

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 JUNE, 2004**

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1 DECLARATION OF MEETING OPENING/ANNOUNCEMENT OF VISITORS

The Mayor announced the meeting opened at 7.00pm.

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

Mayor Robert Rowell (Chairperson)
Cr Daniel Cunningham
Cr Arthur Furlong
Cr Peter Jeanes
Cr Bryan Miller
Cr Kevin Morgan
Cr William Robertson
Cr Victor Strzina
Cr John Utting
Cr John Walsh

Officers in Attendance

Mr Stephen Tindale	Chief Executive Officer
Mr Stephen Sullivan	Manager Development Services
Mr Alan Lamb	Manager Corporate Services
Mrs Jodie Peers	Executive Assistant

Apologies

Cr Anthony Sheppard
Mr Geoff Trigg

Leave of Absence (previously approved)

Nil.

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the last meeting of the Town of Cottesloe the following questions were taken on notice from Mr J Davis.

Could you please supply the following information:

1. Council loans to the Sea View Golf Club as at the end of 2003. This should include both direct loans and borrowings from a third party guaranteed by the Council.
2. Any variations to this such which have occurred up to the present.

In correspondence to Mr Davis, dated 2 June 2004, the Chief Executive Officer supplied the following response:

1. The Town of Cottesloe has a single *Deed of Loan* with the Sea View Golf Club for the principal amount of \$40,000. Mr Davis received a copy of the loan repayment schedule for his information.
2. There have been no variations to the *Deed of Loan* and the Town of Cottesloe has no other interest in loans or borrowings to the club.

4 PUBLIC QUESTION TIME

Mr M Huston, PO Box 400 – Items 11.1.12, 11.1.13, 11.1.14, 12.1.10

In relation to Items 11.1.12 (Review of Delegation to Manager Development Services and Chief Executive Officer) and 11.1.13 (Review of Delegation to the Development Services Committee) Mr Huston said that there has previously been no formal requirement for powers to be reviewed by Council and it is good that they are now required. Mr Huston asked why is it proposed that the process of delegations not be notified to the residents of Cottesloe?

The Mayor replied that Council decides that certain items can be dealt with by staff. In the case that a Councillor has a particular interest in an item there is the opportunity to call-in that item. Each week Councillors are provided with a list of the delegations undertaken during that week. Delegated authorities are reviewed annually.

Mr Huston requested an explanation on how transparency is adhered to if the Councillors are only advised of the matter within seven days, rather than if the matter hadn't been delegated in the first place.

The Mayor replied that it is preferred that certain business moves through Council as quickly as possible to ensure that unnecessary hold ups don't occur. It is rare for a Councillor to call items in. There is a set period of time that the Councillors have to call in items.

Mr Huston expressed his concern over the proposal that a range of minor works will not go to Council for review.

The Mayor replied that if the applicant conforms to Council policy there is no necessity for the item to be reviewed by Council.

Mr Huston asked why can't committee delegations be called in?

The Mayor replied that there is flexibility available to Councillors if they felt that more discussion was required.

In relation to Item 11.1.14 (Timeframe for Draft Town Planning Scheme No. 3) Mr Huston asked whether once the Town Planning Scheme has been gazetted is it final?

The Mayor replied that once it is gazetted it is final, however there are advertising periods throughout the process to allow the public to comment. The timeframe has been noted by Councillors and it is proposed to provide the Chief Executive Officer with the resources to assist in shortening the timeframe. The Mayor also noted that the Department of Planning and Infrastructure can suggest alterations to or refuse the Town Planning Scheme.

In relation to Item 12.1.10 (Sea View Golf Club – Draft Management Plan) Mr Huston spoke on clause 13.1(6) issues relating to groundwater. He referred to a recent report prepared by the Town of Mosman Park on the fresh water under the Cottesloe peninsula and the identification of issues of concern. In report stated that bores on golf clubs cause a problem to freshwater aquifers. Mr Huston asked the Mayor if he still has concerns about signing the lease or Management Plan?

The Mayor replied that Council is working with the Water and Rivers Commission and the Management Plan will ensure that monthly monitoring is undertaken and reported to the Water and Rivers Commission.

Mrs M Taylor, 9 Andrews Place – Rates Query

Mrs Taylor spoke to Council in relation to the duplex that she owns, along with her sister. Her sister doesn't pay rates and declares that Mrs Taylor pays the rates for her. Mrs Taylor has confirmed with the selling agent that the ownership of the duplex is separate. Mrs Taylor has on a previous occasion approached the Council requesting that the matter be followed up, with no response to date. Mrs Taylor asked if the matter could be looked into.

The Mayor replied that he would ensure that the matter was looked into and a response provided to Mrs Taylor.

Mr D Bibby, 5 Rosser Street – Item 12.1.10, Sea View Golf Club – Draft Management Plan

Mr Bibby addressed Council as Chairman of the Jarrad St "A" Class Reserves Review Group. In relation to public comment on the draft Management Plan, open until 2 August, it seems to me that the Chief Executive Officer will not have sufficient time to take proper notice of the submissions, agree them with the golf club and present the revised plan to the Works and Corporate Services Committee on 17 August for consideration by the Council on 23 August. Further to that the Chief Executive Officer says it is likely that the final draft of the lease will be put to the July meeting of Council where it will be tabled for a month which would end on 26 August. Because the August Council meeting is scheduled to be held on 23 August the Chief Executive Officer will not have time to take any notice of the submissions made on the revised draft lease because the time for public comment has not ended. Council cannot sign the lease until the public submissions have been considered an any alterations put to Sea View Golf Club.

Mr Bibby asked because of time constraints how can the Chief Executive Officer propose to put the Management Plan and the lease to Council in August without reducing the time for public input?

Mr Bibby suggested that if proper consideration is to be given to the public submissions the Management Plan and the lease cannot be dealt with until the August and September meetings respectively.

The Chief Executive Officer replied that it is the intent that the lease be tabled to allow public comment to occur. The time required to write the report to Council will be dependant on the number of public submissions that are received.

Mr Bibby asked what is the hurry? The lease runs until next June. It is not of any concern to the Town of Cottesloe whether it is signed before the end of the year.

The Chief Executive Officer replied that there is no suggestion that Council is in a hurry. The matter has been ongoing for about two and a half years now, however the sooner it is dealt with the sooner we can get on with the more pressing needs of Cottesloe.

Mr Bibby asked how are the ratepayers going to be notified that comments and submissions are going to be invited on the Management Plan and the revised lease? Why wasn't it included in the Post Newspaper this week?

The Chief Executive Officer replied that at the meeting tonight the Council will consider the draft Management Plan for the first time. This process has to be undertaken prior to advertising.

The draft Management Plan will be placed on Council's website tomorrow and advertised in the Post.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Moved Cr Furlong, seconded Cr Miller

That Cr Jeanes application for a leave of absence for the July Council Meeting be granted.

Carried 9/0

6 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

Moved Cr Cunningham, seconded Cr Utting

The Minutes of the Ordinary Meeting of Council held on Monday, 24 May, 2004 be confirmed.

Carried 10/0

7 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil.

8 PUBLIC STATEMENT TIMEMrs B Hewson-Bower, 52 Margaret Street – Item 11.1.1, No. 208 (Lot 20) Marine Parade – Three Storey Single Residence

Mrs Hewson-Bower thanked Councillors for their time and consideration of this proposal. She would like to reassure Councillors that they have worked closely with the adjoining neighbours ensuring that they are happy with the revisions made. She advised that the basement will be used for carparking. The architect has spoken to an engineer and been assured that it is structurally sound.

Dr R Bower, 30 Napier Street - Item 11.1.2, No. 7 (Lot 26 Pt Lot 27) Pearse Street – Three Multiple Dwellings

Dr Bower advised that the glass balustrade on the balcony will be transparent glass, not glass bricks. He welcomed any further questions from Councillors.

E Frederickson, 48 Monument Street, Mosman Park – Item 11.1.2

Provided support for the transparent glass proposed to be used on the balcony balustrade and thanked Council for their consideration in this matter.

Ms L Shilton, 58 John Street – Item 11.1.4, No. 58 (Lot 122) John Street – Two Storey Alterations and Additions to Existing Residence

Ms Shilton advised that the fire rating concerns have been addressed and the roof orientations have changed substantially. As the property is heritage listed they have gone to great lengths to ensure that the streetscape is enhanced. Ms Shilton asked Council if there was any possibility of changing the western boundary setback. Ms Shilton welcomed any further questions from Councillors.

Cr Furlong left the meeting at 7.35pm.

Cr Furlong returned to the meeting at 7.36pm.

Mr T Knowles, 217 Broome Street – Item 11.1.3, No. 215 (Lot 29) Broome Street – New Two Storey Single House

Mr Knowles stated his objection to the plans, due to the alfresco area being outside his ground floor bedroom window. He was also concerned with overlooking. He suggests that opaque glass be used in the window.

Mr B Howard, 46 Lyons Street – Item 11.1.5, No. 46 (Lot 26) Lyons Street – Unauthorised Window to Upper Floor Bedroom No. 3 on the Southern Side

Mr Howard noted his conflict with the neighbour at 44 Lyons Street. Changes to the window will increase the cost and hold up the project. Mr Howard handed around to Councillors a sample of the opaque glass which is intended to be used in the window, showing that you cannot see through it. The architect suggested the addition of the window and the use of opaque glass to comply with an energy efficiency requirement for more natural lighting. Mr Howard stated his disappointment in the recommendation for a highlight window. He is also disappointed that the Council had voted for the opening to be fully bricked up. Mr Howard said that he does not want to overlook the

neighbours and believes that the fixed opaque window or a highlight window would address the matter, and that fully bricking up the opening is not an option.

Mr S Lloyd, 44 Lyons Street – Item 11.1.5, No. 46 (Lot 26) Lyons Street – Unauthorised Window to Upper Floor Bedroom No. 3 on the Southern Side

Mr Lloyd advised Council that he has had to deal with shadow diagrams that gave a false picture. He is not anti-development, simply would like Council to enforce development rules. Inappropriate bully tactics should not be rewarded.

Mr H Beattie, 4/1 Corkhill Street, North Fremantle – Item 11.1.7, No. 14 (Lot 50) Edward Street – Removal of Church from Municipal Inventory – Category 2

Mr Beattie advised Council that the church will cease to function at the end of this year. The church and property is owned by the members and the property will be disposed of by way of their wishes. Funding for the church will also cease. The desire is to sell and therefore they submit to Council that the property be removed from the Municipal Inventory. The building is not in a good state of repair and there are concerns that if it cannot be demolished it will rapidly fall into more disrepair. Mr Beattie requested Council approve the Committee Recommendation.

Mr P Robinson, 254 Marmion Street – Item 12.1.10, Sea View Golf Club – Draft Management Plan

Mr Robinson addressed the Council as the President of the Sea View Golf Club. The preparation of the Management Plan has been no small task as there is no existing template for such a plan. Input and assistance has been provided by Council. Mr Robinson stated that this document clearly demonstrates that in terms of obligation and accountability the plan represents best practice. A review process is proposed. In relation to fertiliser application rates the golf club has taken on the nutrient application rates recommended by Dr Steven Appleyard. Mr Robinson stated that the Management Plan goes beyond the requirements of the lease. The Sea View Golf Club is currently leading the way in recycling and management. The golf club is happy with the Management Plan and welcomes constructive feedback.

Mr D Bibby, 5 Rosser Street – Item 12.1.10, Sea View Golf Club – Draft Management Plan

Mr Bibby addressed Council as the Chairman of the Jarrad Street “A” Class Reserves Review Group.

“It would take 30 minutes not three to only briefly explain the shortcomings of the draft Management Plan. They will be detailed in the Group’s written submission. In the staff comment section of the agenda paper it says it represents a very good attempt at documenting the significant issues associated with management of the golf course. I would say it is a reasonable attempt. There is a lot of superfluous padding. The Chief Executive Officer says the inclusion of key performance indicators is laudable. As written, all but one mean nothing. It is fundamental to a performance indicator that it should

have a quantified target against which actual performance is measured. As written in the draft plan, only one has a target the rest are only intentions.”

Mr Bibby briefly discussed the key performance indicators. The effectiveness of the plan will depend on the enthusiasm and dedication of the club members. Mr Bibby stated that a Management Plan should not be signed off on until the matters are sufficiently dealt with.

Mr P Oates, 8 Grange Street, Claremont – Item 12.1.10, Sea View Golf Club – Draft Management Plan

Mr Oates addressed Council as the Sea View Golf Club Captain.

The Sea View Golf Club’s draft Management Plan provides a framework for the golf club to administer the course, outlining in detail the club’s obligations to operate and manage the reserve in a safer golf environment and sustainable environmental standards. The key performance indicators described in the draft plan are clear, date bound and measurable.

9 PETITIONS/DEPUTATIONS/PRESENTATIONS

Nil.

10 REPORTS OF COMMITTEES AND OFFICERS**11 DEVELOPMENT SERVICES COMMITTEE MEETING HELD ON 21 JUNE 2004****11.1 PLANNING****11.1.1 NO. 208 (LOT 20) MARINE PARADE – TWO STOREY SINGLE RESIDENCE**

File No:	No. 208 (Lot 20) Marine Parade
Author:	Mr Daniel Heymans
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Plans Submissions (2) Correspondence from Applicant
Report Date:	10 June 2004
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Mr & Mrs Hewson-Bower
Applicant:	Lawrence Scanlan Architects
Date of Application:	31 March 2004
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	364m²
M.R.S. Reservation:	N/A

SUMMARY

Council made a decision at its meeting of 24 May 2004 to defer the application for a three storey single residence on 208 Marine Parade and requested the applicant to submit revised plans addressing a number of issues identified with the proposed development.

The applicant submitted additional information and revised plans on the 9th June 2004.

Given the assessment of the revised plans that has been undertaken, the recommendation is to again refuse the application.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1 (b)	Two storeys	Three storeys
5.1.1 (c)	Wall height – 6.0m (15.4 AHD) Roof height – 8.5m (17.9 AHD)	17.4 AHD 18.12 AHD

Town Planning Scheme Policy/Policies

Policy	Required	Provided
N/A	N/A	N/A

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No 3 – Boundary Setbacks			
North Basement	1.5m	Nil	Clause 3.3.2 – P2
South Basement (Whole)	1.5m	Nil – 2.2m	Clause 3.3.1 – P1 Clause 3.3.2 – P2
South Lower (Whole)	1.1m	1.2m	Clause 3.3.1 – P1 Clause 3.3.2 – P2
South Lower (Rear Entry, Study/Bed)	1.1m	Nil – 1.2m	Clause 3.3.1 – P1 Clause 3.3.2 – P2
North Upper (Terrace, Living, Dining)	4.6m	1.0m – 1.5m	Clause 3.3.1 – P1
North Upper (Walkway, Bed 1, WIR, Bath)	3.3m	1.3m – 4.9m	Clause 3.3.1 – P1
South Upper (Whole)	7.0m	1.2m – 3.0m	Clause 3.3.1 – P1
East Upper (Whole)	3.5m	3.0m – 4.0m	Clause 3.3.1 – P1
No. 6 – Site Works	0.5m Fill	1.5m	Clause 3.6.1 – P1
No. 9 – Design for Climate	25% overshadowing	67%	Clause 3.9.1 – P1

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The adjoining property owners were advised that the amended plans were received by Council and were invited to view the plans at the Council's Offices.

Submissions

During the original advertising process there were 5 letters sent out. There were 6 submissions received, of which 6 were objections. Details of the submissions received were provided in the report to May Council meeting.

The applicant was requested to submit amended plans, which would address the neighbours' objections.

The applicant stated in the letter submitted with the amended plans that the neighbours were further consulted and the letters from the neighbours in support of the amended proposal would be submitted at a later date.

Council received one letter from the owner of 206 Marine Parade stating that he wanted to withdraw his objections after discussions with the applicant. In addition a letter has been received from the neighbour at No. 33 Margaret Street on the 16 June 2004 stating that they have reached an agreement with the applicant about privacy at the rear, the level of the landing, however they have still stated, as per their original letter, that the development should comply with Council's requirements.

No other comments from the adjoining property owners has been received by Council to this date.

STAFF COMMENT

The following decision was made by Council at its meeting of 24th May 2004:

"That Council:

- (1) DEFER consideration of the application for Approval to Commence Development for the three storey Single Residence at No 208 Marine Parade, Cottesloe;
- (2) Request that the applicant to submit revised plans addressing the following matters:
 - (a) compliance with statutory height controls;
 - (b) compliance with statutory storey controls;
 - (c) overlooking;
 - (d) compliance with a front setback of 6m;
 - (e) reduction of fill;
 - (f) neighbours objections; and
- (3) Advise the submitters of Council's decision."

Points (a) to (f) of the above Council's decision will be used further in the report as the heads of consideration.

Compliance with the Statutory Height Controls

The proposal does not comply with the statutory height requirements under the Clause 5.1.1 – "Building Height".

Clause 5.1.1 (c) states:

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

Single Storey	Roof Height:	6.0 metres
Two Storey	Wall Height:	6.0 metres
	Roof Height:	8.5 metres
Subsequent Storeys	Wall Height:	6.0 metres plus;
		3.0 metres per storey
	Roof Height:	8.5 metres plus;
		3.0 metres per storey"

The natural ground level (NGL) at the centre of the site was determined by the Planning Officer as being 9.4 AHD. The calculation of the NGL at the centre of the site was determined using Water Authority Plans of 1934 and the Original Site Survey Plans submitted by the applicant.

The required wall height would be calculated as follows: NGL at the centre 9.4 AHD + 6.0m = 15.4AHD. The proposed wall height is 17.4AHD, which is 2.0m over the requirement.

The required roof height would be calculated as follows 9.4AHD + 8.5m = 17.9AHD. The proposed roof height is 18.12AHD, which is 0.2m over the requirement.

It is considered that the natural ground forms on the subject site are such as to indicate that a variation to the required building heights is not warranted.

The previous report to the May Council meeting recommended that the application be refused on the basis of its non-compliance with the Town Planning Scheme height restrictions. The applicant has not lowered the building heights. The applicant is arguing in the letter dated 9th June 2004 that he believes that the averaging of the

levels of four corners is the most suitable method of determining the level of the centre of the site.

In addition the applicant has suggested that the way Council has measured the centre of the site is unexpected.

The applicant has lodged a number of applications with Council over the last 12 to 18 months and on all occasions has been advised verbally that natural ground level is calculated at the centre of the site prior to development utilising the site survey and contours from previous plans. If this is not possible then a number of other methods may be utilised, including using the four corners.

Furthermore it is also clearly spelt out how heights are determined in Council's information Sheet No. 8 – Building Heights.

However in this instance there is no difficulty in determining the ground level at the centre of the site and therefore the use of the four corners was not necessary.

It is recommended that the application be refused as the amended plans did not address point 2(a) of Council's decision requiring the applicant to comply with the statutory height controls.

Compliance with the Statutory Storey Controls

The previous plans incorporated a workshop with windows and sliding doors to an outside courtyard / drying yard and a storeroom within the undercroft space. This was not in accordance with the Clause 5.1.1 (a), as a workshop and a storeroom are not permitted in the undercroft space under this clause. The proposed building therefore comprises three storeys in accordance with the Clause 5.1.1 (a).

The applicant was requested to comply with the statutory storey controls. The workshop room was renamed as ancillary garaging and plant space on the amended plans dated 9 June 2004. The applicant has also stated that the room will not be used as a habitable space and will be used for the keeping of bicycles, motorcycles, surfboards, equipment for car maintenance and plant equipment.

The plant space room still has sliding doors and can be easily interpreted as a possible habitable room, furthermore the laundry also has a window.

The recent decision by the Town Planning Appeal Tribunal for No 6 Clarendon Street, Cottesloe stated that:

"In my view, there is no general discretion under the Scheme to exclude areas, other than those dealt with in clause 5.1.1(a) from the calculation of the number of storeys. The fact that Council may have done so in relation to other developments in the past does not assist in the proper construction of the Scheme. It seems to me that the direction to Council not to regard as a storey certain specified spaces cannot properly be construed as providing some broad discretion to consider other spaces as not comprising storeys."

The applicant has also not removed the storeroom from the undercroft.

Furthermore the Tribunal also commented on a similar situation where plans were changed to alter the name of a room in the undercroft to give the appearance that it was not habitable, however the tribunal was not convinced of this as follows:

“that the proposed workshop has all the physical attributes of a habitable room. In that sense, it is physically different from the types of spaces enumerated in clause 5.1.1(a).”

It is considered that the new plant room and ancillary garaging space are not covered by clause 5.1.1 (a) as the room has the attributes and appearance of a habitable room. Therefore this application has to be refused as it does not comply with the statutory requirements of clause 5.1.1 (a).

Front Setback

The applicant has altered the front setback to comply with the acceptable development standards of the codes. However the neighbours at No. 210 Marine Parade have requested that Council enforce the old setback requirement of 7.5 metres.

Overlooking

The applicant has addressed the concerns of overlooking from the neighbours at the rear by changing the materials of the screen to the satisfaction of the adjoining neighbours.

However the applicant has not addressed the concerns of the neighbours at No. 210 Marine Parade about overlooking from the outdoor terrace, dining room, bedroom 1 and rear deck. The neighbours requested that the screening be to a height of 1.8m and to be translucent glass.

Site Works

The applicant has not altered the levels of the house to meet the 500mm fill acceptable standard of the codes. The ground floor level is up to 1.5m above the natural ground level, which has also contributed to the building being overheight.

The applicant has reduced the level of the rear landing to comply with the 500mm fill requirement at the request of the adjoining neighbours to the rear.

Overshadowing

The applicant has not made any changes to the design to address the overshadowing of the adjoining lot to the south and the application does not satisfy the acceptable development standards of the codes.

However the adjoining neighbour to the south has stated that they do not object to the revised plans as submitted. Notwithstanding a reduction in the height of the building and the amount of fill would also significantly reduce the amount of overshadowing of the adjoining property.

Neighbours Concerns

The neighbours raised numerous concerns about the development. The applicant has addressed the privacy concerns of the neighbours to the rear and the concerns of most of the neighbours along Marine Parade about the front setback.

However the applicant has not addressed the major issues of building height, fill, building bulk, overlooking of the neighbours to the north and overshadowing.

CONCLUSION

The applicant has not complied with the statutory height controls of the Scheme, in particular the number of storeys and the ridge and wall heights of the development. These statutory provisions are not variable once Council has determined the natural ground level.

In addition the application has not complied with the acceptable development standards nor the performance criteria for filling and privacy.

Therefore it is recommended that the application be refused.

VOTING

Simple Majority

COMMITTEE COMMENT

Some Councillors raised concerns about the levels of the site and how the calculations were reached. It was noted that there is a depression in the middle of the site and this effects how the site was to be viewed. Discussion on the use of the four corners of the site occurred compared to the calculation made at the centre of the site by staff using the 1934 water authority maps and site inspections

It was agreed by a majority of the Committee that the method used for the calculation of the natural ground level at the centre of the site was questionable in its application to the site.

The issue of the third storey definition was discussed in relation to the use of the space for additional garaging. It was determined that a condition could be imposed requiring an opening between the garage and the room to the east.

Mayor Rowell suggested that the application be approved subject to standard conditions instead of the refusal, with special conditions requiring:

- the sliding doors in the basement room being removed and a highlight window installed; and
- an opening to be created between the garage and the room to the east of the garage.

OFFICER RECOMMENDATION

That Council:

- (1) Determine the Natural Ground Level at the centre of the site to be 9.4 AHD.
- (2) REFUSE its Approval to Commence Development for the three storey Single Residence at No 208 (Lot 20) Marine Parade, Cottesloe in accordance with the plans submitted on 9 June 2004, as Council is of the opinion that:
 - (a) The wall height is 2.0m above the maximum height permitted under Clause 5.1.1 (c);

- (b) The roof ridge height is 200mm above the maximum height permitted under Clause 5.1.1 (c);
 - (c) The proposal does not comply with the Clause 5.1.1 (a) as the proposed plant room / ancillary garaging room and laundry are considered to appear to be habitable rooms & the storeroom is not a permitted room;
 - (d) The proposed development exceeds the maximum number of storeys permitted under Clause 5.1.1(b)(ii) of the Town Planning Scheme text;
 - (e) The proposed 67% overshadowing of the adjoining property does not satisfy the Performance Criteria of Design Element 9 –“Design for Climate”;
 - (f) The proposed variations to the side boundary setbacks do not satisfy the Performance Criteria of Design Element 3 – “Boundary Setbacks”;
 - (g) The proposed fill of up to 1.5m is not in accordance with the acceptable development standard of 500mm under Clause 3.6.1 (A1.4) of the R-Codes and it does not satisfy the Performance Criteria (3.6.1 P1);
- (3) Advise the submitters of Council’s decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the three storey Single Residence at No 208 (Lot 20) Marine Parade, Cottesloe in accordance with the plans submitted on 9 June 2004 subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.
 - (f) Revised plans being submitted to the satisfaction of the Manager, Development Services showing the following:
 - (i) sliding doors in the basement being removed and a highlight window installed; and

- (ii) an opening be created between the garage and the room to the east of the garage.

(2) Advise the submitters of Council's decision.

AMDENDMENT

Moved Cr Cunningham, seconded Cr Miller

That the Committee Recommendation (1) be amended to read:

- (1) GRANT its Approval to Commence Development for the **two** storey Single Residence at No 208 (Lot 20) Marine Parade, Cottesloe in accordance with the plans submitted on 9 June 2004 subject to the following conditions:

Carried 8/2

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Mayor Rowell	Cr Walsh
Cr Cunningham	Cr Utting
Cr Furlong	
Cr Jeanes	
Cr Miller	
Cr Morgan	
Cr Robertson	
Cr Strzina	

AMDENDMENT

Moved Cr Morgan, seconded Cr Walsh

That the Committee Recommendation (1)(f) be amended to read:

- (f) Revised plans being submitted to the satisfaction of the Manager, Development Services showing features which ensure that the basement and the room to the east of the garage are for purposes which comply with clause 5.1.1(a) of the Town Planning Scheme and could not be used as habitable rooms.

Carried 7/3

AMDENDMENT

Moved Cr Walsh, seconded Cr Utting

That Council defer the item.

Lost 2/8

11.1.1 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **GRANT its Approval to Commence Development for the two storey Single Residence at No 208 (Lot 20) Marine Parade, Cottesloe in accordance with the plans submitted on 9 June 2004 subject to the following conditions:**

- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (f) Revised plans being submitted to the satisfaction of the Manager, Development Services showing features which ensure that the basement and the room to the east of the garage are for purposes which comply with clause 5.1.1(a) of the Town Planning Scheme and could not be used as habitable rooms.
- (2) Advise the submitters of Council's decision.

