 Marine Parade, Cottesloe is requested and authorisation is sought for the Mayor and Chief Executive Officer to sign the necessary documentation under seal.

**STATUTORY ENVIRONMENT**

Regulation 32 of the *Local Government (Functions and General) Regulations* provides the following;

**32. Local government permitted to form incorporated association - s.3.60**

(1) A local government may form or take part in forming an association that is to be incorporated under the *Associations Incorporation Act 1987* and may do things for the purpose of the incorporation of the association under that Act.

(2) A local government may form or take part in forming a body corporate constituted under section 32 of the *Strata Titles Act 1985*.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The four local governments of Claremont, Cottesloe, Mosman Park and Peppermint Grove, together with the community, have representatives on the board of management of Curtin Aged Persons Homes Inc. (CAPH) which is an association that is to be incorporated under the *Associations Incorporation Act 1987*.

CAPH has responsibility for the management of Wearne Hostel. The Wearne Hostel provides residential facilities (50 low care beds) for aged persons and undertakes related activities.

CAPH has contracted Churches of Christ Homes and Community Services Inc to manage the facility on a daily basis.

In recent years the four local governments have promoted changes in the way the Wearne Hostel is managed with the major issues being:

- The introduction of a professional and commercial management team (Churches of Christ).
- Streamlining the governance of both CAPH and the former Curtin Aged Persons Foundation so that there is only one board of management with local government and community representation.
- Expanding the Wearne Hostel facilities to ensure the long term viability of CAPH.
- Reviewing the operations of Riversea with a view to improving the viability of that centre.
- Obtaining the title for the Wearne Hostel site to be held jointly in the names of the four local governments.
- Resolving heritage issues at Wearne Hostel so that agreement can be reached without compromising current building needs.
- Supporting the restoration of the old section of the Wearne Hostel.
- Ensuring that any heritage responsibilities rest more appropriately with CAPH rather than the four local governments.

Three outstanding issues are close to being resolved and will be subject to Council's agreement.

They relate to:

### **Transfer of Land & Co-Ownership Agreement**

It is intended that the four local governments jointly own the Wearne Hostel land. A copy of the Transfer of Land document transferring the land from the State to the four local governments is shown as Attachment 1

As the co-ownership of land is a little outside the norm for local governments, it has been decided to formalise the joint ownership arrangements with a Co-Ownership Agreement between the four member local governments (see Attachment 2).

The co-ownership agreement sets out:-

- the interest of the participants in the land (25% each)
- the nature of the relationships between the participants
- the ownership status of the participants (tenants in common)
- expenses, losses and revenue to be shared equally
- a Management Committee to be formed consisting of one representative from each participating local government
- operating rules for the Management Committee
- powers and responsibilities of the Management Committee
- a procedure for the termination of the Agreement if required
- dispute resolution procedures

### **Conditional Tenure**

A provision in Section 75 of the Land Administration Act relating to conditional tenure titles allows the Minister for Lands to confiscate the land for any breach of the conditions of the land tenure and to impose a penalty of up to the unimproved value of the land for defaulting on the conditions.

In this instance, the unimproved value of the land was calculated as being \$11.7m in 2006.

In May 2006 Council decided to accept the conditional tenure title to the Wearne Hostel Site land on the understanding that advice received from the Department of Planning and Infrastructure that the penalty provisions would not be exercised by the Minister was correct and accurate in the event that land tenure conditions were breached.

The Minister's ability to impose a severe financial penalty for the breach of ownership conditions turned out to be an unforeseen consequence of the wording of the legislation and the Department of Planning and Infrastructure has given an assurance in writing that amendments will be made to prevent such an occurrence from happening (see Attachment 3).

### **Lease Agreement & Heritage Listing**

The WA Heritage Council originally insisted that the four local governments sign a heritage agreement with the WA Heritage Council that would bind the four local governments to the restoration of the old Wearne Hostel building under Heritage Council terms.

The Heritage Council has now agreed to enter into a contract with the long term lessee of the land (CAPH) which leaves the owners (the four local governments) out of any direct line of responsibility for heritage restoration works.

A proposed lease agreement for the lease of the land by the four local governments to CAPH has now been finalised (see Attachment 4).

The lease agreement sets out typical lease arrangements and makes particular reference to heritage undertakings.

### **Constitution**

A new constitution for CAPH (see Attachment 5) has been considered by the four local government Chief Executive Officers and the existing CAPH management board. It updates the old constitution and strengthens local government involvement in the management of CAPH.

It gives the power to terminate the appointment of the CAPH Board Members to the four member local governments.

The constitution has been referred to member local governments because ultimately they will be responsible for the Board's activities.

**CONSULTATION**

The four local government CEO's have met on several occasions over the last three years to review and progress the legal documentation.

**STAFF COMMENT**

The signing and sealing of the land transfer document and the lease agreement, (incorporating the Heritage Agreement) needs to take place concurrently and is recommended as a priority.

CAPH is already operating under the new constitution because of the perceived inadequacy of the existing constitution.

Any changes to the constitution are dependent on it being adopted and amended as appropriate at a future Annual General Meeting of CAPH.

**VOTING**

Absolute Majority

**OFFICER RECOMMENDATION**

That Council:

- (1) Approve the Transfer of Land form, the Co-Ownership Agreement and the Lease Agreement relating to the Wearne Hostel, Lot 87 Marine Parade, Cottesloe and authorise the Mayor and Chief Executive Officer to sign and seal the documents;
- (2) Endorse the proposed Constitution for Curtin Aged Persons Homes Incorporated (CAPH); and
- (3) Appoint Councillor \_\_\_\_\_ to the Management Committee pursuant to clause 8.2 of the Co-Ownership Agreement.

**COMMITTEE RECOMMENDATION**

That Council:

- (1) Approve the Transfer of Land form, the Co-Ownership Agreement and the Lease Agreement relating to the Wearne Hostel, Lot 87 Marine Parade, Cottesloe and authorise the Mayor and Chief Executive Officer to sign and seal the documents;
- (2) Endorse the proposed Constitution for Curtin Aged Persons Homes Incorporated (CAPH); and
- (3) Appoint Councillor Carmichael to the Management Committee pursuant to clause 8.2 of the Co-Ownership Agreement.

**AMENDMENT**

Moved Cr Boland, seconded Cr Strzina

That the words 'subject to legal advice clarifying whether references to ownership should be as 'tenants in common' or 'joint tenants', be inserted at item (1).

Carried 9/0

#### **12.1.4 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (1) Approve, subject to legal advice clarifying whether references to ownership should be as 'tenants in common' or 'joint tenants', the Transfer of Land form, the Co-Ownership Agreement and the Lease Agreement relating to the Wearne Hostel, Lot 87 Marine Parade, Cottesloe and authorise the Mayor and Chief Executive Officer to sign and seal the documents;**
- (2) Endorse the proposed Constitution for Curtin Aged Persons Homes Incorporated (CAPH); and**
- (3) Appoint Councillor Carmichael to the Management Committee pursuant to clause 8.2 of the Co-Ownership Agreement.**

Carried 9/0

**12.1.5 MODEL CODE OF CONDUCT - WALGA UPDATE**

**File No:** SUB/84  
**Attachment(s):** [Local Government \(Rules of Conduct\) Regulations 2007](#)  
[Regulation 34B and 34C Inserts](#)  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 15 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to adopt an updated *Code of Conduct* for elected members and staff.

**STATUTORY ENVIRONMENT**

Section 5.103 of the *Local Government Act 1995* provides the following:-

**5.103. Codes of conduct**

(1) Every local government is to prepare or adopt a code of conduct to be observed by council members, committee members and employees.

*[(2) repealed]*

(3) Regulations may prescribe codes of conduct or the content of, and matters in relation to, codes of conduct and any code of conduct or provision of a code of conduct applying to a local government under subsection (1) is of effect only to the extent to which it is not inconsistent with regulations.

*[Section 5.103 amended by No. 49 of 2004 s. 55; No 1 of 2007 s. 10.]*

**POLICY IMPLICATIONS**

Once adopted, the *Code of Conduct* forms part of Council's Policy Manual.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

The Town of Cottesloe has a *Code of Conduct* which has been the subject of review by Council on an annual basis.

Recent amendments to the *Local Government Act 1995* have deleted the requirement to undertake an annual review of the *Code of Conduct* amongst other things.



The WA Local Government Association has provided an updated Model Code of Conduct and it is recommended that it be adapted and adopted as the Town of Cottesloe's *Code of Conduct*.

The full text of the revised *Code of Conduct* follows. Significant additions to Council's existing *Code of Conduct* which recognise recent regulatory changes are highlighted in a blue font.

The regulatory changes relate to the *Local Government (Rules of Conduct) Regulations* and the *Local Government (Administration) Regulations 1996* (regulations 34B and 34C). Copies of the regulations appear as an attachment to this report.

The *Rules of Conduct* regulations were gazetted on 21 August 2007 and prescribe uniform rules of conduct for council members in relation to:

- standards of general behaviour
- behaviour at council or committee meetings
- misuse of local government resources
- relations with local government employees
- use of information
- securing unauthorised advantages or disadvantages
- disclosing certain interests (not financial)
- restrictions on receiving, and disclosure of, certain gifts.

Regulations 34B and 34C simply require that Council's *Code of Conduct* addresses certain matters in relation to:

- gifts and the acceptance and recording of token gifts
- disclosures of interest affecting impartiality

The Western Australian Local Government Association delivers a number of training modules to elected members throughout the year. The next one day course on the 'Legal Responsibilities of an Elected Member' is to be held on Friday 30<sup>th</sup> May 2008 in West Perth. The cost of the training is \$297 per elected member.

The module provides elected members with the required knowledge to address their legal responsibilities, accountabilities and compliance requirements in respect of the Local Government Act 1995 and is highly recommended.

If the date is unsuitable and there is sufficient interest within Council, the training module can be delivered locally.

## **CODE OF CONDUCT**

### **PREAMBLE**

The *Code of Conduct* provides Council members, committee members and staff in local government with consistent guidelines for an acceptable standard of professional conduct. The code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability.

The code is complementary to the principles adopted in the *Local Government Act 1995* and regulations which incorporates four fundamental aims to result in:-

- (a) better decision-making by local governments;
- (b) greater community participation in the decisions and affairs of local governments;
- (c) greater accountability of local governments to their communities; and
- (d) more efficient and effective local government.

The code provides a guide and a basis of expectations for Council members, committee members and staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective local government responsibilities may be based.

## **STATUTORY ENVIRONMENT**

The *Code of Conduct* observes statutory requirements of the *Local Government Act 1995* (S 5.103 – Codes of Conduct) and *Local Government (Administration) Regulations 1996* (Regs 34B and 34C).

## **RULES OF CONDUCT**

Council members acknowledge their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007*.

### **1. ROLES**

#### **1.1 Role of Council Member**

The primary role of a Council member is to represent the community, and the effective translation of the community's needs and aspirations into a direction and future for the Town of Cottesloe will be the focus of the Council member's public life.

The role of Council members as set out in S 2.10 of the *Local Government Act 1995* follows:

*"A Councillor —*

- (a) Represents the interests of electors, ratepayers and residents of the district;*
  - (b) provides leadership and guidance to the community in the district;*
  - (c) facilitates communication between the community and the council;*
  - (d) participates in the local government's decision-making processes at council and committee meetings; and*
-

*(e) performs such other functions as are given to a Councillor by this Act or any other written law.”*

A Council member is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Council members' activities will focus on:

- achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- achieving sound financial management and accountability in relation to the Town of Cottesloe's finances;
- ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- having an awareness of the statutory obligations imposed on Council members and on local governments.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through the integration of environmental protection, social advancement and economic prosperity.

## **1.2 Role of Staff**

The role of staff is determined by the functions of the CEO as set out in S5.41 of the *Local Government Act 1995*: -

*“The CEO's functions are to —*

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to S 5.37(2) in relation to senior employees);*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.”*

## **1.3 Role of Council**

The role of the Council is in accordance with S 2.7 of the *Local Government Act 1995*:

- “(1) The council —*
- (a) directs and controls the local government’s affairs; and*
  - (b) is responsible for the performance of the local government’s functions.*
- (2) Without limiting subsection (1), the council is to —*
- (a) oversee the allocation of the local government’s finances and resources; and*
  - (b) determine the local government’s policies.”*

#### **1.4 Relationships between Council Members and Staff**

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Council members and staff have a mutual respect and co-operate with each other to achieve the Council’s corporate goals and implement the Council’s strategies. To achieve that position, Council members need to observe their statutory obligations which include, but are not limited to, the following:

- accept that their role is a leadership, not a management or administrative one;
- acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility

## **2. CONFLICT AND DISCLOSURE OF INTEREST**

### **2.1 Conflict of Interest**

- (a) Council members, committee members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- (b) Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Town of Cottesloe, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- (c) Council members, committee members and staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the local government area or which may otherwise be in conflict with the Council’s functions (other than purchasing the principal place of residence).

- (d) Council members, committee members and staff who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- (e) Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity. An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti-discriminatory legislation.

## 2.2 Financial Interest

Council members, committee members and staff will adopt the principles of disclosure of financial interest as contained within the *Local Government Act 1995*.