Carried 8/2

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Mayor Rowell	Cr Walsh
Cr Cunningham	Cr Utting
Cr Furlong	
Cr Jeanes	
Cr Miller	
Cr Morgan	
Cr Robertson	
Cr Strzina	

11.1.2 NO 7 (LOT 26, PT LOT 27) PEARSE STREET - THREE MULTIPLE DWELLINGS

File No:	No 7 (Lot 26, Pt Lot 27) Pearse Street
Author:	Ms Lilia Palermo
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Correspondence from applicant (2) Submissions (2) Plans
Report Date:	2 June, 2004
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Mrs O C Glatz
Applicant:	Overman & Zuideveld
Date of Application:	2 June, 2004
Zoning:	Residential
Use:	AA - A use that is not permitted unless special approval is granted by the Council
Density:	R30
Lot Area:	964 m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for three multiple dwellings on the subject property.

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

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
5.1.1	Wall height – 6.0m Roof height – 8.5m	Wall height – 6.8m Roof height – 9.0m

Town Planning Scheme Policy/Policies

Policy	Required	Provided
Building Heights - 005	Wall height – 6.0m	7.3m

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No3 – Boundary Setbacks			
West Basement (whole)	1.5	Nil – 1.5	Clause 3.3.1 – P1 Clause 3.3.2 – P2
West Lower (whole)	5.7	1.5	Clause 3.3.1 – P1
West Upper (whole)	7.3	1.5 – 2.8	Clause 3.3.1 – P1
East Upper (balcony, dining, kitchen)	1.8	1.5 – 3.0	Clause 3.3.1 – P1

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

Nil

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:

- Letter to Adjoining Property Owners

Submissions

There were 2 submissions received, both of these were objections. Details of the submissions received are set out below:

5 Pearse Street

“My concerns relate to the following:

- *The height of the building on its Western Side and whether this height complies with Council’s policy;*
- *I am also concerned as to whether there will be overlooking to our property (which is located next door on the western side), from the proposed building.*

9 Pearse Street

Our main concerns relate to the following:

- *Solid wall on the upper floor balcony on the eastern side – would like solid wall to be removed; and*
- *Long upper floor windows on the eastern side – would like windows to be reduced in size.*

BACKGROUND

Council previously approved an application on the subject property for two two-storey residences at its meeting of 24th November 2003. The previous approval is still current.

STAFF COMMENT

The subject property is zoned Residential R30. The proposal is for three multiple dwellings. Multiple Dwellings is an “AA” – discretionary use in the Residential zone under the Town of Cottesloe Town Planning Scheme No 2 (TPS 2).

There are no standards specified in the Residential Design Codes (RDC) for Multiple Dwellings in R30 density.

Number of Storeys

Clause 5.1.1 (a) states:

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

The ceiling level of the proposed undercroft is 12.5AHD, which is not below the NLG at the centre of the site (11.5AHD) as determined by the Planning Department. It was

determined that the level of the centre of the footpath is 11.5AHD. The proposed ceiling level of the undercroft is not higher than 1.0m above the footpath level.

The following uses are proposed in the undercroft level: parking of vehicles, bin room, lift, stairwell, shower room and sauna. The proposed uses of the undercroft are in accordance with the uses listed in the Clause 5.1.1 (a) quoted above.

The proposed undercroft would not be considered a storey as the undercroft ceiling level is not higher than one metre above the centre of the footpath level and the proposed uses in the undercroft comply with the Clause 5.1.1 (a).

Therefore the proposed development is two storeys, which is in accordance with the TPS 2 requirements for number of storeys in the residential zone.

Building Heights

Clause 5.1.1 (c) states the following:

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

<i>Single Storey</i>	<i>Roof Height:</i>	<i>6.0 metres</i>
<i>Two Storey</i>	<i>Wall Height:</i>	<i>6.0 metres</i>
	<i>Roof Height:</i>	<i>8.5 metres</i>
<i>Subsequent Storeys</i>	<i>Wall Height:</i>	<i>6.0 metres plus; 3.0 metres per storey</i>
	<i>Roof Height:</i>	<i>8.5 metres plus; 3.0 metres per storey"</i>

The wall height of the proposed three storey development is 18.3 AHD. The NGL at the centre of the site was determined by the Planning Department being 11.5 AHD. The required wall height limit under the TPS 2 clause quoted above is 11.5 AHD + 6.0 m = 17.5 AHD. The proposed building is over the wall height by 0.8m.

The proposed roof ridge height is 20.5AHD. The required roof ridge height under the above TPS 2 formula is 11.5AHD + 8.5m = 20AHD. The roof of the proposed development is over height by 0.5m

Clause 5.1.1 (c) states that the above formula will be used "except in particular cases where the natural ground forms indicate that a variation is warranted provided that the amenity of the adjoining properties is not unreasonably diminished"

The author of the report does not believe that the topography of the site warrants a departure from the TPS 2 formula for calculation of the building height. It is recommended that the applicant be required to lower the wall height of the proposed building to 17.5AHD and the roof height to 20.0 AHD.

Planning Policy 005 – Building Heights

The subject lot slopes considerably from east to west. The proposal does not comply with the Council's Planning Policy 005 – Building Heights, as the wall and roof ridge heights of the building would exceed 6.0m and 8.5m if measured from level of the western boundary.

In the previous section of the report it was recommended to require the applicant to lower the building wall and roof ridge height to comply with the statutory height restriction under the TPS 2 Clause 5.1.1 (c).

If the building wall height is dropped to 17.5AHD and the roof ridge height lowered to 20.0 AHD the non-compliance with the Building Height Policy requirement would not be severe. The wall height measured from the natural ground level on the western boundary would be still overheight by approximately 0.5m.

Boundary Setbacks

The assessment of the proposal was carried out and it was determined that the following boundary setback don't comply with the acceptable development standards of the RDC.

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
West Basement	Whole	1.5	27.5	No	1.5	Nil – 1.5
West Lower	Whole	4.8	31.5	Yes (terrace)	5.7	1.5
West Upper	Whole	7.4	33.0	Yes front balcony	7.3	1.5 – 2.8
East Upper	Balcony, dining, kitchen	6.0	13.5	No	1.8	1.5 – 3.0

The proposed setbacks will be assessed under the performance criteria of the Design Element 3 – “Boundary Setbacks”, 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 proposed multiple dwelling development does not cause overshadowing of the adjoining properties on the winter solstice as it is north-south orientated.

The neighbour to the west (5 Pearse Street) expressed concerns regarding any potential overlooking into the sensitive areas of their property. The applicant supplied cone of vision diagrams showing potential overlooking into the adjoining properties to the west and east.

The upper level windows to the Bedroom 3 and Bedroom 2 on the western side and Guest Room and Study on the eastern side overlook the side boundary setback areas of the adjoining properties. The adjoining residences do not have major openings within the areas subject to overlooking.

Therefore overlooking from the abovementioned windows is not considered as causing privacy issues.

The applicant is proposing to construct pergolas on the eastern and western boundaries, which would act as horizontal screening for the upper level windows.

Council's Building Surveyor advised that the proposed pergolas with Nil setbacks to the side boundaries would not be permitted under the BCA requirements. The proposed building would be classed a Class 2 under the Building Code of Australia, which would mean more stringent requirement in terms of fire protection.

If the proposed pergolas are not allowed under the BCA requirements, the applicant would be required to provide an alternative form of screening for the upper level windows, bedroom 2 and study windows in particular, as they would be considered major openings under the RDC.

There will be some overlooking from the ground level terrace, upper level balcony and Bedroom 1 into the areas of 5 Pearse Street behind the 6.0m setback line. The applicant's plan entitled site floor plan shows that the front balcony and the front garden of 5 Pearse would be affected. These areas subject to overlooking are also visible from the street.

RDC Clause 3.8.1 P1 states that there would be *a lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street.*

There is also some minor overlooking into the area behind the 6.0m front setback line of 9 Pearse Street. The existing residence on the adjoining property to the east has a front setback of approximately 8.5m. It is not considered that the overlooking from the Dining Room window on the upper level would cause a privacy issue.

In addition, the owners of No. 9 Pearse Street has expressed concerns over the size of the proposed upper storey windows on the eastern side. The size of the windows are considered to be acceptable given they are minor openings. All of these windows are to non-habitable rooms such as ensuites, powder rooms and laundries, hence it is not expected to cause privacy concerns.

The proposed screen wall to the courtyard on the western boundary is 3.2m in height if measured from the natural ground level at the boundary. The high solid screen wall and the pergola structure on the boundary might contribute to the negative effect of building bulk onto the adjoining property to the west.

A preferred option would be to reduce the wall height of the building by 0.8m. This reduction will allow the application to comply with the statutory height requirements and enable the ground level windows and the courtyard levels to be lowered which will result in the height of the screen wall to be considerably reduced.

Therefore, it is recommended that the variation to the side boundary setbacks be supported by Council subject to the following:

- the applicant lower the building height by 0.8m to a total height of 16.7m, this reduction would subsequently reduce the FFL of the ground floor and the height of the screen wall; and
- the proposed pergolas on the eastern and western upper floors to be modified to comply with the requirements of the Building Codes of Australia (BCA) and also adequately address the privacy provisions of the R-Codes.

Open Space

The applicant specified that 48% open space was provided. The required open space in R30 density for single houses and grouped dwellings is 45%. There are no standards in the RDC for Multiple Dwellings in R30. The standards for R35 density have the same requirement for open space for single houses and grouped dwellings as R30 (45%) but have a higher requirement of 50% open space for Multiple Dwellings.

It is considered that it would be reasonable to assess the provision of open space for Multiple Dwellings in R30 in accordance with the RDC requirement for R35.

The Performance Criteria under the Design Element 4 – Open Space Requirements states:

“Sufficient space around the building:

- *To complement the building;*
- *To allow attractive streetscapes;*
- *To suit the future needs of residents, having regard to the type and density of the dwelling.”*

The proposal incorporates a large landscaped area in the front setback, which would complement the building and allow for attractive streetscape. The units on the lower level are provided with the large covered terraces at the front, the courtyards at the rear and on the western and eastern side.

The upper level unit is provided with the large front and rear balcony, which could be used as outdoor living areas.

It is considered that the open space and outdoor living areas provided would be sufficient to satisfy the needs of the future residents complement the building and allow for attractive streetscape and therefore would comply with the above performance criteria.

Communal Open Space

The RDC require a minimum of 20m² communal open space for Multiple Dwellings in R35%.

The proposed development does not provide for any communal open space. The following definition of communal open space is provided in the RDC:

“Open Space set aside for the recreational use of the occupants of the dwellings in a common development and does not include driveways or car parking areas”

There is an area entitled entrance portico on the basement floor plan approximately 30m² in size, which is designated to be used as a common area by the residents of the three multiple dwellings. However, this area does not appear to be set up for the recreational use of the residents.

The proposed multiple dwellings are large in size, each one is provided with sufficient outdoor living areas. It is considered that the open space and outdoor living areas provided for each unit would meet the future needs of the residents.

Views

Clause 5.1.2 (a) of the Town Planning Scheme stipulates the following:

“(a) the need for limitation of height or location of buildings to preserve or enhance views.”

In this instance, it is considered the erection of the solid wall on the upper floor balcony on the eastern side of the subject site will limit the views currently enjoyed by No. 9 Pearse Street. Therefore, the concerns raised by the owners of No. 9 Pearse Street are considered valid. Hence, a condition is recommended to be imposed on the planning approval requiring this solid wall to be deleted.

CONCLUSION

It is recommended that the proposed development of three multiple dwellings be approved by Council subject to the applicant lowering the building wall and roof ridge height to comply with the statutory height requirements under the TPS 2.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee felt that it was appropriate to increase the recommended Natural Ground Level. Further, that conditions should be imposed to protect the views of a neighbour.

OFFICER RECOMMENDATION

That Council:

- (1) Determine the Natural Ground Level at the centre of the site as being 11.5 AHD for the purpose of the calculation of the wall and roof ridge height of the proposed building under the Clause 5.1.1 (c) of the TPS 2.
- (2) GRANT its Approval to Commence Development for the three multiple dwellings at No 7 (Lot 26, Pt Lot 27) Pearse Street, Cottesloe in accordance with the plans submitted on the 26 May 2004 subject to the following conditions:

-
- (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (f) The wall and ridge height of the proposed development being modified to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text;
 - (g) The lots being amalgamated and a new Certificate of Title being issued for the proposed lots prior to the issue of a building licence;
 - (h) The proposed pergolas on the eastern and western upper floors to be modified to comply with both the requirements of the Building Code of Australia (BCA) and the privacy provisions of the Residential Design Codes of Western Australia; and
 - (i) Revised plans being submitted to the satisfaction of the Manager, Development Services showing the solid wall on the upper floor balcony on the eastern side being deleted.
- (3) Advise the submitters of this decision.

11.1.2 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) Determine the Natural Ground Level at the centre of the site as being 11.7 AHD for the purpose of the calculation of the wall and roof ridge height of the proposed building under the Clause 5.1.1 (c) of the TPS 2.**
- (2) GRANT its Approval to Commence Development for the three multiple dwellings at No 7 (Lot 26, Pt Lot 27) Pearse Street, Cottesloe in accordance with the plans submitted on the 26 May 2004 subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**

- (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.
 - (f) The wall and ridge height of the proposed development being modified to comply with the requirements of Clause 5.1.1 of the Town Planning Scheme Text;
 - (g) The lots being amalgamated and a new Certificate of Title being issued for the proposed lots prior to the issue of a building licence;
 - (h) The proposed pergolas on the eastern and western upper floors to be modified to comply with both the requirements of the Building Code of Australia (BCA) and the privacy provisions of the Residential Design Codes of Western Australia; and
 - (i) Revised plans being submitted to the satisfaction of the Manager, Development Services showing:
 - (i) the solid wall on the front upper floor balcony on the eastern side being amended to a 1.0m high glass balustrade; and
 - (ii) the built-in brick barbecue being relocated to the western side of the balcony.
- (3) Advise the submitters of this decision.

Carried 10/0

11.1.3 NO 215 (LOT 29) BROOME STREET - NEW TWO STOREY SINGLE HOUSE

File No:	215 Broome Street
Author:	Mr Daniel Heymans
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Correspondence from Owner Submissions (2) Email from Councillor's "call-in" of Application Plans
Report Date:	16 June, 2004
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Mr & Mrs Hossen
Applicant:	As Above
Date of Application:	27 April 2004
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	675m²
M.R.S. Reservation:	N/A

SUMMARY

The applicant is proposing to construct a new two storey single house. The application was originally being dealt under Delegated Authority, however the application was called in outside of the 7 days call in deadline.

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

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT**AREAS OF NON-COMPLIANCE**

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
N/A	N/A	N/A

Town Planning Scheme Policy/Policies

Policy	Required	Provided
N/A	N/A	N/A

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
3 – Boundary Setbacks	Boundary wall average height of 2.7m	Average height of 3.0m	Clause 3.3.2

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

There were 5 letters sent out. There were 2 submissions received, of which 2 were objections. Details of the submissions received are set out below:

217 Broome Street

The neighbours objected to the water feature and raised a concern as to whether or not the windows to the upper floor passageway are opaque.

213 Broome Street

The owner objected to the height of an existing boundary wall.

BACKGROUND

The site is located on the western side of Broome Street between Grant Street and Ozone Parade.

A boundary wall was built between No. 215 and No. 213 Broome Street some 18 years ago.

At that time the owner of 215 Broome Street applied to Council to construct the boundary wall with the agreement of the neighbour Mrs Ford at No. 213 Broome Street.

Mrs Ford recently complained about the wall when No. 215 Broome Street was being sold and stated that she hadn't given approval to the wall, however a search of our records showed that Mrs Ford had in fact signed the plan.

She was advised that Council could not take any action to remove the wall as it existed and had been approved by Council with the approval of both property owners. In addition it is a matter that is dealt with under the Dividing Fences Act.

STAFF COMMENTWater Feature

The water feature as shown on the plans was to be constructed at a future stage and as such was not part of this application.

Notwithstanding it is considered that a water feature will not cause any adverse impact on the neighbour as the noise emitting from such a feature would be well below the Environmental Protection (Noise) Regulations 1997.

Furthermore the applicant has stated in a written letter that the device would be on a timer and would not run during the night.

Passage Room Windows

The passage room windows on the northern side of the building are located 6.14m from the northern boundary and are classed as windows to a non-habitable space under the Residential Codes and therefore are not subject to any privacy provisions of the codes.

Notwithstanding clause 5.1.2 (f) of the scheme states that:

"The location and orientation of a building or buildings on a lot in order to achieve higher standards of daylighting, sunshine or privacy or to avoid visual monotony in the street scene as a whole."

The neighbour has raised a query with Council whether or not those windows are opaque. The windows are not proposed to be opaque. Assessment of this showed that due to a combination of the eaves of the adjoining building and the boundary fence, then overlooking would be greatly diminished because of the reduced angles.

The window to bedroom 3 at No. 217 Broome Street is offset to the passageway and a further 3.0m from the boundary, resulting in a total distance of 9.14m.

Furthermore, the space is a passageway and people generally only walk through these areas without spending extended periods of time in this space.

Even if the passage way was classed as a habitable room, it would still comply with acceptable standards of the codes.

Therefore it is considered that there will be no adverse impact on the adjoining neighbour from this non-habitable space.

It is recommended that no conditions be imposed.

Dividing Wall

As stated previously, this is an issue that happened some 18 years ago and Council should take no further on this matter.

CONCLUSION

That the proposed development be approved subject to the following conditions.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the new two storey single house at No 215 (Lot 29) Broome Street, Cottesloe in accordance with the plans submitted on 3 June 2004, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.

- (f) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
- (2) Advise the submitters of this decision.

AMENDMENT

Moved Cr Morgan, seconded Cr Walsh

That the following be added to recommendation (1):

- (g) Revised plans be submitted to the satisfaction of the Manager Development Services showing:
 - (i) the windows to the upper level passageway being of obscure glazing or modified to a highlight window 1650mm above finished floor level.

Carried 7/3
 - (ii) transfer of the alfresco area to the front or rear garden areas.

Lost on the casting vote of the Mayor 5/6

11.1.3 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **GRANT its Approval to Commence Development for the new two storey single house at No 215 (Lot 29) Broome Street, Cottesloe in accordance with the plans submitted on 3 June 2004, subject to the following conditions:**
 - (a) **All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.**
 - (b) **Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.**
 - (c) **The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.**
 - (d) **The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.**
 - (e) **Air conditioning plant and equipment is to be installed as far as practicable from the boundary of adjoining properties or in such a manner as to ensure that sound levels emitted from equipment shall not exceed those outlined in the Environmental Protection (Noise) Regulations 1997.**

- (f) Any front boundary fencing to the site being of an “Open Aspect” design and the subject of a separate application to Council.
 - (g) Revised plans be submitted to the satisfaction of the Manager Development Services showing the windows to the upper level passageway being of obscure glazing or modified to a highlight window 1650mm above finished floor level.
- (2) Advise the submitters of this decision.

Carried 10/0

11.1.4 NO 58 (LOT 122) JOHN STREET - TWO STOREY ALTERATIONS AND ADDITIONS TO EXISTING RESIDENCE

File No:	58 John Street
Author:	Ms Susie Chai
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Correspondence from owner Submissions (1) Plans
Report Date:	14 June, 2004
Senior Officer:	Mr Stephen Sullivan
Property Owner:	Ms L Shilton and Mr K O'Sullivan
Applicant:	Griffiths Muston Design
Date of Application:	29 March, 2004
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	620m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for the inclusion of a basement, upper floor addition and alterations to the existing residence on 58 John Street, Cottesloe.

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

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 | John Street Heritage Area - Essential |
| • Municipal Inventory | Category 3 |
| • National Trust | N/A |

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
Clause 5.1.1 – Building Height	Wall Height – 16.5RL	17.2RL

Town Planning Scheme Policy/Policies

Policy	Required	Provided
5.1.1(a)	Two Storeys	Three Storeys

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 3 – “Boundary Setbacks			
West Lower	1.5m	1.0m	Clause 3.3.1 – P1
West Upper	1.5m	1.0m	Clause 3.3.1 – P1
East Upper (1)	3.9m	3.0m	Clause 3.3.1 – P1
East Lower	2.0m	0.45m	Clause 3.3.1 – P1
East Upper (2)	1.2m	0.45m	Clause 3.3.1 – P1
No. 8 – “Privacy”	Visual privacy setback from eastern boundary to upper bed 3 window of 4.5m	3.0m	Clause 3.8.1
	Visual privacy setback from eastern boundary to upper bed 4 windows of 4.5m	1.4m	Clause 3.8.1
	Visual privacy setback from eastern boundary to balcony of 7.5m	3.4m	Clause 3.8.1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letter to Adjoining Property Owners

Submissions

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

56 John Street

- Setbacks to the western boundary should be as per the requirements of the R-Codes; and
- Reduced setback to the western boundary has the potential to overshadow the rear and eastern side of my dwelling.

BACKGROUND

At its meeting held on the 15 December 2003, Council considered an application for alterations and additions to the existing residence and an inclusion of a basement on the subject site. The proposal did not comply with Clause 5.1.1 – Building Height of the Town of Cottesloe Town Planning Scheme No. 2 and certain setback provisions of the Residential Design Codes of Western Australia. As such, the applicant sought a variation to both the Scheme and R-Codes requirements to enable the proposed form of development to proceed.

The Council resolved to take the following action:

- (1) *Grant its Approval to Commence Development for the alterations to the existing residence and basement and upper storey additions at No. 58 (Lot 122) John Street, Cottesloe in accordance with the plans submitted on the 24 November 2003 subject to conditions; and*
- (2) *Advise the submitters of Council's decision.*

Subsequently, the Council's Planning Department issued a Planning Approval for the alterations to the existing residence and basement and upper storey additions on the 17 December 2003.

In addition, the subject property is listed in the Town of Cottesloe Municipal Inventory as a Category 3 building, which has the following recommendation:

*"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."*

Further to this, the subject site is located in the draft Heritage Strategy Report (John Street Heritage Area) as essential.

STAFF COMMENT

On the 29 March 2004, a revised development application was received for the site. The revised application is still for two storey alterations and additions to the existing residence, however the applicant has made some alterations to the style and pitch of the roof hence, the external appearance of the dwelling has significantly altered. In addition, a stairway has been deleted, the previously approved rear stairs have been relocated from the western side of the site to the eastern side and the internal upstairs layout has been altered. Consistent with the previous application for the site, the proposed dwelling does not comply with setback provisions of the R-Codes and height provisions of the Scheme. Furthermore, in the revised application, the applicant has included a balcony to be located at the rear of the dwelling, this balcony does not comply with the privacy provisions of the R-Codes.

Therefore, the proponent is once again applying to Council to seek a variation to the R-Codes and the Town Planning Scheme to enable the proposed form of development to be approved.

Wall Height

Given Council has previously approved a variation to the height requirement for this development and the applicant has confirmed in their submission the height of this development will remain the same as previously approved, the issue of the height is considered to be adequately addressed and can be supported. However, to reacquaint the Council with the issue of the wall height, an abstract of the previous report that was presented to the Ordinary Council Meeting held on the 15 December 2003 is provided as follows:

“Clause 5.1.1 (c) – Measurement of Building Heights states the following:

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

<i>Single Storey</i>	<i>Roof Height:</i>	<i>6.0 metres</i>
<i>Two Storey</i>	<i>Wall Height:</i>	<i>6.0 metres</i>
<i>Roof Height:</i>	<i>8.5 metres</i>	
<i>Subsequent Storeys</i>	<i>Wall Height:</i>	<i>6.0 metres plus 3.0 metres per storey</i>
<i>Roof Height:</i>	<i>8.5 metres plus 3.0 metres per storey</i>	

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

The Natural Ground Level (NGL) at the centre of the site was determined by the administration to be 10.50 RL. The required wall height under the TPS 2 Clause 5.1.1 (c) is 16.50 RL or lesser. The applicant is proposing to have a wall height of 17.20 RL, which is exceeding the statutory height limit by 700mm.

Clause 5.1.1 quoted above states that variations may be permitted in the case of extensions to existing buildings. The existing residence on 58 John Street is listed as Category 3 in the Municipal Inventory and is described as being significant as an individual building. It is also located within the draft John Street heritage precinct. Council did not receive any objections from the adjoining property owners regarding the wall height of the proposed extensions. The shadow cast from the existing building on the 21st June (in accordance with the RDC) is mainly onto the subject site itself and the street due to the North-South orientation of the property.

The applicant is proposing extensions to the existing residence in keeping with the style and character of the existing building. It is recommended that Council use the discretion under Clause 5.1.1 of the TPS 2 to allow the proposed variations to the wall height of the proposed second storey extension."

Boundary Setbacks

The assessment of the application indicated that the following concessions are sought for boundary setbacks:

Wall ID	Wall Name	Wall Height	Wall Length	Major Openings	Required Setback	Actual Setback
West Lower	Whole	3.5m	22.8m	No – new extension	1.5m	1.0m
East Lower	Whole	4.5m	22.8m	No – extension	2.0m	0.45m
West Upper	Whole	6.5m	11.0m	No	1.5m	1.0m
East Upper	Balcony	7.5m	11.0m	Yes	3.9m	3.0m
East Upper	Bedroom 4, Bedroom 3	7.0m	8.0m	No	1.2m	0.45m

The above boundary setbacks do not comply with the setbacks specified under Table 1 of the R-Codes and need to be considered under the performance criteria of the Design Element 3, which states the following:

Clause 3.3.1 – “Boundary Setback Requirements”

“Buildings setback 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 proposed reduced side boundary setbacks on the ground floor are in line with the setbacks of the existing single storey residence. It is considered that the proposed second storey extension will not contribute to overshadowing of the adjoining properties due to the North-South orientation of the subject site. A condition is recommended to be imposed on the approval requiring the eastern and western setbacks to the upper floors to comply with the requirements of the R-Codes. The increased setback will assist in reducing the impact of the development on the adjoining residences in terms of its bulkiness whilst also providing adequate sunlight and ventilation to the adjoining occupiers. The lower level setbacks to these two boundaries are considered acceptable as they are in line with the setbacks of the existing residence and also comply with the performance criteria of Clause 3.3.1 of the R-Codes.

Privacy

Under the R-Codes, visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. Where the acceptable setback standards are not met, compliance with the performance standards as set out in Clause 3.8.1 must be demonstrated. This Clause states that new developments must:

“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 cone of vision applied to bedroom no's 3 and 4 indicate that there is potential to overlook the adjoining property at No. 60 John Street. The areas of potential overlooking are to the top of an existing pergola and roof hence the reduced setbacks are considered to be acceptable. In addition, the reduced setback of the balcony has the potential to overlook the same area, hence a variation can be granted to the required 7.5 metres setback to the common boundary.

The windows to bedroom no. 4 are not expected to overlook sensitive areas hence no conditions are recommended to be imposed. The kitchen window on the lower level does not meet the Building Codes of Australia and are required to be fire rated glass blocks.

The cone of vision applied to bedroom no. 5 indicates that there is the potential to overlook the adjoining property at No. 56 John Street. This overlooking is of little concern as the area is sufficiently screened by existing mature vegetation.

Compliance with the Statutory Storey Controls

Clause 5.1.1 (a) of the Scheme stipulates the following:

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

In this instance, it is considered the proposed basement is not in accordance with the aforementioned clause as the applicant has not provided sufficient information relating to the purpose of the basement. Although a letter was received by Council from the applicant stating the basement will be used for storage of filters, machinery and a shower for a future pool they did not provide plans to demonstrate this use. As such, it is difficult to determine and subsequently control the use of the basement if approval is granted. Therefore, in accordance with Clause 5.1.1 (a) of the Scheme the proposed building comprises three storeys. Under the Scheme this is not

permitted hence a condition is recommended to be imposed on the approval requiring the proposed basement to be deleted.