## 2.3 Disclosure of Interest

*Definition :*

*In this clause, and in accordance with Regulation 34C of the Local Government (Administration) Regulations 1996 -*

*"interest" means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.*

- (a) *A person who is an employee and who has an interest in any matter to be discussed at a council or committee meeting attended by the person is required to disclose the nature of the interest -
  - (i) in a written notice given to the CEO before the meeting; or
  - (ii) at the meeting immediately before the matter is discussed.*
- (b) *A person who is an employee and who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting not attended by the person is required to disclose the nature of any interest the person has in the matter -
  - (i) in a written notice given to the CEO before the meeting; or
  - (ii) at the time the advice is given.*
- (c) *A requirement described under items (a) and (b) excludes an interest referred to in S 5.60 of the Local Government Act 1995.*
- (d) *A person is excused from a requirement made under items (a) or (b) to disclose the nature of an interest if -
  - (i) the person's failure to disclose occurs because the person did not know he or she had an interest in the matter; or
  - (ii) the person's failure to disclose occurs because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person discloses the nature of*

*the interest as soon as possible after becoming aware of the discussion of a matter of that kind.*

- (e) *If a person who is an employee makes a disclosure in a written notice given to the CEO before a meeting to comply with requirements of items (a) or (b), then -*

*(i) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*

*(ii) immediately before a matter to which the disclosure relates is discussed at the meeting*

*the person presiding is to bring the notice and its contents to the attention of the persons present.*

- (f) *If -*

*(i) to comply with a requirement made under item (a), the nature of a person's interest in a matter is disclosed at a meeting; or*

*(ii) a disclosure is made as described in item (d)(ii) at a meeting; or*

*(iii) to comply with a requirement made under item (e)(ii), a notice disclosing the nature of a person's interest in a matter is brought to the attention of the persons present at a meeting, the nature of the interest is to be recorded in the minutes of the meeting.*

### **3. PERSONAL BENEFIT**

#### **3.1 Use of Confidential Information**

Council members, committee members and staff will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially and in good faith, or to improperly cause harm or detriment to any person or organisation.

#### **3.2 Intellectual Property**

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Town of Cottesloe upon its creation unless otherwise agreed by separate contract.

#### **3.3 Improper or Undue Influence**

Council members and staff will not take advantage of their position to improperly influence other Council members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

#### **3.4 Gifts**

**Definitions :**

*In this clause, and in accordance with Regulation 34B of the Local Government (Administration) Regulations 1996 -*

*“**activity involving a local government discretion**” means an activity -*

*(a) that cannot be undertaken without an authorisation from the local government; or*

*(b) by way of a commercial dealing with the local government;*

*“**gift**” has the meaning given to that term in S 5.82(4) except that it does not include -*

*(a) a gift from a relative as defined in S 5.74(1); or*

*(b) a gift that must be disclosed under Regulation 30B of the Local Government (Elections) Regulations 1997; or*

*(c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;*

*“**notifiable gift**”, in relation to a person who is an employee, means -*

*(a) a gift worth between \$50 and \$300; or*

*(b) a gift that is one of 2 or more gifts given to the employee by the same person within*

*a period of 6 months that are in total worth between \$50 and \$300;*

*“**prohibited gift**”, in relation to a person who is an employee, means -*

*(a) a gift worth \$300 or more; or*

*(b) a gift that is one of 2 or more gifts given to the employee by the same person within a period of 6 months that are in total worth \$300 or more.*

(a) A person who is an employee is to refrain from accepting a prohibited gift from a person who -

(i) is undertaking or seeking to undertake an activity involving a local government discretion; or

(ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion.

(b) A person who is an employee and who accepts a notifiable gift from a person who -

(i) is undertaking or seeking to undertake an activity involving a local government discretion; or

(ii) it is reasonable to believe is intending to undertake an activity involving a local government discretion,

shall notify the CEO, in accordance with item (c) and within 10 days of accepting the gift, of the acceptance.

(c) The notification of the acceptance of a notifiable gift must be in writing and include -

(i) the name of the person who gave the gift; and

(ii) the date on which the gift was accepted; and

(iii) a description, and the estimated value, of the gift; and

(iv) the nature of the relationship between the person who is an employee and the person who gave the gift; and

(v) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) –

- (1) a description; and
  - (2) the estimated value; and
  - (3) the date of acceptance,
- of each other gift accepted within the 6 month period.

(d) The CEO is to maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under item (c).

(e) This clause does not apply to gifts received from a relative (as defined in S 5.74(1) of the *Local Government Act 1995*) or an electoral gift (to which other disclosure provisions apply).

(f) This clause does not prevent the acceptance of a gift on behalf of the local government in the course of performing professional or ceremonial duties in circumstances where the gift is presented in whole to the CEO, entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

#### **4. CONDUCT OF COUNCIL MEMBERS, COMMITTEE MEMBERS AND STAFF**

##### **4.1 Personal Behaviour**

(a) Council members, committee members and staff will:

- (i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
- (ii) perform their duties impartially and in the best interests of the Town of Cottesloe uninfluenced by fear or favour;
- (iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Town of Cottesloe and the community;
- (iv) make no allegations which are improper or derogatory (unless true and in the public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
- (v) always act in accordance with their obligation of fidelity to the Town of Cottesloe.

(b) Council members will represent and promote the interests of the local government, while recognising their special duty to their own constituents.

##### **4.2 Honesty and Integrity**

Council members, committee members and staff will:



(a) observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;

(b) bring to the notice of the Mayor any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer.

(c) be frank and honest in their official dealing with each other.

#### **4.3 Performance of Duties**

(a) While on duty, staff will give their whole time and attention to the Town of Cottesloe's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Town of Cottesloe.

(b) Council members and committee members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Council members and committee members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

#### **4.4 Compliance with Lawful Orders**

(a) Council members, committee members and staff will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution can not be achieved, with the Chief Executive Officer.

(b) Council members, committee members and staff will give effect to the lawful policies of the Town of Cottesloe, whether or not they agree with or approve of them.

#### **4.5 Administrative and Management Practices**

Council members, committee members and staff will ensure compliance with proper and reasonable administrative practices and conduct, and professional and responsible management practices.

#### **4.6 Corporate Obligations**

##### **(a) Standard of Dress**

Council members, committee members and staff are expected to comply with neat and responsible dress standards at all times. Accordingly:

(i) Council members and committee members will dress in a manner appropriate to their position, in particular when attending meetings or representing the Town of Cottesloe in an official capacity.

(ii) Management reserves the right to adopt policies relating to corporate dress and to raise the issue of dress with individual staff.

(b) Communication and Public Relations

(i) All aspects of communication by staff (including verbal, written or personal), involving Town of Cottesloe activities should reflect the status and objectives of the Town of Cottesloe. Communications should be accurate, polite and professional.

(ii) As a representative of the community, Council members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Council members should acknowledge that:

- as a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
- information of a confidential nature ought not be communicated until it is no longer treated as confidential;
- information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
- information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.

(iii) Committee members accept and acknowledge it is their responsibility to observe any direction the Town of Cottesloe may adopt in terms of advancing and promoting the objectives of the Committee to which they have been appointed.

#### **4.7 Appointments to Committees**

As part of their representative role Council members are often asked to represent the Council on external organisations. It is important that Council members:

- clearly understand the basis of their appointment; and
- provide regular reports on the activities of the organisation.