It is also important to note, there was a recent decision by the Town Planning Appeal Tribunal for No 6 Clarendon Street, Cottesloe which stated that:

"In my view, there is no general discretion under the Scheme to exclude areas, other than those dealt with in clause 5.1.1(a) from the calculation of the number of storeys. The fact that Council may have done so in relation to other developments in the past does not assist in the proper construction of the Scheme. It seems to me that the direction to Council not to regard as a storey certain specified spaces cannot properly be construed as providing some broad discretion to consider other spaces as not comprising storeys."

CONCLUSION

It is recommended that the application for additions/alterations to the existing residence on the subject site be conditionally approved. The proposed additions/alterations are in keeping with the style and character of the existing residence, which is a Category 3 building on the Municipal Inventory. With the implementation of the recommended conditions the proposal is not expected to have an adverse impact on the surrounding environment or the existing streetscape.

VOTING

Simple Majority

COMMITTEE COMMENT

Councillor Jeanes was of the opinion that owners should be encouraged to retain buildings on the Municipal Inventory and reasonable conditions and incentives should apply.

Chief Executive Officer addressed the committee on the issue surrounding basements and the outcomes of the Zito Appeal.

Committee resolved to approve the application subject to deletion of condition (h)(vi), which required the deletion of the basement.

OFFICER RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Alterations and Additions to Existing Residence at No 58 (Lot 122) John Street, Cottesloe in accordance with the plans submitted on 29 March, 2004, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.

- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (f) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (g) The applicant making an agreed contribution to the upgrade of the footpath adjacent to the development.
 - (h) Revised plans being submitted for approval by the Manger Development Services, showing:
 - (i) The kitchen window on the lower eastern wall and bedroom no. 4's window on the upper eastern wall to be provided with obscure glazing, these windows are to be fire rated;
 - (ii) The upper eastern wall is to be setback 1.2 metres from the common boundary;
 - (iii) The upper western wall is to be setback 1.5 metres from the common boundary;
 - (iv) The wall height is to be a maximum of 17.2 AHD;
 - (v) The roof height is to be a maximum of 18.7 AHD; and
 - (vi) The basement is to be deleted.
- (2) Advise the submitters of Council's decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) GRANT its Approval to Commence Development for the Two Storey Alterations and Additions to Existing Residence at No 58 (Lot 122) John Street, Cottesloe in accordance with the plans submitted on 29 March, 2004, subject to the following conditions:
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.

-
- (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (f) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (g) The applicant making an agreed contribution to the upgrade of the footpath adjacent to the development.
 - (h) Revised plans being submitted for approval by the Manger Development Services, showing:
 - (i) The kitchen window on the lower eastern wall and bedroom no. 4's window on the upper eastern wall to be provided with obscure glazing, these windows to comply with the building codes of Australia;
 - (ii) The upper eastern wall is to be setback 1.2 metres from the common boundary;
 - (iii) The wall height is to be a maximum of 17.2 AHD;
 - (v) The roof height is to be a maximum of 18.7 AHD; and
 - (v) basement to comply with clause 5.1a of tps.
- (2) Advise the submitters of Council's decision.

AMENDMENT

Moved Cr Morgan, seconded Cr Walsh

That recommendation (h)(vi) be amended to read:

- (vi) The basement being used for purposes which comply with clause 5.1.1(a) of the Town Planning Scheme.

Carried 9/1

AMENDMENT

Moved Cr Jeanes, seconded Cr Morgan

That recommendation (h)(ii) be deleted.

Lost 1/8

AMENDMENT

Moved Cr Miller, seconded Cr Robertson

That recommendation (h)(ii) be amended to read:

- (ii) The upper eastern wall is to be setback 900mm from the common boundary.

Carried 8/2

11.1.4 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **GRANT its Approval to Commence Development for the Two Storey Alterations and Additions to Existing Residence at No 58 (Lot 122) John Street, Cottesloe in accordance with the plans submitted on 29 March, 2004, subject to the following conditions:**
 - (a) All construction work being carried out in accordance with the Environmental Protection (Noise) Regulations 1997, Regulation 13 - Construction Sites.
 - (b) Stormwater runoff from the driveway or any other paved portion of the site not being discharged onto the street reserve, rights of way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture, or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining, or nearby neighbours, following completion of the development.
 - (e) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (f) The applicant complying with the Town of Cottesloe – Policies and Procedures for the Street Trees, February 2000, where development requires the removal, replacement, protection or pruning of street trees for development.
 - (g) The applicant making an agreed contribution to the upgrade of the footpath adjacent to the development.
 - (h) Revised plans being submitted for approval by the Manger Development Services, showing:
 - (i) The kitchen window on the lower eastern wall and bedroom no. 4's window on the upper eastern wall to be provided with obscure glazing and these windows are to comply with the Building Codes of Australia;
 - (ii) The upper eastern wall is to be setback 900mm from the common boundary;
 - (iii) The wall height is to be a maximum of 17.2 AHD;

- (iv) The roof height is to be a maximum of 18.7 AHD; and
 - (v) The basement being used for purposes which comply with clause 5.1.1(a) of the Town Planning Scheme.
- (2) Advise the submitters of Council's decision.

Carried 10/0

11.1.5 NO 46 (LOT 26) LYONS STREET – UNAUTHORISED WINDOW TO UPPER FLOOR BEDROOM NO. 3 ON THE SOUTHERN SIDE

File No: 46 Lyons Street
Author: Mr Daniel Heymans
Author Disclosure of Interest: Nil
Attachments: Location Plan
Plans
Correspondence from adjoining owner
Report Date: 16 June, 2004
Senior Officer: Mr Stephen Sullivan
Property Owner: Mr Howard & Mrs Maliano
Applicant: Karlene Marzec
Date of Application: 27 May 2004
Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
M.R.S. Reservation: N/A

SUMMARY

Council has received an application for a new window to the upper floor bed no. 3 for the above property. This application is a result of a complaint from the adjoining neighbour, who brought to the attention of Council that a window was being built which was not on the approved planning plans.

As the window is considered to be an unauthorised structure the recommendation is to request the applicant to modify the existing window.

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

N/A.

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2

Clause	Required	Provided
N/A	N/A	N/A

Town Planning Scheme Policy/Policies

Policy	Required	Provided
N/A	N/A	N/A

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
8 - Visual Privacy	4.5m setback	2.5m	Clause 3.8.1 P1

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

- Building

External

N/A.

ADVERTISING OF PROPOSAL

- The adjoining property owner at No. 44 Lyons Street was notified of the new application and visited Council offices to view the plans. Thereafter a submission was received from the adjoining neighbour at No. 44 Lyons Street.

Submissions

Details of the submission received is set out below:

44 Lyons Street

The neighbour has objected to the window for the following reasons:

- That it will overlook their outdoor living area;
- That it didn't have planning approval;
- That they were not advised of the new window;
- Want the window to be removed;
- Do not want obscure glazing as it is unsightly and not permanent;
- Would like the window on the eastern side of the building;

- Would accept a highlight window on the southern side if it were 2.0m above floor level.

BACKGROUND

Planning approval was granted for a new 2-storey house on the 23 June 2003 and subsequently a building licence was issued on the 9 December 2003.

The planning approval did not show any windows to bed 3 on the southern side. The building licence did show a new opaque window on the southern side.

All building licences are checked to see if they comply with the Planning Approval.

However in this instance the new opaque window to bed 3, as shown on the building licence, was not picked up by staff and therefore was on the building licence when it was issued.

Notwithstanding Planning Approval is still required for any changes to the original planning approval even if it was approved on the building licence.

During construction of this building the neighbour alerted Council to the new window and a Planning Officer inspected the site and found that a new window had been put in without planning approval. This was a breach of Council's Town Planning Scheme No. 2 under clause 7.1.1.

The window had just been put in and the Architect and the Builder were notified on the same day that it was not approved and would require planning approval which would require advertising to the adjoining neighbour to the south. They were also advised that there are 3 options for windows that do not meet the acceptable development standards of the codes, if construction of the window stopped, those being:

- Delete the window; or
- Make the window opaque; or
- Position the window 1650mm above floor level.

An application was received for the fixed opaque window which was assessed by planning. The matter was discussed with the Manager Development Services and he believed that the existing window could be retained as long as it was fixed opaque glass. The application was then placed on Councils Delegated Authority Notification List.

However building works continued and that part of the building now has the roof structure up, whereas when it was first inspected by Council the window frame had just been put in and there were 2 courses of brickwork above with no roof structure.

The neighbour objected to this again and contacted Councillors and the application has now been called in by two Councillors.

STAFF COMMENT

As the window is already in place and the construction work has continued to take place the window is now classified as an unauthorised structure.

Options Available to Council

Council does not have retrospective powers to grant its Planning Consent or a Building License for structures that have been built. Therefore, the options open to Council are as follows:

Town Planning Scheme

A breach of the Town Planning Scheme has occurred. The options open to Council under the Town Planning Scheme are as follows:

- (i) Take no further action and Council exercises its right not to prosecute;
- (ii) Issue a notice under section 10(4) of the Town Planning and Development Act requiring the owner to modify the plans and comply with the approved plans. An appeal is available to the owner against the issue of the Notice to the Town Planning Appeal Tribunal. If the owner fails to comply with the notice, Council could modify the building and recover costs; or

In relation to point (i), a complaint to the Minister for Planning under Section (18)(2) of the Town Planning and Development Act could result in a direction from the Minister requiring Council to enforce its Town Planning Scheme and requiring that the unauthorised work be removed.

In relation to point (ii) Council could request the existing window be modified to a highlight window so that it meets the acceptable development standards of the codes and allay the concerns of the neighbours, and then take no further action.

The existing window would meet the acceptable development standards of the Residential Design Codes of Western Australia, however as it is already in place Council cannot grant retrospective approval unless the window was removed first.

Therefore it is considered that Council should request the applicant to modify the window to a highlight window 1650mm above finished floor level.

CONCLUSION

That Council request that the unauthorised window be modified.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee were of the opinion that the window should be removed and the opening bricked up.

OFFICER RECOMMENDATION

That Council:

- (1) Advise the owner of No. 46 Lyons Street that:
 - (a) They have commenced development without planning approval;
 - (b) They are required to modify the unauthorised window into a highlight window with a sill height of 1650mm within three weeks of written notification; and
 - (c) Should they not comply with this direction in part (1)(b), the Manager Development Services is authorised to institute legal action against them by issuing a notice under the Town Planning Scheme.
- (2) Advise the submitters of Councils decision.

COMMITTEE RECOMMENDATION

That Council:

- (1) Advise the owner of No. 46 Lyons Street that:
 - (a) They have commenced development without planning approval;
 - (b) They are required to modify the unauthorised window by bricking it up; and
 - (c) Should they not comply with this direction in part (1)(b), the Manager Development Services is authorised to institute legal action against them by issuing a notice under the Town Planning Scheme.
- (2) Advise the submitters of Councils decision.

AMENDMENT

Moved Cr Morgan, seconded Cr Cunningham

That the Officer Recommendation be adopted.

Carried 7/3

11.1.5 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) Advise the owner of No. 46 Lyons Street that:
 - (a) They have commenced development without planning approval;**
 - (b) They are required to modify the unauthorised window into a highlight window with a sill height of 1650mm within three weeks of written notification; and**
 - (c) Should they not comply with this direction in part (1)(b), the Manager Development Services is authorised to institute legal action against them by issuing a notice under the Town Planning Scheme.**

(2) Advise the submitters of Councils decision.

Carried 8/2

11.1.6 NO 36 (LOT 20) OZONE PARADE - ALTERATIONS AND ADDITIONS TO AN EXISTING SINGLE HOUSE

File No:	No 36 (Lot 20) Ozone Parade
Author:	Ms Susie Chai
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Correspondence from Applicant Submission (2) Plans
Report Date:	15 June, 2004
Senior Officer:	Mr Stephen Sullivan
Property Owner:	G & D Holmes
Applicant:	McIntosh Marzec Architects
Date of Application:	5 May 2004
Zoning:	Residential
Use:	P - A use that is permitted under this Scheme
Density:	R20
Lot Area:	741m²
M.R.S. Reservation:	N/A

SUMMARY

Council is in receipt of an application for a two-storey additions/alterations to the existing residence.

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

STATUTORY ENVIRONMENT

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

POLICY IMPLICATIONS

- Building Heights Policy No 005

HERITAGE LISTING

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

APPLICATION ASSESSMENT

AREAS OF NON-COMPLIANCE

Town of Cottesloe Town Planning Scheme No 2 - Text

Clause	Required	Provided
Clause 5.1.1 – Building Height	Wall Height – 23.0RL	23.59RL

Town Planning Scheme Policy/Policies

Policy	Required	Provided
N/A	N/A	N/A

Residential Design Codes

Design Element	Acceptable Standards	Provided	Performance Criteria Clause
No. 3 – “Boundary Setbacks”			
North Lower	1.5m	0.93m	Clause 3.3.1 – P1
North Upper	4.4m	1.5m	Clause 3.3.1 – P1
South Upper	3.5m	2.09m	Clause 3.3.1 – P1
No. 8 – “Privacy”	Visual privacy setback from northern boundary to lower living room window of 6.0m	5.0m	Clause 3.8.1
	Visual privacy setback from northern boundary to upper sitting room window of 6.0m	5.0m	Clause 3.8.1
	Visual privacy setback from northern lower boundary to balcony of 7.5m	1.5m	Clause 3.8.1
	Visual privacy setback from northern upper boundary to balcony of 7.5m	1.5m	Clause 3.8.1
	Visual privacy setback from southern boundary to balcony of 7.5m	2.0m	Clause 3.8.1
No. 9 – “Design for Climate”	Percentage of adjoining lot that can be overshadowed 25%	27.2%	Clause 3.9.1

STRATEGIC IMPLICATIONS

N/A

FINANCIAL IMPLICATIONS

Nil

CONSULTATION

REFERRAL

Internal

- Building
- Engineering

External

N/A.

ADVERTISING OF PROPOSAL

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

The advertising consisted of:

- Letters to Adjoining Property Owners

Submissions

There were 2 letters sent out. There were 2 submissions received, of which none were objections.

BACKGROUND

The subject site is located on the eastern side of Ozone Parade. The site currently slopes down from the eastern side to the western side by approximately 3.6 metres. Currently the occupants of the subject site gain vehicular access from Ozone Parade as there is a three car garage located beneath the existing residence. The applicant is now seeking Council's approval to construct a garage at the rear of the existing residence with vehicular access from the existing Right-of-Way. This is the preferred option as Clause 3.5.4 A4.1 of the R-Codes stipulates that access for on-site parking should be provided solely from a Right-of-Way if available for the use of the subject site. Further to this, the applicant is also seeking permission from Council to construct a two storey addition to the front of the existing residence.

During the advertising period for the proposed development Council received letters from the adjoining property owners (34 & 38 Ozone Parade) in support of the proposal.

STAFF COMMENT**Boundary Setbacks**

The assessment of the application indicated that the following concessions are sought for boundary setbacks:

Wall ID	Wall	Wall	Wall	Major	Required	Actual
---------	------	------	------	-------	----------	--------

	Name	Height	Length	Openings	Setback	Setback
North Lower	Whole	3.5m	26.0m	Yes	1.5m	0.93m
North Upper	Master Bedroom, Balcony, Sitting Room	7.7m	11.5m	Yes	4.4m	1.5m
South Upper	Stairs and Balcony	7.5m	6.7m	Yes	3.5m	2.09m

The above boundary setbacks do not comply with the setbacks specified under Table 1 of the R-Codes and need to be considered under the performance criteria of the Design Element 3, which states the following:

Clause 3.3.1 – “Boundary Setback Requirements”

Buildings setback 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.*

It is considered that the proposed 0.93m setback to the lower northern boundary is acceptable as it is in line with the setback of the existing single storey residence. Currently, there are no major openings to habitable rooms abutting this boundary hence the proposed second storey extension with a reduced setback of 1.5 metres is also considered acceptable. However, the owners of No. 38 Ozone Parade (the property to the north of the subject site) have recently submitted an application to Council to construct a two-storey residence. The submitted plans for the future residence have shown windows to habitable rooms abutting this boundary, however it is still considered the reduced setback will not adversely affect the future adjoining residence as adequate ventilation and sunlight will be provided. It is also important to note the owners of No. 38 Ozone Parade have provided comments in support of this proposal.

The reduced setback of the southern upper wall is considered to be acceptable as it is in line with the setback of the existing residence and also complies with the performance criteria of Clause 3.3.1 of the R-Codes.

Privacy

Under the R-Codes, visual privacy setbacks are required to habitable areas with the potential for overlooking into adjoining properties. Where the acceptable setback standards are not met, compliance with the performance standards as set out in Clause 3.8.1 must be demonstrated. This clause states that new developments must:

“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 cone of vision applied to the living and sitting room windows indicate there is a potential to overlook the adjoining property at No. 38 Ozone Parade. Currently, the area of potential overlooking is to the extensive front garden, which is not considered to be a sensitive area according to the R-Codes, hence the reduced setback can be supported. However, as mentioned previously within this report, the owners of No. 38 Ozone Parade have submitted plans to construct a two-storey residence. The areas of potential overlooking for the future residence are windows to habitable rooms. The R-Codes specifies that new developments should be designed to avoid direct overlooking between active habitable spaces. However, the owners of No. 38 Ozone Parade have sighted the proposed plans and identified there is a potential of overlooking and offered their support for the proposal. Given this support, the reduced setback is considered acceptable and a variation can be granted. The upper and lower balconies to the northern boundary also have the same outlook and hence given the aforementioned points, a variation can also be granted.

The cone of vision applied to the upper balcony to the southern boundary indicates that there is the potential to overlook the adjoining property at No. 34 Ozone Parade. The area of potential overlooking is to an extensive front garden and an upstairs master bedroom window. Similar to No. 38 Ozone Parade, a setback variation would ordinarily not be granted as the potential area of overlooking is considered to be a sensitive area, however the owners of No. 34 Ozone Parade have also provided confirmation they have sighted the proposed plans and are aware of the potential of overlooking but offered their support for the proposal. In this instance, it is recommended Council approve the proposed reduced setback.

Solar Access

The R-Codes state that it is acceptable to overshadow an adjoining lot by no more than 25% on land coded R25 and lower. The overshadowing is calculated without regard for any building on the adjoining land but taking into account its natural ground levels. The proposed development overshadows the adjoining lot by approximately 27.2%.

The R-Codes also stipulates that in the event that a proposed development does not meet the acceptable standard, the applicant is required to demonstrate that the development meets the performance criteria set out in Clause 3.9.1 of the Codes which states:

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

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

The applicant has stated the shadow cast by the upper level addition falls mainly over the front portion of the northern façade of the adjoining residence, hence no major outdoor living areas, major openings to habitable rooms or balconies have been overshadowed. It appears in this case the performance criteria have been met. Further to this, the owners of the adjoining residences have stated they acknowledge there is a potential of overshadowing over their residences but offers no objection.

Wall Height

Clause 5.1.1 (c) – Measurement of Building Heights states the following:

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

Single Storey	Roof Height:	6.0 metres
Two Storey	Wall Height:	6.0 metres
	Roof Height:	8.5 metres
Subsequent Storeys	Wall Height:	6.0 metres plus 3.0 metres per storey
	Roof Height:	8.5 metres plus 3.0 metres per storey

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

The Natural Ground Level (NGL) at the centre of the site was determined to be RL17.0. Clause 5.1.1 (c) of the Scheme requires wall heights to be RL23.0 or less. In this instance, the applicant is proposing to have a wall height of RL23.59, which exceeds the statutory height requirement by 590mm.

Notwithstanding this, the aforementioned clause stipulates that Council may grant variations in the case of extensions to existing buildings. Furthermore, Council did not receive any objections from the adjoining property owners regarding the wall height of the proposed extensions and the proposal is considered to be in keeping with the style and character of the existing dwelling. Therefore, it is recommended that Council use the discretion under Clause 5.1.1 of the Scheme to allow the proposed variation to the wall height be supported.

CONCLUSION

It is recommended that the application for additions/alterations to the existing residence on the subject site be conditionally approved. The proposed additions/alterations are considered to be in keeping with the style and character of the existing residence. With the implementation of the recommended conditions the proposal is not expected to have an adverse impact on the surrounding environment or the existing streetscape.

VOTING

Simple Majority

11.1.6 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

- (1) That Council GRANT its Approval to Commence Development for the proposed Alterations and Additions to Residence at No 36 (Lot 20) Ozone Parade, Cottesloe in accordance with the plans submitted on 5 May 2004 and 16 June 2004, 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, right-of-way or adjoining properties and the gutters and downpipes used for the disposal of the stormwater runoff from roofed areas being included within the working drawings.
 - (c) The external profile of the development as shown on the approved plans, not being changed whether by the addition of any service plant, fitting, fixture or otherwise, except with the written consent of Council.
 - (d) The roof surface being treated to reduce glare if Council considers that the glare adversely affects the amenity of adjoining or nearby neighbours following completion of the development.
 - (e) The right of way located at the rear, adjacent to the property, being paved and drained to the satisfaction of the Manager of Engineering Services, with details of the proposed works being submitted in accordance with Council guidelines and approved prior to the commencement of works.
 - (f) The existing redundant crossover in Ozone Parade be removed, the verge, kerb and all surfaces made good at the applicant's expense.
 - (g) Any front boundary fencing to the site being of an "Open Aspect" design and the subject of a separate application to Council.
 - (h) The basement not being used for habitable purposes.
- (2) Advise the submitters of Council's decision.

Carried 9/1

11.1.7 NO 14 (LOT 50) EDWARD STREET - REMOVAL OF CHURCH FROM MUNICIPAL INVENTORY - CATEGORY 2

File No: 14 Edward Street
Author: Mr Daniel Heymans
Author Disclosure of Interest: Nil
Attachments: Location Plan
 Correspondence from Owner
 Municipal Inventory Information
Report Date: 8 June, 2004
Senior Officer: Mr Stephen Sullivan
Property Owner: Cottesloe Christian Church
Applicant: Cottesloe Christian Church
Date of Application: 20 May 2004
Zoning: Places of Public Assembly
Use: P - A use that is permitted under this Scheme
M.R.S. Reservation: N/A

SUMMARY

The applicant is requesting Council to remove the church at No. 14 Edward Street from the Town of Cottesloe Municipal Inventory. The building is currently categorised as a category 2 building.

The recommendation is to Defer the request

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Heritage of Western Australia Act 1990

POLICY IMPLICATIONS

- Places of Cultural and Heritage Significance Policy No 012

HERITAGE LISTING

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

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

BACKGROUND

The property is located on the corner of Edward Street and Gordon Street. The building was originally constructed in 1904. The building has a strong heritage and cultural significance to the locality and is modelled on the Gothic Revival Style.

STAFF COMMENT

The property at No. 14 Edward Street is classified as a Category 2 building under the Town of Cottesloe Municipal Inventory. Category 2 is summarised as:

“High level of protection appropriate: provide maximum encouragement to the owner under the Town Planning Scheme to conserve the significance of the place. Photographically record the place prior to any major redevelopment or demolition. Recommendations. Incorporate Heritage Precincts within the Town Planning Scheme and cover with development guidelines and incentives. For example being the first areas to receive underground power, rate rebate for registered verges and first consideration in verge maintenance and upgrading by Council. Partial rates rebate to maintain the building and individual negotiation of other incentives under Town Planning Scheme.”

The Municipal Inventory describes the building as:

*“Hardey Memorial Church - Cottesloe Christian Church
Gothic Revival style with a parapetted gable and decorative pinnacles. The tuckpointed brick facade using English and stretcher bond has been painted. 'Pressed and run' stucco mouldings, quoining and architraves decorate the facade. The other walls are 'cut and struck' jointed brickwork. The nave walls are buttressed. Simplified lunette windows with a quatrefoil window to the main facade are leadlight with stained glass floral patterns. The roof is a replacement of corrugated asbestos.”*

The Historical Significance is:

*This building is of historical and architectural significance. The name of Hardey has been connected with Methodism in WA as far back as the beginning of the Colony. The two English brothers John and Joseph Hardey landed at Fremantle in 1830 stepping ashore from their chartered ship 'Tranby'. The building was built by Mr C. Turville, Cottesloe builder, on land donated by Hardey descendants Richard and Robert Hardey. The foundation stone was laid in 1904. The inscription reads "Laid to the Glory of God in memory of John and Joseph Hardey, pioneers of Methodism in this state."
First service was on March 5 1905. The foundation stone for the church hall was laid in 1920. The original organ had been rescued from the old Orient liner Oriziba. For many years the old Tranby Bell was used at the church. It is now in a courtyard at Wesley College, South Perth. Marchant James p 54."
The Reverend WR Lang was minister in 1924-27.*

The Municipal Inventory is a document that provides a database of significant heritage places within the locality. Development of the properties is not necessarily restricted solely by the fact that they are registered in the Municipal Inventory.

Therefore it is considered that removal of properties from the Municipal Inventory are not appropriate. The Municipal Inventory is merely a historical record of significant heritage places in the district and it does not predetermine the development potential of properties included in listing. Removal of the properties from the list would undermine the potential of the public to learn about the historical development of the built environment in the municipality.

It is considered in this instance such a significant cultural heritage building should be preserved for the overall benefit of the community. The listing on the Municipal Inventory does not prohibit any further additions or new buildings on the site as long as they are sensitive to the existing built structure. The listing only relates to the Hardey memorial Church.

CONCLUSION

That the request for removal from the Municipal Inventory be deferred.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee asked officers to check which lot number the Church is on. Resolved to approve the removal of the building from the Municipal Inventory due to financial and ongoing maintenance concerns raised by members of the church.

OFFICER RECOMMENDATION

That Council Defers consideration of the request for removal of No. 14 Edward Street, Cottesloe from the Municipal Inventory until Council determines its position on heritage matters.

COMMITTEE RECOMMENDATION

That Council:

- (1) Remove No. 14 Edward Street, Cottesloe from the Municipal Inventory; and
- (2) Advise the Cottesloe Christian Church Group of its decision.

AMENDMENT

Moved Cr Morgan, seconded Cr Miller

That the Officer Recommendation be adopted.

Carried 6/4

11.1.7 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council Defers consideration of the request for removal of No. 14 Edward Street, Cottesloe from the Municipal Inventory until Council determines its position on heritage matters.

Carried 7/3

11.1.8 NO 197 (LOT 40) CURTIN AVENUE - DEMOLITION OF CATEGORY 2 HERITAGE LISTED BUILDING

File No: 197 Curtin Avenue
Author: Mr Daniel Heymans
Author Disclosure of Interest: Nil
Attachments: Location Plan
Municipal Inventory Information
Report Date: 4 June, 2004
Senior Officer: Mr Stephen Sullivan
Property Owner: Dawn Dukes
Applicant: Dawn Dukes
Date of Application: 3 May 2004
Zoning: Residential
Use: P - A use that is permitted under this Scheme
Density: R20
M.R.S. Reservation: N/A

SUMMARY

An application has been received for the demolition of the building on the subject site. The building is listed as a category 2 building on the Town of Cottesloe Municipal Inventory.