### **5. DEALING WITH COUNCIL PROPERTY**

#### **5.1 Use of Local Government Resources**

Council members and staff will:

(a) be scrupulously honest in their use of the Town of Cottesloe's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;

(b) use the Town of Cottesloe resources entrusted to them effectively and economically in the course of their duties; and

(c) not use the Town of Cottesloe's resources (including the services of Council staff) for private purposes (other than when supplied as part of a

contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

## **5.2 Travelling and Sustenance Expenses**

Council members, committee members and staff will only claim or accept travelling and sustenance expenses arising out of travel-related matters which have a direct bearing on the services, policies or business of the Town of Cottesloe in accordance with Town of Cottesloe policy and the provisions of the *Local Government Act 1995*.

## **5.3 Access to Information**

(a) Staff will ensure that Council members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities.

(b) Council members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

**RESOLUTION NO.:** 12.1.5  
**ADOPTION:** April 2008  
**REVIEW:** April 2012

*(Replaces 10.3.2, June 2005)*

## **CONSULTATION**

Nil.

## **STAFF COMMENT**

Nil

## **VOTING**

Simple Majority

## **OFFICER RECOMMENDATION**

That Council adopt the updated *Code of Conduct* for elected members and staff.

## **12.1.5 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

### **That Council:**

- (1) Adopt the updated *Code of Conduct* for elected members and staff.**
- (2) Receive prior to the Council meeting a summary of responsibilities and an update of the changes from the old code of conduct.**

- (3) Receive a report detailing any potential training requirements of elected members on these changes.**

Carried 9/0

**12.1.6 DRAFT LOCAL LAW - TOWN OF COTTESLOE STANDING ORDERS 2008**

**File No:** SUB/179  
**Author:** Mr Stephen Tindale  
**Author Disclosure of Interest:** Nil  
**Report Date:** 16 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to defer further consideration of the proposed *Town of Cottesloe Standing Orders Local Law 2008* until the May meeting of Council to enable further consultation between Council members and the CEO on the proposed local law and a report being made back to Council on same.

**STATUTORY ENVIRONMENT**

The *Local Government Act 1995* enables Council to make local laws relating to the conduct of its business.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Direct costs associated with the advertising of any new proposed local law are estimated at around \$2,000.

**BACKGROUND**

In September 2006 Council passed the following resolutions.

- (1) That Council suspend the operation of Standing Order 12.1 which requires members of Council to rise when invited by the Mayor to speak.
- (2) That the suspension of Standing Order 12.1 be listed as a standard agenda item for each Council and Committee meeting.
- (3) That the CEO be requested to provide a report and recommendations to Council on suggested improvements to Councils Standing Orders.

This report addresses the third resolution.

**CONSULTATION**

Nil

**STAFF COMMENT**

A copy of the proposed *Town of Cottesloe Standing Orders Local Law 2008* is attached.

---

Cottesloe's existing local law relating to Standing Orders is significantly different – perhaps more so in its structure rather than content.

The difference arises largely because the existing local law is now somewhat dated (30 December 1997) and was adopted at around the time when the application of the then new *Local Government Act 1995* was in its infancy.

Since that time, local government Standing Orders local laws have adapted to meet emerging issues and to relate better to the *Local Government Act 1995*.

The proposed *Town of Cottesloe Standing Orders Local Law 2008* is based on a model provided by the Town's legal advisers and gazetted by the City of South Perth in May 2007.

The model has been modified to suit Cottesloe's circumstances, mainly in relation to the order of business on Council's MINUTES papers - which includes a Public Statement Time that appears to be unique to Cottesloe.

The CEO has drafted a new clause 6.8 (Public statement time) which formalises the limits and processes to be applied to public statement time. It reflects the sorts of statutory and regulatory requirements that are currently applied to public question time and could equally be applied to public statement time.

Other modifications include:

- The deletion of a right to call a division to ascertain and record individual voting preferences.
- The inclusion of a right to speak more than once at a committee meeting.

It should be noted that the proposed *Town of Cottesloe Standing Orders Local Law 2008* makes numerous references to the *Local Government Act 1995*. These references make it quite clear as to where the conduct of Council business is being determined by statute and associated regulations.

A failing of Council's current Standing Orders local law is that the phrasing of the local law does not make it clear as to whether the Act itself is determining the conduct of Council's business or not. As a result, any query on the interpretation of the current Standing Orders local laws has to be reconciled against the provisions of the *Local Government Act 1995* to make sure that the complete picture is known and a correct response is made.

On a related matter, an argument can be advanced for including the specific provisions of the *Local Government Act 1995* and associated regulations in the Standing Orders local laws for the sake of greater clarity.

The difficulty in following such a course of action lies in the fact that it is onerous to have to check, and amend if necessary, the Standing Orders local law every time a legislative or regulatory change is made. In other words, it is better to have the Standing Orders local laws standing alone in their own right without unduly fettering them to the *Local Government Act 1995*.

To compensate and to make it easier for Council members, staff and members of the public to interpret the local laws, quite a few local governments now insert text boxes into the local laws **after** they have been gazetted so that relevant provisions of the *Local Government Act 1995* and associated regulations are made more transparent.

An extract from an example of such a working document is shown below.

---

## 2.2 TYPES OF COMMITTEES

The types of committees are dealt with in the Act.

- (1) In this section –  
'other person' means a person who is not a council member or an employee.
- “(2) A committee is to comprise –
- (a) council members only;
  - (b) council members and employees;
  - (c) council members, employees and other persons;
  - (d) council members and other persons;
  - (e) employees and other persons; or
  - (f) other persons only.
- [Section 5.9 of  
the Act]

## 2.3 DELEGATION OF SOME POWERS AND DUTIES TO CERTAIN COMMITTEES

The delegation of some powers and duties to certain committees is dealt with in the Act.

- (1) Under and subject to section 5.17, a local government may delegate\* to a committee any of its powers and duties other than this power of delegation.  
*\*Absolute majority required.*
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) Without limiting the application of sections 58 and 59 of the *Interpretation Act 1984* –
- (a) a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and
  - (b) any decision to amend or revoke a delegation under this section is to be by an absolute majority.
- (4) Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.
- [Section 5.16 of the Act]

Given that the structure of the proposed *Town of Cottesloe Standing Orders Local Law 2008* is significantly different to that which it is intended to replace and given that the proposed Standing Orders include new material, Council members may want to take their time in examining and questioning the proposed new local law before it is put out for public comment.

### VOTING

Simple Majority

### OFFICER RECOMMENDATION

That Council defer further consideration of the proposed *Town of Cottesloe Standing Orders Local Law 2008* until the May meeting of Council to enable further consultation between Council members and the CEO on the proposed local law and a report being made back to Council on same.

**12.1.6 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council defer further consideration of the proposed *Town of Cottesloe Standing Orders Local Law 2008* until the June meeting of Council to enable further consultation between Council members and the CEO on the proposed local law and a report being made back to Council on same.**

Carried 9/0



**12.1.7 LIBRARY PROJECT STEERING COMMITTEE**

**File No:** SUB/547  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to accept this report.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

The ongoing work of the Library Project Steering Committee is leading to the expenditure of approximately \$4.6 million in capital expenditure over the next two financial years.

**BACKGROUND**

There have been ongoing significant developments with the Library Project Steering Committee. As only two Councillors and the Manager Corporate Services attend the Library Project Steering Committee meetings, the CEO has determined that it would be beneficial to provide full information to all Councillors on a regular basis to the Works & Corporate Services Committee and Council.

**CONSULTATION**

Nil

**STAFF COMMENT**

Please note the following comments from the CEO of the Shire of Peppermint Grove received on 28 March 2008 regarding the land rationalisation:

Officers from the Minister of Planning and Infrastructure section have advised the approval has been granted for the process of rationalising the boundaries to begin. The process is as follows:

1. The proposal will be sent back to the Dept of Planning and Infrastructure to advertise the proposed change in the West Australian and allow a period of 30 days for community comment.
  2. DPI officers will report to the minister on the results of the Community Consultation process.
-

3. The Minister will then place the proposal and the report before the Parliamentary Caucus (which will take 1 week) and then before both houses of Parliament for 14 sitting days.

4. If there is no formal movement in Parliament to disallow the proposal then automatic approval will follow.

The Parliament is in recess from the 20 June to 12 August however the Legislative assembly and the Legislative Council have different sitting days. In order to get 14 sitting days for both houses the Minister needs to:

1. Report to caucus on Monday 28 April.
2. Lodge the proposal before the Assembly on Tues 6 May.
3. Lodge the proposal before the Council on preferably the 6 May but at the latest 13 May.

I have been informed that fierce representation was made to the Ministers Office opposing the proposal 12 months ago so they are bracing for more of the same. It would be of benefit to encourage people to write in and make comment in support of the proposal.

It is anticipated that a lot more pressure is going to be applied to reduce water consumption on broad grassed areas, therefore it is unlikely that open grassland areas would be permitted without being demonstratively sustainable. It would help if this issue was brought to notice during the consultation process.

It is clear from this correspondence that the land amalgamation issue is probably going to be resolved within the next two months. This will mean that the three local governments will be in a position to call for tenders at that time (assuming the legal agreement is in place and the cost sharing is finalised).

At its last meeting, the Library Project Steering Committee were informed that Corrs Chambers Westgarth have been given a broad brief to prepare the necessary legal agreements for the further consideration of the three local governments.

## **VOTING**

Simple majority

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

Moved Mayor Morgan, seconded Cr Strzina

**That Council accept the report of the officer on the new library project.**

Carried 9/0

**12.1.8 GREEN STAR MEMBERSHIP**

**File No:** SUB/547  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

That Council commit to joint Gold Sponsorship of the Green Building Council of Australia and apply for membership of the Green Building Council.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

This would involve incurring costs of \$11,833 toward the proposed library project.

**BACKGROUND**

The Library Project Steering Committee recommended that each Council become members of the Green Building Council of Australia as part of the initiative to obtain a 5 star 'Green Rating' for the proposed library, community and office building.

**CONSULTATION**

Nil

**STAFF COMMENT**

The Library Project Steering Committee is pursuing 5-Star Green Rating for the library, community and office building.

The Green Building Council of Australia needs sponsorship to develop a public building Certified Rating System. Gold Sponsorship for such a project would cost \$25,000.

Membership for the Green Building Council would cost approximately \$3,500 for each Council but we may be able to negotiate a discount for joint participation in a single project.

**VOTING**

Absolute majority

**OFFICER RECOMMENDATION**

That Council commit to:

- (1) Joint Gold Sponsorship of the Green Building Council of Australia.
- (2) Apply for membership of the Green Building Council.

**12.1.8 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Cunningham

**That Council decline the opportunity to join the Green Building Council of Australia at this stage as there are no existing criteria to assess the green star rating of the building.**

Carried 8/1

**12.1.9 CUSTOMER SATISFACTION SURVEYS**

**File No:** Customer Satisfaction Survey  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Report Date:** 9 April, 2008  
**Senior Officer:** Mr Stephen Tindale

**SUMMARY**

A recommendation is made to receive the summary of comments from the Customer Satisfaction Surveys conducted in 2005.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

At its April, 2005 meeting Council resolved as follows:

*That Council conduct a random sample survey of the community, along the same lines as the 2002 community survey, for the following services:*

<b>Community Services</b>	<b>Engineering Services</b>
<ul style="list-style-type: none"> <li>• Council publications and information</li> <li>• Council events (Australia Day, Seadragon Festival, musical concerts etc.)</li> <li>• Civic Centre - Council offices</li> <li>• Civic Centre - other buildings</li> <li>• Civic Centre - grounds and gardens</li> <li>• Community safety and security</li> <li>• Cottesloe/Peppermint Grove/Mosman Park Library</li> <li>• Aged Persons Support Service</li> <li>• Public toilets.</li> </ul>	<ul style="list-style-type: none"> <li>• Jarrad Street – West</li> <li>• Jarrad Street - East</li> <li>• Marine Parade</li> <li>• North Street</li> <li>• Curtin Avenue</li> <li>• Marine Parade</li> <li>• Napoleon Street</li> <li>• Rights of way</li> <li>• Other streets</li> <li>• On-street parking</li> <li>• Off-street carparks</li> <li>• Verge parking</li> <li>• Pedestrian crossings</li> <li>• Street litter bins</li> <li>• Street trees</li> <li>• Street drainage</li> <li>• Street lights</li> </ul>

	<ul style="list-style-type: none"> <li>• <i>Street kerbs</i></li> <li>• <i>Street verges</i></li> <li>• <i>Street cleaning</i></li> <li>• <i>Footpaths</i></li> <li>• <i>Dual use paths &amp; cycle lanes</i></li> <li>• <i>Bus shelters</i></li> <li>• <i>Streetscapes</i></li> <li>• <i>Street drainage to include drainage sumps</i></li> <li>• <i>Beach cleaning</i></li> <li>• <i>Railway reserves not under control of Council.</i></li> <li>• <i>Council's green areas watering programme.</i></li> <li>• <i>Dog excreta removal</i></li> </ul>
<p><b>Recreation Services</b></p> <ul style="list-style-type: none"> <li>• <i>South Cottesloe Beach</i></li> <li>• <i>Cottesloe Beach</i></li> <li>• <i>Cottesloe Beach Wading Pool</i></li> <li>• <i>North Cottesloe Beach</i></li> <li>• <i>Vera View Beach</i></li> <li>• <i>Dog exercise areas</i></li> <li>• <i>Playgrounds</i></li> <li>• <i>Cottesloe Oval</i></li> <li>• <i>Harvey Field</i></li> <li>• <i>Cottesloe Tennis Courts</i></li> <li>• <i>Sea View Golf Course</i></li> <li>• <i>Other Parks and Reserves.</i></li> </ul>	<p><b>Other Services</b></p> <ul style="list-style-type: none"> <li>• <i>Weed control</i></li> <li>• <i>Noise control</i></li> <li>• <i>Rubbish bin collection service</i></li> <li>• <i>Recycling service</i></li> <li>• <i>Dog control</i></li> <li>• <i>Building services</i></li> <li>• <i>Health services</i></li> <li>• <i>Town planning advisory services</i></li> <li>• <i>Town planning approvals.</i></li> <li>• <i>Visual privacy controls</i></li> <li>• <i>Residential densities</i></li> <li>• <i>Heritage controls/incentives</i></li> <li>• <i>Bulk waste collections</i></li> <li>• <i>Green waste collection service</i></li> <li>• <i>Cat control</i></li> <li>• <i>Introduced species of birds (lorikeets and corellas).</i></li> </ul>