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

STATUTORY ENVIRONMENT

- Town of Cottesloe Town Planning Scheme No 2
- Heritage of Western Australia Act 1990

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 Category 2
- National Trust N/A

STRATEGIC IMPLICATIONS

N/A.

FINANCIAL IMPLICATIONS

N/A.

CONSULTATION

REFERRAL

Internal

N/A.

External

N/A.

ADVERTISING OF PROPOSAL

The application was not required to be advertised.

BACKGROUND

The property is located on the western side of Curtin Avenue. The building was originally constructed in the interwar period. The building is considered to be an impressive interwar dwelling set high on the lot.

STAFF COMMENT

The property at No. 197 Curtin Avenue is classified as a Category 2 building under the Town of Cottesloe Municipal Inventory. Category 2 is summarised as:

“High level of protection appropriate: provide maximum encouragement to the owner under the Town Planning Scheme to conserve the significance of the place. Photographically record the place prior to any major redevelopment or demolition. Recommendations. Incorporate Heritage Precincts within the Town Planning Scheme and cover with development guidelines and incentives. For example being the first areas to receive underground power, rate rebate for registered verges and first consideration in verge maintenance and upgrading by Council. Partial rates rebate to maintain the building and individual negotiation of other incentives under Town Planning Scheme.”

The Municipal Inventory describes the building as:

“An imposing house set on the rise in an authentic garden. The walls and garden walls are of red brick and render as is the sweeping front stair. The roof is tiled with many hips with a feature gable facing Curtin Avenue, half timbered windows are in clusters of three with leadlights under sunhoods. The verandahs have a masonry balustrade with square moulded balusters.”

The Historical Significance is:

“An impressive interwar dwelling given great prominence by its setting high on the lot with authentic landscaping and enhanced by its association with its neighbour at 199.”

The Municipal Inventory is a document that provides a database of significant heritage places within the locality. Development of the properties is not necessarily restricted solely by the fact that they are registered in the Municipal Inventory.

Council is yet to determine its position on heritage matters at this stage. Therefore it is considered that until Council establishes a system for removing properties, assessing applications for demolitions and other related matters the application for

demolition should be deferred until Council establishes a position in relation to heritage matters.

In addition the applicant has not lodged an application to illustrate what will replace the existing dwelling on this site.

CONCLUSION

That the request for demolition of the building at No. 197 Curtin Avenue be deferred until Council finalises its position in relation to heritage matters.

VOTING

Simple Majority

11.1.8 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council Defers consideration of the request for removal of No. 197 Curtin Avenue, Cottesloe from the Municipal Inventory until Council finalises its position in relation to heritage matters.

Carried 6/4

11.1.9 NO. 104 MARINE PARADE – PROPOSED PERMANENT LISTING OF THE COTTESLOE BEACH HOTEL IN THE STATE REGISTER OF HERITAGE PLACES

File No:	104 Marine Parade
Author:	Mr Daniel Heymans
Author Disclosure of Interest:	Nil
Attachments:	Location Plan Correspondence from HCWA and Assessment
Report Date:	16 June 2004
Senior Officer:	Mr Stephen Sullivan

SUMMARY

Council has received written advice from the Heritage Council of Western Australia advising Council that there is a proposal to list the Cottesloe Beach Hotel on the Heritage Register on a permanent basis.

Council can be a voting member of the Heritage Council when this matter is considered.

The purpose of the report is to advise Council that the Heritage Council will be considering this matter and to seek direction from Council in terms of:

- (a) whether Council will exercise its right to attend the Heritage Council meeting to consider this item – with Council's representative being a voting member for discussion and decision making purposes;
- (b) determining its position on whether the Cottesloe Beach Hotel is of sufficient cultural heritage significance to warrant permanent inclusion on the State Register of Heritage Places; and
- (c) determining Council's representative, if Council resolves to exercise its right as outlined in (a) above.

STATUTORY ENVIRONMENT

Heritage of Western Australia Act 1990

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

STAFF COMMENT

Council received a letter from the Heritage Council of Western Australia on the 20 May 2004 advising that the Heritage Council has placed the Cottesloe Beach Hotel in the Register of Heritage Places on an interim basis.

The Heritage of Western Australian Act of 1990 requires that a local government be invited to nominate a suitable person to attend the meeting where the item will be considered for permanent listing.

Circulated separately from this agenda is a copy of the letter from the Heritage Council and the assessment report.

VOTING

Simple Majority

COMMITTEE COMMENT

Committee voted on the Mayor being Councils representative at the meeting and maintain their stance as per the October resolution of Council. The hotel is considered to be the only section that is of cultural heritage significance and the beer garden, garages and rear toilets should be excluded from the listing.

OFFICER RECOMMENDATION

Direction is sought from Council in relation to:

- (1) Whether Council will exercise its right to let a Council representative attend the meeting to consider this item – with Council's representative being a voting member for discussion and decision making purposes;
- (2) Its position on whether the Cottesloe Beach Hotel is of sufficient cultural heritage significance to warrant permanent inclusion on the State Register of Heritage Places; and
- (3) Council's representative, if Council resolves to send a representative to the Heritage Council meeting.

11.1.9 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) **Exercise its right to attend and vote at the Heritage Council meeting that will consider this matter; and**
- (2) **Council be represented by the Mayor; and**
- (3) **Put the view that, the hotel is the only section that is of cultural heritage significance and that the following should be excluded from any listing;**
 - (i) **beer garden;**
 - (ii) **garages; and**
 - (iii) **rear toilets.**

Carried 9/1

11.1.10 PROPOSED MODIFICATION TO THE GROVE SHOPPING CENTRE

File No:	D4.15
Author:	Mr Stephen Sullivan
Author Disclosure of Interest:	Nil
Attachments:	Correspondence from Shire of Peppermint Grove dated 28 May 2004 Copy of Plans
Report Date:	15 June, 2004
Senior Officer:	Mr Stephen Tindale

SUMMARY

Peppermint Grove Council have forwarded to Council a copy of a proposal that involves modifications to the Grove Shopping Centre.

It is recommended that Council advise Peppermint Grove Council that it:

- (a) holds no objection to the proposed upgrade of the Grove Shopping Centre;
- (b) would support moves to improve pedestrian safety and movement between the new entrance and the intersection of Napoleon Street/Stirling Highway; and
- (c) notes the re-naming of the "The Grove Shopping Centre" to "Cottesloe Central".

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

An application for the upgrading of the Peppermint Grove Shopping Centre has been forwarded to Council for comment. The proposal involves the removal of the north-western corner of the centre and construction of a new entrance. The removal of the corner section of the building will create a new plaza.

Other upgrading works are proposed.

STAFF COMMENT

No objections are held to the proposal.

An issue raised in discussion with staff from the Peppermint Grove Council relates to pedestrian movement between the Grove Shopping Centre and Napoleon Street. It was felt that improved pedestrian movement and safety through this intersection would help traders on both sides of Stirling Highway. On this basis, it is

recommended that Council support any move to improve pedestrian movement and safety between the two areas.

It was noted that signage on the plans referred to The Grove Shopping Centre as "Cottesloe Central". There may be negative and positives for the change of the name, however, a strengthening of the links between the town centre and the shopping centre can only be seen to be of benefit to both.

Having regard to the Peppermint Grove Council meeting being held on the same night as the Development Services Committee meeting, the Chief Executive Officer has advised the Chief Executive Officer of Peppermint Grove Council of the recommendation being presented to the June meeting of the Development Services Committee.

VOTING

Simple Majority

11.1.10 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council advise the Peppermint Grove Council that it:

- (1) Holds no objection to the proposed changes to the Grove Shopping Centre;**
- (2) Would support improved pedestrian access and safety between the new shopping entrance and Napoleon Street;**
- (3) Notes the use of "Cottesloe Central" as the new name for the shopping centre; and**
- (4) Endorses the action of the Chief Executive Officer in advising the Peppermint Grove Council of the recommendation of this report.**

Carried 10/0

11.1.11 TOWN CENTRE DEVELOPMENT STUDY

File No: D4.15
Author: Ms Ruth Levett
Author Disclosure of Interest: Nil
Attachments: Draft Time Frame for Town Centre Study
Report Date: 14 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of the report is to reconsider the resolution of the May, 2004 meeting of Full Council for the proposed town centre and piazza study. It is recommended that the resolution of May, 2004 be rescinded and that:

1. Council requests the Administration to prepare an application for a grant for the Town Centre Development Study for Stage 1 of the Dialogue with the City Communities Program and that the application include:
 - (a) The Town Centre, looking at current and future issues; and
 - (b) The development of a Piazza at the eastern end of Clapham Lane or alternative location.
2. The Administration prepare tender documents for the Town Centre Development Study to be advertised upon receipt of the grant from the Department of Planning and Infrastructure.
3. The Administration report for consideration of Council on the outcome of Stage 1 of the Town Centre Development Study with recommendations for proceeding to Stage 2, the design and implementation of the project.

STATUTORY ENVIRONMENT

Town of Cottesloe Town Planning Scheme No. 2
Metropolitan Region Scheme
Land Administration Act 1997
Local Government Act 1995

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Strategy 3.1, Progress TPS 3, includes the town centre, however, any proposed changes as a result of this study may be incorporated into the Scheme as a Scheme Amendment at a later date.

FINANCIAL IMPLICATIONS

There is a budget allocation of \$20,000 in the 2004/2005 budget for this purpose. Matched funding from DPI is available up to \$35,000. It is estimated that the cost of the proposed study will be in the vicinity of \$40,000.

BACKGROUND

The proposed piazza development was considered by the Full Council in May, 2004, refer item 11.1.10, and it was resolved as follows:

“That:

- (1) Council request the Administration to obtain 3 quotes from appropriate urban design companies to undertake all the necessary work to carry out a study, formal consultation process, preparation of a report and recommendations on the following:
 - (a) The Town Centre, looking at current and future issues; and*
 - (b) The development of a Piazza at the eastern end of Clapham Lane.**
- (2) A report on the submissions and costs associated with the proposed studies be referred to Council for consideration.”*

At the time that this matter was considered, the information from the Department for Planning and Infrastructure (DPI) outlining funding opportunities had not been received.

STAFF COMMENT

The Dialogue with the City Communities Program has been established to assist local authorities to plan projects that will be consistent with the objectives that have emerged from the Dialogue with the City process.

The first round of funding is available for the community consultation process for projects that can demonstrate that they meet the following objectives:

- Deliver urban growth management;
- Accommodate urban growth primarily within a connected network pattern, incorporating communities;
- Align transport systems and land use to optimise accessibility and amenity;
- Deliver a safe, reliable and energy efficient transport system that provides travel choice;
- Protect and enhance the natural environment, open spaces and heritage;
- Deliver a better quality of life for all, building on existing strengths;
- Plan with the community;
- Ensure employment is created in centres;
- Deliver a city with ‘urban energy, creativity and cultural vitality; and
- Provide a city plan that will be implemented, provide certainty and deliver results.

The proposed Town Centre study will align with these objectives and it is therefore recommended that an application for a grant be submitted for Stage 1, the community consultation phase of the Town Centre Development Study.

The second round of funding will be available for the design and implementation stage of the project. To be eligible for funding of Stage 2, Stage 1 must have been completed in accordance with the guidelines for the community consultation phase.

The following is an outline of the general guidelines for the application:

1. If consultants are to be engaged, it is preferable that a tender process is used. Based on the feedback from the community on the Beachfront Objectives and

the Strategic Planning Workshop, it is critical that any process adopted is open and accountable. Nominating a select few appropriate urban design companies may be seen as an attempt to engage a particular consultant and not one who is selected using pre-determined selection criteria.

2. A preferred model of community consultation is to be established and incorporated into the tender process. The principles of Community consultation are outlined in the Communities Program application documentation and will be written into the tender to ensure the process meets with these requirements.
3. Issues that the consultation process will address are to be identified. These will include:
 - Curtin Avenue alignment
 - Railway station and rail line positioning
 - Pedestrian accessibility
 - Housing type and densities
 - Proposed mixed use development
 - Open space
 - Parking
 - Grove Shopping Centre
 - Safety aspects
 - Legibility
4. Stakeholders and their interests are to be outlined. The stakeholders are;
 - Community
 - Property and business owners
 - Department for Planning and Infrastructure
 - Landcorp
 - Public Transport Authority
 - Western Power
 - Shire of Peppermint Grove
4. Objectives and outcomes of the project are to be clearly articulated. The objectives are consistent with those outlined above and outcomes will be consistent with the community's and Council's vision for the town centre.

A formal process for the implementation of Stage 1 is being developed. A summary of the process with time frames for each stage is attached. The brief for the tender process will be prepared with a summary for inclusion with the grant application.

DPI has indicated that it will endeavour to respond to funding applications within one month, in which case Council could commence the tender process at the end of August, 2004. It is estimated that Stage 1 will be completed and results will be available for consideration of council in February, 2005.

VOTING

Absolute Majority

11.1.11 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council rescind the resolution of May, 2004, Item 11.1.10:

- (1) Council request the Administration to obtain 3 quotes from appropriate urban design companies to undertake all the necessary work to carry out a study, formal consultation process, preparation of a report and recommendations on the following:
 - (a) The Town Centre, looking at current and future issues; and**
 - (b) The development of a Piazza at the eastern end of Clapham Lane.****
- (2) A report on the submissions and costs associated with the proposed studies be referred to Council for consideration.**

And that Council adopts the following resolution:

- (1) Council requests the Administration to prepare an application for a grant for the Town Centre Development Study for Stage 1 of the Dialogue with the City Communities Program and that the application include:
 - (a) The Town Centre, looking at current and future issues; and**
 - (b) The development of a Piazza at the eastern end of Clapham Lane or alternative location.****
- (2) The Administration prepare tender documents for the Town Centre Development Study to be advertised upon receipt of the grant from the Department of Planning and Infrastructure.**
- (3) The Administration report for consideration of Council on the outcome of Stage 1 of the Town Centre Development Study with recommendations for proceeding to Stage 2, the design and implementation of the project.**

Carried 10/0

11.1.12 REVIEW OF DELEGATION TO MANAGER DEVELOPMENT SERVICES AND CHIEF EXECUTIVE OFFICER

File No: X4.6
Author: Mr Stephen Sullivan
Author Disclosure of Interest: Nil
Report Date: 10 June 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

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

The delegation is ordinarily reviewed every May but has been delayed until the June meeting of Council so that the delegation can be amended to:

- formalise the “call-in” process;
- reduce delays through the call-in process for minor developments; and
- extend the delegation to cover minor works that require a referral of a development application to the Western Australian Planning Commission.

STATUTORY ENVIRONMENT

- Town Planning Scheme No. 2
- Metropolitan Region Scheme

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Clause 7.10 of the Town Planning Scheme text allows Council to delegate its decision making powers to a committee or an officer. This delegation is reviewed annually.

The current delegation is reproduced below:

That Council delegate the following powers to the nominated officers until 31 May 2004:

SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND

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

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

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

DETERMINATION OF APPLICATIONS FOR PLANNING CONSENT

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

(1) Extent of Delegation

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

- development relating to single houses;
- additional dwelling;
- no more than two grouped dwellings or multiple dwellings;

- *home occupations;*
- *minor additions and alterations to existing unit developments;*
- *minor additions and alterations to existing commercial premises; and*
- *change in land uses.*

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

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

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

(2) Conditions of Delegation

If it is a requirement of:

- (i) *Town Planning Scheme No. 2; or*
- (ii) *the Residential Planning Codes; or*
- (iii) *the Town Planning Scheme Policies; or*
- (iv) *any other relevant statutory document.*

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

(3) Power to Grant Planning Approval

- (a) *The Manager, Development Services or the Chief Executive Officer has delegated authority to determine those Residential applications for Approval to Commence Development where:*
 - (i) *the development meets the Acceptable Standards in the Residential Design Codes;*
 - (ii) *the Manager, Development Services is satisfied that the development meets the Performance Criteria for Design Elements 2-6 and 8-10;*
 - (iii) *the development meets the Acceptable Standards of Part 4.1 –Special purpose Dwellings;*
 - (iv) *the development meets the requirements of the existing Town Planning Scheme Policies; and*
 - (v) *submissions received on the development proposal:*
 - (A) *are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated on planning grounds;*
 - (B) *are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR*

- (C) *can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.*
- (b) *The Manager, Development Services or the Chief Executive Officer does not have delegated Authority to make a determination on an application for Approval to Commence Development that:*
- (i) *seeks a variation to Design Element 1 - Density of the Residential Design Codes;*
 - (ii) *seeks approval for development forward of the 6.0m street setback line (unless the matter relates to Town Planning Scheme Policy 004 – Garages and Carports Forward of the Building Line);*
 - (iii) *development under Part 4.2 Mixed –Use Development provisions of the Residential Design Codes;*
 - (iv) *variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;*
 - (v) *unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:*
 - (A) *State Register of Heritage Places;*
 - (B) *Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;*
 - (C) *Municipal Inventory as Category 1 to Category 5 buildings.*
 - (D) *Town Planning Scheme Policy No. 12; or*
 - (E) *those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.*
- (c) *Notwithstanding the requirements of parts (3)(a) and (b), where Council has previously made a determination on an application for Planning Approval and:*
- (i) *that approval has expired and a new application for planning approval has been lodged; or*
 - (ii) *a new application for Planning Approval has been lodged that incorporates variations to the original approval;*
the Manager, Development Services or the Chief Executive Officer are authorised to deal with these application under Delegated Authority.
- (4) **Power to Refuse Planning Approval**
When the application does not conform to the provisions and requirements of the Council’s Town Planning Scheme, Policies and/or the Residential Planning Codes and no discretion to vary such control exists.

STAFF COMMENT

The previous delegation granted by Council is submitted for endorsement, subject to the following variations:

Subdivisions and/or Amalgamation of Lots

No change is proposed.

Determination Of Applications For Planning Consent

The following changes are proposed:

Call In Powers

The delegation policy should be amended to reflect the "call-in" powers associated with this process. The changes, as set out in the officer's recommendation, are outlined below:

- introduction of a new clause (3)(b)(vi) to introduce the call in power; and
- new part (5) that sets out the process for calling in applications.

In order for this process to work properly, it is recommended that if Councillors are proposing to call in an application, they should make contact with staff to discuss the issues associated with that proposal. This will allow Councillors to understand the issues and what actions staff have taken to reach the point where they are satisfied that the application can proceed, with or without special conditions.

Otherwise, it could result in unnecessary delays to the applicant and loss of effective time for staff, without a better outcome.

To date, 221 items have been determined by the Manager, Development Services or the Chief Executive Officer under delegated authority since August 2003. Of those, five applications have been called in of which:

- two are to be considered at the June meeting of Council;
- two were resolved by negotiations with neighbours and the call-in was subsequently withdrawn; and
- the fifth was dealt with by Council late in 2003.

A sixth item was purported to have been called in, being a new two storey house at No. 343 Marmion Street. The adjoining property owners addressed the February meeting of the Development Services Committee requesting that the matter be called in. However, the Committee did not call it in, as the overshadowing was only 18% compared with the 25% permitted by the Residential Design Codes. At the time the Manager Development Services made the decision on the application, neither he nor his staff were aware of the call-in of the application. The development of a procedure for the call-in powers as part of this delegation should address this issue in the future.

Eliminating the need for call in of Delegated Planning Approvals for developments such as shade sails, garden sheds, swimming pools, front fences, patios, amended plans, and other minor alterations to buildings.

There are a number of developments that are minor and inconsequential. With the advent of the "call-in" powers, it has resulted in time delays where it has taken longer to advertise the application for "call-in", than what it takes to process the application. Typically, these are swimming pools, sheds, front fences, etc. It is considered that these types of developments should be exempt from the call-in powers.

Part (5)(i) of the delegation in the officer recommendation sets out those applications which should be exempt from the call in powers.

Enabling delegation powers for areas Reserved under the Metropolitan Region Scheme for minor developments, e.g. shade sails, fences and outbuildings etc.

Council has received some minor applications in recent times for development on land reserved under the Metropolitan Region Scheme. This includes fencing to the Police Station and shade sails over play areas for the Seaview Child Care Centre.

These are very minor works and it took some 6 weeks to receive the application and refer it to Council for a decision, before being referred to the Western Australian Planning Commission as the determining authority.

The proposed additional clause is contained in Part (6) of the delegation, of the officer's recommendation.

VOTING

Simple Majority

OFFICER & COMMITTEE RECOMMENDATION

- (1) That Council delegate the following powers to the nominated officers until 31 May 2005:
- (2) SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND
 - (1) Council delegates to the Manager of Development Services and the Chief Executive Officer, the authority to recommend to the Western Australian Planning Commission those applications for subdivision and/or amalgamation for single houses that:
 - (a) conform to the provisions and requirements of Council's Town Planning Scheme and Town Planning Scheme policies.
 - (b) conform to an application for planning consent that Council granted its approval, which involved the subdivision or amalgamation of land as part of that application.
 - (c) do not involve a building that is listed in:
 - (i) State Register of Heritage Places;
 - (ii) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
 - (iii) Municipal Inventory as Category 1 to Category 5 buildings.
 - (iv) Town Planning Scheme Policy No. 12; or
 - (v) those buildings that are listed as either "Essential" or "Contributory" in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy unless the application meets the requirements of (1)(b) above.
 - (2) Subject to (1)(c), should an application for subdivision for single house lots be received, and those lots do not comply with the average lot size for the applicable density coding, the Manager of Development Services

is authorised to make a determination on that application provided the original site is suitable for the development of grouped dwellings.

- (3) The delegate is to consider the imposition of such conditions as the delegate considers necessary to:-
- (a) meet the requirements of the Town Planning Scheme, or Residential Planning Codes, Town Planning Scheme Policies or conditions of planning consent where appropriate; and
 - (b) preserve the amenity of the area by addressing such matters as effective site maintenance and controls, such as screening of the site where no development is proposed for that site.
- (4) Clearance of Conditions of Subdivision Approval:
- (a) The Manager of Development Services or the Chief Executive Officer are authorised to grant a clearance of the conditions of subdivision approval for any application for subdivision or amalgamation, where the Manager of Development Services or the Chief Executive Officer are satisfied that the relevant conditions of approval have been complied with.

(3) DETERMINATION OF APPLICATIONS FOR PLANNING CONSENT

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

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

In the case of applications for planning consent for the demolition of a building, the authority to grant planning approval is restricted to only those buildings that are not listed in the:
 - (b) State Register of Heritage Places;
-

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

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

(2) Conditions of Delegation

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

(3) Power to Grant Planning Approval

- (a) The Manager, Development Services or the Chief Executive Officer has delegated authority to determine those Residential applications for Approval to Commence Development where:
 - (i) the development meets the Acceptable Standards in the Residential Design Codes;
 - (ii) the Manager, Development Services is satisfied that the development meets the Performance Criteria for Design Elements 2-6 and 8-10;
 - (iii) the development meets the Acceptable Standards of Part 4.1 –Special purpose Dwellings;
 - (iv) the development meets the requirements of the existing Town Planning Scheme Text and Policies; and
 - (v) submissions received on the development proposal:
 - (A) are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated on planning grounds;

- (B) are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR
 - (C) can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.
- (b) The Manager, Development Services or the Chief Executive Officer does not have delegated Authority to make a determination on an application for Approval to Commence Development that:
 - (i) seeks a variation to Design Element 1 - Density of the Residential Design Codes;
 - (ii) seeks approval for development forward of the 6.0m street setback line (unless the matter relates to Town Planning Scheme Policy 004 – Garages and Carports Forward of the Building Line);
 - (iii) development under Part 4.2 Mixed –Use Development provisions of the Residential Design Codes;
 - (iv) variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;
 - (v) unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:
 - (A) State Register of Heritage Places;
 - (B) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
 - (C) Municipal Inventory as Category 1 to Category 5 buildings;
 - (D) Town Planning Scheme Policy No. 12; or
 - (E) those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.
 - (vi) that has been "called in", as set out in part (5) below.
- (c) Notwithstanding the requirements of parts (3)(a) and (b), where Council has previously made a determination on an application for Planning Approval and:
 - (i) that approval has expired and a new application for planning approval has been lodged; or
 - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;

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

(4) Power to Refuse Planning Approval

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

(5) Call In Process for Applications

(a) Before exercising their delegated powers, the relevant officer is required to provide a notice to each Councillor in writing, advising of their intention to make a determination on the application(s) for Planning Consent contained within that notice.

(b) The notice will identify at least, the following information:

- issue date of notice;
- closing date for calling in of applications;
- the address of the property,
- the applicant;
- description of the proposal;
- whether proposal was required to be advertised,
- whether there were any submissions;
- Council or applicants response to the submission(s); and
- the date the application was received.

(c) Councillors have seven days from the date of the notice to call in any application to be dealt with by the Manager, Development Services or the Chief Executive Officer.

(d) An application will be deemed to be "called in" when:

- (i) written notification of the call in has been received by the Planning Services Secretary; and
- (ii) two Councillors have supported in writing, the call in of the application.

(e) A called in application will be referred to the next appropriate meeting of the Development Services Committee for consideration.

(f) The Planning Services Secretary is to confirm receipt of the calling in of any application.

(g) Should one or both of the two Councillors that called in the application withdraw their support in writing, then the application is no longer "called in".

- (h) If one of the two Councillors withdraw their support for the calling in of the application, the staff are to inform the other councillor of the withdrawal of support.
 - (i) The Manager, Development Services or the Chief Executive Officer are then authorised to proceed with making a determination on the application for Planning Consent.
 - (j) The "calling in" process of applications does not apply to the following types of developments:
 - shade sails;
 - garden sheds;
 - swimming pools/spas;
 - front fences;
 - patios;
 - pergolas;
 - retaining walls;
 - re-approvals; and
 - amendments to approved plans.
- (6) Development Applications for minor works requiring approval by the Western Australian Planning Commission.
- (7) The Manager, Development Services is authorised under section 7.10 of the Town Planning Scheme text to provide comments to the Western Australian Planning Commission on development applications on Reserved Land that involves minor works, where the Western Australian Planning Commission is the determining authority.

AMENDMENT

Mr Cr Morgan, seconded Cr Cunningham

That recommendation (5)(j) be deleted.