Council staff posted out 587 questionnaires to a randomly-selected sample based on the electoral roll used for the May 2005 mayoral election. 196 completed surveys were returned. The results from this survey were presented to Council in December 2005 and a request was made for more information in terms of presenting the actual comments of the respondents.

### **CONSULTATION**

The process involved a survey being sent to 587 electors of the Town.

### **STAFF COMMENT**

The surveys were conducted in 2005. The delay in presenting the actual comments of respondents to Council was caused primarily by the surveys being misplaced in the first instance and a lack of staff resources in the second.

There were over 1,400 comments from the 196 surveys received.

### **VOTING**

Simple majority

### **OFFICER RECOMMENDATION**

That Council:

- (1) Note the comments from the Customer Satisfaction Surveys
- (2) Authorise the next survey to be conducted in September 2008

### **12.1.9 COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (1) Note the comments from the Customer Satisfaction Surveys.**
- (2) Authorise the next survey to be conducted in September 2008 and ensure it assists in the determination of the service levels in the Asset Management Plan.**
- (3) Request further tabulation of the comments so that they can be compared with the previous and future surveys.**

Carried 9/0

**12.1.10 BEACH TOILETS**

**File No:** SUB/207  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

A recommendation is made to append conditions to the alterations and additions request from Indiana's Restaurant.

**STATUTORY ENVIRONMENT**

Nil

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**BACKGROUND**

There have been numerous complaints received by Council regarding the standard of cleanliness at the beachfront toilets over many years. Prior to summer 2006/2007 Council agreed to carry out additional cleaning to the public toilets under Indiana's and Barchetta's in an attempt to alleviate the problems that have been experienced.

The initial indications were that this had resolved the problem as there was only one complaint about the toilets at Indiana's during the summer of 2006/2007 and that related to the cleaner not properly announcing his entrance into the ladies facilities prior to commencing his cleaning.

The summer of 2007/2008 was marred by a number of complaints regarding the standard of cleaning at Indiana's. Council requested the matter be resolved at its February 2008 meeting. The Manager Corporate Services initiated cleaning rosters to be completed by the contract cleaner. This was complemented by having the rangers complete a daily checklist to substantiate the cleaners tasks had been completed. In addition to this the contract cleaners were encouraged to have open dialogue with the operators of Indiana's regarding any issues they observed. Following these changes the complaints diminished.

**CONSULTATION**

Nil



**STAFF COMMENT**

The Manager Corporate Services and Senior Ranger conducted visits to the majority of beach toilets from Port Beach in Fremantle to Hilarys in Sorrento. There were a number of reasons for these visits including:

- comparing the standard of other metropolitan facilities with those at Indiana's;
- identifying the optimal set-up for beach ablutions; and,
- obtaining some ideas for any future refurbishment at the Indiana Tea House.

Generally speaking the standard of the toilets improved as we went further north.

The features of the better toilets included:

- Simple fixtures and fittings with minimal opportunity for vandals to break or damage pipes, taps or seats. This included push button, timed showers and stainless steel, solid basins and toilets.
- Open roofs – where the facility only had half a roof. This made a significant difference to the smells in the facility as the wind acted as a natural air freshener. These areas also presented as fresher and cleaner.
- Open aspect of facility – good visibility to all areas of the change rooms seem to make it harder for people to carry out anti-social acts like graffiti and damage.
- Corrugated concrete exterior seemed to make it harder for graffiti artists to tag walls.
- Tiled interior walls appeared to be easier to clean graffiti as well as making the facilities look more amenable.

The proposed renovations at Indiana's provide an opportunity to consider alternatives to the existing ablutions.

The current lease contains the following clause:

**16 Alterations****16.1 Restrictions on Alterations**

Following the construction of the building in accordance with the terms and conditions of this document, the Lessee must not make any alteration or addition to or demolish any part of the premises without the prior consent of the Lessor and subject to:

- (a) the requirements of any statute in force from time to time, the insurer of any of the insured risks and the Insurance Council of Australia; and,
- (b) any condition imposed by the Lessor.

**16.2 Consent to Alteration**

In giving consent to any alteration, the Lessor may impose any condition, including but not limited to, a condition that:

- (a) the work be carried out:
  - (i) in accordance with other drawings or specifications approved by the Lessor; or

- (ii) under the supervision of the Lessor's architect or other consultant;
- (b) the Lessee pays the costs and fees of the Lessor in supervising or inspecting the work; and
- (c) the Lessor requires the Lessee to carry out other work to or in the premises as a consequence of the alteration, addition, demolition or installation requested by the lessee;

But in regard to the installation, alteration or addition of partitioning within the premises, the consent of the Lessor may not be unreasonably withheld.

#### 16.3 Other work necessitated by alteration

If any other work is:

- (a) required by the Lessor as a condition of giving consent as mentioned in clause 16.1; or
- (b) necessary to comply with a statute for the time being in force or the requirement of an insurer of the insured risks or the Insurance Council of Australia;

the Lessee must at the option of the Lessor either:

- (c) carry out that work; or
- (d) permit the Lessor to carry out that other work;

at the cost of the Lessee in accordance with any requirement imposed by the Lessor in respect of that other work.

There is scope within the current lease (clause 19) to agree to a variation in the lease to be in writing and signed by both parties.

Now would seem to be an appropriate time to ensure that the proposed refurbishment plans being submitted by Indiana's are linked to the Town's requirements for both an improved cleaning regime and better fixtures within the public change rooms.

### **VOTING**

Simple majority

### **OFFICER RECOMMENDATION**

That subject to legal advice, Council appends the following conditions to the lease agreement in response to the alterations and additions request from Indiana's Restaurant:

- (1) The daily cleaning schedule outlined in Annexure D of the Lease be amended to read:

All cleaning of toilets and immediate surrounds to be carried out to the satisfaction of the Environmental Health Officer three times per day during the period from November 1<sup>st</sup> to March 31<sup>st</sup> and once a day at all other times.