Carried 6/4

11.1.12 COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

(1) That Council delegate the following powers to the nominated officers until 31 May 2005:

(2) SUBDIVISION AND/OR AMALGAMATION OF LOTS OF LAND

(1) Council delegates to the Manager of Development Services and the Chief Executive Officer, the authority to recommend to the

Western Australian Planning Commission those applications for subdivision and/or amalgamation for single houses that:

- (a) conform to the provisions and requirements of Council's Town Planning Scheme and Town Planning Scheme policies.
 - (b) conform to an application for planning consent that Council granted its approval, which involved the subdivision or amalgamation of land as part of that application.
 - (c) do not involve a building that is listed in:
 - (i) State Register of Heritage Places;
 - (ii) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
 - (iii) Municipal Inventory as Category 1 to Category 5 buildings.
 - (iv) Town Planning Scheme Policy No. 12; or
 - (v) those buildings that are listed as either "Essential" or "Contributory" in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy unless the application meets the requirements of (1)(b) above.
- (2) Subject to (1)(c), should an application for subdivision for single house lots be received, and those lots do not comply with the average lot size for the applicable density coding, the Manager of Development Services is authorised to make a determination on that application provided the original site is suitable for the development of grouped dwellings.
- (3) The delegate is to consider the imposition of such conditions as the delegate considers necessary to:-
- (a) meet the requirements of the Town Planning Scheme, or Residential Planning Codes, Town Planning Scheme Policies or conditions of planning consent where appropriate; and
 - (b) preserve the amenity of the area by addressing such matters as effective site maintenance and controls, such as screening of the site where no development is proposed for that site.
- (4) Clearance of Conditions of Subdivision Approval:
- (a) The Manager of Development Services or the Chief Executive Officer are authorised to grant a clearance of the conditions of subdivision approval for any application for subdivision or amalgamation, where the Manager of Development Services or the Chief Executive Officer are satisfied that the relevant conditions of approval have been complied with.

(3) **DETERMINATION OF APPLICATIONS FOR PLANNING CONSENT**

In accordance with the provisions of Clause 7.10 of the text to the Town of Cottesloe Town Planning Scheme No. 2, Council delegates to the

Manager of Development Services or the Chief Executive Officer, the authority to determine those applications for planning consent detailed in Clause 1, subject to the provisions of Clause 2.

(1) Extent of Delegation

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

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

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

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

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

(2) **Conditions of Delegation**

(a) **If it is a requirement of:**

- (i) **Town Planning Scheme No. 2; or**
- (ii) **the Residential Planning Codes; or**
- (iii) **the Town Planning Scheme Policies; or**
- (iv) **any other relevant statutory document.**

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

(3) Power to Grant Planning Approval

- (a) The Manager, Development Services or the Chief Executive Officer has delegated authority to determine those Residential applications for Approval to Commence Development where:
- (i) the development meets the Acceptable Standards in the Residential Design Codes;
 - (ii) the Manager, Development Services is satisfied that the development meets the Performance Criteria for Design Elements 2-6 and 8-10;
 - (iii) the development meets the Acceptable Standards of Part 4.1 –Special purpose Dwellings;
 - (iv) the development meets the requirements of the existing Town Planning Scheme Text and Policies; and
 - (v) submissions received on the development proposal:
 - (A) are determined by the Manager, Development Services to be irrelevant to the planning application or cannot be substantiated on planning grounds;
 - (B) are appropriate and can be reasonably addressed through the imposition of conditions of Planning Consent; OR
 - (C) can be resolved by the objector and the applicant in consultation with Council staff and to the satisfaction of all parties.
- (b) The Manager, Development Services or the Chief Executive Officer does not have delegated Authority to make a determination on an application for Approval to Commence Development that:
- (i) seeks a variation to Design Element 1 - Density of the Residential Design Codes;
 - (ii) seeks approval for development forward of the 6.0m street setback line (unless the matter relates to Town Planning Scheme Policy 004 – Garages and Carports Forward of the Building Line);
 - (iii) development under Part 4.2 Mixed –Use Development provisions of the Residential Design Codes;

- (iv) variations to the height controls under Clause 5.1.1 of the Town Planning Scheme text;
- (v) unless demolition approval has been granted through a development application and that approval is still valid, an applicant seeks to demolish a building that is listed in either the:
 - (A) State Register of Heritage Places;
 - (B) Schedule of Places of Natural Beauty and Historic Buildings and Objects of Historical or Scientific Interest in the Text to the Town of Cottesloe Town Planning Scheme No. 2;
 - (C) Municipal Inventory as Category 1 to Category 5 buildings;
 - (D) Town Planning Scheme Policy No. 12; or
 - (E) those buildings that are listed as either “Essential” or “Contributory” in the proposed Heritage Areas under the Town of Cottesloe Heritage Strategy.
- (vi) that has been "called in", as set out in part (5) below.
- (c) Notwithstanding the requirements of parts (3)(a) and (b), where Council has previously made a determination on an application for Planning Approval and:
 - (i) that approval has expired and a new application for planning approval has been lodged; or
 - (ii) a new application for Planning Approval has been lodged that incorporates variations to the original approval;
 - (iii) the Manager, Development Services or the Chief Executive Officer are authorised to deal with these application under Delegated Authority.
- (4) **Power to Refuse Planning Approval**
 - (a) When the application does not conform to the provisions and requirements of the Council’s Town Planning Scheme, Policies and/or the Residential Planning Codes and no discretion to vary such control exists.
- (5) **Call In Process for Applications**
 - (a) Before exercising their delegated powers, the relevant officer is required to provide a notice to each Councillor in writing, advising of their intention to make a determination on the application(s) for Planning Consent contained within that notice.
 - (b) The notice will identify at least, the following information:
 - issue date of notice;
 - closing date for calling in of applications;

- the address of the property,
 - the applicant;
 - description of the proposal;
 - whether proposal was required to be advertised,
 - whether there were any submissions;
 - Council or applicants response to the submission(s); and
 - the date the application was received.
- (c) Councillors have seven days from the date of the notice to call in any application to be dealt with by the Manager, Development Services or the Chief Executive Officer.
- (d) An application will be deemed to be "called in" when:
- (i) written notification of the call in has been received by the Planning Services Secretary; and
 - (ii) two Councillors have supported in writing, the call in of the application.
- (e) A called in application will be referred to the next appropriate meeting of the Development Services Committee for consideration.
- (f) The Planning Services Secretary is to confirm receipt of the calling in of any application.
- (g) Should one or both of the two Councillors that called in the application withdraw their support in writing, then the application is no longer "called in".
- (h) If one of the two Councillors withdraw their support for the calling in of the application, the staff are to inform the other councillor of the withdrawal of support.
- (i) The Manager, Development Services or the Chief Executive Officer are then authorised to proceed with making a determination on the application for Planning Consent.
- (6) Development Applications for minor works requiring approval by the Western Australian Planning Commission.
- (7) The Manager, Development Services is authorised under section 7.10 of the Town Planning Scheme text to provide comments to the Western Australian Planning Commission on development applications on Reserved Land that involves minor works, where the Western Australian Planning Commission is the determining authority.

Carried 10/0

11.1.13 REVIEW OF DELEGATION TO THE DEVELOPMENT SERVICES COMMITTEE

File No: X4.6
Author: Mr Stephen Sullivan
Author Disclosure of Interest: Nil
Report Date: 10 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

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

It is recommended that the delegation be amended to allow the Development Services Committee to consider minor works on land reserved under the Metropolitan Region Scheme, where the Western Australian Planning Commission is the determining authority.

STATUTORY ENVIRONMENT

Town Planning Scheme No. 2
Metropolitan Region Scheme

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

In 1996, Council delegated some of its decision making powers to the Development Services Committee under the Town Planning Scheme. The resolution is reproduced below:

That Council:

- (1) *Continue to delegate its authority to the Manager of Development Services as set out in the Delegation of Authority Policy No. 6 - Determination of Applications for Planning Consent;*
- (2) *Delegate authority to the Development Services Committee to approve those applications for Planning Consent which the Manager of Development Services does not have the authority to determine and only if:*
 - (a) *there are no concessions but there are objections;*
 - (b) *concessions are required and no objections have been received; and*
 - (c) *the Committee is satisfied that the developers and objectors can reach a compromise on development proposals;*

The delegation has been amended over the years to include delegation for decisions to be made under the Metropolitan Region Scheme.

STAFF COMMENT

This delegation is submitted as part of the yearly review by Council.

It is considered that the delegation to the Committee should be modified to allow the Committee to make decisions on minor works to be carried out to land reserved under the Metropolitan Region Scheme in addition to those currently allowed for development on Primary Road Reservations.

Currently, development on land reserved under the Metropolitan Region Scheme is determined by the Western Australian Planning Commission. Council is required to refer their comments to the Commission so that those matters can be considered in the determination of the application for Planning Consent. As has been seen at the May 2004 meeting, development such as boundary fencing to the police station has been referred to Council for consideration before referral to the Western Australian Planning Commission.

It is considered that the Development Services Committee be granted delegated powers to refer comments on a development application involving minor works on reserved land to the Western Australian Planning Commission, without the need for referral to Council. The Committee can ultimately decide on whether the matter should be referred to Council.

This would allow the Manager, Development Services to refer those items that he believes should be considered by the Development Services Committee, but not necessarily full Council.

VOTING

Simple Majority

11.1.13 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

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

- (a) residential development; and
 - (b) non-residential development of a minor nature.
- (3) Its authority to make comments on a development application involving minor that are to be carried out on land Reserved under the Metropolitan Region Scheme, where the Western Australian Planning Commission is the determining authority.

Carried 10/0

11.1.14 TIMEFRAME FOR DRAFT TOWN PLANNING SCHEME NO. 3

File No:	D2.5.2
Author:	Mr Stephen Sullivan
Author Disclosure of Interest:	Nil
Attachments:	Draft Time Frame for Adoption of TPS No. 3
Report Date:	10 June, 2004
Senior Officer:	Mr Stephen Tindale

SUMMARY

A draft timeframe has been developed for Council consideration, including a community consultation process to verify the proposals contained with the draft Town Planning Scheme.

STATUTORY ENVIRONMENT

Town Planning and Development Act

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The process adopted by Council to achieve adoption of the draft Town Planning Scheme could incur additional costs. These would need to be calculated when finalisation of the key steps in the process have been identified.

BACKGROUND

At the Strategic Planning Committee meeting held on 31 May 2004, the following resolution was adopted:

That Council staff be requested to develop guidelines and timeframes for draft Town Planning Scheme No. 3 for adoption by the Council at its June, 2004 meeting.

STAFF COMMENT

In response to that resolution the following comments are made:

Current Position

The draft No. 3 Town Planning Scheme has been developed over a number of years. The Scheme is based on a consultation process carried out in the mid-1990s, the advertising and adoption of the Local Planning Strategy and the review of the Scheme documents by the Town Planning Scheme Review Committee.

The draft Town Planning Scheme has been the subject of a legal review by Council's solicitors, which is about 85% complete. There are a number of issues that were

raised during the legal and Town Planning Scheme Review Committee review of the document.

These primarily relate to building heights, liquor licensing, heritage and schedules that are part of the Town Planning Scheme text.

The review process has been stopped as a consequence of the Beachfront and Strategic Plan workshops/consultation process that Council has recently undertaken.

Certain recommendations are to be considered by Council at its June 2004 meeting in relation to the Beachfront Objectives. A detailed assessment of submissions on the Strategic Plan is currently being carried out.

As a consequence of the mini review of the draft Town Planning Scheme and the demands of the community to include further community consultation, the abovementioned resolution was adopted at the Strategic Planning Committee meeting held on the 31 May 2004. In response to that resolution, the following comments are made:

Timeframe for Adoption and Gazettal of Draft Town Planning Scheme

The gazettal of the draft Town Planning Scheme text can be split into two distinct processes and these are:

- adoption of the draft Town Planning Scheme by Council; and
- advertising/gazettal of the draft Town Planning Scheme.

The first step in this process is for Council to determine how it reaches the point of adopting the draft Town Planning Scheme and ultimately, when it reaches that point.

The second step is defined by regulations and there are a number of steps that Council is required to follow.

Therefore, the draft timeframe for the gazettal of the draft Town Planning Scheme has been split into two parts to reflect these different processes.

Based on estimates, it is anticipated that the draft No. 3 Town Planning Scheme could be adopted by Council in September 2005.

A second estimate has been carried out for the advertising/gazettal of the draft Town Planning Scheme and it is anticipated that the draft Town Planning Scheme would be gazetted sometime around May 2007.

Key Milestones for Adoption of draft Town Planning Scheme No. 3

There are four milestones in the adoption of the draft Town Planning Scheme and these are highlighted below:

Review of Strategic Plan\Beachfront Objectives

The process has already commenced to review the submissions received on the Beachfront Objectives. Council will be considering the recommendation of the Strategic Planning Committee at its June 2004 meeting.

The review of the submissions received on the Strategic Plan has only just commenced. This is more complicated as the comments made by the community are in responses to questions rather than specific standards.

Once these reviews are carried out, then the implications to the draft Town Planning Scheme can be considered. Council will then need to provide direction in relation to the changes to be made to the existing documents.

It is anticipated that this step will occur in September, 2004.

Acceptance by Council of revised draft Town Planning Scheme

The second step is for Council to sign off on the revised documents. These will include the draft Local Planning Strategy, Town Planning Scheme text and Scheme Map.

It is anticipated that this would occur in February 2005.

Community Consultation

This process will involve the engagement of a consultant to develop the background information for the community, distribute the information, facilitate the meetings and report back to Council on the outcome of those meetings on the draft Town Planning Scheme. Council would consider the report on submissions and amend the draft Town Planning Scheme accordingly.

It is anticipated that this would occur by July 2005.

Legal Review and Adoption of draft Town Planning Scheme

Council would then carry out a final legal review of the documents and then the final version submitted to Council for adoption.

It is anticipated that this would occur by September 2005.

Advertising and Gazettal of draft Town Planning Scheme

The second step in the process is the advertising and gazettal of the draft Town Planning Scheme.

There are a number of critical stages where the draft scheme could unnecessarily be delayed. However, it has been assumed that the primary focus is to adopt the draft Town Planning Scheme sooner rather than later.

CONCLUSION

The draft timeframe is presented for consideration by Council.

VOTING

Simple Majority

COMMITTEE COMMENT

The Committee were concerned with the lead in time to the consultation process and sought a reduced time frame where possible.

OFFICER RECOMMENDATION

That Council endorse the timeframe for the adoption of the draft Town Planning Scheme.

11.1.14 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) Notes the timeframe for the adoption of the draft Town Planning Scheme; and**
- (2) Authorises the Chief Executive Officer to expend funds to help resource the work to narrow the time frame.**

Carried 10/0

11.2 BUILDING

11.2.1 MANDATORY SWIMMING POOL INSPECTIONS – PROPOSED LEGAL ACTION FOR NON-COMPLIANT SWIMMING POOLS AND BARRIER FENCING

File No: D7.6
Author: Mr Lindsay Stone
Author Disclosure of Interest: Nil
Report Date: 16 June, 2004
Senior Officer: Mr Stephen Sullivan

SUMMARY

Council is required under legislation to undertake inspections of swimming pools within the District and enforce compliance with the relevant legislation.

Having followed the necessary procedures, Council is now required to initiate legal action against those property owners that have failed or do not want to provide compliant barriers to private swimming pools.

STATUTORY ENVIRONMENT

Local Government (Miscellaneous Provisions) Act 1960
Building Regulations 1989.

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The Local Government (Miscellaneous Provisions) Act 1960 requires that Council undertake inspections of all private swimming pools within their municipality to ensure compliance with the Building Regulations. It is mandatory that all swimming pools be inspected within a 4 year period and that pool barriers comply with the relevant Australian Standards.

The Town of Cottesloe had approximately 410 swimming pools that required inspection by July 2004.

In August 2003 Council engaged the Royal Life Saving Society to undertake inspections of all private swimming pools within the Town of Cottesloe. The scope of work included the following:

1. Public awareness displays at the Grove and Eric St shopping centres.

2. Letters and pamphlets to be sent to all owners of private swimming pools, within the Municipality, advising them of the forthcoming inspections. The pamphlets provided useful information for the property owner or occupier on how to achieve compliant swimming pool barriers. The letter provided contact details and requested the owner/occupier to contact the swimming pool inspector to arrange a suitable time for the inspection.
3. Undertake a maximum of three inspections of the pool and its barrier to ensure compliance.
4. Provide all inspection details to Council for updating of Council's swimming pool register and follow up action on non compliant pools.

At the completion of inspections undertaken by the Royal Life Saving Society, approximately 80 swimming pools were referred back to Council for further action.

In May 2004 the Building Section commenced writing letters to all private swimming pool owners advising that barriers were to be made compliant and inspected within 14 days or the matter would be referred to Council with a recommendation to take legal action.

In order to accommodate the additional inspections the Building Section has despatched approximately eight to ten letters per week. Currently 35 letters have been sent to the owners and to date 25 have responded within the 14 day timeframe. Council's Building Surveyor has undertaken 18 inspections with only 10 complying on re-inspection. On re-inspection by Council staff, several owners have indicated that they do not intend to comply with the Regulations as it is an impost on their life style.

It is anticipated that there may be up to about 10 property owners that Council may have to take legal action against.

CONCLUSION

The Local Government (Miscellaneous Provisions) Act 1960 stipulates that Council will inspect private swimming pools and barriers to ensure compliance with the Building Regulations 1989 and relevant Australian Standards.

Council has made every endeavour to advise property owners and occupiers of their statutory obligation to maintain compliant swimming pool barriers

The task of inspecting private swimming pools is onerous, time consuming and taxing on Council's limited resources.

Council has a duty of care to ensure that all swimming pools and their barriers meet the minimum standards prescribed by law.

Council staff have now reached a stage where legal action is required to be undertaken against the relevant property owners that have failed or refused to make their swimming pool barrier fencing compliant with current legislation.

VOTING

Simple Majority

11.2.1 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Furlong, seconded Cr Strzina

That Council:

- (1) Authorises the Building Surveyor to refer to Council's Solicitors, the details of those property owners that have failed to comply with the Building Regulations 1989 relating to private swimming pools and barrier fencing, with a view to instituting legal action in accordance with the Local Government (Miscellaneous Provisions) Act 1960.**
- (2) Advise the relevant property owners of Council's decision.**

Carried 10/0

12 WORKS AND CORPORATE SERVICES COMMITTEE MEETING HELD ON 22 JUNE 2004**12.1 ADMINISTRATION****12.1.1 "HANDS ON COTTESLOE" - FUNDRAISING PROJECT**

File No: E2.6
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 15 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to approve in principle the "Hands on Cottesloe" fundraising project and to delegate power to the CEO to grant final approval for the project subject to the CEO being satisfied:

That Council's insurers have no objections to the project,

That "Hands on Cottesloe" Inc. will be directly responsible for the management of fundraising efforts and installation of the slabs (under Town of Cottesloe supervision) and any other incidental costs up until an agreed handover date.

That any direct costs incurred by the Town of Cottesloe in the lead up to and handover of the project to the Town of Cottesloe will be adequately recovered from funds raised by "Hands on Cottesloe" Inc.

That "Hands on Cottesloe" Inc. has the necessary expertise to adequately handle any other incidental matters arising out of the project.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

At the last meeting of the Council, representatives of the "Hands on Cottesloe" group made a presentation on a fundraising initiative which envisaged the "sale" of up to 250 "plots" at \$500 each alongside the foreshore dual-use footpath.

Each of the 450mm x 600mm plots is to receive a concrete slab impression of the “purchasers” hands. It is intended that funds from the sale of the plots will go to a specified charity nominated by the purchaser.

A marine-grade, stainless-steel, etched and inked plaque on each of the slabs will be used to identify each purchaser and the charity to which their financial contribution is going.

CONSULTATION

The CEO has spoken to representatives of “Hands on Cottesloe“ and Local Government Insurance Services WA.

STAFF COMMENT

Preliminary discussions with Local Government Insurance Services WA indicate that provided the slabs comply with Australian Standards for footpaths, they foresee no great difficulties in endorsing the proposal subject to being furnished with additional information as to what is planned.

It appears that provided the depressions are no more than 25mm deep, the slabs in themselves are unlikely to be deemed to be a foreseeable trip hazard.

The CEO met with Peter Clements from the “Hands on Cottesloe“ group on 14th June 2004.

During the course of discussions the following points were raised.

- **Site:** adjacent to the dual-use pathway between the No 1 car park and the Barchetta car park.
- **Materials:** limestone coloured concrete to comply with Australian Standards for footpaths. Plaques to be affixed with epoxy glue or embedded in the concrete.
- **Depth of Hand Impressions:** less than 10mm.
- **Timing:** slab pouring to occur offsite at a place to be determined.
- **Council approval:** required as soon as possible to facilitate marketing for a Spring installation.
- **Sales:** to be coordinated by the “Hands on Cottesloe” group which will become an incorporated association - subject to Council support for the proposal.
- **Allocation of plots:** to be undertaken by lottery by “Hands on Cottesloe”.
- **Maintenance:** 5% of funds to be held in trust by “Hands on Cottesloe” for first 2 to 3 years to cover any initial vandalism costs. Subject to review, any remaining funds to be disbursed to nominated charities or the Town of Cottesloe for ongoing maintenance.
- **Length of plot reservation:** purchasers to be informed that slabs will remain in-situ for a minimum period of 10 years up to a maximum of 20 years or more based on a 15 year footpath life expectancy.
- **Change of Use/Location of Pathway:** purchasers to be informed that the slabs may be relocated/removed in the event that the slabs become a hazard or impact on proposed new foreshore works.

The “Hands on Cottesloe” group have indicated that the sooner they have approval for the project the sooner they will be able to complete the project prior to the commencement of the beach-going season.

However the project is in its infancy and there are questions that need to be answered and no doubt others will arise in the intervening period.

For this reason and in order to avoid any delays, it is recommended that Council give in principle support with final approval to rest with the CEO.

VOTING

Simple Majority

COMMITTEE COMMENT

Discussion was held in relation to the requirement of incorporation and the need for the Town of Cottesloe to be satisfied with the constitution of the association. Concerns were also raised about audit reporting requirements for the group.

OFFICER RECOMMENDATION

That Council:

Approve in principle the “Hands on Cottesloe” fundraising project.

- (1) Delegate power to the CEO to grant final approval for the project subject to the CEO being satisfied:
 - (i) That Council’s insurers have no objections to the project;
 - (ii) That “Hands on Cottesloe” Inc. will be directly responsible for the management of fundraising efforts and installation of the slabs (under Town of Cottesloe supervision) and any other incidental costs up until an agreed handover date;
 - (iii) That any direct costs incurred by the Town of Cottesloe in the lead up to and handover of the project to the Town of Cottesloe will be adequately recovered from funds raised by “Hands on Cottesloe” Inc; and
 - (iv) That “Hands on Cottesloe” Inc. has the necessary expertise to adequately handle any other incidental matters arising out of the project.

12.1.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council approve in principle the “Hands on Cottesloe” fundraising project subject to Council being satisfied that:

- (1) Council’s insurers have no objections to the project;
- (2) The “Hands on Cottesloe” group will become an incorporated not-for-profit association with a constitution that meets the approval of the Council;

- (3) "Hands on Cottesloe" Inc. will be directly responsible for the management of fundraising efforts and installation of the slabs (under Town of Cottesloe supervision) and any other incidental costs up until an agreed handover date;
- (4) Any direct costs incurred by the Town of Cottesloe in the lead up to and handover of the project to the Town of Cottesloe will be adequately recovered from funds raised by "Hands on Cottesloe" Inc; and
- (5) "Hands on Cottesloe" Inc. has the necessary expertise to adequately handle any other incidental matters arising out of the project.

Carried 10/0

12.1.2 2004/05 BUDGET

File No: C7.6
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 14 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put the draft 2004/05 Budget to the Works and Corporate Services Committee for review and recommendation to a meeting of Council to be held in July.

STATUTORY ENVIRONMENT

Section 6.2 of the Local Government Act provides that not later than 31 August in each financial year each Local Government is to prepare and adopt a budget for its municipal fund for the year ending on the next following 30 June. This is interpreted to mean that Councils cannot adopt their annual budgets until the commencement of the year to which they apply. In other words, Council cannot adopt its budget until July.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

None other than those shown in the draft budget.

BACKGROUND

A copy of the draft budget was circulated to all members with the agenda.

CONSULTATION

The draft budget has been developed with wide involvement of staff and a number of workshops/briefing sessions were held for Councillors and senior staff.

STAFF COMMENT

The draft budget is put to the Works and Corporate Services Committee for its consideration and recommendation to a Council meeting to be held in July.

The notes that form a part of the budget provide much of the information that might otherwise be provided in this section of the report other than that the attached draft is based on an increase of 3% in the rate-in-the-dollar and minimum rate for 2003/2004.

VOTING

Simple Majority.

COMMITTEE COMMENT

Amendments to the draft Budget, made by a consensus of the meeting, are:

- Include a self supporting loan of \$11,000 to Perth Studio Potters.
- Include a donation of \$9,650 to Lady Lawley Cottage for costs associated with the planned installation of a "Liberty Swing" and softfall area.
- Delete the capital works item CW126 Internet Development (the plan being that the item may be introduced as a Budget amendment later in the year if it appears the project might be achievable in 04/05 and that funds might be available).
- Include a Specified Area Rate for the Town Centre.

12.1.2 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That the following recommendations be put to a special meeting of Council to be held on Thursday, 1 July, 2004, at 7.00pm:

(1) ADOPTION OF 2004/2005 BUDGET- SECTION 6.2 LOCAL GOVERNMENT ACT 1995

That Council resolve that:

- (a) The budget for the financial year ending 30 June 2005, be received and adopted;**
- (b) The Statement of Cash Flows for the financial year ending 30 June 2005, be received and endorsed;**
- (c) The Statement of Amount to be made up from rates for the financial year ending 30 June 2005, be received and endorsed; and**
- (d) The Operating Statement Budget showing expenditure of (\$6,810,063) and revenue of (\$6,850,798) for the financial year ending 30 June 2005, be received and endorsed.**

(2) ADOPTION OF RATE - SECTION 6.32 LOCAL GOVERNMENT ACT 1995**(a) General Rate**

That a rate of 7.552 cents in the dollar on Gross Rental Value of all the rateable property within the Municipality of Cottesloe be imposed for the financial year ending 30 June 2005.

(b) Minimum Rate

That a minimum rate of \$656 be imposed for the financial year ending 30 June 2005.

(c) Refuse Collection

That a once per week service of a 120 litre mobile garbage bin (MGB) for general household rubbish and a 240 litre MGB for recyclable household rubbish be included in the rate charge for residential properties. Additional services per week for residential properties to be charged at the rate of \$200 (inclusive of GST) per annum.

That the following charges apply to commercial properties:

- General rubbish - one service per week - 240 litre MGB - \$200 per annum (inclusive of GST)
- Recycling – one service per fortnight– 240 litre MGB - \$100 per annum (inclusive of GST)
- Recycling – one service per week– 240 litre MGB - \$200 per annum (inclusive of GST)

(d) Administration Charge - Section 6.45 (3) Local Government Act 1995

That an administration charge of \$42 be imposed where payment of a rate or service charge is made by instalments, except that Eligible Pensioners will be excluded from paying the charge.

(e) Interest - Section 6.51 Local Government Act 1995

That an interest rate of 11% per annum be applied to rates and service charges levied in the 2004-2005 financial year which remain unpaid after they become due and payable and where no election has been made to pay the rate or service charge by instalments.

(f) Rates Instalment Payment Option

That the following rates instalment options be adopted:

Option 1

To pay the total amount of rates and charges included on the rate notice in full by the 35th day after the issue.

OR

Option 2

To pay by four (4) instalments, as will be detailed on the rate notices with the following anticipated dates:

- First Instalment due by 30 August 2004
- Second Instalment due by 28 October 2004
- Third Instalment due by 5 January 2005
- Fourth Instalment due by 9 March 2005.

(g) Specified Area Rate – Section 6.37 Local Government Act 1995

That Council, in its 2004/05 Budget and for the purposes of area promotion, include the raising of a specified area rate of 1.5 cents in the dollar on the Gross Rental Valuations of all of the rateable land bounded by Forrest Street, Stirling Highway, the railway line, Brixton Street and Railway Street as shown in Appendix 1 of Town

Planning Scheme Number 2 and as the Town Zone Development Policy Plan, except for lots 50 and 61 and any other property in the specified area that is used solely for residential purposes.

(3) INTEREST ON MONEY OWING - SECTION 6.13 OF THE LOCAL GOVERNMENT ACT 1995

That an interest rate of 11% per annum may be applied to any amount not paid within 35 days of the date of the issue of the account.

(4) MEMBERS MEETING ATTENDANCE FEES - SECTION 5.99 LOCAL GOVERNMENT ACT 1995

That the annual meeting attendance fee be \$5,000 for Council Members and \$10,000 for the Mayor.

(5) MAYOR AND DEPUTY MAYORAL ALLOWANCE – SECTION 5.98 AND 5.98A LOCAL GOVERNMENT ACT 1995

That the Mayoral Allowance be \$5,000 and the Deputy Mayoral Allowance be \$1,000.

(6) TELECOMMUNICATIONS ALLOWANCE - SECTION 5.99A LOCAL GOVERNMENT ACT 1995

That the Telecommunication allowance be \$1,600 for Elected Members.

Carried 7/3

12.1.3 COTTESLOE TENNIS CLUB - DONATION

File No: E10.11
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 14 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put the Cottesloe Tennis Club's request for a donation before Council.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The request is for a donation to be made early in 2004/05. Provision has been made in the draft 2004/05 budget for a donation of \$28,700 (excluding GST).

BACKGROUND

Cottesloe Tennis Club is in the process of doing significant upgrade works to its clubhouse.

At its September 2003 meeting Council resolved to assist the club by waiving statutory local government fees associated with the planning and building application processes. In October Council resolved to commit to a cash and in kind contribution of \$7,700 (including GST) and supported the club's application for a Department of Sport and Recreation grant (the application was successful and a grant of \$37,340 was offered).

Both of the foregoing affected the 2003/04 year. In March 2004 Council resolved as follows:

That Council:

- (1) *Include provision in its 2004/05 budget to borrow \$200,000 for the Cottesloe Tennis Club's clubhouse renovation project with the Club meeting the full annual cost of servicing the loan;*
- (2) *Instruct its Lawyers to draw up a suitable legal document setting out the respective obligations on each party with respect to the self-supporting loan arrangement; and*

- (3) *Consider during its 2004/05 budget deliberations the donation of part of the annual interest cost on the loan repayment to the Cottesloe Tennis Club and consider ongoing assistance to the Club.*

The draft 2004/05 budget as presented to this committee meeting contains provision for the raising of a self-supporting loan of \$200,000 for the tennis club. It also includes the associated loan repayments and reimbursement of these costs by the club. In addition, the draft budget includes provision for a donation to the tennis club of \$28,700.

In May 2004 the club secretary wrote with respect to part 3 of Council's March 2004 resolution (above) asking if Council wanted to tie a donation toward required roof and ceiling works. Both are being replaced for health and safety reasons. The asbestos roof and gutters are being replaced with Colorbond and an acoustic ceiling is being installed (in part to reduce noise levels when functions are being held). The roofing works are expected to cost \$28,700 and the ceiling works \$32,320.

The tennis club is situated on a portion of Reserve A 3235 (A class) which is vested in Council with power to lease for up to 21 years. The Club's current lease is for 20 years and commenced 7 October 1987. The lease is for the land, clubhouse and all other improvements on the land at the commencement of the lease and all other improvements erected since the commencement of the lease.

CONSULTATION

Correspondence has been received from and the matter has been discussed with tennis club members in charge of the clubhouse renovation works.

STAFF COMMENT

The club is embarking on a significant upgrade to the clubhouse and will be using a mix of its own accumulated funds, grant funds (Department of Sport and Recreation), donations (primarily from Council) and loan funds (the self-supporting loan Council agreed to raise to a maximum of \$200,000). Naturally the Club will want to minimise the loan portion of its funding arrangements.

Rural local governments often match Department of Sport and Recreation grants for capital works undertaken by sporting associations (excluding golf clubs!). In this case the grant is \$37,340 and Council has already committed to \$7,000 (the \$7,700 committed to in 2003/04 less the GST portion which is recoupable) and so the remaining matching contribution would be around \$30,000.

Council owns all of the improvements on the reserve and the club has maintained these well over the years. The current clubhouse project and increases in the number of courts in recent years (no financial assistance was sought for the courts) has increased the asset value of what is a community asset.

VOTING

Absolute majority

COMMITTEE COMMENT

Nil.

OFFICER RECOMMENDATION

That Council donate \$31,570 (\$28,700 plus GST of \$2,870) to the Cottesloe Tennis Club toward its clubhouse renovations project.

AMENDMENT

Moved Cr Morgan, seconded Cr Utting

That Council refer this matter to its Strategic Planning committee to:

- i) Invite the Tennis Club to submit grants and financial information in support of its approach for a donation from Council.
- ii) Prepare draft guidelines by which Council might assess and compare this and any other application for a donation from Council.
- iii) Provide to Council a recommendation, based on such guidelines, on whether or not to make the requested donation to the Tennis Club.

Lost on the Mayor's casting vote 5/6

12.1.3 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council donate \$31,570 (\$28,700 plus GST of \$2,870) to the Cottesloe Tennis Club toward its clubhouse roof and ceiling works aspect of their renovations project.

Carried 9/1

12.1.4 KITE SURFING - COTTESLOE BEACHES

File No: E2.2
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 14 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the application from the Western Australian Kitesurfing Association Inc (WAKSA) to operate kitesurfing from the beach area rear Rosendo Street.

STATUTORY ENVIRONMENT

Beach and Beach Reserves Local Law applies. Clause 10 deals with restrictions that apply to the use of "Watercraft" and 10.6 under provides:

10.6 Other than as provided in Local Laws 10.1-10.5 inclusive, all sail and motor craft, including personal watercraft, are not permitted within a distance of two hundred metres from the low tide mark as measured at ordinary spring tides, except with the written approval of Council.

10.1 and 10.5 read as follows:

- 10.1 Surf life saving craft, used in their capacity as training and competition Boats of a Life Saving Club, are permitted at both Cottesloe Beach and North Cottesloe Beach within areas set by the council from time to time.*
- 10.2 Motorised surf life saving boats being used for water rescue by a Surf Life Saving Club or authorised person are permitted in the defined Area.*
- 10.3 Subject to Local Law 10.4 below surf skis may be used at all beaches.*
- 10.4 Surf skis may only be used at Cottesloe Beach and North Cottesloe Beach within an area from time to time designated by the council and only for the purposes of entering and leaving the beach to a distance of one hundred metres seaward from the low water mark as measured at ordinary spring tides.*
- 10.5 Sailing craft and sail boards are not permitted within two hundred metres from the low tide mark at any point between the Cottesloe Groyne and the northern boundary of the North Cottesloe Surf Life Saving Club building and may only be launched south of the Cottesloe groyne or north of the North Cottesloe Surf Life Saving Club building.*

The local law provides the following applicable definitions:

"Watercraft" means any bathing appliance or boat as defined above.

“Bathing Appliances” means a float of any material, including surf skis, surf boards, kickboards, malibu boards, paddle boards, body boards, boats or any other device whether motorised or not, used or capable of use for bathing or surf riding;

“Boat” means any structure or vessel whether propelled manually or by the wind or power or wave, used to float and travel upon or above the water;

The local law also provides that surfboarding is permitted south of the Cottesloe Beach Groyne at all times (6.10).

POLICY IMPLICATIONS

Beach policy has application.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

A letter of complaint was received about the growing number of kite surfers using the beach opposite Deane Street. The writer noted the increasing numbers of kite surfers, the potential dangers and that kites had been blown across Marine Parade and had landed on the roof of their property resulting in people entering their property and climbing on the house to retrieve them.

The writer also complained that Council appeared to be encouraging this activity with the proposed beach access way that was reported in the Post newspaper as being constructed for the kitesurfers. Cottesloe Coast Care has applied for funding to construct a well defined walk way at this beach to protect the dunes as it has done at a number of locations in Cottesloe. The project was prompted by the growing number of users of that beach and the need to protect the dunes.

In investigating the complaint it was found that the activity of kitesurfing without Council approval was contrary to Council’s Beach and Beach Reserves Local Law without Council approval. Representatives of WAKSA were advised of the constraints of Council’s local law and they now seek approval under that local law.

CONSULTATION

Apart from discussions with officers of Council, the matter has been discussed with representatives of WAKSA.

STAFF COMMENT

After receiving information from WAKSA that its members are covered by its public liability policy the CEO has allowed the activity to continue pending the outcome of this application. WAKSA has moved its members south along the beach to opposite

Rosendo Street and has instituted a number of safety measures which include restricting all kite rigging north of Rosendo Street and designating 10 of its members to oversee this, signage, and three designated safety marshals for Cottesloe.

Council has a number of options available to it that range from enforcing the local law to giving approval. The former might be difficult in practice given that Council's rangers are land based and the bulk of the activity occurring in the water. WAKSA is very keen to "do the right thing" and given this sports growing popularity it is suggested that it would be more pragmatic to give approval, with restrictions, to the Association as this would provide a level of self policing (that is that only WAKSA members would have approval to kitesurf in Cottesloe).

In 2001 and 2002 Council tackled a similar situation with the hang gliders and in this case a committee was formed to work through the issue and make a recommendation to the Works and Corporate Services Committee. The committee was made up of one representative from South Cottesloe Coast Care, one from the hang glider's association and was chaired by Councillor Morgan. The committee worked through the issue in detail and made its recommendations to the Council committee in June 2002. The Works and Corporate Services Committee made its recommendation to Council and in June 2002 Council gave approval (Resolution C47 June 2002) to the hang glider's association subject to 11 conditions. The Resolution was as follows:

That Council approve WA Airsports' (WAASp) application for its members to operate hang gliders and para gliders from the area of beach reserve south of Sydney Street subject to the following:

- (1) A gateway, of a type and construction suitable to Council, for access through the dune top fence being installed at WAASp's expense. The gate way be a minimum of three metres wide and suitable strainer posts be installed.*
- (2) The installation of signage at WAASp's expense. The signage to include one positioned either side of the gateway, that sets out conditions of operation and a WAASp contact phone number for complainants use. Signage to be of a type and design that conforms with relevant standards and Council's policies, and as agreed by Council's CEO.*
- (3) WAASp making arrangements with SCCC to participate in annual site maintenance activities.*
- (4) Any substantial works in regard to beach access ways or signage to facilitate the pedestrian transportation of gliders be the subject of specific and detailed requests. That these requests be accommodated only as agreed by the CEO only where relevant standards are not compromised, and in consultation with relevant community groups, with the full cost to be borne by WAASp.*
- (5) No improvements to the take off site being made at this time.*
- (6) The Association indemnifying Council against any loss, damage or injury due to the activities.*
- (7) All necessary approvals to use the site being obtained from the relevant Government Departments/Authorities.*

- (8) *In the event Council approves further tree planting in or near the landing zones identified in the WAASp proposal, alternative landing sites be found.*
- (9) *In relation to insurance, WAASp to :*
 - (a) *Supply Council with annual confirmation that licensed participants are automatically covered for public liability.*
 - (b) *Council sighting the annual renewal of WAASp's public liability insurance policy.*
 - (c) *WAASp's public liability insurance policy to make reference to the Town of Cottesloe and to specifically indemnify the Town of Cottesloe, to the satisfaction of the Town's legal advisor, against any loss or damage due to activities of WAASp or its members.*
 - (d) *Provide evidence that Council is protected against being sued by members of WAASp in relation to their use of the site.*
- (10) *Approval being subject to an initial review after six months and annual reviews thereafter.*
- (11) *Council having the option of withdrawing approval at any time at its discretion without the need for justification.*

It is suggested that some of these conditions could be used for kite surfing. Specifically condition (2) the requirement for signage, (3) the requirement to work with Cottesloe Coast Care, (6) indemnification of Council, (9) insurance, (10) annual renewals of approval, and (11) Council may withdraw its approval at its discretion.

If Council favours the path that leads to approval then it could form a committee to look at the matter in more depth and report back to the Works and Corporate Services Committee or set conditions now. Whilst a number of the hang glider conditions might be transferable, there may be other considerations to take into account and so it is recommended that a committee be formed. It is suggested that this committee should be chaired by an elected member, have a Cottesloe Coast Care representative and a WAKSA representative. It could also have representatives from the two local surf life saving clubs and resident surfing clubs.

VOTING

Simple Majority

COMMITTEE COMMENT

Nil.

OFFICER RECOMMENDATION

That Council:

- (1) Establish a committee to report to the Works and Corporate Services Committee on conditions that might be imposed if approval were to be given to Western Australian Kitesurfing Association Inc. in relation to kitesurfing in Cottesloe; and
- (2) The committee to be chaired by Councillor..... and have one representative each from Cottesloe Coast Care and Western Australian Kitesurfing Association Inc.

12.1.4 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Establish a committee to report to the Works and Corporate Services Committee on conditions that might be imposed if approval were to be given to Western Australian Kitesurfing Association Inc. in relation to kitesurfing in Cottesloe; and**
- (2) The committee to be chaired by Councillor Sheppard and have one representative each from Cottesloe Coast Care, Western Australian Kitesurfing Association Inc, together with one invited representative from each of the resident surf lifesaving clubs.**

Carried 10/0

12.1.5 LADY LAWLEY COTTAGE - DONATION REQUEST

File No: C7.7
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 14 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the Australian Red Cross's application for a donation toward the provision of a "Liberty Swing" at the Lady Lawley Cottage, Gibney Street Cottesloe.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

There is no provision in the 2003/04 budget for this donation and no provision has been made in the draft 2004/05 budget as yet. If a donation is to be made it is recommended that it be made in 2004/05 and that the draft 2004/05 budget, which is also on this Committee meeting's agenda, be amended accordingly.

BACKGROUND

The Australian Red Cross operates a respite facility for children with severe and chronic physical and/or intellectual disabilities at Lady Lawley Cottage. The Cottage has approximately 80 families on its books and, at any given time, can have up to 25 children in respite and/or long stay accommodation. The Cottage is about to launch a Day Centre which will be open to families living in the local community who have a child with a disability and will be also open to siblings of that child. The Day Centre will act as a sort of playgroup, with families being able to access the array of play and therapy facilities at the Cottage that have recently been installed as part of a redevelopment.

The "Liberty Swing" is a swing especially designed for children in wheelchairs that enables the children to be positioned into the swing in their wheelchairs and enjoy the delight of swinging, something they could not do without the "liberty swing".

The total cost of the swing, soft fall and installation is expected to be between \$32,150 and \$32,650. The Red Cross is not in a position to fund the proposed swing and is seeking a Variety Club grant to purchase the swing (\$23,000), and seeks Council's assistance with the cost of installation (\$5,650) and softfall (\$3,500 to \$4,000).

CONSULTATION

Correspondence has been received from the Australian Red Cross and the matter has been discussed with its representatives who have indicated they are confident of gaining the Variety Club grant.

STAFF COMMENT

The swing will no doubt provide enjoyment for a number of children with disabilities and its addition to the facilities at Lady Lawley Cottage will improve its amenity.

Whilst there is no budget provision for the requested donation it is recommended that Council favourably consider the request. As the project is also dependant on Variety Club grant funding it is recommended that the donation be conditional on the success of that application and the project going ahead.

VOTING

Absolute majority

COMMITTEE COMMENT

Nil.

12.1.5 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council agree to donate a maximum of \$9,650 to the Australian Red Cross for the installation of a "Liberty Swing", and for softfall surround surfacing, at Lady Lawley Cottage in 2004/05, dependant on the Red Cross obtaining other applied for funding and the project going ahead.

Carried 10/0

12.1.6 NORTH STREET CONSTRUCTION WORKS - CITY OF NEDLANDS

File No: E17.10.71
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 16 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to settle a disputed debt with the City of Nedlands concerning works undertaken in North Street in the 2001/2002 financial year.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

The amount that is to be offered to the City of Nedlands in settlement of the disputed debt is \$14,000. This amount has not been budgeted for in the current financial year and therefore requires an absolute majority decision from Council.

BACKGROUND

The debt relates to works that were undertaken by the City of Nedlands in North Street in the 2001/02 financial year.

The former Manager of Engineering Services of the Town of Cottesloe believed that the cost of works was grossly inflated and refused to authorise payment of the account on the basis that the extent of works undertaken by the City of Nedlands was never authorised by the Town of Cottesloe in the first instance and that in any event the costs were excessive given the nature of the works undertaken.

Doubts were also expressed as to the accuracy of the Town of Nedlands financial management systems.

The new Manager of Engineering Services of the Town of Cottesloe is of the view that the debt should be settled and has negotiated a potential compromise that requires Council approval.

CONSULTATION

The CEO has had discussions with City of Nedlands representatives and it is understood that they will be seeking their own Council's agreement to a reduction in the amount of the debt owing at this month's round of meetings.

STAFF COMMENT

The Manager of Engineering Services provided the following comments to his equivalent at the City of Nedlands.

In reference to our conversation today on this matter, and after studying the contents of the Town of Cottesloe's file on North St and speaking to a number of the staff and consultants originally involved, the following points seem apparent:

- It is in the best interests of both Councils to resolve this issue this financial year, and not let both 'sides of the argument' go into yet another year.
- The original estimate cost of the roundabout construction was too low, considering the level of difficulty of the site, the problems of controlling heavy traffic flows during construction, the problems of fitting in with the requirements of service authority pits, lids, cables and pipes, etc.
- The final completion cost 'blew out' due to a number of factors, many of which are now difficult to measure due to the passing of time.
- The City of Nedlands had difficulties with Cottesloe staff being on leave or not having sufficient knowledge to make early decisions on proposed changes to design plans and hence cost estimates.
- The Town of Cottesloe believing that it had not been kept up to date on many design or construction changes which affected the final completed costs, therefore not being given the chance to cut the scope of the works to fit in with the budget.
- The Town of Cottesloe's consulting engineers providing a report that strengthened a belief that unnecessary and expensive works had been undertaken that pushed the job cost well over the original estimate.
- Lack of clarity on costs listed by both Councils regarding the various works having been completed on the full length of North St, particularly seeing most of the staff involved in the work having 'moved on' and because of the passing of 4 years since the works were undertaken.

Therefore, in an effort to resolve this issue this financial year, and to clear the decks for improved relationships between both Councils and senior staff, acknowledging that a study of the history of this matter has resolved very little, other than the points made above, an offer is made for a final settlement of this invoice on the basis that the Town of Cottesloe would agree to pay an amended reimbursement of costs of 50% of the original figure i.e. for a rounded off total of \$14,000 by the end of this 2003/2004 financial year.

The matter requires resolution if it is not to become an ongoing embarrassment to both local governments.

VOTING

Absolute Majority

COMMITTEE COMMENT

The Committee noted that \$28,000 is the disputed amount.

12.1.6 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council make an offer of \$14,000 to the City of Nedlands in full and final settlement of costs associated with construction works in North Street.

Carried 10/0

12.1.7 PERTH STUDIO POTTERS – DONATION REQUEST

File No: C7.7
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 15 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council the donation request from Perth Studio Potters.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

There is no provision in the 2003/04 budget for this donation and no provision has been made in the draft 2004/05 budget as yet. If a donation is to be made it is recommended that it be made in 2004/05 and that the draft 2004/05 budget, which is also on this Committee meeting's agenda, be amended accordingly.

BACKGROUND

Perth Studio Potters operate from a property at 1 Burt Street Cottesloe that they purchased many years ago. They have been going since 1957 and currently have 120 members. They run classes and have a display gallery (around 500 people attend annually for classes or the gallery). They appeal to a very wide range of age groups from children to seniors who are either members or attend classes there. They describe themselves as a *small community not for profit group* that caters for *those of us that like to create something precious and hand made*.

They now need to replace the corrugated asbestos roof of their building and will be replacing the ceiling at the same time. The estimated costs of the works is \$18,000, they have applied for grant funding and hope to get \$5,000 (but apparently may get more). They will be conducting some fundraising activities but are unlikely to raise more than a couple of thousand dollars from this and their own resources. The Potters therefore seek a donation from Council of up to \$11,000.

CONSULTATION

A letter was received from the Perth Studio Potters and the author of the letter was contacted by phone for more details.

STAFF COMMENT

It appears that the Perth Studio Potters provide a unique activity to a wide age group in the community. They have operated for 47 years and had the forethought to purchase their own property. They now have to do some fairly significant works to the building but do not have the reserves to meet the costs and so are seeking outside funding. Council's often assist clubs and other such organisations with facilities at lower than market rentals and/or with donations.

VOTING

Absolute majority

COMMITTEE COMMENT

The Committee did not support a donation of \$11,000. However it was suggested that Council offer a self supporting loan, rather than a donation.

OFFICER RECOMMENDATION

That Council donate a maximum of \$11,000 to Perth Studio Potters, toward the cost of replacing their buildings roof and ceiling, in the 2004/05 year.

12.1.7 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council offer a self supporting loan facility of \$11,000 to Perth Studio Potters, towards the cost of replacing their building's roof and ceiling, in the 2004/05 year.

Carried 10/0

12.1.8 PRINCIPAL ACTIVITIES PLAN 2004/05 TO 2007/08

File No: X12.3
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 14 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

This report was prepared to table the Principal Activities Plan for the period July 2004 to June 2008 for adoption by Council.

STATUTORY ENVIRONMENT

The Principal Activities Plan is reviewed each year as a mandatory exercise under the provisions of section 5.56 of the Local Government Act (1995). The Act provides that public notice is to be given inviting lodgement of submissions within 42 days.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Preparation of the Principal Activities Plan aligns with District Development – Asset Management - under the Strategic Plan.

FINANCIAL IMPLICATIONS

The plan is not a commitment to expend funds.

BACKGROUND

The plan for the next 4 years was advertised in the 'Post' (1/5/04) and a notice placed on Council's notice board (1/5/2004 until 14/6/04) and at the library inviting submissions. The submission period closed 14 June, 2004, and no submissions were received.

CONSULTATION

No external consultation was conducted other than the statutory advertising for submissions.

STAFF COMMENT

The Principal Activities Plan for the period July 2004 to June 2008 was prepared with input from relevant managers and other members of staff based on underlying programs where these existed.

VOTING

Simple Majority.

COMMITTEE COMMENT

Nil.

12.1.8 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council adopt the Principal Activities Plan for the period 2004-2008 as presented.

Carried 10/0

12.1.9 SCULPTURE BY THE SEA

File No: X 7. 2
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 11 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to outline the proposal to stage *Sculpture by the Sea, Cottesloe*.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Councils *Beach* policy applies.

Significant Beach Events

- (i) Subject to
- the provisions of the *Beaches and Beach Reserves Local Law*,
 - consideration of how timing, location and activities may affect other beach users and residents,
 - using discretion to ensure that the prime usage of Cottesloe and North Cottesloe beaches remains passive recreation, and
 - the payment of the fee as set out in Council's List of Fees and Charges,
- the CEO may approve applications for significant beach events without reference to Council in the following circumstances.
- (ii) Only one significant beach event per month to be approved without specific referral to Council.
- (iii) Significant events with any commercial or profit making goals will not be approved by the CEO in the first instance. At the CEO's absolute discretion, applications for such events may be referred to Council for approval which may or may not be granted by the Council.
- (iv) Beach event organisers are required to submit evidence to the CEO's satisfaction that:
- An appropriate public liability insurance is in force.
 - A suitable risk management plan has been prepared.
 - Safety measures are in place, which are appropriate for the event. An aquatic safety plan is considered an appropriate safety measure for significant events with more than 3000 attendees.
-

- All relevant statutory requirements have been met (eg health, traffic, safety regulations).
 - The Town of Cottesloe is indemnified against all claims arising from the event.
 - A strategy is in place to clean up after the event.
 - Noise limits from any equipment will not exceed statutory levels.
 - Public access to facilities will not be impeded.
 - Relevant emergency authorities have been informed of the event.
- (v) Beach event organisers are required to observe the directions of authorised Council officers throughout any event.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

No direct financial support is being requested from Council, as the exhibition will be funded by a mixture of corporate sponsorship, private donations, philanthropic foundation grants, government grants, sculpture sales and catalogue sales. However to assist with the staging of the event it is requested that Council provide a reasonable amount of in-kind support that will enable the exhibition to be produced for a modest budget.

This support includes:

- (a) staff time during consultations with Sculpture by the Sea staff for the staging of the exhibition;
- (b) the provision of extra garbage bins and their collection; and
- (c) waiving of any fees for the staging of this free to the public event.

BACKGROUND

Sculpture by the Sea Incorporated requests the approval from the Town of Cottesloe to stage *Sculpture by the Sea, Cottesloe* as a free to the public event in March 2005. If the event is successful it is the intention of Sculpture by the Sea Inc. to request approval to stage the exhibition annually or biannually.

Sculpture by the Sea, Cottesloe is to become a sister exhibition to *Sculpture by the Sea, Bondi*, which has been held annually since 1997 as one of Sydney's most popular community cultural events. It is hoped to create *Sculpture by the Sea, Cottesloe* as a successful exhibition that gives much to its local community.

The event is proposed to be held along a 1km stretch of Cottesloe Beach from 20 March or 28 March 2005. The exhibition will showcase approximately 40 sculptures predominantly by Western Australian sculptors as well as interstate and international

sculptors who will be invited to exhibit in the inaugural *Sculpture by the Sea, Cottesloe*. The exhibition will be set-up, managed and de-installed by the experienced team, including the Site Curator, Assistant Site Manager and Installation Consultants, along with other staff and volunteers. 24 hour security will be provided for the duration of the exhibition.

Sculpture by the Sea, Cottesloe will bring significant social, cultural, educational and economic benefits to the local community.

It is also requested that approval be given to sell the sculptures in the exhibition.

CONSULTATION

Meetings have been held between Sculpture by the Sea Inc, the CEO and Mayor.

STAFF COMMENT

In addition to the proposal received from *Sculpture by the Sea* another local proposal has also surfaced.

It is entitled *Sirens Sculpture Art Prize* and additional information is being sought on the proposal in addition to that which is enclosed.

At the risk of doing the local submission a disservice, our experience with the Beach Boys Concert held earlier this year suggests that the more professional the outfit, the less hassle there is for Council staff and patrons of the event.

It is therefore my strong recommendation that the *Sculpture by the Sea, Cottesloe* proposal be supported in the first instance and reviewed after the first event.

VOTING

Simple Majority

COMMITTEE COMMENT

Nil.