- (2) An amount of \$100,000 is required to be put in a trust fund to be used for the refurbishment of the existing toilets in the event that the planned conversion of the toilets has not commenced by 1<sup>st</sup> May 2010.

**COMMITTEE RECOMMENDATION**

That Council seek legal advice on its ability to impose conditions and/or to amend the lease agreement in response to the request for alterations and additions to the Indiana restaurant.

**AMENDMENT**

Moved Cr Utting, seconded Cr Carmichael

**That the following items be added:**

- (2) Immediate action be taken to upgrade and effect cleaning of the toilets.**
- (3) Immediate action be taken to ensure the bins are emptied on a regular basis.**

Carried 8/1

**12.1.10 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (1) Seek legal advice on its ability to impose conditions and/or to amend the lease agreement in response to the request for alterations and additions to the Indiana restaurant.**
- (2) Immediate action be taken to upgrade and effect cleaning of the toilets.**
- (3) Immediate action be taken to ensure the bins are emptied on a regular basis.**

Carried 9/0

**12.2 ENGINEERING****12.2.1 COTTESLOE TOWN CENTRE - LONG TERM PARKING - EAST END OF FORREST STREET, COTTESLOE**

**File No:** SUB/582  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 14 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

At its February 2008 meeting, Council resolved:

- (1) Not proceed with the proposed car parking on the Forrest Street median strip.
- (2) Seek community submissions on the Railway Street parking proposal in accordance with Council's *Community Consultation* policy.
- (3) Invite submissions and send plans and background information on the proposal to all adjoining Railway Street property owners between Vera Street and Forrest Street.
- (4) Advertise to the community and notify all adjoining property owners that a permit system for business owners, their staff and nearby residents is intended to be established on a cost recovery basis for those using the proposed car park.
- (5) Invite submissions and send plans and background information on the proposal to Procott and Cottesloe SOS.
- (6) Consider the results of the public consultation process at Council's April 2008 meeting.
- (7) Request staff to provide a report to Council's April 2008 meeting on the feasibility of providing additional verge parking at the eastern end of Forrest Street.

This item provides a report and plan regarding additional parking on the road verge at the eastern end of Forrest Street, with a recommendation that Council:

- (1) Include the proposal to install 16 angled car parking bays on the north and south verges of Forrest Street east of the existing drainage sump into the community advertising process regarding the proposed Railway Street parking area.
- (2) Send letters with a plan showing the proposal to affected landowners in Forrest Street.
- (3) Invite submissions and send plans and background information on the proposal to ProCott and Cottesloe SOS.

**STATUTORY ENVIRONMENT**

Nil

---

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

No funds are available for any parking area construction in 2007/08.

The estimated cost to construct the 16 bays shown on the east end verges (both north and south) of Forrest Street is \$26,000.

**BACKGROUND**

Council resolved in February 2008 to go no further with any consideration of embayed car parking within the area of the Forrest Street median island, east of Railway Street.

It was thought, at that meeting, that a number of 'all day' parking bays may be able to be installed on each side of Forrest Street, east of the median island, due to the great width of both verges.

**CONSULTATION**

Nil

**STAFF COMMENT**

The eastern end of Forrest Street between Stirling Highway and the median island sump has a 40m road reserve width, with an approximate 15m width of road verge on each side.

The intersection with Stirling Highway is controlled by an intersection island that allows only a 'left turn in/left turn out' traffic movement.

It is possible to provide additional parking bays east of the Forrest Street sump. A total of 16 new angled bays are shown on the plan included in the attachments. However, four kerbside/parallel parking bays would be removed to allow these installations, leaving an increase of 12 bays. Any additional parking bay provision in this area would require the removal of established verge landscaping. The locations of existing crossovers also limit the potential for extra parking bays. In addition to any new parking bay installation in this area, it is recommended that all parallel parking areas in Forrest Street east of Railway Street be properly line marked as individual parking bays, to maximise the capacity of these sites.

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Strzina

---

**That Council:**

- (1) Include the proposal to install 16 angled car parking bays on the north and south verges of Forrest Street east of the existing drainage sump into the community advertising process regarding the proposed Railway Street parking area.**
- (2) Send letters with a plan showing the proposal to affected landowners in Forrest Street.**
- (3) Invite submissions and send plans and background information on the proposal to ProCott and Cottesloe SOS.**

Carried 9/0

**12.3 FINANCE****12.3.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 MARCH 2008**

<b>File No:</b>	<b>SUB/137</b>
<b>Author:</b>	<b>Mr Graham Pattrick</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>
<b>Period Ending:</b>	<b>31 March 2008</b>
<b>Senior Officer:</b>	<b>Mr Stephen Tindale</b>

---

**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 March 2008, 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 2 of the Financial Statements shows a favourable variance between the actual and budgeted YTD operating surplus of \$827,067 as at 31 March 2008. Operating Revenue is ahead of budget by \$254,929 (3.5%). Operating Expenditure is \$491,408 (8%) less than budgeted YTD. A report on the variances in income and expenditure for the period ended 31 March 2008 is shown on page 8.

The significant variances this month in the lower than anticipated expenditure are: EDUCATION & WELFARE \$35,055 – timing of payments for disability access projects and OTHER PROPERTY & SERVICES \$38,992 – internal adjustment to allocation of overheads.

Whilst not meeting the criteria for significant variances in terms of % difference to budget the following items constitute the majority of the favourable variance in expenditure and are worthy of note:

COMMUNITY AMENITIES - lower than budgeted expenditure on contractors in the area of sanitation (\$64,610) and legal, consultant and contractor expenses for Town Planning be lower than forecast (\$203,532). This includes scheme review expenses.

The Capital Works Program is listed on pages 18 to 19 and shows total expenditure of \$2,064,340 compared to YTD budget of \$2,680,199. The actual expenditure includes \$266,628 related to the proposed new library that was not budgeted in capital expenditure (note: \$100,000 was budgeted as operational expenditure). This is noted in the budget review.

The other items of capital are budgeted with some timing differences causing the variance.

## VOTING

Simple Majority

### 12.3.1 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Mayor Morgan, seconded Cr Strzina

**That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 March 2008, as submitted to the 22 April 2008 meeting of the Works and Corporate Services Committee.**

Carried 9/0



**12.3.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 MARCH 2008**

**File No:** SUB/150 & SUB/151  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 March 2008  
**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 March 2008, 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 12 of the Financial Statements shows that \$2,972,458.04 was invested as at 31 March, 2008

Reserve Funds make up \$1,276,942.44 of the total invested and are restricted funds. Approximately 62% of the funds are invested with the National Australia Bank, 19% with Home Building Society and 19% with BankWest.

The Schedule of Loans on page 13 shows a balance of \$253,674.65 as at 31 March, 2008. There is \$151,392.23 included in this balance that relates to self supporting loans.