12.1.9 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Approve the staging of *Sculpture by the Sea, Cottesloe* as a free to the public event in March 2005.**
- (2) Approve the following requests, from Sculpture by the Sea Inc, during the nine day period of the exhibition;**
 - (i) the erection of one or more fete stalls to act as information and catalogue sales booths, with the location to be approved by Council officers;**

- (ii) the exclusive rights to place signage in the area of the exhibition site for the purpose of acknowledging the exhibition's sponsors with all such signage subject to the approval of Council's officers;
- (iii) the conduct of an opening function hosted by the exhibition's principal sponsor in a marquee on the sand at Cottesloe Beach at which finger food and drinks will be served for approximately 200 guests including representatives of Council, artists, guests of sponsors and Government Ministers; and
- (iv) that no other corporation, individual or not for profit entity be entitled to carry on any similar commercial or fund raising activities on the exhibition site other than those which have annual leases or licenses from Council to do so or the joint written approval of Council and Sculpture by the Sea Inc.

Carried 9/1

12.1.10 SEA VIEW GOLF CLUB – DRAFT MANAGEMENT PLAN

File No: E10.10
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 15 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

A recommendation is made to agree to the draft *Management Plan* for the management of the golf course and to make the draft available for public comment.

STATUTORY ENVIRONMENT

Nil.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

The draft lease for the Sea View Golf Club contains the following clause:

13.1 Preparation of a Management Plan

- (a) Within:
- (1) 6 months after the Date of Commencement; and
 - (2) thereafter within 6 months of the expiry of each period of 3 years, after the Date of Commencement,
- the Lessor and the Lessee must meet and agree a draft Management Plan for the management of the Golf Course.
- (b) Once a draft of the Management Plan has been prepared and agreed in accordance with subclause (a):
- (1) that draft may, at the discretion of the Lessor, be made available for public comment for the period determined by the Lessor, being not less than 1 month after the draft of the Management Plan has been agreed as specified in subclause (a); or
 - (2) at the discretion of the Lessor, the Lessor may finalise the Management Plan in accordance with the draft Management Plan.
- (c) The Management Plan is to address the following:
- (1) the impact of the Golf Course on foreshore vegetation adjacent to Marine Parade, Cottesloe;
 - (2) the impact of the Golf Course on the coastal sand dune system adjacent to the Golf Course;
 - (3) warning signs which are appropriate to be erected on the Golf Course;

- (4) appropriate measures to be undertaken by the Lessee with a view to minimising danger and harm to the public by golf balls which are struck over Jarrad Street and golf balls which may be struck onto or over Marine Parade, Forrest Street, Pearse Street, Cottesloe Oval, Harvey Field, and Seaview Kindergarten, the general position of which is shown on the plan, described as the local plan, annexed at Annexure B;
 - (5) the issue of whether any boundary fences or walls are to be erected whether for the protection of public or otherwise;
 - (6) issues relating to groundwater; and
 - (7) other issues as determined by the Lessor.
- (d) In the event the Parties are unable to reach agreement as to the content of the draft Management Plan within the time required in subclause (a), the Lessor may at any time after 3 months after the expiry of the time specified in subclause (a) prepare and finalise the Management Plan taking account of the requirements of subclause (c).
- (e) In the event the Parties are unable to reach agreement as to the content of the draft Management Plan within the time required in sub-clause (a), the Lessor may at the discretion of the Lessor, instead of proceeding in accordance with subclause (d) prepare a draft of the Management Plan taking account of the requirements of subclause (c) and:
- (1) make a draft of that Management Plan available for public comment under sub-clause (b); and
 - (2) following the period specified in sub-clause (b), and after taking into account public comment, finalise the Management Plan.
- (f) A Management Plan, once finalised, will continue in effect until a new Management Plan has been finalised or determined in accordance with the procedures specified in subclauses (a) to (e)

13.2 Implementation and compliance with a management plan

The Lessee must:

- (a) undertake the management of the Golf Course in accordance with; and comply with the relevant provisions of,
- (b) a Management Plan which is in force.

Following the March meeting of Council and the consideration of public submissions on the draft lease agreement, our lawyer has been instructed and/or asked the following questions in relation to the draft lease agreement.

13.1(a)

Please redraft this clause as if the initial Management Plan were in existence before the commencement of the lease.

13.1 (b) (1)

Delete the words "may, a (sic) the discretion of the Lessor," and insert the word "shall".

13.1 (c)

Can we reasonably insert after the word "is" something to the effect of "to define reasonable specifications and reasonable policies"?

13.1 (c) (3)

Can we reasonably insert the words ", or as required by the Lessor," between the words "appropriate" and "to". An alternative might be ", or deemed to be appropriate by the Lessor,"

13.1 (c) (4)

Can we reasonably insert the words "to the satisfaction of the Lessor" between the words "measures" and "to"?

Can we reasonably delete the words "by the Lessee"?

13.1 (c) (6)

Delete in full and replace with "management practices agreed with the Lessor for the safe use and preservation of the aquifer beneath or adjacent to the Golf Course;"

13.1 (c) (7)

Rename sub clause 13.1 (c) (7) as 13.1 (c) (8) and insert a new sub clause 13.1 (c) (7) to read as follows "measures to increase and improve the amenity of the Golf Course and adjacent areas; and"

13.1 (c) (8)

There is a concern that "other issues as determined by the Lessor" might well include unreasonable issues. Can we include a reasonableness test here?

13.1 (d)

Can we reasonably change the nominated 3 months to 4 months?

13.1 (d) & (e) generally

There is a desire to insert an arbitration clause in the event that there is a dispute between the parties as regards the reasonableness of any new requirement within any new draft management plan (aside from the initial management plan).

Can you provide a suitable sub clause?

13.3 (new clause)

It has been argued that a new clause should be inserted to read "The Management Plan may not contain provisions which substantially and permanently derogate from the Lessee's Rights".

Can you provide a suitable sub clause to this effect?

A response to the various issues that have been raised is expected within the next fortnight.

CONSULTATION

The CEO and Manager of Engineering Services have provided advice to representatives of the Sea View Golf Club in the drafting of the *Management Plan*.

STAFF COMMENT

While the wording of clause 13 of the draft lease agreement may change, those changes are not expected to have a material effect on the actual wording of the draft *Management Plan*. A copy of the draft *Management Plan* is attached.

As amended, clause 13.1 (b) of the draft lease agreement requires that:

Once a draft of the Management Plan has been prepared and agreed in accordance with subclause (a):

- (1) that draft shall be made available for public comment for the period determined by the Lessor, being not less than 1 month after the draft of the Management Plan has been agreed as specified in subclause (a); ...

Notwithstanding that there will be some inevitable criticism of the draft *Management Plan*, Council staff are of the view that the draft plan represents a very good first attempt at documenting the significant issues associated with management of the

golf course. The inclusion of performance indicators is to be commended and is something that can be built upon in subsequent management plans.

On a related matter, it is likely that the final draft of the Sea View Golf Club lease will be put to the July meeting of the Council where it will be tabled for a month in order to allow further public input (in accordance with the Council's March resolution).

Effectively, this means that the matter of final acceptance of the draft lease agreement is likely to come before the August meeting of the Council.

In order to satisfy the requirements of clause 13.1 (b) 1 of the draft lease agreement it is recommended that the public comment period for the draft *Management Plan* be scheduled so as to allow it to be considered at the August meeting of the Council as well.

All things being equal, it should then be possible for the Council to sign-off on both the *Management Plan* and the lease agreement at the August round of meetings.

VOTING

Simple Majority

COMMITTEE COMMENT

Cr Utting provided to the Chief Executive Officer written comments in relation to the plovers, magpie flocks, grass tree protection, fertiliser and pesticide usage.

The Committee agreed to remove section 2.1.14 (Waste Water) from the draft Management Plan.

The Committee agreed to amend the first paragraph in 2.1.11 (Interface with the Town of Cottesloe) to read:

Monthly water usage, salinity and water level readings will be made available to the Town of Cottesloe.

DISCLOSURE OF PROXIMITY INTEREST

Cr Morgan declared a proximity interest insofar as he, in conjunction with several other strata unit owners, owned a small piece of land adjacent to the golf course at No. 1 Pearse Street. Cr Morgan left the room at 9.16pm.

Moved Cr Walsh, seconded Cr Cunningham

That the proximity interest be deemed to be trivial and insignificant and that Cr Morgan be allowed to participate in the debate and vote on the matter.

Carried 9/0

Cr Morgan returned to the meeting at 9.17pm.

DECLARATIONS OF IMPARTIALITY

In accordance with the provisions of Clause 13.1 of the Town of Cottesloe's Code of Conduct, Councillors Morgan, Furlong, Strzina and Robertson made declarations of impartiality insofar as they were members of the Sea View Golf Club.

AMENDMENT

Moved Cr Utting, seconded Cr Walsh

That the items he provided at the Works and Corporate Services Committee be reconsidered for inclusion in the management plan.

Lost 1/9

12.1.10 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Agree to the draft Management Plan, as amended, for the management of the Sea View Golf Course; and
- (2) Make the draft available for public comment for the period up to 4.00pm on Monday, 2 August, 2004.

Carried 9/1

12.1.11 TELECOMMUNICATIONS POLICY

File No: X 4.11
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 15 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to put before Council a draft of the revised Telecommunication Policy for consideration.

STATUTORY ENVIRONMENT

The Local Government Act (Section 5.99A) and the Local Government (Administration) Regulations (regulation 34A) apply.

POLICY IMPLICATIONS

This matter deals with Council's policy on telecommunications expenses.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

BACKGROUND

Prior to May 2002 Council had a *Telephone and Fax Reimbursements – Elected Members* policy that dealt with the process of claiming reimbursements for phone and fax costs.

In May 2002 the policy was reviewed and amended. The policy is put forward again for review in part to better reflect the move away from the use of fax and hard copy distribution of information in favour of email.

CONSULTATION

Nil.

STAFF COMMENT

Attached is a draft of the revised policy for Council's consideration.

The main changes are:

- Name change from *Telecommunications Fee – Elected Members* to *Telecommunications - Elected Members* to better reflect the broader nature of the policy.
- Changes to (1) Objectives and (3) Issues to include connection to the internet.

- Changes to 4.1.1 to provide that the amount of the annual telecommunications allowance is set by Council annually as part of its budget setting process.
- Changes to 4.2 to include the provision and disposal of lap top computers with the facsimile equipment already covered by this section.

VOTING

Simple majority

COMMITTEE COMMENT

Nil.

12.1.11 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council rescind the current *Telecommunications Fee – Elected Members Policy* and adopt the *Telecommunications – Elected Members Policy* as attached to the agenda.

Carried 9/1

12.1.12 SPECIFIED AREA RATE - TOWN CENTRE ZONE

File No: C 7.18
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Report Date: 16 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to the Cottesloe Business Association's request that Council raise a specified area rate of 1.5% of gross rental valuation (GRV) of properties in the town centre for the purposes of raising \$70,000 to \$75,000 to promote the area.

STATUTORY ENVIRONMENT

Section 6.37 of the *Local Government Act 1995* applies:

6.37. Specified area rates

- (1) A local government may impose a specified area rate on rateable land within a portion of its district for the purpose of meeting the cost of the provision by it of a specific work, service or facility if the local government considers that the ratepayers or residents within that area —
 - (a) have benefited or will benefit from;
 - (b) have access to or will have access to; or
 - (c) have contributed or will contribute to the need for,that work, service or facility.
- (2) A local government is required to —
 - (a) use the money from a specified area rate for the purpose for which the rate is imposed in the financial year in which the rate is imposed; or
 - (b) to place it in a reserve account established under section 6.11 for that purpose.
- (3) Where money has been placed in a reserve account under subsection (2)(b), the local government is not to —
 - (a) change the purpose of the reserve account; or
 - (b) use the money in the reserve account for a purpose other than the service for which the specified area rate was imposed,and section 6.11(2), (3) and (4) do not apply to such a reserve account.
- (4) A local government may only use the money raised from a specified area rate —
 - (a) to meet the cost of providing the specific work, service or facility for which the rate was imposed; or

- (b) to repay money borrowed for anything referred to in paragraph (a) and interest on that money.
- (5) If a local government receives more money than it requires from a specified area rate on any land or if the money received from the rate is no longer required for the work, service or facility the local government —
 - (a) may, and if so requested by the owner of the land is required to, make a refund to that owner which is proportionate to the contributions received by the local government; or
 - (b) is required to allow a credit of an amount proportionate to the contribution received by the local government in relation to the land on which the rate was imposed against future liabilities for rates or service charges in respect of that land.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

One of the strategic objectives of Council is to:

Define, enhance and preserve the following precincts: Marine Parade (commercial and residential); Napoleon Street and Town centre; Heritage; Recreational and Residential.

FINANCIAL IMPLICATIONS

Nil other than the cost of administering the raising and disbursement of the rates raised. The draft budget for 2004/05 being put forward at this meeting, was completed prior to this item being prepared and so will require an amendment if Council agrees to the recommendation.

BACKGROUND

At its May meeting Council resolved as follows:

That Council

- (1) Give "in principle" support to the imposition of a specified area rate for the Town Centre Zone as defined by Town Planning Scheme No.2.
- (2) Support the appointment of Mayor Rowell and Cr Cunningham to a sub-committee to be formed by the Cottesloe Business Association to work out an appropriate rate and budget for the coming year to be presented to the June Council meeting for discussion and possible recommendation through to Council's budget-setting meetings; and
- (3) That subject to the adoption of a specified area rate, no money be transferred from the Town of Cottesloe to any service agency until the following has occurred:
 - (i) A license agreement has been put in place between the Town of Cottesloe and the Cottesloe Business Association that has the complete support of the Cottesloe Town Council and the majority of traders from Cottesloe as determined at a special meeting of the traders.
 - (ii) An incorporated body (service agency) has been set up with the powers to be agreed to by the above-mentioned groups who will administer the funds as laid down in the license agreement and the constitution of the incorporated body.

The Cottesloe Business Association wrote to say that at its last meeting of its sub-committee they voted, in relation to Council's agreement in principal to raise a special area rate, that the rate be set at 1.5% of GRV.

CONSULTATION

Nil.

STAFF COMMENT

Council's May meeting resolution on this matter referred to raising a specified area rate for the town centre zone as defined in the town planning scheme however this zone does not include the hotel and the service station that abut Stirling Highway. Also, the zone contains two lots that are used solely for residential purposes.

It is suggested therefore that the area to be subject to the specified area rate be described as all of the rateable land bounded by Forrest Street, Stirling Highway, the railway line, Brixton Street and Railway Street as shown in Appendix 1 of Town Planning Scheme No. 2 and as the Town Zone Development Policy Plan, except for lots 50 and 61 which are used solely for residential purposes (numbers 91 and 99 Forrest Street). The combined GRV of the rateable properties in this area is \$4,581,616 and at a rate in the dollar of 1.5 cents the specified area rate would yield \$68,724.24.

VOTING

Absolute Majority

OFFICER RECOMMENDATION

That Council, in its 2004/05 Budget and for the purposes of area promotion, include the raising of a specified area rate of 1.5 cents in the dollar on the Gross Rental Valuations of all of the rateable land bounded by Forrest Street, Stirling Highway, the railway line, Brixton Street and Railway Street as shown in Appendix 1 of Town Planning Scheme Number 2 and as the Town Zone Development Policy Plan, except for lots 50 and 61.

AMENDMENT

Moved Cr Utting, seconded Cr Morgan

That the item be deferred for further consultation.

Lost 3/7

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Morgan	Mayor Rowell
Cr Utting	Cr Cunningham
Cr Walsh	Cr Furlong
	Cr Jeanes
	Cr Miller
	Cr Robertson
	Cr Strzina

12.1.12 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council, in its 2004/05 Budget and for the purposes of area promotion, include the raising of a specified area rate of 1.5 cents in the dollar on the Gross Rental Valuations of all of the rateable land bounded by Forrest Street, Stirling Highway, the railway line, Brixton Street and Railway Street as shown in Appendix 1 of Town Planning Scheme Number 2 and as the Town Zone Development Policy Plan, except for lots 50 and 61 and any other property in the specified area that is used solely for residential purposes.

Carried 8/2

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Mayor Rowell	Cr Morgan
Cr Cunningham	Cr Utting
Cr Furlong	
Cr Jeanes	
Cr Miller	
Cr Robertson	
Cr Strzina	
Cr Walsh	

12.2 FINANCE**12.2.1 STATUTORY FINANCIAL STATEMENTS FOR THE PERIOD ENDING 31 MAY, 2004**

File No:	C7.14
Author:	Mr Alan Lamb
Author Disclosure of Interest:	Nil
Period Ending:	31 May, 2004
Senior Officer:	Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 May, 2004, 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

As will be noted from the Operating Statement on page 3 of the Financial Report, operating expenditure is overall \$327,931 lower than expected and income is higher (\$248,295). Based on information supplied and forecasts made it is evident that this trend will continue to the year end and contribute to a surplus. Capital expenditure (page 24) is also lower than might be expected at this time of the year however a number of large road works jobs are in progress and it is expected that once all of the accruals are done for the year end, the under expenditure of \$637,489 will be significantly reduced.

VOTING

Simple majority

COMMITTEE COMMENT

Nil.

12.2.1 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Operating Statement, Statement of Assets and Liabilities and supporting financial information for the period ending 31 May, 2004, as submitted to the June meeting of the Works and Corporate Services Committee.

Carried 10/0

12.2.2 SCHEDULE OF INVESTMENTS AND SCHEDULE OF LOANS FOR THE PERIOD ENDING 31 MAY, 2004

File No: C12/C13
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 May, 2004
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 May, 2004, 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

As will be seen from the schedule of investments on page 34 of the May financial report, \$1,602,166.24 was invested as at 31 May. \$536,168.37 was reserved and so restricted funds. 51.17% was invested with the National Bank, 35.32% with Home Building Society and 13.51% with Bankwest.

VOTING

Simple majority

COMMITTEE COMMENT

Nil.

12.2.2 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the Schedule of Investments and Schedule of Loans for the period ending 31 May, 2004, as submitted to the June meeting of the Works and Corporate Services Committee.

Carried 10/0

12.2.3 ACCOUNTS FOR THE PERIOD ENDING 31 MAY, 2004

File No: C7.8
Author: Mr Alan Lamb
Author Disclosure of Interest: Nil
Period Ending: 31 May, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

The purpose of this report is to present the List of Accounts for the period ending 31 May, 2004, 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

Significant payments included in the list of accounts, commencing on page 27 of the financial report, brought to Council's attention include:

- \$74,233.63 to the Shire of Peppermint Grove for the quarterly Library contribution.
- \$39105.85 to Wasteless for rubbish collection services.
- \$18,334.86 to Corporate Express for printer plotter and stationery supplies.
- \$11,355 to Ocean IT for support services and training.
- \$50,495.40 and \$46,732.74 for May payroll.

VOTING

Simple majority

COMMITTEE COMMENT

Nil.

12.2.3 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council receive the List of Accounts for the period ending 31 May, 2004, as submitted to the June meeting of the Works and Corporate Services Committee.

Carried 10/0

**12.2.4 PROPERTY AND SUNDRY DEBTORS REPORTS FOR THE PERIOD
ENDING 31 MAY, 2004**

File No:	C7.9
Author:	Mr Alan Lamb
Author Disclosure of Interest:	Nil
Period Ending:	31 May, 2004
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 May, 2004, 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 (pages 32 and 33 of the Financial Report shows a balance of \$111,745.92 as at 31 May. \$82,222.19 of this relates to the current month. As will be noted from comments in the Status column, attention has been paid to a number of longer term outstanding accounts. However some still remain with the EHO for verification that the services charged for have been performed.

VOTING

Simple majority

COMMITTEE COMMENT

Nil.

12.2.4 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council:

- (1) Receive and endorse the Property Debtors Report for the period ending 31 May, 2004; and**
- (2) Receive the Sundry Debtors Report for the period ending 31 May, 2004.**

Carried 10/0

12.3 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY ELECTED MEMBERS/OFFICERS BY DECISION OF MEETING**12.3.1 SUBSIDISING INSURANCE PREMIUM FOR COTTESLOE COASTCARE**

There is growing concern about the inability of Cottesloe Coastcare to obtain adequate and secure insurance. The concern is that this problem may eventually dissuade volunteers from continuing to assist Cottesloe Coastcare for fear of putting their own personal assets at risk in the event of any claims arising from its activities. Cr Mogan provided a background paper on this item.

12.3.1 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Strzina

That Council agree to:

- (1) Provide a subsidy of up to a maximum of \$1,500.00 to Cottesloe Coastcare Association (Inc) to assist it with any premium payable during the 2003/2004 financial year for adequate insurance cover for that organisation and for the volunteers who assist the organisation.**
- (2) Write to local members and relevant ministers in the State and Federal governments expressing concern that:**
 - (a) The viability of community volunteer groups such as Cottesloe Coastcare could be severely jeopardised by ongoing inaction by the State and Federal governments to address the impact of the insurance crisis on such volunteer community groups.**
 - (b) By reason of this neglect by the State and Federal governments, Cottesloe Council is being forced to shoulder responsibility of ensuring such local volunteer community groups can obtain adequate and secure insurance cover.**

Carried 10/0

13 STRATEGIC PLANNING COMMITTEE MEETING HELD ON 31 MAY 2004**13.1 GENERAL****13.1.1 QUARTERLY COUNCIL NEWSLETTER**

File No: X3.3
Author: Mr Stephen Tindale
Attachment: Correspondence from Burns Communications received 11/05/04
Author Disclosure of Interest: Nil
Report Date: 27 May, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

A report and quote has been obtained for the preparation and delivery of a household quarterly newsletter.

A recommendation is made to trial the production and distribution of the newsletter.

BACKGROUND

There is a view that the monthly *Cottesloe Council News* page that appears in the *Post* does not reach all of its intended readers and that its brief "newsy" style does not allow Council to get the detail of some of it and the community's worthier achievements across.

CONSULTATION

Nil.

STAFF COMMENT

The CEO has met with a local journalist, Robbie Burns, and obtained a quote and brief of that which is required for the newsletter (see attached).

Mr Burns has worked extensively for other local governments in preparing similar publications.

The first four page edition will cost \$3,813.70 plus delivery costs of \$400 (incl. GST).

Subsequent editions will cost \$3,910.70 all up. This equates to approximately \$1 per household per edition after claiming back the GST component.

It should be noted that there is very little enthusiasm for preparing the newsletter "in-house". The production of a newsletter requires a journalistic flair that is simply not present within the existing staff. If such expertise were to be recruited in at a later date when refilling a natural vacancy, then the work undertaken by Robbie Burns might serve as a useful model.

In the meantime it is felt that the newsletter should be trialled to see if it is welcomed by Cottesloe residents.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

One of Council's strategic objectives is that *Council will keep in regular two-way contact with residents, using all appropriate media, and will provide readily accessible information on its activities.*

FINANCIAL IMPLICATIONS

The initial trial will cost in the vicinity of \$3,800. If the trial is successful then the minimum cost for 2004/2005 will be approximately \$14,500. This amount has not been budgeted for.

VOTING

Absolute Majority – unbudgeted expenditure.

13.1.1 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Robertson, seconded Cr Strzina

That Council

- (1) Trial the production and distribution of a quarterly newsletter; and**
- (2) That the results of the trial be listed for discussion at the next Strategic Planning Committee meeting.**

Carried by casting vote of Mayor 6/5

13.1.2 RESOLUTIONS FROM THE SPECIAL ELECTORS MEETING

File No: X4.8
Author: Mr Stephen Tindale
Author Disclosure of Interest: Nil
Report Date: 27 May, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

A special electors meeting was held on Monday the 27th April 2004. The meeting was called in relation to development within the district and more specifically, Marine Parade and the Cottesloe Beach Hotel site.

Resolutions 2, 3 and 4 have been referred through to the Strategic Planning Committee by Council for further consideration and comment.

BACKGROUND

Resolutions 2, 3 and 4 are shown below.

“... ”

2. *The community considers that limiting building heights to 12 metres is important to maintain the ambience, scale and amenity of Cottesloe's village character.*
3.
 - a) *There be no building heights above 12 metres permitted in TPS 3.*
 - b) *There be no discretion to approve any building height above 12 metres in TPS 3.*
 - c) *Council recognise the community's view on height in considering development applications under TPS 2 or amendments to TPS 2.*
4. *That the Council, prior to commencing formal processing under the Act of a Town Plan Amendment under TPS 2 or TPS 3:*
 - a) *Make available to all electors draft plans for changes or amendments to the Town Planning Scheme, clearly indicating any changes to zoning, uses, heights and setback controls.*
 - b) *Provide background information to the proposed changes addressing:*
 - (i) *the reasons for and the objectives of the proposed changes;*
 - (ii) *alternatives that can be considered;*
 - (iii) *the short and long term implications to the community of these changes.*
 - c) *Organise a series of public workshops in the form of precinct planning groups for each proposed precinct affected by the change, unless Council decides by a two thirds majority that the changes are not material to the overall Town Plan and do not warrant a public workshop being held.*
 - d) *By not later than 30 June, 2004 establish guidelines and timeframes for public consultation on changes to be made in the new Town Plan No. 3.”*

CONSULTATION

Nil

STAFF COMMENT**Resolution 2**

The community considers that limiting building heights to 12 metres is important to maintain the ambience, scale and amenity of Cottesloe's village character.

The recent debate over height limits has always centred on the beachfront. The above resolution extends the 12m height limit debate to the entire district. It is the view of staff that there has not been sufficient debate on the proposed extension to enable Council to act clearly and decisively on the matter.

Furthermore, it is the view of staff that not all those present at the meeting would have been aware that:

- (a) Existing height controls in the Residential Zone, Foreshore Centre Zone and the Residential/Office Zone, have statutory height limits that are lower than 12.0m;
- (b) Within other Zones, such as the Business Zone, Town Centre Zone and other zones there are no statutory height control limits, other than those that fit the objectives for those Zones or the general height principles of Clause 5.1.1(a).

As previously reported, it was explained by the Manager, Development Services at the electors meeting that the:

- Special Development Zone has a 12m height limit, that could be varied if Council prepared a Town Planning Scheme Policy based on the process set out in the Town Planning Scheme text; and
- Hotel Zone was restricted to a height limit of 12m.

The recommendation appears to contemplate the establishment of a norm of 12m that is clearly at odds with the current variety contemplated by Town Planning Scheme No. 2.

It would be fair to say that Town Planning Scheme No. 2 has served the Town of Cottesloe well in checking the excessive residential development that occurred or was proposed on the beachfront prior to 1988. In fact some would argue that it has done the job too well.

The reality is that in its 16 years of operation nobody has "busted" the height limits imposed by Town Planning Scheme No. 2 - despite ongoing attempts by developers to do so.

While the spirit of the special electors meeting resolution is generally understood – particularly in relation to the Foreshore Centre Zone – staff can see little to be gained in tinkering with the existing town planning scheme.

If there is a genuine desire to extend the 12 metre height limit to all parts of the district, then it should occur with full community consultation and debate rather than

being driven by a singular issue – namely strong opposition to the Multiplex redevelopment proposal for the Cottesloe Beach Hotel.

Furthermore it should be noted that a special meeting of 200 electors can no more purport to accurately reflect the collective view of the community than can a normal meeting of democratically elected Councillors.

As a result it is recommended that Council leave Town Planning Scheme No. 2 as it is.

The height limits are in place and it is difficult to see them being dislodged.

Resolution 3

- a) *There be no building heights above 12 metres permitted in TPS 3.*
- b) *There be no discretion to approve any building height above 12 metres in TPS 3.*
- c) *Council recognise the community's view on height in considering development applications under TPS 2 or amendments to TPS 2.*

If it is accepted that the community's view on height is 12 metres and nothing more, can anyone explain why 12 metres is appropriate - other than that it is a figure that specifically applies to the two hotel sites under Town Planning Scheme No. 2?

11.5 metres is the prevailing height limit for the Foreshore Centre Zone. Do we really want to increase it to 12 metres?

Why not 11 or 13 metres? What is it about 12 metres that makes it an appropriate benchmark for the entire district?

If Town Planning Scheme No.2 is to be an arbiter of what should apply in Town Planning Scheme No. 3, then why is it proposed that existing discretionary powers should be removed?

Why were the discretionary powers inserted in the first instance? What has changed that necessitates their removal?

Again it is the view of staff that the extension of the 12 metre height limit to all parts of the district should occur only with full community consultation and debate.

Given the above, staff believe that an absolute height limit should be inserted into the proposed Town Planning Scheme No.3 but further and broader discussion needs to occur on what that height limit should be.

Resolution 4

That the Council, prior to commencing formal processing under the Act of a Town Plan Amendment under TPS 2 or TPS 3:

- a) *Make available to all electors draft plans for changes or amendments to the Town Planning Scheme, clearly indicating any changes to zoning, uses, heights and setback controls.*

- b) *Provide background information to the proposed changes addressing:*
- (i) the reasons for and the objectives of the proposed changes;*
 - (ii) alternatives that can be considered;*
 - (iii) the short and long term implications to the community of these changes.*
- c) *Organise a series of public workshops in the form of precinct planning groups for each proposed precinct affected by the change, unless Council decides by a two thirds majority that the changes are not material to the overall Town Plan and do not warrant a public workshop being held.*
- d) *By not later than 30 June, 2004 establish guidelines and timeframes for public consultation on changes to be made in the new Town Plan No. 3*

The sentiment being expressed in the above resolution is the desire to establish an agreed consultative mechanism when dealing with town planning scheme amendments.

The development of an agreed consultative mechanism is supported – although not entirely along the lines being advocated.

By way of explanation, “...changes to zoning, uses, heights and setback controls...” should not constitute the be all and end all of a community consultation process.

Other town planning considerations may be equally deserving in terms of being drawn to the attention of electors e.g. plot ratios, site coverage, car parking etc..

Public workshops are but one form of community consultation and like any other form of public consultation has its own set of advantages and disadvantages. What happens if the workshops are “stacked”? What if the outcomes of the workshops are nonsensical or inconsistent with existing scheme provisions?

The arbitrary imposition of a two thirds majority also raises a host of legal issues in terms of democratic decision making. The Cottesloe Town Council acts as an agent for the State. Can it properly discharge its agency role if it constrains the circumstances under which it can make decisions on behalf of the State?

What happens in the absence of Councillors on extended leave or when Councillor vacancies occur?

In short a lot more work needs to occur before Council can adopt an agreed consultative mechanism for town planning scheme amendment proposals.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

VOTING

Simple Majority

Cr Cunningham left the meeting at 9.47pm.

13.1.2 OFFICER & COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Robertson, seconded Cr Strzina

- (1) That Council leave Town Planning Scheme No.2 as it is and not seek to amend the height provisions within the scheme.
- (2) That the issue of an absolute height limit for the entire district be revisited when considering draft Town Planning Scheme No.3
- (3) That Council staff be requested to develop a consultative strategy for proposed town planning scheme amendments.
- (4) That Council staff be requested to develop guidelines and timeframes for public consultation on draft Town Planning Scheme No.3 for adoption by the Council by no later than 30 June, 2004.

Carried 7/2

13.1.3 REPORT ON SUBMISSIONS ON THE DRAFT BEACHFRONT OBJECTIVES

File No: D2.4
Author: Mr Stephen Sullivan
Author Disclosure of Interest: Nil
Report Date: 25 May, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

Based on the submissions received, it is recommended that the draft Beachfront Objectives should be modified by removal of the provisions that would support increasing the current building height controls and reference to commercial development on the Napier Street Reserve.

Further time is required to review the document based on other submissions received that addressed matters other than building heights and development on the Napier Street Reserve.

Once this further review has occurred the document can then be:

- adopted for inclusion in the draft No. 3 Town Planning Scheme; and
- released for public information.

BACKGROUND

Council carried out five workshops to formulate recommendations that provide a direction for development of the public domain and the private land that fronts onto the public domain. The boundaries of the study area included the area that encompassed the beachfront between Forrest Street/Cottesloe groyne through to the south side of the Grant Street Marine Parade Park, and those properties fronting onto Marine Parade.

The recommendations covered various matters including objectives for this space, standards and future work/studies.

At its November, 2003 meeting, Council resolved as follows:

- (1) *That a formal meeting of the Design Advisory Panel be convened to "sign off" on the outcomes of the beachfront development workshops.*
- (2) *That any proposals of the Design Advisory Panel on beachfront development be referred through to Council for further consideration.*
- (3) *That discussion on the remainder of the aspects of Town Planning Scheme No. 3 be carried out in an expedited process and all matters be put to community consultation as soon as practicable.*

On the 1 December 2003, a meeting of the Design Advisory Panel was held to consider the recommendations from the workshops that were held with the Design Advisory Panel, Councillors and the Manager, Development Services.

At that meeting, the Panel reviewed the recommendations of the workshop. There were certain changes made to the document.

At its December 2003 meeting Council resolved as follows:

That Council place the recommendations from the beachfront workshops on display to the community at the Library, Council offices, on Cottnet and the newsletter in the Post for their information and comment.

At about the same time Multiplex advertised its proposals for the re-development of the Cottesloe hotel site.

Council commenced the preparation of a strategic plan through a number of workshops. This was seen to be the new direction for the draft Town Planning Scheme. Once developed, the new strategic plan could be compared with the existing strategic plan that was prepared in the formulation of the proposed No. 3 Town Planning Scheme.

At its February 2004 meeting Council resolved as follows:

That Council:

- (1) Conduct a community consultation commencement session on both the Beachfront and Strategic Planning workshops for ratepayers and electors on Saturday 13 March, 2003;
- (2) Engage the current consultants to facilitate the community consultation commencement session so as to inform those present of the process used to reach the current outcomes;
- (3) Seek community comment on the outcomes of the two workshops;
- (4) Allow a six week submission period from the date of the community consultation commencement session on both workshop outcomes and that the submissions currently being received on the Beachfront Development Objectives be included;
- (5) Inform the community on the results of the submissions received during the consultation process;
- (6) Review Council's position on the outcomes from those workshops following a review of the submissions made by the community;
- (7) Following the determination of Council's position in relation to the submissions received during the submission period on the workshops, assess the impact on the draft No. 3 Town Planning Scheme and determine the next appropriate course of action.

Steps (1) to (4) of the February 2004 resolution have been completed.

It is proposed that a press release be issued with the results of the submissions received during the consultation process to address point (5) of Council's resolution.

This report will address point (6) of the resolution in relation to the draft Beachfront Objectives.

Ultimately, the review of the draft Beachfront Objectives and the draft Strategic Plan will provide a direction for Council in relation to the draft No. 3 Town Planning Scheme, which is part (7) of the resolution.

CONSULTATION

There were two stages in the consultation process on the draft Beachfront Objectives.

Firstly, Council released the Draft Beachfront Objectives in December 2003 for the "...information and comment." of the public". There was no closing date for submissions.

The consultation process also involved displaying the document at the Council offices, Council's website and the public library.

The second stage was the holding of two community information sessions on the draft Strategic Plan and the draft Beachfront Objectives. This was then followed by a six week submission period after the last information session. The closing date for submissions on both documents was the 17 May, 2004.

STAFF COMMENT

The consultation process that Council has undertaken has resulted in three types of submissions being received.

The early consultation stage resulted in submissions being received from persons that responded primarily to the first Multiplex proposal for the Cottesloe Hotel site. Following the community information sessions, the responses were more focussed on the Draft Beachfront Objectives report. Finally, a standard letter that responds to the Multiplex proposal and development along the beachfront became the norm for submissions towards the close of the submission period.

It is acknowledged in the assessment of the submissions that there has been some doubling up of submissions for and against increasing the height of development on the Cottesloe Hotel site and along the section of Marine Parade covered by the Draft Beachfront Objectives.

For instance, family members from the same property have signed different letters against the changing of the height controls. These have been treated as separate submissions.

On the other hand, there was three submissions out of a total of nineteen submissions that supported an increase in the height of a development on the Cottesloe Hotel site and along Marine Parade from the one property owner. For the purposes of this exercise those submissions were treated as separate submissions.

The reason for this was that due to the sheer difference in the numbers for and against an increase in the height of buildings on the beachfront and the very minimal support for an increase.

Submission received by people who do not live in Cottesloe totalled 24 out of 659 submissions, which represents 3.5% of the total number of submissions received.

A review of the submissions received on the draft Beachfront Objectives has revealed the following:

Number of submissions

Council received a total of 659 submissions up to and including the closing date for submissions. Submission are still being received daily although not as frequently. These have not been included in the assessment at this stage. These submissions tend to be the letter that has been referred to as the Standard Letter "D"

Types of submissions

Of the 659 submissions that were received:

- 438 were original submissions (68.7%)
- 206 were standard type letters (31.3%)

Of those 206 standard type letters - 8 were modified that provided additional comments in support or were against the content of the standard letter.

Location of submitters

Of the 659 submissions, there were 24 submissions from the public that lived outside of the District. All of these submissions were against an increase in the height of development along the coast, except for one.

There were 2 submissions where the signature was indecipherable or where their address was not shown.

The remaining 633 submissions were from residents of the District. Due to the length of time that submissions were allowed to be received, some members of the community made submissions on both the Multiplex proposal and the draft Beachfront Objectives.

Standard Letters

There were 206 types of standard letters which represented 31.2% of the submissions. These standard letters are identified below:

Type A	6
Type B	15
Type C	38
Type D	143
Type E	4
TOTAL	206

Except for 2 of these standard letters, all were either opposed to the Multiplex development or changes to the height controls along Marine Parade between Grant Street and Forrest Street or development of the Napier Street reserve.

Issues

The primary issues that arose from those submissions are outlined below:

Development over 12m in Height

Six hundred and twenty two submissions (622) out of the six hundred and fifty nine (659) submissions either objected to the Multiplex development (late 2003 proposal) or the increasing of the height controls along Marine Parade. Only nineteen (19) of the submissions received supported heights greater than 12m or three storeys for the Cottesloe Hotel site or along Marine Parade, between Forrest Street and Grant Street.

Those submissions that supported increasing the building height along Marine Parade (19) varied in opinion from restricting increased heights to the hotel sites only, four storeys with good setbacks, to increased heights ranging up to 20.5m.

There were a number of submissions that did not respond to the height issue.

Consultation Process

There were 113 submissions that expressed concern in relation to the process that Council had undertaken in developing the draft Beachfront Objectives and the future consultation process. Many submitters either requested direct community input into the consultation process or that Council hold a referendum on the issue of heights.

Some submitters raised concerns over the composition of the Design Advisory Panel in the formulation of the Draft Beachfront Objectives Report.

Development of the Napier Street Reserve

There were 85 references to the proposed objectives relating to the Napier Street Reserve. Seventy two (72) of these wanted to maintain the status quo. Four (4) supported some type of development on the existing carpark. Five (5) supported development on the Napier Street Reserve as a whole.

Draft Beachfront Objectives

Of the 659 submissions, 338 submissions were grouped into submissions that could be related to comments on the draft Beachfront Objectives. Of those, 332 comments were made that could be related to the proposed changes to the Beachfront Height controls outlined under Section 3.2, of which only 19 comments supported the increase in heights.

The next section of the draft Beachfront objectives that received the highest number of comments (85 references) related to Section 2 – Development of the Public Domain. Most of the submissions focussed on whether to support commercial development on the reserve, provision of more parking and to a lesser extent, the loss of the space between the two nodes with development on the Reserve.

The remaining three sections received between 13 -19 comments.

There were only 11 submissions that addressed all of the objective sections listed in the draft Beachfront Objectives document.

Community Perception

Beachfront

Of the 659 submissions received, approximately 70% were individual submissions in which the submitters specifically expressed their opinion, of which the vast majority were not supportive of the changes to the height controls. Most of the submitters described the elements that encapsulated their perception of the beachfront and how development over the 12m height limit will adversely impact on the ambience and character of the beachfront and the locality.

The beachfront and the lifestyle associated with the beachfront is perceived to have its own special ambience. Description of the area included reference to such terms as a village style atmosphere, unique, low scale, low density, relaxed and laid back. This uniqueness was attributed to the low scale of development that has occurred.

There was a strong feeling that the building known as the "Chocolate box" was a mistake and such a mistake should not be repeated. Reference s to Scarborough and Surfers Paradise were commonly used. The feeling from the submissions was that the low scale height and low density of development of the beachfront contributed to the ambience of the beachfront. Tall buildings within this area, like the chocolate box, would detract and adversely impact on the ambience of the beachfront.

Further, there was quite a few responses that indicated that only the developers would gain from the increased height and that there would be no benefits to the community. Some saw increased rates as a possible outcome to Council, but felt that this would not outweigh the adverse impacts on the amenity of the beachfront through the increased height of development.

A few comments were made that the beachfront will re-new itself over time or that development could occur within the current framework, that would still maintain the village feel and lifestyle about the beachfront.

Napier Street Reserve

The majority of comments on Section 2 of the Objectives related to the Napier Street Reserve. Most of these comments did not support commercial development of this section of the beachfront. The area is seen as providing open space and parking for visitors and residents, as well as a much needed break between the nodes.

About five submissions were received that supported the objectives.

CONCLUSION

It is considered that there was a very strong community feeling against the increase in the heights of buildings along Marine Parade that are the subject of the draft Beachfront Objectives. Therefore, the provisions relating to these objectives should be removed.

These was a fairly strong response from those that addressed the Napier Street Reserve who do not want to support the commercial development of this reserve. Further research could be carried out b determine whether improvements can be made to this area with the support of the community, without involving commercial development.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The Draft Beachfront Objectives will provide direction for considering future development of the public and private domain along the identified section of the beachfront.

FINANCIAL IMPLICATIONS

Nil.

VOTING

Simple Majority

DECLARATION OF INTEREST

Cr Furlong made a declaration of interest in relation to the Napier Street development and did not take part in the debate or voting. Cr Furlong left the room at 8.10pm.

OFFICER RECOMMENDATION

That Council:

- (1) Revise the Draft Beachfront Objectives Report by:
 - (a) deleting the sections relating to increased heights above 12m; and
 - (b) removal of the reference to commercial development on the Napier Street Reserve; and
 - (c) request the Manager, Development Services to:
 - i. consider in further detail, the submissions received relating to the draft Beachfront Objectives; and
 - ii. develop a revised draft Beachfront Objectives Report for consideration by Council;
- (2) Following adoption of the report referred to in (1)(c)(ii);
 - incorporate those proposals into the draft No. 3 Town Planning Scheme; and
 - release the adopted report for public information.
- (3) Advise the community of Council's decision.

Cr Cunningham returned to the meeting at 9.50pm.

AMENDMENT

Moved Cr Walsh, seconded Cr Utting

That Grant Street Beach Park and Napier Street reserve be removed from the beachfront objectives report.

Lost 3/7

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Cr Utting	Mayor Rowell
Cr Walsh	Cr Cunningham
Cr Furlong	Cr Jeanes
	Cr Miller
	Cr Morgan
	Cr Robertson
	Cr Strzina

13.1.3 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Robertson, seconded Cr Strzina

That Council:

- (1) Revise the Draft Beachfront Objectives Report by:**
 - (a) deleting the sections relating to increased heights above 12m; and**
 - (b) request the Manager, Development Services to:**
 - i. consider in further detail, the submissions received relating to the draft Beachfront Objectives; and**
 - ii. develop a revised draft Beachfront Objectives Report for consideration by Council;**
- (2) Following adoption of the report referred to in (1)(b)(ii);**
 - (a) incorporate those proposals into the draft No. 3 Town Planning Scheme; and**
 - (b) release the adopted report for public information.**
- (3) Advise the community of Council's decision.**

Carried 6/4

The vote was recorded:

<i>For:</i>	<i>Against:</i>
Mayor Rowell	Cr Furlong
Cr Cunningham	Cr Jeanes
Cr Miller	Cr Utting
Cr Morgan	Cr Walsh
Cr Robertson	
Cr Strzina	

13.1.4 REPORT ON SUBMISSIONS RECEIVED ON THE DRAFT STRATEGIC PLAN

File No: X12.4
Author: Mr Stephen Sullivan
Author Disclosure of Interest: Nil
Report Date: 26 May, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

Additional time is required to complete a review of the 475 submissions received during the submission period and a report on the issues that have been raised as a consequence of the consultation process. If completed, the report will be tabled at the Strategic Planning Committee meeting or the June meeting of Council.

BACKGROUND

During the late 1990s, Council developed a Local Planning Strategy under the proposed No. 3 Town Planning Scheme, which sought to guide development within the District over the next 15 years. The document was advertised and submissions were received. The document was updated based on the review carried out by the then Town Planning Scheme Review Committee.

Council commenced the preparation of a new strategic plan through a number of workshops in early 2004. This was seen to be the new direction for the draft Town Planning Scheme. Once developed, the new strategic plan could be compared with the existing Local Planning Strategy that was prepared in the formulation of the proposed No. 3 Town Planning Scheme.

At its February 2004 meeting Council resolved as follows:

That Council:

- (1) Conduct a community consultation commencement session on both the Beachfront and Strategic Planning workshops for ratepayers and electors on Saturday 13 March, 2003;
- (2) Engage the current consultants to facilitate the community consultation commencement session so as to inform those present of the process used to reach the current outcomes;
- (3) Seek community comment on the outcomes of the two workshops;
- (4) Allow a six week submission period from the date of the community consultation commencement session on both workshop outcomes and that the submissions currently being received on the Beachfront Development Objectives be included;
- (5) Inform the community on the results of the submissions received during the consultation process;

- (6) Review Council's position on the outcomes from those workshops following a review of the submissions made by the community;
- (7) Following the determination of Council's position in relation to the submissions received during the submission period on the workshops, assess the impact on the draft No. 3 Town Planning Scheme and determine the next appropriate course of action.

Steps (1) to (4) of the February 2004 resolution have been completed.

It is proposed that a press release be issued with the results of the submissions received during the consultation process to address point (5) of Council's resolution.

This report will address point (6) of the resolution in relation to the draft Strategic Plan.

Ultimately, the review of the draft Beachfront Objectives and the draft Strategic Plan will provide a direction for Council in relation to the draft No. 3 Town Planning Scheme, which is part (7) of the resolution.

CONSULTATION

Council held two community information sessions on the draft Strategic Plan and the draft Beachfront Objectives. This was then followed by a six week submission period after the last information session. The closing date for submissions on both documents was the 17 May, 2004.

The process also involved sending a copy of the Cottesloe Strategic Planning Workshop brochure out to all residents. The information was also on Council's website and the public library.

STAFF COMMENT

The work that is required to be carried out includes:

- (a) Review of submissions and identification of issues that relate to:
 - (i) the draft Concept Structure Plan developed by Councillors that formed part of the information presented to the public;
 - (ii) other issues raised as a consequence of the consultation process;
- (b) determination of Council's position in relation to those matters and the findings on the Draft Beachfront Objectives;
- (c) compare the position determined by Council in relation to the draft Strategic Plan and the Beachfront Objectives; and how that position aligns with the existing Local Planning Strategy developed under the proposed No. 3 Scheme;
- (d) develop a hybrid Local Planning Strategy that will reflect Council's direction for the next 15 years;
- (e) review and amend the draft Town Planning Scheme to align with the hybrid Local Planning Strategy;
- (f) finalise legal review of document; and
- (g) submit for adoption by Council.

Due to the length of time, the open ended nature of the questions and the need to compare the issues raised in the consultation process with the proposals contained within the draft Concept Structure Plan, it is very questionable that point (a) will be achievable by the May 2004 Strategic Planning Meeting and may require tabling at a subsequent meeting of Council.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The adoption of any of these proposals may have an impact on the existing Local Planning Strategy that was developed under the proposed No. 3 Town Planning Scheme, with subsequent changes to the draft Town Planning Scheme.

FINANCIAL IMPLICATIONS

Nil.

VOTING

Simple Majority

OFFICER RECOMMENDATION

Further comments will be made at the Strategic Planning Committee meeting by the Manager, Development Services.

13.1.4 COMMITTEE RECOMMENDATION

That Council staff be requested to develop guidelines and timeframes for draft Town Planning Scheme No.3 for adoption by the Council at its June, 2004 meeting.

This item was not voted on as it had already been actioned (refer agenda item 11.1.14).

13.1.5 VACANCY - PERTH COASTAL PLANNING STRATEGY STEERING COMMITTEE

File No: D2.7
Author: Mr Stephen Sullivan
Author Disclosure of Interest: Nil
Report Date: 31 May, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

A vacancy exists on the new Perth Coastal Planning Steering Committee for a representative from the northern metropolitan coastal Councils.

The letter from the Western Australian Planning Commission was received on the 28 May, 2004 and the closing date for nominations is the 11 June, 2004, which is before the June round of meetings.

Due to the short time frame, the matter of whether Council submits a nomination for this position is referred to the Strategic Planning Committee for consideration.

If a Councillor is to be nominated, a statement outlining why this person would be able to make a sound contribution to the project is required.

BACKGROUND

The State Government has created a new advisory committee under the auspices of the Western Australian Planning Commission, called the Perth Coastal Planning Strategy Steering Committee. The Committee will be responsible for the preparation of the Perth Coastal Planning Strategy.

The steering committee will consist of 14 members. One of those positions will be a representative selected from the northern metropolitan coastal councils.

CONSULTATION

N/A.

STAFF COMMENT

For consideration by Councillors. The details of the work involved and meeting frequency is identified in the accompanying letter to this report from the Western Australian Planning Commission.

POLICY IMPLICATIONS

Nil.

STRATEGIC IMPLICATIONS

The development of a Perth Coastal Planning Strategy may impact on how the future planning and management of coastal reserved land may be used in the next 10 years.

FINANCIAL IMPLICATIONS

Nil.

VOTING

Simple Majority

OFFICER RECOMMENDATION

That Council:

- (1) Nominates Cr _____ as its nomination for the Perth Coastal Planning Strategy Steering Committee; and
- (2) Endorses the decision of the Strategic Planning Committee due to the short period of time to nominate a representative.

COMMITTEE COMMENTS

Cr Furlong nominated Cr Robertson.

Mayor Rowell nominated himself.

A secret ballot was held and Cr Robertson obtained the majority of votes.

13.1.5 COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Robertson, seconded Cr Strzina

That Council:

- (1) Nominates Cr Robertson as its nomination for the Perth Coastal Planning Strategy Steering Committee; and**
- (2) Endorses the decision of the Strategic Planning Committee due to the short period of time to nominate a representative.**

Carried 10/0

14 STRATEGIC PLANNING COMMITTEE MEETING HELD ON 15 JUNE 2004**14.1 CEO'S PERFORMANCE REVIEW**

File No: X9.12
Author: Mr Stephen Tindale
Author Disclosure of Interest: The author has a direct financial interest in the matter as it relates to his terms and conditions of employment.
Report Date: 23 June, 2004
Senior Officer: Mr Stephen Tindale

SUMMARY

At the December 2003 meeting of Council, a decision was made to engage WALGA's Workplace Relations Service to manage the performance and remuneration review process for the CEO (working with Council's Strategic Planning Committee) and prepare a report for Council's consideration.

The report and recommendations of the WA Local Government Association's Workplace Relations Service have been circulated to elected members as a confidential document.

A recommendation is made to adopt the recommendations of the report and upgrade the standard of vehicle supplied to the CEO.

STATUTORY ENVIRONMENT

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

5.38. Annual review of certain employees' performances

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

5.39. Contracts for CEO's and senior employees

(1) The employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section."

5.23. Meetings generally open to the public

(1) Subject to subsection (2), the following are to be open to members of the public —

(a) all council meetings; and

(b) all meetings of any committee to which a local government power or duty has been delegated.

(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

(a) a matter affecting an employee or employees;

- (b) *the personal affairs of any person;*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;...*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

POLICY IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

If adopted, the recommendation relating to the upgrade of the CEO's vehicle will result in an additional fringe benefits tax liability of \$2,263.00 per annum which will be offset by better resale values at time of trade.

BACKGROUND

The "Executive Summary" of the CEO's Performance Appraisal Committee Report reads as follows:

The review of Mr Stephen Tindale's performance as the Chief Executive Officer of the Town of Cottesloe has been carried out in accordance with Council's statutory and contractual obligations. The review was conducted in accordance with the terms of Mr Tindale's contract with the Town, in particular as it relates to clause 4 'Performance Development and Review'.

Council's Strategic Planning Committee conducted the performance review with Mr Stephen Tindale at the Council's Offices on Tuesday, 15 June, 2004. This meeting was facilitated by Mr John Phillips, Executive Manager Workplace Relations & Training Services, WA Local Government Association

Councillors are of the view that, overall, Mr Tindale has met all of the performance requirements of the position and continues to provide a high standard, above average service as the Town's Chief Executive Officer.

CONSULTATION

Nil.

STAFF COMMENT

The Committee/Council can decide whether the meeting should be closed or not for the consideration of this agenda item.

VOTING

Simple Majority

DECLARATION OF INTEREST

The Chief Executive Officer made a declaration of interest and left the meeting at 9.57pm.

14.1 OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

Moved Cr Miller, seconded Cr Furlong

That Council

- (1) **Close the meeting for the consideration of this agenda item on the grounds that it relates to a matter affecting an employee and a contract entered into, or which may be entered into by the Town of Cottesloe.**

Carried 10/0

Moved Cr Robertson, seconded Cr Furlong

That Council

- (2) **Adopt the recommendations contained within the CEO's Performance Appraisal report namely that:**
- (a) **Council receive this Performance Review report and endorses the overall rating of '4' – "Meets all performance requirements. High standard, above average work performance".**
 - (b) **The next review of the CEO's performance to be conducted in January 2005.**
 - (c) **The draft Key Result Areas based on the Town of Cottesloe's Action Plans be endorsed for the review period 2004-2005.**
 - (d) **The Review Committee obtain and consider data in relation to Chief Executive Officer remuneration relativities, particularly as they relate to local governments in Perth's western suburbs. The Review Committee to make recommendations to Council on an increase to Mr Tindale's remuneration, in accordance with clause 5.2 of the contract of employment.**
- (3) **Approve the upgrade of the CEO's vehicle to a Holden Calais.**

Carried 10/0

Moved Cr Miller, seconded Cr Furlong

That the meeting be reopened.

Carried 10/0

15 ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

17 MEETING CLOSURE

The Mayor announced the closure of the meeting at 10.15pm.

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