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Strzina

**That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 March 2008, as submitted to the 22 April 2008 meeting of the Works and Corporate Services Committee.**

Carried 9/0

**12.3.3 ACCOUNTS FOR THE PERIOD ENDING 31 MARCH 2008**

**File No:** SUB/144  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 March 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

The purpose of this report is to present the List of Accounts for the period ending 31 March 2008, 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 41 of the Financial Statements:

- \$10,743.97 to Cobblestone Concrete for footpath installation
- \$13,856.13 to WA Electoral Commission for election costs from October 2007
- \$14,598.97 to WA Local Govt Super Fund for staff deductions
- \$16,384.76 to BCITF for payment of levies collected
- \$14,737.90 to WA Local Govt Super Fund for staff deductions
- \$11,176.00 to Phillip Griffith Architects for services on the Civic Centre
- \$39,053.11 to Trum P/L for waste collection
- \$235,154.40 to FESA for ESL for 3<sup>rd</sup> quarter 2007/2008
- \$17,399.62 to Surf Life Saving WA for lifeguard contract for February 2008
- \$68,623.50 to Roads 2000 for various road construction works
- \$12,832.18 to Waste Management Assoc of WA for transfer tipping fees
- \$76,279.14 to Shire of PG for contributions to new library project
- \$44,261.25 to Roads 2000 for road construction works on Marine Pde

- \$33,000 to Sculpture by the Sea for new acquisition
- \$20,653.46 to Waste Management Assoc of WA for transfer tipping fees
- \$11,344.03 to ATO for BAS for February 2008
- \$38,149.00 to Osborne Park VW for new vehicle

\$115,779.13 for staff payroll

**VOTING**

Simple Majority

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

Moved Mayor Morgan, seconded Cr Dawkins

**That Council receive the List of Accounts for the period ending 31 March 2008, as submitted to the 22 April 2008 meeting of the Works and Corporate Services Committee.**

Carried 8/1

**12.3.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD  
ENDING 31 MARCH 2008**

**File No:** SUB/145  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Period Ending:** 31 March 2008  
**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 March 2008, 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 14 to 16 of the Financial Statements shows a balance of \$312,933.77 of which \$52,985.59 relates to the current month. The balance of aged debt greater than 30 days stood at \$112,769.07 of which \$105,002.28 relates to pensioner rebates that are being reconciled by the Senior Finance Officer.

Property Debtors are shown in the Rates and Charges analysis on page 17 of the Financial Statements and show a balance of \$368,380.56. Of this amount \$194,635.52 and \$33,838.40 are deferred rates and outstanding ESL respectively. As can be seen on the Balance Sheet on page 4 of the Financial Statements, rates as a current asset are \$173,745 in 2008 compared to \$314,759 last year.

**VOTING**

Simple Majority

---

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

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

- (1) Receive and endorse the Property Debtors Report for the period ending 31 March 2008; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 March 2008.**

Carried 9/0

**12.3.5 BUDGET REVIEW 2007/2008**

**File No:** SUB/141  
**Author:** Mr Graham Pattrick  
**Author Disclosure of Interest:** Nil  
**Report Date:** 2 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

Local governments are required to conduct a budget review between 1<sup>st</sup> January and 31<sup>st</sup> March each financial year. This budget review consists of a detailed comparison of the year-to-date actual results with the budget.

**STATUTORY ENVIRONMENT**

Regulation 33A of the Local Government (Financial Management) Regulations 1996 provides the following:

**Review of budget**

(1) Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.

(2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.

(3) A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.

*\*Absolute majority required.*

(4) Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.

**POLICY IMPLICATIONS**

Nil

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

There is a small deficit compared to budget based on the forecast. Senior management have been made aware of the current financial position and have been encouraged to limit any non-essential expenditure during the last quarter of the financial year.

**BACKGROUND**

Regulation 33A is meant to ensure that Council is kept fully abreast of marked variances between budgeted and actual income and expenditure.

**CONSULTATION**

Nil

**STAFF COMMENT**

The budget review (see attachment) shows Council's operating position forecast for a deficit of approximately \$86,000. The primary cause for the deficit is the additional funds expended on the new library project. The remainder of the income and expense within other cost centres are tracking well when compared with both year to date and projected figures. Also attached is the Operating Statement (more detailed reports are available upon request).

There is a requirement to review the materiality levels each year that trigger a report on significant variances in the budget review. It is recommended that this be maintained at the same levels as last year, that is, any variance being greater than 15% or \$25,000.

**VOTING**

Absolute Majority

**12.3.5 OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council:**

**Maintain the materiality level used to report on significant variances in the budget review as being greater than 15% and greater than \$25,000; and**

**Adopt the budget review.**

Carried 9/0



**12.4 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING****12.4.1 OWNERSHIP OF PRIVATE LANEWAYS/RIGHT OF WAYS**

**File No:** SUB/274  
**Author:** Mr Geoff Trigg  
**Author Disclosure of Interest:** Nil  
**Report Date:** 22 April, 2008  
**Senior Officer:** Mr Stephen Tindale

---

**SUMMARY**

Following the public statement regarding concerns with the control, public liability and ownership of a private right-of-way a recommendation was made to the Manager Engineering Services to:

- (1) Address the concerns raised by the owner of 12 Jarrad Street.
- (2) Provide a report to Council on a strategy to obtain ownership of all existing privately owned right-of-ways.
- (3) Investigate the rating the privately owned right-of-ways.

**VOTING**

Simple Majority

**COMMITTEE RECOMMENDATION**

That Council request staff to:

- (1) Address the concerns raised by the owner of 12 Jarrad Street.
- (2) Provide a report to Council on a strategy to obtain ownership of all existing privately owned right-of-ways.
- (3) Investigate the rating of privately owned right-of-ways.

**DECLARATION OF INTEREST**

*Cr Dawkins declared a financial interest as an owner of a right of way and left the meeting at 9.33 pm.*

*Mayor Morgan, Cr Cunningham and Cr Strzina declared a proximity interest as having access to and the use of a privately owned right of way and left the meeting at 9.33 pm.*

The matter subsequently lapsed for lack of a quorum.

*Mayor Morgan, Cr Dawkins, Cr Cunningham and Cr Strzina returned to the meeting at 9.36 pm.*

**AMENDMENT**

Moved Cr Boland, seconded Cr Walsh

---

**That Council write to the Minister seeking approval under Sections 5.69 of the *Local Government Act 1995* to allow disclosing members to participate in discussions and the decision making on the matter.**

Carried 9/0

#### **12.4.1 COUNCIL RESOLUTION**

Moved Mayor Morgan, seconded Cr Strzina

**That Council write to the Minister seeking approval under Sections 5.69 of the *Local Government Act 1995* to allow disclosing members to participate in discussions and the decision making on the matter.**

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**

Nil

**15 MEETING CLOSURE**

The Mayor announced the closure of the meeting at 9.39 pm

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